PARLIAMENTARY OVERSIGHT

EXHIBIT ZZ 2

NELSON THEMBA
GODI

JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR INCLUDING ORGANS OF STATE

2nd floor, Hillside House
17 Empire Road,
Parktown
Johannesburg
2193
Tel: (010) 214 to 0651
Email: inquiries@sastatecapture.org.za
Website: www.sastatecapture.org.za

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IN THE JUDICIAL COMMISSION OF INQUIRY INTO ALLEGATIONS OF STATE CAPTURE, CORRUPTION AND FRAUD IN THE PUBLIC SECTOR, INCLUDING ORGANS OF STATE

AFFIDAVIT BY MR THEMBA GODI

I, the undersigned,

NELSON THEMBA GODI

do hereby make oath and state as follows:

1. I am an adult male.

2. Save where otherwise stated, or where it may otherwise appear from the content hereof, the facts deposed to in this affidavit are within my personal knowledge and are, to the best of my knowledge and belief, both true and correct.

3. **PURPOSE OF THIS AFFIDAVIT**

3.1. I make this affidavit in order to assist the Commission of Inquiry into Allegations of State Capture, Corruption and Fraud in the Public Sector, including Organs of State (the Commission), which was established in terms of the Constitution of the Republic of South Africa, 1996.

3.2. I have been requested to set out my experiences on the question of parliamentary oversight in relation to allegations of corruption or fraud in the public sector or of state capture.

4. PROFESSIONAL AND POLITICAL BACKGROUND

4.1. I was born in 1966 and grew up in Mpumalanga. I hold a B.A. (Paed) degree from the University of the North (Turfloop) and an Honours degree in History, which I obtained from the University of South Africa. From 1989 to 2000, I was a full time teacher, teaching English, History, Physical Science and Mathematics.

4.2. I joined the Pan Africanist Congress of Azania (PAC) in 1984 and rose through its ranks. In 2000, I was appointed as the National Organizer of the PAC and resigned as a teacher. In 2003, I was elected as Deputy President of the PAC.

4.3. In February 2004, I became a Member of Parliament (MP) for the PAC in the National Assembly.

4.4. During my tenure in the National Assembly, I served on the Portfolio Committees on Social Development, Labour, Education, Health and Trade and Industry.

4.5. In November 2005 I was appointed as Chairperson of the Standing Committee on Public Accounts (SCOPA).

4.6. In September 2007, I left the PAC and became the founding President of the African People's Convention (APC), which I am still heading today.

4.7. I held the position of Chairperson of SCOPA until May 2019, when I ceased to be a Member of Parliament.

5. **PARLIAMENTARY OVERSIGHT (IN GENERAL)**

5.1. From 1994 to 2004, Parliament's major focus was on passing legislation that aligned with the Constitution of the Republic of South Africa.

5.2. In due course, attention was given by Parliament to the question of parliamentary oversight over the executive. This led to the development and adoption by the fourth Parliament of an "Oversight and Accountability Model". I have been led to understand that evidence will be given to the Commission regarding this model. Provision was also made in the Rules of the National Assembly for portfolio and other committees (including SCOPA).

5.3. What I feel I should emphasise at the outset is that, in my view, the extent to which Parliament is able to exercise effective oversight over the Executive is, and has always been, fundamentally a political question determined by political forces and proper application of the principle of the Separation of Powers. Parliament and its committees can solicit information and explanations and can make recommendations, but the extent to which such recommendations are acted upon depends in practice on the integrity and political sensitivity of members of the Executive.

5.4. Another point I wish to emphasise about Parliamentary oversight is that when one political party is dominant, the extent to which oversight will be effective depends on the internal dynamics within that party. Oversight by committees of Parliament should ideally be non-partisan, and sometimes that is achieved[1], but not infrequently partisan political battles, including internal factional battles, occur within committees.

6. STANDING COMMITTEE ON PUBLIC ACCOUNTS (SCOPA)

(i) A brief overview

6.1. Rule 245 of the rules of the National Assembly[2] provides that—

(1) The Standing Committee on Public Accounts —

(a) must consider —

(i) the financial statements of all executive organs of state and constitutional institutions or other public bodies when those statements are submitted to Parliament,

(ii) any audit reports issued on those statements,

(iii) any reports issued by the Auditor-General on the affairs of any executive organ of state, constitutional institution or other public body,

(iv) any reports reviewing expenditure of public funds by any executive organ of state and constitutional institution or other public body, and

(v) any other financial statements or reports referred to the committee in terms of these rules;

(b) may report on any of those financial statements or reports to the Assembly;

(c) may initiate any investigation in its area of competence; and

(d) must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, these rules, the Joint Rules or resolutions of the Assembly, including functions, tasks and duties concerning parliamentary financial oversight or supervision of executive organs of state, constitutional institutions or other public bodies.

(2) The Speaker must refer the financial statements and reports mentioned in Paragraphs (a)(i) to (iv) to the committee when they are submitted to Parliament, irrespective of whether they are also referred to another committee.

[1] As referred to below, I think SCOPA largely managed to achieve this.

[2] 9th edition, which was adopted by the National Assembly on 29 May 2016. The equivalent rule (from June 1999) used to be rule 206 and was almost identical but had no equivalent to rule 245(1)(a)(iv).

6.2. It is my view that, in both the fourth and fifth Parliaments, SCOPA discharged its assigned functions[3]. This was reflected in the generally positive media interest and media coverage that the Committee received.

6.3. But during the same period :

(i) there was also in my view a widespread breakdown in financial control, as reflected in clear and emphatic reports from the Auditor General of South Africa (AGSA) and SCOPA;

(ii) the Executive did not display a genuine political will to resolve this;

(iii) Parliament failed to track and monitor compliance by the Executive of corrective action proposed in its adopted reports; and

(iv) Parliament failed to adopt any mechanism directed at compelling or encouraging Ministers to ensure that such proposed corrective action was implemented.

6.4. The breakdown in financial control can in my view only be resolved if the dominant political forces, in both the Legislative and the Executive branches of Government, have the required determination to bring this about.

[3] SCOPA is governed not only by (the present) rule 245 (quoted above) but also by the rules governing all committees of Parliament.

(ii) SCOPA's approach to oversight

6.5. As appears above, SCOPA is required to consider the financial statements and audit reports of all executive organs of state, constitutional institutions and public bodies. Each department's annual report to Parliament is required to include its financial statements and a report thereon from the AGSA. This means that SCOPA is required to consider something of the order of 200 – 250 audit reports annually.

6.6. SCOPA also receives the AGSA's annually-submitted general reports, which summarise his overview on the many audit reports produced by his office.

6.7. In the period of my tenure as chair of SCOPA, all of these documents enjoyed the attention of its members and the researchers who assisted it. These revealed a disturbingly high number of cases of unauthorised expenditure, irregular expenditure, fruitless and wasteful expenditure and other material non-compliance.

6.8. In accordance with its strategic plan, the Committee identified focus areas of particular concern to be considered at the hearings which it scheduled. Its key focus areas in 2014-2019 were:

6.8.1. Compliance with Supply Chain Management prescripts;

6.8.2. Internal controls;

6.8.3. Unauthorised, irregular, fruitless and wasteful expenditure;

6.8.4. Consequence management against officials who do not comply with legislation;

6.8.5. The financial health of departments and entities (including accruals, contingent liabilities, commitments);

6.8.6. Non-payment of invoices within 30 days;

6.8.7. Human resource management (including vetting employees); and

6.8.8. Deviations and expansions.

6.9. The Committee focused in hearings primarily on entities that were apportioned the largest budgets and on reports that disclosed the most serious levels of financial mismanagement. [4]

6.10. To give the commission some sense of the scope of the work done by SCOPA, I annex hereto marked as **Annexure "TG1"** a document listing the voluminous hearings held, resolutions adopted and oversight reports prepared in 2015-2018.

6.11. In order to save and utilise time efficiently, SCOPA did not allow officials to make lengthy presentations at its hearings (which is a common practice in Portfolio Committees). Instead, it identified in advance focus areas that warranted discussion at each hearing and assigned a committee member to prepare questions to be posed to officials on each area.

6.12. In my view, when I took over as Chairperson of SCOPA, the Committee lacked the requisite collegiality. The multiplicity of personalities and political affiliations negatively affected the atmosphere of the Committee.

[4] Having attended conferences and visited other SCOPAs in Southern Africa and throughout Africa, I discovered, much to my shock, that some Parliaments were still grappling with annual reports that were issued as far back as five years. Whilst our Committee also grappled with its fair share of capacity constraints, I can attest that our accumulation of incomplete work did not stretch to nearly that extent.

6.13. In order to rectify this, I made an effort to create a peaceful and stable atmosphere for everyone involved.

6.14. Over time, the working environment became more collegial, with members co-operating with each other, despite their respective political affiliations. All members of the Committee shared a common goal, which was to exercise vigorous oversight. Of course, political and personality clashes did not simply disappear. A measure of skill and proper management was required in order to maintain the requisite collegiality.

6.15. Prior to my tenure, it had not been the Committee's practice to require Ministers to attend its hearings and to account to it. This had been justified on the basis that the Public Finance Management Act (PFMA) renders accounting officers and accounting authorities – not Ministers – accountable. But we took the view that Ministers are politically accountable and therefore adopted the practice of calling Ministers to attend our hearings, together with the relevant accounting officers or accounting authorities.

6.16. Another change we made was not permitting officials appearing before the Committee to seek to controvert findings already made by the Auditor General (AGSA) in his audit reports. Such officials had by then already had an opportunity to engage with the AGSA's office before his findings were made and we proceeded on the basis that his findings must be accepted.

6.17. This arrangement made the meetings more fruitful and encouraged robust engagements and deliberations between members of the Committee and officials.

6.18. It also made departments and entities wary of being called to account before the Committee and more inclined to take proper steps to prepare for hearings when called upon to do so.

(iii) The persistence of financial mismanagement despite SCOPA's efforts

6.19. I annex hereto marked as **Annexure "TG2"** a copy of SCOPA's "Legacy Report" on its activities undertaken during the 5th Parliament (May 2014 – March 2019).

6.20. As appears at pages 2-3 thereof, I summarised my views in the "Chairperson's foreword" to this report as follows:

> *" The fact that annually we have seen a continuing rise in irregular, fruitless, wasteful expenditure is no reflection on the effectiveness of the Committee than it is about the failure of the Executive and its accounting officers to live up to their responsibilities as enshrined in the Constitution and the Public Finance Management Act (PFMA). The Executive branch is not responsive to the recommendations from Parliament. There is not sufficient political and administrative will to do what is right for the country to stop the looting of public funds. That is why as Scopa we were actively involved in pushing the Public Audit Amendment Bill, to give the Auditor-General (AGSA) additional powers to follow up on cases of financial mismanagement. This was, unfortunately, an acceptance that the Executive is failing to follow the law and simple political morality.*
>
> *... We consistently called out on the malfeasance at SABC, SAA, Eskom, Compensation Fund, Correctional Services, Water and Sanitation, Public Works, Transnet, SAPS, PIC, etc to no avail.*
>
> *Besides the fact that the AG will now have enhanced powers, as Scopa we believe that Parliament must take a deep look at its relations with the Executive. What and how is the enforcement aspect of the Constitutional imperative of 'holding to account'. The PFMA allows managers to manage and then to account. The critical question is 'what is Parliament's recourse' if there is no accountability for Public resources spent.'*

It is a critical question, without whose answer oversight might be reduced to a mere ritual."

6.21. The Legacy Report refers to, amongst others, oversight visits conducted. In its summary of challenges which emerged from oversight visits (para 6.1) mention was made of disregard of applicable legislation (e.g. the Constitution, the PFMA, Treasury Regulations and the PPPFA) by officials and senior management; lack of consequence management for officials responsible for non-compliance with applicable legislation; and SCOPA recommendations not being implemented.

6.22. To illustrate the type of report produced by SCOPA and the type of problems encountered, I annex hereto marked as **Annexure "TG3"** a copy of the report on its oversight visit to SAA and Transnet from 13 to 17 August 2018. I draw attention to the multiple recommendations to SAA's Accounting Authority (at pp 9-10) and to Transnet's Accounting Authority (at p 11), including the following observation:

> "*The Committee was generally disappointed by the extent to which the Accounting Authority and management seem to not have addressed the financial management weaknesses identified in the audit report, especially as some of these matters had been raised in the audit report of previous years."*

6.23. To illustrate the problem of persistent non-compliance with applicable legislation I refer to SCOPA's engagements with the SABC:

6.23.1. I annex hereto marked as **Annexure "TG4"**an extract (pp 475 and 482-490) from Parliament's "Announcements, Tablings and Committee Reports" for Tuesday 1 March 2011, containing SCOPA's report on the AGSA's report regarding the SABC's

2009/10 financial statements and SCOPA's investigation report of 9 February 2011. Extensive reference was made in para 4 to non-compliance with the PFMA and in para 5 to non-compliance with the Treasury Regulations. Detailed reference was made in para 8 to multiple infringements of supply chain management infractions, and to fruitless wasteful and irregular expenditure.

6.23.2. Problems of these types persisted year in and year out at the SABC.

6.23.3. I annex hereto marked as **Annexure "TG5"** a report by SCOPA dated 16 August 2017 on its oversight visit to the SABC on 28 March 2017 (pages 1-5 from a report which also covers an oversight visit to the SA Post Office). Para 2.1 of the report refers to a hearing with the SABC on 1 March 2017 regarding irregular, fruitless and wasteful expenditure reflected in the 2015/6 annual report. Because the Committee was not satisfied with the responses provided by management, it conducted a site visit. The Committee's findings are set out in para 2.3 and its recommendations in para 3. In short, SCOPA remained dissatisfied with (amongst others) supply chain management and management disregard of issues raised by its audit committee; and it recommended (amongst others) that the SABC's accounting authority (i.e. its board) should ensure that it had in place a supply chain management policy which was compliant with the applicable legislation, that contracts were managed efficiently and that necessary and effective controls be put in place.

6.23.4. A further hearing with the SABC was held on 17 May 2017 followed by a further oversight visit on 27 June 2017. I annex hereto marked as **Annexure "TG6"** an extract (pp 1- 4) from SCOPA's report on this oversight visit and to the Compensation Fund at about the same time. As appears in the report the main objectives of the oversight visit were to obtain input from the SABC and SIU on cases referred to the SIU regarding irregularities within the SABC. The committee noted that the Interim Board had taken some steps to remedy the situation at the SABC. Nonetheless the committee remained concerned and took note of the intended scope of the intended SIU investigation.

6.23.5. Serious problems persisted, as SCOPA's consideration of the SABC's annual report and the report of the AGSA on the SABC's 2018/19 financial statements made clear. I annex hereto marked as **Annexure "TG7"** SCOPA's report on the SABC's 2018/9 financial statements.

6.23.6. I point out that in the introduction thereto it is stated that:

> *" Despite several hearings having been held with the SABC during the 5th Parliament and oversight visit that the Committee undertook in March 2017, the audit outcomes have not given an indication of improvement in the SABC's financial performance".*

6.23.7. After referring to various instances of identified irregular expenditure and setting out the Committee's recommendations in regard thereto, the following was stated in the Report's conclusion:

> *The Committee has serious concerns regarding the high level of irregular; fruitless and wasteful expenditure, and about the gross disregard for procedures, rules and regulations such as the PFMA, Treasury Regulations, and other relevant legislation.*
>
> *The Committee further recommends that the Accounting Authority submits quarterly reports to SCOPA on all the above mentioned recommendations.*

<u>(iv) Absence of effective mechanisms to ensure real accountability</u>

6.24. The doctrine of separation of powers implies that Parliament may not exercise the functions of the Executive. This also applies to SCOPA, as a committee of Parliament.

6.25. SCOPA does not have powers that exceed the powers of Parliament. For example, it cannot issue a warrant for the arrest of corrupt officials.

6.26. SCOPA *speaks* chiefly through its reports, which are tabled before Parliament.

6.27. Any report that SCOPA tables before Parliament, ceases to "belong to" the Committee. The Speaker of Parliament becomes the custodian of the report, on behalf of Parliament as a whole.

6.28. In the period during which I chaired SCOPA, all of our reports contained recommendations as regards required corrective action. For example, our reports would request certain Ministers to report to Parliament on specified steps taken to address particular issues within a given period. (Some reports requested the Speaker to repeat requests made in earlier reports, until such time that there was compliance.)

6.29. SCOPA's reports would in the ordinary course be adopted by the National Assembly.

6.30. Generally the office of the Speaker would issue requests to Ministers in accordance with SCOPA reports.

6.31. But there was no structured mechanism in place to follow up adequately and ultimately to hold the Executive accountable[5]. In my view and the view of the Committee this severely hamstrung the exercise of adequate oversight. Committee members became increasingly frustrated with the lack of responsiveness of the Executive.

6.32. In an effort to remedy this, I approached the Chair of Chairs, Mr Cedrick Frolick, sometime during the Fourth Parliament. He gave me an assurance that the office of the Speaker would configure a "dashboard" which would keep track of deadlines and follow up and ensure compliance with all House resolutions.

6.33. But no such dashboard was configured and no alternative mechanism was adopted by Parliament to monitor and enforce compliance with House resolutions.

6.34. The problem of non-implementation by the Executive of remedial measures required by SCOPA reports remained a significant problem right up to the end of my tenure as chair of SCOPA.

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[5] I take note of and agree with the view expressed in the July 1999 "Report on Parliamentary Oversight and Accountability" by Prof Hugh Corder and others (which I understand is to be placed before the Commission) that :"*Accountability can be said to require a person to explain and justify – against criteria of some kind – their decisions and actions. **It also requires that the person goes on to make amends for any fault or error and takes steps to prevent its recurrence in future.***" (my emphasis)

6.35. I believe that the lack of progress in this regard can be attributed to political dynamics, more specifically a lack of political will, within the structures of the governing party at the time, to resolve the serious problems of financial mismanagement raised both by the AGSA and SCOPA.

6.36. In addition, there was an unwillingness to acknowledge that vexing issues had reached "problem status", even in the face of clear and emphatic reports from the AGSA and the Committee.

6.37. I referred above to the Oversight and Accountability (OVAC) Model adopted by Parliament in 2009. Chapter 4 thereof sets out proposed new mechanisms for oversight and accountability. Para 4.1.4 commences as follows:

> *" In developing the oversight model, the need was identified for support services relating to the monitoring and tracking of issues between Parliament and the Executive, and on all other related matters within Parliament's broader mandate. An Oversight and Advisory Section ought to be created in response to the need identified. Its main functions will be to provide advice, technical support, co-ordination, and tracking and monitoring mechanisms on issues arising from oversight and accountability activities of members of Parliament and the committees to which they belong.*
> ...

6.38. Further and more detailed recommendations in this regard are then set out, both in para 4.1.4 and in para 4.2.1 of the OVAC Model. Copies of an extract containing these paragraphs is annexed hereto marked as **Annexure "TG8"**.

6.39. I have no knowledge as to why this was not implemented at the time of the adoption of the Model in 2009, nor why the assurance I received from Mr Frolick to similar effect was also not honoured. It may be that there was simply no commitment or support for this from the Speaker's office. Be that as it may, I believe that the time for Parliament to implement an effective monitoring and tracking system is well overdue.

6.40. I also draw attention to para 4.1.9 of the OVAC Model, which provides as follows (I quote it in full):

> *" It is recommended that Parliament develop rules to assist it further in sanctioning Cabinet members for non-compliance after all established avenues and protocols have been exhausted, for example naming the Cabinet member by the Speaker of the National Assembly of the Chairperson of the Council based on a full explanation."*

6.41. I support this recommendation which, if implemented, may go some way to curbing the wide-spread practice of Ministers failing to ensure that corrective action required by reports adopted by the House are implemented.

6.42. This is perhaps an opportune moment to mention that, during the beginning of my tenure on the Committee in the third Parliament, I received considerable support from ANC members in the Committee. They encouraged me to execute my mandate impartially and without fear, favour or prejudice. I was not placed under pressure to toe a specific line.

6.43. However, during the fourth Parliament, the climate gradually changed. There were some voices that would, from time to time, inform me that the ANC was not happy with my robust stance. I recall receiving a polite request to align my statements – to a certain extent – to the thinking of the ANC. I rejected this request and heard nothing further about the issue.

6.44. As referred to above, it is my view that the organizational culture and political dynamics within the ruling party determine the extent in which oversight is actually exercised by the Legislature over the Executive. Members are uncomfortable, and therefore often unwilling, to hold their "political seniors" to account (though I think that SCOPA was a robust and rare exception).

6.45. With that being said, I believe that the widespread breakdown in financial control could be addressed if there is support for a desired reform within the dominant political forces.

(v) The Public Audit Amendment Act

6.46. On 20 November 2018, President Cyril Ramaphosa assented to the Public Audit Amendment Act[6] (PAAA) which amended the Public Audit Act.[7] Amongst other things, the PAAA gives the AGSA more "teeth" to act against officials and employees who waste taxpayers' money, as well as those who are aware that money is being siphoned but decline to act. It authorises the AGSA to refer suspected material irregularities to a relevant public body for investigation. It also empowers the AGSA to take appropriate remedial action.

6.47. Whilst many welcomed the amendment, I criticised its adoption on various public platforms. I believed that Parliament was essentially and inappropriately shifting the duties and functions of Ministers and DGs to

[6] 5 of 2018.
[7] 25 of 2004.

the AGSA. In my opinion, the amendment was also an indictment on Parliament, being an implicit acknowledgement that the system was unresponsive and that it was not able to execute its duties of oversight over the Executive adequately.

DEPONENT: NELSON THEMBA GODI

I HEREBY CERTIFY that the deponent has acknowledged that he knows and understands the contents of this affidavit, which was signed and sworn before me at Bushbuckridge on this 01 day of December 2020, the regulations contained in Government Notice No R1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

SUID-AFRIKAANSE POLISIEDIENS
CSC
2020 -12- 01
Laeveld Area / Lowveld Area
BUSHBUCKRIDGE
SOUTH AFRICAN POLICE SERVICE

COMMISSIONER OF OATHS

Full Names: DENNIS DONALD MABASO

Office: SAPS BUSHBUCKRIDGE

Business Address: GRASKOP ROAD R533 ROAD

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Annexure "TG1"

ZZ2-NTG-020

PARLIAN
OF THE REPUBLIC OF SO

COMMITTEES
PO Box 15 Cape Town 8000 Republic of South Africa
Tel: 27 (21) 403 2597 Fax: 27 (21) 403 3205
www.parliament.gov.za

Standing Committee on Public Accounts

Meetings / Hearings / Oversight held 2015/2016/2017/2018

2015

Hearings		Department / Entity
1	03.02.2015	Consideration of reports
2	24.02.2015	AGSA briefing: Agric; Home Affairs; Arts&Culture; Mandela Museum
3	25.02.2015	AGSA briefing: DPW; DoD; DMV
4	03.03.2015	Hearing Defence; DMV
5	04.03.2015	Hearing Home Affairs; DIRCO
6	10.03.2015	Hearing Arts & Culture
7	11.03.2015	Hearing DIRCO
8	17.03.2015	Hearing Agriculture; MLRF
9	25.03.2015	Hearing Public Works; PMTE
10	22.04.2015	Discussing programme
11	12.05.2015	AGSA briefing: Water Affairs
12	13.05.2015	AGSA briefing: Corr. Services
13	20.05.2015	Adoption of reports
14	26.05.2015	Hearing Water Affairs; WTE

15	27.05.2015	Hearing Correctional Services; TPF
16	2.06.2015	Hearing Compensation Fund
17	3.06.2015	AGSA briefing: SETAs
18	10.06.2015	Hearing SETAs
19	17.06.2015	Hearing Correctional Services
20	24.06.2015	Hearing Correctional Services
21	05.08.2015	Adoption of reports
22	11.08.2015	Briefing:NT-Rural Hshld. Infr. Grnt
23	12.08.2015	Briefing: NT-Public Sect. SCM Rev.
24	19.08.2015	Briefing:AG-Rural Hshld. Infr. Grnt
25	01.09.2015	Hearing Perf. Audit & RHIG

Resolutions

Number	Hearing	Department
1	03.03.2015	Defence
2	03.03.2015	Military Veterans
3	04.03.2015	Home Affairs
4	04.03.2015	DIRCO
5	10.03.2015	Arts & Culture
6	11.03.2015	DIRCO
7	17.03.2015	Agriculture, Forestry, and Fisheries
8	17.03.2015	Marine Living Resources
9	20.05.2015	Home Affairs

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10	20.05.2015	Energy
11	25.03.2015	Public Works
12	25.03.2015	Property Management Trading Entity
13	26.05.2015	Water Affairs & WTE
14	27.05.2015	Justice & Correctional Services
15	27.05.2015	Third Party Funds
16	02.06.2015	Compensation Fund
17	10.06.2015	SETAs
18	17.06.2015	Correctional Services
19	24.06.2015	Correctional Services

Oversight Reports

Date	Destination
21 – 23 July 2015	Home Affairs: Eastern Cape & KZN
21 – 23 Sept 2015	Correctional Services: Johannesburg & Pretoria Centres

2016

Hearings	Department / Entity
03.02.2016	Adoption of Resolutions and oversight reports
10.02.2016	Briefing by AG: SAPO, DMV & SA Express
23.02.2016	Hearing: PRASA
01.03.2016	Briefing by Minister of Justice & Correctional Services on the state of the Department - **Part I**

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02.03.2016	Hearing: Compensation Fund
08.03.2016	Hearing: SAPO
09.03.2016	Hearing: Military Veterans
15.03.2016	Briefing by Minister of Justice & Correctional Services on the state of the Department - **Part II**
12.04.2016	Hearing: SAPO
13.04.2016	Hearing: SA Express
06.09.2016	Briefing by National Treasury: Progress made wrt Audit Committees & compliance with TRs
07.09.2016	Briefing by National Treasury on unauthorised expenditure of Sport & Recreation & PSA
14.09.2016	Briefing by Anti-Corruption Task Team
01.11.2016	Briefing by Departments with outstanding Annual Reports
02.11.2016	Briefing by AG on audit outcomes – national & provincial
08.11.2016	Hearing: Water & Sanitation; DIRCO
09.11.2016	Hearing: Environmental Affairs; Basic Education; SITA
15.11.2016	Hearing: DMV – Irregular, fruitless & wasteful expenditure
16.11.2016	Hearing: SANRAL; COGTA – Irregular, fruitless & wasteful expenditure
23.11.2016	Hearing: Social Development; SASSA
29.11.2016	Hearing: SANRAL
30.11.2016	Hearing: PRASA

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2017

	Hearings	Department / Entity
1	28.02.2017	Hearing: DSD / SASSA
2	01.03.2017	Hearing: SABC
3	07.03.2017	Briefing: Minister of Social Development on CPS
4	08.03.2017	Briefing: ESKOM on defaulting municipalities
5	14.03.2017	Briefing: Minister of Finance on matters relating to the CPS contract of SASSA
6	15.03.2017	Hearing: TRANSNET
7	30.05.2017	ESKOM
8	31.05.2017	Water & Sanitation
9	07.06.2017	Correctional Services
10	13.06.2017	SAPS: Conflict of interest
11	14.06.2017	Correctional Services (with SITA)
12	22.08.2017	Water & Sanitation
13	23.08.2017	SASSA
14	30.08.2017	SA Express
15	05.10.2017	KPMG
16	28.11.2017	TRANSNET
17	29.11.2017	SAPS

Oversight Reports

Date	Destination
27 – 29 March 2017	SABC & SAPO & AGSA
27 – 28 June 2017	SABC & Compensation Fund
13 – 15 September 2017	SA Express & SAA & SAPO & SASSA

2018

Hearings		Department / Entity
1	23.01.2018	TRANSNET
2	30.01.2018	Consideration of committee programme
3	20.02.2018	Briefing: IPID on current cases
4	27.02.2018	HEARING: Water & Sanitation *am*
5	27.02.2018	HEARING: Basic Education *pm*
6	28.02.2018	HEARING: SAPS
7	06.03.2018	Briefing: National Treasury on IFMS *am*
8	06.03.2018	HEARING: ESKOM on defaulting municipalities *pm*
9	07.03.2018	HEARING: SANRAL
10	13.03.2018	Briefing: HAWKS on cases being handled
11	14.03.2018	Joint with DWS – Draft terms of reference *am*
12	14.03.2018	Briefing: NPA on cases being handled *pm*
13	27.03.2018	Briefing: NT; AGSA; SIU on challenges with DWS
14	18.03.2018	Briefing: AGSA on PFMA audit outcomes

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16	24.04.2018	HEARING: SAA
17	03.05.2018	HEARING: SAPS
18	08.05.2018	Joint with DWS – Terms of reference
19	09.05.2018	Briefing: NT on expansions & deviations
20	16.05.2018	HEARING: ESKOM; SALGA; COGTA; NT on defaulting municipalities
21	22.05.2018	HEARING: SASSA
22	23.05.2018	Briefing: NT on the management of deviations
23	05.06.2018	Briefing: NT on IFMS
24	06.06.2018	HEARING: Water & Sanitation, WTE & TCTA on expansions & deviations
25	07.06.2018	HEARING: SARS on expansions & deviations *am*
26	07.06.2018	HEARING: Public Works on expansions & deviations *pm*
27	12.06.2018	HEARING: SITA on expansions & deviations *am*
28	12.06.2018	HEARINS: DEFENCE on exp. & deviations *pm*
29	13.06.2018	HEARING: Municipalities defaulting on payments to ESKOM
30	14.06.2018	Briefing: IMTT on ESKOM impasse
31	21.08.2018	HEARING: Public Works on expansions & deviations
32	22.08.2018	HEARING: ESKOM on expansions & deviations
33	28.08.2018	Update: SITA on Forensic report R4.3m *am*
34	28.08.2018	HEARING: ESKOM on expansions & deviations *pm*
35	29.08.2018	HEARING: Public Works on expansions & deviations
36	04.09.2018	Update: IPID in investigations
37	10.10.2018	Briefing: NT on PFMA outcomes

38	17.10.2018	HEARING: Public Works on prestige portfolio
39	23.10.2018	PSC on the provisional report on investigations into the employment of Mokgoro
40	24.10.2018	Briefing: Research analysis of Annual Reports
41	31.10.2018	Update: SAPS on forensic report
42	07.11.2018	Briefing: AG on selected depts. & entities *am*
43	07.11.2018	HEARING: SABC on Annual Report & FS *pm*
44	15.11.2018	HEARING: Water & Sanitation
45	20.11.2018	Update: NT on IFMS
46	21.11.2018	Update: PIC
47	27.11.2018	HEARING: PIC *am*
48	27.11.2018	Update: SIU on Water & Sanitation *pm*
49	28.11.2018	HEARING: Water & Sanitation
50	04.12.2018	HEARING: Water & Sanitation
51	25.12.2018	HEARING: Water & Sanitation *am*
52	05.12.2018	HEARING: NT on IFMS *pm*
53	06.12.2018	HEARING: Water & Sanitation *am*
54	06.12.2018	HEARING: PIC *pm*

Oversight Reports

Date	Destination
13 – 16 Aug 2018	SAA
17 Aug 2018	TRANSNET

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Annexure "TG2"

PARLIAMENT
OF THE REPUBLIC OF SOUTH AFRICA

COMMITTEES

Legacy Report

of the

Standing Committee on Public Accounts (SCOPA)

on its activities undertaken during the

5th Parliament (May 2014 – March 2019)

Chairperson's foreword

From the onset let me express my sincere gratitude to my colleagues in the Committee for the sterling work and comradeship for the past five years. Unfortunately, the vagaries of political life dictate that we may not continue where we left off. We had achieved such a strong bond of comradeship that set a standard for cross-party unity in the pursuit of proper oversight. Without a doubt, we set the pace and placed Parliament as the Centre in the fight against mismanagement and corruption.

Also to the staff of the Committee which made it possible for us as MPs to do our work and shine. We can only rely on them for institutional memory, ensuring continuity in the best traditions of Scopa.

This legacy report captures broadly and in some instances in specific terms the work of the Committee in this term of Parliament.

What comes out clearly in this report is that as Scopa we firmly and faithfully kept to our mandate, that of protecting the public purse.

We have held organs of state to account without fear, favour, or prejudice. We have dialectically enhanced our oversight practices, breaking new grounds.

The fact that annually we have seen a continuing rise in irregular, fruitless and wasteful expenditure is no reflection on the effectiveness of the Committee than it is about the failure of the Executive and its accounting officers to live up to their responsibilities as enshrined in the Constitution and the Public Finance Management Act (PFMA). The Executive branch is not responsive to the recommendations from Parliament. There is not sufficient political and administrative will to do what is right for the country to stop the looting of public funds. That is why as Scopa we were actively involved in pushing the Public Audit Amendment Bill, to give the Auditor-General (AGSA) additional powers to follow up on cases of financial mismanagement. This was, unfortunately, an acceptance that the Executive is failing to follow the law and simple political morality.

The National Development Plan (NDP) calls for a capable State. A state capable of running its affairs in the best interest of the people, ensuring that freedom has material meaning to the lives of the people. As Scopa, we are frontline witnesses to the sad reality that that noble objective remains just but an ideal. The State has steadily moved in the opposite direction, with no revolutionary morality. The Annual reports of the AG confirmed this. The revelations at the Zondo Commission on State Capture merely gives enhanced details of the things that always came out during Scopa hearings or oversight visits.

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The braveness of the corrupt can only be a confirmation of a lack of consequences for wrongdoing. We consistently called out on the malfeasance at SABC, SAA, Eskom, Compensation Fund, Correctional Services, Water and Sanitation, Public Works, Transnet, SAPS, SITA, PIC, etc. to no avail.

Besides the fact that the AG will now have enhanced powers, as Scopa, we believe that Parliament must take a deep look at its relations with the Executive. What and how is the enforcement aspect of the Constitutional imperative of "holding to account". The PFMA allows managers to manage and then account. The critical question is "what is Parliament's recourse" if there is no accountability for Public resources spent.

It is a critical question, without whose answer oversight might be reduced to a mere ritual.

Be that as it may, we believe that in this Term Scopa has shown the way and laid a firm foundation for robust oversight. The focus areas we had and the involvement of the Anti-Corruption Task Team in our work broke new grounds. This must be sustained.

May the new members not bask in the reputation of this Term, but achieve solid and brilliant victories for themselves and take oversight to a higher level.

Lastly, our gratitude goes to the Speaker's Office, through the House Chair, for the support and guidance. Much appreciated.

Alutta Continua!!

Cde Themba Godi

Scopa Chairperson

March 2019

ZZ2-NTG-031

Introduction

This legacy report provides detailed information and accounts for the work of the Standing Committee on Public Accounts (SCOPA), hereafter referred to as the Committee. It is based on the Committee's activities against its planned objectives as outlined in the Committee's strategic plan (2014 – 2019), which is provided as an attachment.

The purpose of this report is to inform the new Members of Parliament, (of the 6th Parliamentary term), of achievements as well as key outstanding issues about the oversight work of SCOPA. In addition, this report highlights the challenges that emerged during the period under review and the issues that should be considered for follow-up during the 6th Parliamentary term.

1.1 Mandate of Parliament

The mandate of Parliament of the Republic of South Africa is derived from section 55(2) of the Constitution of the Republic of South Africa (Act 108 of 1996), hereafter referred to as the Constitution, which states that "the National Assembly must provide for mechanisms to:

(a) ensure that all executive organs of state in the national sphere of government are accountable to it; and
(b) maintain oversight of
    (i) the exercise of national executive authority, including the implementation of legislation; and
    (ii) any organ of state.

1.2 Functions and powers of SCOPA

The Committee derives its mandate from the mandate of Parliament and it is established in terms of Rule 243 of the National Assembly Rules, 9th edition (2016). The functions and powers of SCOPA are stipulated in Rule 245, which specifies the following:

(a) SCOPA must consider:

(i) the financial statements of all executive organs of state and constitutional institutions or other public bodies when those statements are submitted to Parliament,

(ii) any audit reports issued on those statements,

(iii) any reports issued by the Auditor-General on the affairs of any executive organ of state, constitutional institution or other public body,

(iv) any reports reviewing expenditure of public funds by any executive organ of state and constitutional institution or other public body, and

(v) any other financial statements or reports referred to the committee in terms of these rules;

(b) SCOPA may:

(i) Report on any of those financial statements or reports to the National Assembly;
(ii) Initiate any investigation in its area of competence; and
(iii) Perform any other functions, tasks, or duties assigned to it in terms of the Constitution, legislation, these rules, the joint rules, or the resolutions of the National Assembly, including functions, tasks, and duties concerning parliamentary financial oversight or supervision of executive organs of state, constitutional institution or other public bodies.

1.3 SCOPA's strategic objectives (2014-2019)

At the beginning of the 5th Parliamentary term, at its first strategic planning session, the Committee agreed on three core objectives. These core objectives which remained the same over the period under review are:

(a) To consider all annual reports tabled.
(b) To enhance the oversight effectiveness of SCOPA.
(c) To improve the understanding of the work of SCOPA by the public.

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1.4 Key focus areas

Having established the focus areas for the 5th Parliament, which are aligned to Parliament's core objectives and mandate, as stipulated in the Constitution, the Committee further developed key focus areas for each oversight year.

Table 1 below provides a summary of SCOPA's focus areas over the five years:

Table 1: Key focus areas

SCOPA is mandated with scrutinising annual reports and this has been the practice in the past, but during the fifth Parliament increased the normal scope of work by analysing information which is not included in annual reports such as deviations and expansions as well as other available sources of information. This necessitated a need of working closely with other stakeholders such as the AG, NT (refer to section 3) to obtain reliable and relevant information.

PERIOD	KEY FOCUS AREAS
2014 – 2019	• Compliance with Supply Chain Management prescripts; • Internal controls; • Unauthorised, irregular, fruitless, and wasteful expenditure; • Consequence management against officials who do not comply with legislation; • The financial health of departments and entities (including accruals, contingent liabilities, commitments); • Non-payment of invoices within 30 days; • Human resource management (including vetting of employees); and • Deviations and expansions.

1.5 Departments and Entities are overseen by SCOPA

In terms of the Rules of the National Assembly as stipulated above, the Committee is required to consider all financial statements and audit reports of all executive organs of state, constitutional institutions, and public bodies.

Table 2 below provides a comprehensive list of all national departments that should be considered by the Committee:

Table 2: List of all national departments[1]

NATIONAL DEPARTMENTS – GROUP 1	NATIONAL DEPARTMENTS – GROUP 2
Arts and Culture	Agriculture, Forestry, and Fisheries
Basic Education	Communications
Defence	Cooperative Governance and Traditional Affairs
Economic Development	Correctional Services
Energy	Home Affairs
Environmental Affairs	Human Settlements
Health	Independent Police Investigative Directorate
Higher Education and Training International Relations and Cooperation	Justice and Constitutional Development
Labour Military Veterans	Office of the Chief Justice and Judicial Administration
Mineral Resources	Planning, Monitoring, and Evaluation
National Treasury	Police
Public Enterprises	Public Service and Administration
Public Works	Small Business Development
Rural Development and Land Reform	Social Development
Science and Technology	Sport and Recreation South Africa
Statistics South Africa	Telecommunications and Postal Services
Tourism	The Presidency
Trade and Industry	Water and Sanitation
Transport	Women, Children, and People with Disabilities
	Civilian Secretariat for Police
	Government Communication and Information System (GCIS)

1 SCOPA considers all annual reports of departments and entities within each department. The list of entities has not been included in this report, however, all entities falling within the department are considered by the Committee.

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There are more than 300 national public entities that the Committee oversees.

1.6 Method of work of the committee

In terms of section 65 of the Public Finance Management Act, (Act No.1 of 1999), (PFMA), the Executive Authority responsible for a department or public entity must table in the National Assembly the annual report, the financial statements and the audit report on those financial statements.

These reports are submitted to Parliament through the office of the Speaker, and the Speaker refers them to the relevant Portfolio Committee and SCOPA.

Section 65(1)(a) of the PFMA requires that the annual reports, including the annual financial statements and the audit report be submitted within one month after the Accounting Officer for the department or the Accounting Authority for the public entity received the audit report. Section 65(2) of the PFMA requires that if the Executive Authority fails to table the annual report, the financial statements, and the audit report within six months after the end of the financial year, the Executive Authority must table a written explanation setting out the reasons why they were not tabled.

After the 30th of September each financial year, the time by which all the departments are required to have tabled these reports to Parliament in terms of the PFMA, the Committee requests a briefing from the Auditor-General South Africa on audit outcomes of all departments and entities. This briefing provides SCOPA with a broader view of audit outcomes and key areas of concern that departments and public entities are facing, and equips the Committee with key focus areas to concentrate on, when conducting its oversight work. Researchers analyse the reports of departments and entities and report to the Committee.

Due to time constraints, and given the volume of work, the Committee has adopted a *modus operandi* which enables it to consider all reports that are tabled in Parliament. To give the necessary attention to the Auditor-General's report and issues of concern raised, the Committee divides these reports into two groups and allocates them to the Committee Members in each group or sub-committee. Each "group" has a group convener who chairs the group meetings and is also responsible for giving feedback to the full Committee. The

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annual reports are divided amongst Members in the groups. The Members scrutinise, analyse and categorise the financial statements. Support staff is allocated to each group to provide content, procedural, and research support.

The majority of Committee meetings are open to the public, and at the end of each meeting, the Chairperson may issue a media statement. This process is facilitated by the Principal Communication Officer, allocated to the Committee. The Principal Communication Officer also coordinates the Committee's media briefings, issues opinion pieces on the instruction of the Chairperson, and arranges radio and television interviews with the Chairperson.

1. Key statistics

This section provides a statistical overview of the activities of the Committee aimed at fulfilling its mandate of financial scrutiny and keeping government officials accountable. Included in the total meetings held by the Committee are joint meetings with other Portfolio Committees, briefings by other the various stakeholders, as well departments' and entities' hearings. The committee had the following activities during the five-year term under review:

Table 3: Statistical overview of the activities of the Committee

Activity	2014/15[2]	2015/16	2016/17	2017/18	2018/19	Total
Meetings held (total)	19	28	20	44	39	150
Oversight visits undertaken	0	2	2	6	2	12
Joint oversight visits with other Committees	0	1[3]	0	0	0	1
Study tours undertaken	0	0	0	0	0	0
Strategic planning sessions	1	1	1	1	0	4

Statistics provided is from 01 April to 31 March of each financial year

2.1 Departments/entities that had several meetings with the Committee

[2] Period covered is from 02 July 2014 to 31 March 2015.
[3] The joint oversight visit was with the Portfolio Committee of Water and Sanitation and Portfolio Committee of Cooperative Governance and Traditional Affairs.

During the five-year period, there were departments and entities that the Committee had several hearings with them. In certain cases, the Committee needed to have follow-up meetings with departments due to various reasons, including in-depth analysis and further interaction of the issues at hand. In some cases, the documents and responses provided by the departments or entities were not adequate for the Committee to make conclusions and recommendations on the issues at hand. In those circumstances, the Committee would request more information to be submitted, invite other role players to come and account before the Committee or follow-up oversight visits.

Below is a list of some of the departments/entities that had several engagements with the Committee.

Table 4: Departments/entities (subsequent follow-up hearings/oversight visits)

Period	Department /entity	Activities
2015/16	Department of Correctional Services	• 7 hearings • 1 oversight visit **Key issues (challenges)** • Information Technology • Infrastructure projects • Excessive use Consultants • Contract management • Unauthorised, Irregular, fruitless expenditure • Consequence management
2016/17 & 2017/18	South African Social Security Agency (SASSA) and the Department of Social Development	• 11 hearings in total (2016/17 (3), 2017/18 (8) • 1 oversight visit **Key issues (challenges)** • Irregular and fruitless expenditure

		• Contract management – (Cash Paymaster Services (CPS) • SASSA/SAPO contract – payment of grants to beneficiaries • Engagement with other role players including the Inter-Ministerial Committee and National Treasury on the Constitutional Court directive regarding the SASSA contract with CPS.
2017/18 and 2018/19	South African Police Service (SAPS)	• 5 hearings in total (3 in 2017/18 and 2 in 2018/19) **Key issues (challenges)** • Conflict of interest /employees doing business with the state. (employees who were directors of companies doing business with the department, or who had close relatives doing business with the department but did not declare their interests. • Irregular, fruitless, and wasteful expenditure. • Contract management - Forensic Data Analysts (FDA), with SITA, Rofin contract, and other forensic investigations.

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2016/17, 2017/18 and 2018/19	Department of Water and Sanitation	• 9 hearings in total (1 in 2016/17, 2 in 2017/18, and 6 in 2018/19) **Key issues (challenges)** • Financial management: Unauthorised expenditure, fruitless and wasteful expenditure, irregular expenditure, bank overdraft, accruals. • Expansions and deviations of contracts. • Contract management: Giyani Project (Lepelle Northern Water), costs escalations on the project, abuse of the emergency procurement clause. • SIU investigations on people implicated in financial mismanagement (corruption).
2016/17 and 2017/18	Transnet	• 5 hearings in total (2016/17: 1 and 2017/18 4) • 1 oversight visit **Key issues (challenges)** • Transnet contracts (poor contract management) • Irregular, fruitless, and wasteful expenditure • Deviations and expansions • Vetting of officials

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2017/18 and 2018/19	ESKOM	• 6 hearings in total (2017/18: 1 and 2018/19:5) **Key issues (challenges)** • Briefing on the Tageta ESKOM contract (briefing by the Office of the Chief Procurement Officer) • Briefing – municipalities owing ESKOM • Hearing with ESKOM, SALGA and municipalities (top ten) owing ESKOM.

2. Key stakeholders

The Committee has engaged with a range of stakeholders during its work, as outlined in table 5 below. The Committee has a long-established relationship with most of its stakeholders, especially the Auditor-General and the National Treasury. Some of the relationships with the stakeholders were established during the period under review. The Anti-Corruption Task Team, which is one of the stakeholders whose collaboration was established during the period under review.

Table 5: List of stakeholders

	STAKEHOLDERS	AREA OF INTEREST
1	Auditor-General South Africa	• Briefs the Committee on overall audit outcomes for departments and public entities. • Provides detailed audit information on a particular department/entity when requested. • Briefs the Committee on special audit or performance audit reports tabled.
2	National Treasury	• Quarterly engagements on financial matters of departments and public entities, including deviations and expansions, SCM challenges.

		• Briefings on the status of departments in complying with payment of supplies within 30 days. • Officials representing National Treasury attend SCOPA hearings.
3	Public Service Commission	• Human Resources issues and service delivery issues in the public service.
4	Anti-Corruption Task Team	• Quarterly engagements with the Committee on the status of the cases they are handling. • Officials representing ACTT attend SCOPA hearings.
5	Special Investigating Unit	• Provides the Committee with a progress report on the status of its investigations of serious malpractices and maladministration relating to state institutions, state assets and public money.
6	Association of Public Accounts Committee (APAC)	• Provides training, conferences, seminars to Members of Parliament (and support staff) on public accountability and related issues.
7	Southern Africa Development Community Public Accounts Committee (SADCOPAC)	• Training to Members of Parliament (and support staff) on public accountability and related issues. • SADCOPAC conferences – the Committee can share experiences with other counterparts on public accountability/oversight (experiences/challenges/success stories).
8	Portfolio Committees	• Joint hearings/joint oversight visits.
9	Media	• Media briefings, coverage of committee activities, as well as interviews with the Chairperson of the Committee.

In all Committee hearings, there are officials from the National Treasury, the Auditor-General as well as the Anti-Corruption Task Team. When required, the officials from these offices are requested to provide clarity on issues raised by the Members of the Committee. The Committee can also refer matters to these offices for further attention.

4. Briefings and public hearings

This section provides critical issues that were identified by the Committee from the briefings and engagement with various stakeholders, as well as from the hearings with departments and entities that have been called to account before the Committee:

4.1 Financial management

(a) Inadequate controls to prevent unauthorised; irregular; fruitless and wasteful expenditure, which is in contravention of section 38(1)(c)(ii) and section 57(c)of the PFMA, for government departments and public entities respectively.

(b) Lack of consequence management by the Accounting Officer of a department or the Accounting Authority of the public entity, against officials responsible for unauthorised; irregular; fruitless and wasteful expenditure, and officials who undermine the financial management and internal control systems of the department, as required by section 38(1)(h) of the PFMA.

(c) Material misstatements of financial statements.

(d) Non-payment of invoices within 30 days from receipt of an invoice, as required by section 38(1)(f) of the PFMA and Treasury Regulations 8.2.3. Non-payment of invoices within 30 days from receipt of an invoice. Non-payment of the invoice within the stipulated timeframes results in government departments incurring late payment interest and penalties, which results in departments incurring the fruitless and wasteful expenditure. This non-payment also hinders the survival of Small and Medium Enterprises (SMEs).

(e) Poor record keeping of financial affairs which hinders the financial performance of a department.

(f) Inadequate budget controls and misuse of the provisions of section 43 of the PFMA which allows virement between main divisions within a budget vote. Many departments have compromised the budget for compensation of employees for capital projects which were not adequately budgeted for. This results in prolonged vacant positions.

4.2 Supply Chain Management

(a) Three written quotations not sourced, in contravention of section 217(1) of the Constitution, section 45(b) of the PFMA, and Treasury Regulations 16A6.1

(b) Competitive bidding processes not followed, in contravention of section 217(1) of the Constitution, section 45(b) of the PFMA, and Treasury Regulations 16A6.1

(c) Preference point system not applied or incorrectly applied.

(d) Misuse of the virement option to pay for the projects that were not properly planned and budgeted for.

(d) Appointment of the service provider:
   (i) even before the evaluation process is completed;
   (ii) despite the service provider not qualifying;
   (iii) despite objection from, or against the recommendation of, the Bid Adjudication Committee (BAC);
   (iv) without tax clearance.

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4.3 Contract management

(a) Misuse of deviations to bypass tendering processes and thus advantage certain service providers. Treasury Regulation 16A6.4 provides "if in a specific case it is impractical to invite competitive bids, the accounting officer or accounting authority may procure the required goods or services by other means, provided the reasons for deviating from inviting competitive bids must be recorded and approved by the accounting officer or accounting authority". This clause is intended for cases of emergency or where goods and services are available from sole providers. However, government institutions are abusing this provision to circumvent the required competitive bidding process.

(b) Inadequate contract management controls:
- (i) appointments without contracts or letters of appointment;
- (ii) continuing with expired contracts;
- (iii) emergency procurements.

(c) Expansions of contracts and variation orders

(c) Evergreen contracts.

4.4 Human resource management

(a) Instability of leadership within the senior ranks.
(b) prolonged vacancies in key senior management positions, in contravention of the Public Service Act and Public Service Regulations (Regulations of 2001) C1A.2 Which requires vacancies to be filled within 12 months.
(c) Vetting of senior officials and officials in the SCM units not conducted as required by the Cabinet decision of 2014.
(d) Ignoring internal audit recommendations.
(e) Prolonged acting by officials in higher posts.
(f) Continuous use of consultants.
(g) Prolonged suspension periods.

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4.5 Information Systems deficiencies

a) Lack of clear and concise policies, procedures, guidance, support, and oversight from various IT role players, authorities, and custodians within the government.
b) Lack of clear ownership, roles, and responsibilities of technical components and their respective controls.
c) Lack of competent officials and or sufficient capacity to perform the IT-related duties.
d) Lack of independent monitoring of activities at departments to ensure compliance with prescribed controls.

4.6 Non-compliance with laws and regulations

In line with the findings of the Auditor-General, the Committee has also discovered that many departments and public entities are not complying with the legislation, and there is a lack of consequences for those departments that do not comply with the application, the most common non-compliance, is:

a) Constitution, (especially section 217)
b) PFMA;
c) Treasury Regulations;
d) Supply Chain Management
e) Public Service Act; and
f) Public Service regulations

5. Study tours undertaken

No study tours were undertaken during the period under review.

6. Oversight visits undertaken

Oversight visits are done as follow up to hearings, to departments or entities not showing any improvement in their financial management. The following oversight visits were undertaken:

Table 6: Oversight visits

Date	Department/entity - Area Visited	Objectives
21-23 July 2015	Department of Home Affairs – Eastern Cape and KwaZulu Natal	The Committee visited the local and district offices (as well as the provincial office) to ascertain the challenges in those offices. The key oversight objectives were to assess the extent of: • Manual record-keeping • IT infrastructure • Office space and archiving of department's documents • Human resource (especially in finance and SCM)
13 September 2015	Joint oversight visit with PC on Water and Sanitation and COGTA (KZN Province: various local and district municipalities)	• Financial viability of local and district municipalities in the provinces. • Poor financial management practices. • Poor debt collection by local and district municipalities. • Project planning and the status of infrastructure projects. • Extensive reliance on consultants without a positive impact on the audit outcomes.
21-23 September 2015	Department of Correctional Services (Johannesburg and the Kgosi Mampuru Correctional Centres)	• Information Technology • Security systems and controls • Capacity in finance and SCM sections • Record keeping and documentation • Incomplete infrastructure projects

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Date	Department/entity - Area Visited	Objectives
27-29 March 2017	South African Broadcasting Corporation (Head Office); South African Post Service(Head Office)	**South African Post Office** • To assess SAPO 's readiness to take over the payment of social grants to beneficiaries. (IT infrastructure, personnel, systems, internal controls). • **South African Broadcasting Corporation (SABC)** • To assess weakness in financial management controls; internal controls. • Contract management (irregular awarding of contracts to service providers, evergreen contract; reliance on consultants without a detailed skills transfer plan).
27-28 June 2017	SABC and Compensation Fund (Head Offices)	**SABC** • To obtain input from the SABC and the Special Investigating Unit (SIU) on the cases referred to the SIU on irregularities within the SABC. • To determine the scope of the SIU investigations before the proclamations concluded. **Compensation Fund** • To ascertain the extent and root causes of irregular expenditure, fruitless, and wasteful expenditure.

Date	Department/entity - Area Visited	Objectives
		• To establish the extent of internal controls and consequence management. • To establish the progress and status of cases of fraud and corruption cases (under investigation).
13 -15 September 2017	SAA Group SA Express SASSA (Head offices, and visits to various sections within the Head Office)	• Weakness in internal controls. • The capacity of internal audit units. • Root causes for financial mismanagement.
13-17 August 2018	SAA Group (SAA Technical, Air chefs, SAA Commercial) Transnet (Head Office, various sections)	**SAA Group** • **SAA Technical**: weaknesses in internal and financial controls. 5 key areas of concern identified were (the SCM section, finance, Human Resources, operations and workshop, and stores). • Poor financial management systems (including billing, issuing of credit notes) • Poor security management; ongoing investigations. • Forensic report (including the open water report). • **SAA (Group):** Turnaround strategy, vetting of employees; profitability of routes (SAA commercial). Going concern issues. **Transnet** • The capacity of the internal audit (Reliance on external consultants to provide internal audit services to the entity). • Internal audit recommendations were not implemented by the Audit Committee and the Board. • Contract management, including the evergreen contracts.

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Date	Department/entity - Area Visited	Objectives
		• Dependency on consultants (costs of not building the internal capacity).

6.1 Challenges emerged from the oversight visits

The following is a summary of the challenges that emerged during the various oversight visits:

(a) Disregard of applicable legislation by officials and senior management (e.g Constitution, PFMA, Treasury Regulations, PPPFA, amongst others)

(b) Lack of consequence management for officials responsible for non-compliance with applicable legislation.

(c) Non-recovery of money due to lengthy investigation processes.

(d) Disregard for recommendations by internal control structures, such as the internal audit unit as well as the Audit Committee.

(e) SCOPA recommendations are not implemented.

(f) Vacant positions in key positions not filled.

7. Challenges relating to the Committee's regular activities

(a) Joint committee sittings where different systems of running meetings hindered progress or affected the desired outcomes.

(b) Inadequate time to process committee reports.

(c) Committee meetings were cancelled or postponed due to the unpreparedness or unavailability of department key officials.

(d) Documents were received late from departments, which adversely affected the preparation and therefore interrogation process by Members.

(e) Inability to have quarterly engagements with the National Treasury and the Anti-Corruption Task Team, mainly due to the non-availability of key officials in these institutions.

(f) Submission of required information after the hearings.

(g) Lack of responsiveness from departments or entities, leading to multiple hearings, thereby costing the committee time that should have been spent engaging with other departments.

(h) An increasing number of departments and entities not submitting reports on time, frivolously challenging the AG's findings.

8. Summary of outstanding issues relating to the departments and entities that the committee has been grappling with

Table 7: Key outstanding issues

Department/entity	Issue(s)
South African Airways Ltd (Group)	• Status report on the vetting of employees. • Open Water report (actual report and progress report on the implementation of recommendations). • Legal fees (schedule). • Long-term turnaround strategy.
Eskom (Inter-Ministerial Task Team)	• Defaulting Municipalities owing Eskom. • Progress report on the implementation of the recommendations of the Advisory Panel on electricity reticulation and distribution.
Anti-Corruption Task Team	• Status report on the cases they are dealing with. • Update on the status of the cases referred by the Committee.
Department of Water and Sanitation	• Inquiry: Various challenges with the Department (including poor financial controls, contract management, HR issues, amongst others). • Oversight visit on the Giyani water project • Monitor the status on the proposed organogram that was declined by the DPSA
National Treasury	• Deviations and expansions • Status report on the Integrated Financial Management System (IFMS) (Consequence management against implicated officials)

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Department/entity	Issue(s)
	• Monitor progress on the proposed policy on deviation and expansions approval process
SABC	• Status report on the cases referred to the SIU for investigations. • Consequence management against officials implicated in forensic investigations.
TRANSNET	• Status report on the vetting of employees. • Detailed plan to capacitate the capacity of the internal audit unit.
DPW	• Prestige properties • Status report on the secondment and subsequent appointment of Mr Mokgoro as CFO of the Department and head of the Property Management Trading Entity (PMTE). • Monitor the capacitation of the PMTE and its reporting exemptions by the Auditor General
SAPS	• Update on the implementation of the forensic report – Investigation into Alleged Irregularities Relating to the FDA Contract 19/1/91/235 TD (14) for Procurement of Forensic Light Sources
SSA Vetting process	• Report on compilation and vetting policy and procedures the list of departments and entities vetted (and which ones are not vetted)
NSFAS	• Leadership oversight • Inadequate financial management controls
PIC	• Outstanding reports • Quarterly reporting
Steinhoff	• Finalisation of hearings
International Relations	• Monitor progress in identifying office space which is rented but not utilized in foreign countries in order to prevent fruitless and wasteful expenditure
Post Office	• Request progress report on the R22 million pre-paid rent to ECO Park Building when the offices were not occupying

Department/entity	Issue(s)
SITA	• Request progress report on the R22 million pre-paid rent to ECO Park Building when the offices were not occupied • Progress report on irregular contracts termination with FDA and rights to software licenses.

9. Key Achievements – SCOPA 2014 -2019

- **SASSA:** The Committee was very instrumental in ensuring that the CPS contract which was declared irregular and renewed irregularly be terminated. SASSA was requested by the Committee to negotiate with the South African Post Office to establish if the function previously performed by CPS can be done by SAPO. An agreement was reached to award the contract to SAPO, thereby saving the State a substantial sum of money.
- **Department of Correctional Services**: Steady progress in the findings by the Auditor-General.
- **ACTT:** Referral of cases for further investigation.
- **SITA**: Contract management and awarding of tenders
- **SAPS:** Investigations into corrupt practices e.g. FDA
- **ESKOM:** Intervention on defaulting municipalities
- **Media:** Media coverage of SCOPA work enhance the image of Parliament.
- **SCOPA:** Increase calls by members of the public for SCOPA to intervene on matters of corruption and service delivery.

10. Overall performance and general conclusions

Overall, the Committee has performed well over the five years under review, particularly in addressing the focus areas that were identified in the strategic planning sessions. In terms of actual performance against targets, the Committee exceeded this in almost all its areas, especially for the number of hearings held, oversight visits undertaken, as well as on communication/public awareness strategies, there has also been adequate visibility of Committee work through various media platforms, which ensured public access to the work of the Committee.

The Committee has also successfully summoned the Accounting Authority (the Board) of Transnet to appear before the Committee, when this Board resisted to come and account.

11. Recommendations to the 6th Parliament:

It is recommended that the Committee in the 6th Parliament should:

(a) Exercise its powers and authority to summon anyone, including the officials and Ministers who have left the Department/public entity.
(b) Strengthen and maintain relationships with law enforcement agencies, the Anti-Corruption Task Team provides regular updates on the status of cases relating to maladministration, fraud, and corruption in the public sector.
(c) Follow closely the implementation of the Public Audit Amendment Act, which gives the Auditor-General powers to take action against those who have misused public funds.
(d) Undertake more vigorous oversight visits.
(e) Allocate more time to consider and adopt Committee reports for further debating in the House.
(f) Monitor the progress on implementing SCOPA recommendations.
(g) Maintain a strong working relationship with AG and National Treasury.
(h) Work with the Public Service Commission (PSC) and obtain further reports on certain departments.

Annexures:

(a) Strategic Plan documents (2014-2019)
(b) Annual performance plans (2014/15 - 2018/19)
(c) Master attendance register

Annexure "TG3"

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ZZ2-NTG-055

Report of the Committee on Public Accounts on its oversight visit to the South African Airways Group (SAA) and TRANSNET Ltd, in Johannesburg, from 13 to 17 August 2018

Introduction

The Standing Committee on Public Accounts (the Committee) undertook an oversight visit to the South African Airways Group (SAA) and Transnet Ltd in Johannesburg, from 13 to 17 August 2018. The Committee hereby reports its findings and recommendations to the House as required by Rule 137 of the National Assembly Rules.

Delegation:

Mr NT Godi	(APC), Chairperson, leader of the delegation;
Mr E Kekana	(ANC);
Ms N Khunou	(ANC);
Ms T Chiloane	(ANC);
Mr. D Ross	(DA);
Mr M Hlengwa	(IFP);
Ms V Mente	(EFF)

Apologies:

Mr V Smith	(ANC);
Mr M Booi	(ANC);

Support staff:

Mr. B Kali; Ms. N Nkabinde (Secretariat); Mr. S Magagula (Researcher); and Ms. N Cenge (Content Advisor), F Ndendze (Parliamentary Communication Office), Ms. Z Keto (Stakeholder Liason, Auditor-General South Africa).

Auditor-General of South Africa

Ms Alexis B	- National Manager
Ms Naveen Mooloor	- National Manager

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SAA Group and Subsidiaries

Airchefs:

Martin Kemp - CEO
Cwayita Sigodi – GM HR
Noel Mbizwo – HOD Supply Chain
Sibusiso Shongwe – HOD Finance
Unathi Sibiya – Acting GM Commercial

SAA Board and Executives:

JB Magwaza, - Chairperson

Nolitha Fakude - Deputy chairperson

Geoff Rothschild

Vuyani Jarana – CEO

Lusanda Jiya – GM: Shareholder & Stakeholder Relations

Vuyi Raseroka – Interim GM for Human Resources

Mpati Qofa – Interim GM Legal

Siyakhula Vilakazi – Chief Audit Officer

Robert Head – Interim CFO

Zuks Ramasia – GM: Operations

Kenneth Pillay – Chief Procurement Officer

Pumla Luhabe – GM Commercial

Nic Vlok – Acting CEO Mango

Justice Luthuli - Acting GM: Cargo

Suretha Cruse – Executive Customer Loyalty

SAAT (Board and EXCO):

Ahmed Bassa (Chairperson)

Akther Moosa (Finance)

Wellington Nyuswa – Acting CEO

Zak Liyaqat-Ali - Manager in the CEO's Office

Saki Tlou - SAA GCEO Technical Advisor)

Kevin Sampson – HOD: Human Resources

Support Staff:

Vuyo Tuku – Manager in the CEO's office

Tlali Tlali – HOD: Media Relations

Vimla Maistry – Acting HOD: Stakeholder Relations

Background

The Committee had a hearing with the South African Airways Group on the irregular, fruitless and wasteful expenditure on the 24 April 2018 that the entity incurred during the 2016/2017 financial year. Due to the lack of adequate information provided by officials during the hearing, the Committee decided to conduct an oversight visit to the SAA Group.

The SAA Group generated total revenue of R30.7 billion in the 2016/17 financial year, from 64 aircraft (SAA 52, Mango 10, and SAA Cargo 2). The total operating cost amounted to R33.5 billion and at the end of the 2016/17 financial year, the company made a total loss of R2.7 billion. During the same period, the company covered 8 domestic destinations (SAA 5, Mango 7, with some markets served by both airlines) and the company serves 25 regional destinations (SAA 24, Mango 1) while 8 international destinations were served by SAA. In terms of passenger carrying capacity, 9.7 million passengers were carried in 2016/17 (SAA 6.8 million, Mango 2.9 million). As of 31 December 2017, South African Airways had total government guarantees of R19.114 billion, R10.149 billion had been drawn on by SAA through loans from commercial banks. The company had improved on its utilisation of guarantees simply because of the R10 billion-equity injection made by the government and portions of these funds were used to repay loans from commercial banks. Before the equity injection by the government, the company has drawn R17.749 billion out of the total government guarantee of R19.114 billion through loans from commercial banks.

The Committee conducted a walkthrough on SAA Technical (SAAT), SA Air Chef, and SAA commercial.

The Committee interacted with the various divisional staff in the Supply Chain Management; Finance section; Human resources, workshops. The Committee also received a presentation from the two unions representing the employees, which is NUMSA and SATAWU.

Objectives

The main objective of the oversight visit to the SAA Group was to assess first-hand the situation at the SAA which constituted the main causes of irregular, fruitless, and wasteful expenditure.

This is evident in the lack of leadership, which has contributed to the bankruptcy of the airline. SAA management lacks any understanding of the sector and appears to have no idea what it is doing.

The Committee was also concerned about the total lack of consequence management at SAA, which has added to the airline's bankruptcy. Committee also learned that SAA has several costly evergreen contracts that are not managed. SAA management also did not have any information about these contracts, which is shocking. Committee has asked for a detailed list of all evergreen contracts.

The Committee was also interested in two subsidiaries of the SAA Group, which is the SAA Technical and Air Chef, these two subsidiaries are the most problematic. SAA had received R19. 1 billion guarantees and had and to source funding at the back of those guarantees. However, the costs of the services for the guarantees were huge.

The Committee visited the following subsidiaries before meeting with management:

SAA Technical:

The Committee requested to interact with the junior officials in different sections, without the presence of management, and below are the findings from those interactions:

The Annual Financial Statement for 2017/18 was submitted but dependent on SAA going concerned. Not a formal submission.

Risks raised at interim around inventory, valuation of PPE, Irregular and fruitless and wasteful expenditure, and supply chain management.

Supply Chain Management:

The meeting with SCM staff highlighted the following challenges which contributed to unfavourable audit opinion.

a. Cumbersome manual processing of the Request for Qualification;
b. There was no control management in terms of fixed-term;
c. There were issues related to the contract that takes too long to be signed
d. Some contracts were improperly negotiated for, poorly contracted, or weakly managed.

e. Poor planning by the leadership and inability of leadership to make informed decisions.
f. Use of manual system which hinders the procurement processes
g. Current policies not aligned with existing regulations like PFMA
h. Low staff morale that destroys the performance of the organization.
i. There are a lot of acting positions in key leadership positions.
j. Current policies require that parts should be acquired from the Original Equipment Manufacturer (OEM).
k. No consequence management.
l. Challenges with the systems e.g AMOS.
m. No proper communication with staff about the updated policies and challenges with the policies.

Finance:

a. Vendors want payment in advance because they do not trust SAA's financial credibility anymore, but SAA no longer entertains that.
b. Due diligence is sometimes not done, and this may lead to a situation where the customer fails to pay. These customers are usually not creditworthy and so they need to pay upfront before any services are extended to them.
c. There are cases where an airline would come in for service and leave without paying. Sometimes such services are not even recorded, which makes it difficult to quantify losses. For instance, KANOL is being paid despite not delivering anything that they are supposed to deliver.
d. Broad-Based Black Economic Empowerment (BBBEE) companies are paid in advance but then they do not deliver.
e. Commercial contracts are not aligned to actual work done (for instance Air Mauritius).
f. Positions are not advertised. When advertised, posts are given to preferred candidates whether or not they deserve an appointment.
g. Credit notes (Refunds) are issued to selected companies without the required supporting documentation. The instruction process of the credit note comes from management and there is nothing that the junior staff can do because the instructions come from above.
h. A stationery company, SIYONELISA, has been seen delivering aircraft parts
i. Poor planning and poor contract management,
j. Shortcomings in tender processes and non-compliance with SCM policy, PFMA, and Preferential Procurement Policy Framework Act (PPPFA);
k. Inadequate monitoring of goods and services procured;
l. Only six months' contracts because of uncertainty;
m. Positions are given to friends which demoralises desiring employees.

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Human Resources

The following matters were noted:

a. Managements negative attitude towards employees, they believed in top down approach.
b. Nepotism and favouritism when it comes to jobs.
c. HOD micro-management results in employees joining competitors like Comair.
d. BBBEE companies were extremely escalating prices. Big companies were utilising black companies as the front line. Some suppliers had offices within SAAT premises
e. Waste of funds - cases sent to CCMA were lost but used expensive lawyers instead of resolving internally.
f. Lots of vacancies; no staff retention and succession planning.
g. There were apprentice students that were employed as full-time employees but were not remunerated accordingly. Certain employees were back paid but there was no communication why others were not.

4.2.1 NUMSA & SATAWO

The two unions who were fighting the battle of employees highlighted all the concerns of the employees. The emphasis was on the following:

a. The "Open Water Report" was conducted under the supervision of old leadership but the report was not made available. This highlighted syndicates who are still employed by SAAT in senior positions.
b. Costs were incurred in commissioning the Open Water investigation, the report has been finalised but management has not implemented the recommendations of the report.
c. The actiong Chief Executive Officer OF SAAT is implicated in the Open Water report but there has been no actions taken against him.

d. Incompetent HR- there's nepotism, discrimination, victimisation, and lack of career development of staff and firing of whistleblowers without evidence.
e. Regarding employee relations, members were suspended for two years with no evidence.
f. People at procurement were buying from their own family but are still employees.
g. Lack of security i.e., not enough cameras where they keep spares. Some managers were against placing cameras.
h. Obsolete aircraft spares worth R1,5 billion getting lost and depreciating daily.
i. The stock count was not always done. The new digital system "AMOS" has gaps that needed to be addressed.
j. There's office space rented to ACSA but never utilised.
k. There are only two hotels utilised for canceled flights, regardless of the hotel rates.
l.
m. Unnecessary costs were spent on hotels for passengers due to canceled aircraft.
n. In the case of canceled flights, the entity books for the entire airline, without verifying who will require an accommodation, which results in fruitless and wasteful expenditure.
o. There is an irrational decision that SAAT is appointing a middleman to procure spares.

4.3 SA Chef

The Annual Financial Statements submitted but dependent on SAA going concern.

Risks raised at interim around Irregular expenditure and supply chain management.

a. 2017/18 financial year calculations and quantification is still underway and at 70% completion
b. Major concerns raised by the Auditor-General as below

- Non Compliance with Section 51 (a) (iii) of the Public Finance Management Act (PFMA)
- Poor Contracts Management
- SCM Policy
- Original Tax Clearance Certificate
- The drivers of the irregular expenditure where as follows
- 6 months moratorium on contracting by the Board of Directors
- Non-compliance with NT Treasury Instruction Note 3 of 2016/17
- Different approach by Auditor General compared to the previous auditors

4.3.1 Supply Chain Management

a. Lack of institutional knowledge of supply chain management.
b. There gaps in the previous SCM policy.
c. Lack of contracts management process
d. Use of SAA legal department.
e. Manual process.
f. ERP System not entirely ends to end.
g. Lack of proper supplier performance management.
h. Poor contract management.
i. Record keeping
j. Lack of institutional knowledge on supply chain management.is capitalised with seasoned resources with both food and compliance experience as of 1st August 2018.
k. New SCM policy.

4,5 SAA commercial

The Committee met with officials from the SAA Commercial, and the following findings were discussed:

a. A lot were acting officials, especially in management positions.
b. Out of four domestic routes, three routes were profitable.
c. The profitable domestic routes are Cape Town, East London, and Port Elizabeth.
d. The only non-profitable domestic route is Durban. This route is mainly operated by Mango, which is a low-cost airline.
e. The regional and international routes profitable varies significantly due to season.
f. International routes are very volatile due to significant competition.

Meeting with SAA technical leadership

The hearing took place on the second day of the oversight. The chair highlighted that the SAA Group is under siege from its employees who are flouting policies. The Committee and officials felt that for SAA Group to work flawlessly, urgent intervention was required for SAA Technical.

During the hearing, the Committee raised the following concerns with the Board, these issues emanated from the interactions with employees.

a. There was a credit note for Air Mauritius amounting to R7million but no invoice was received.
b. Goods were moved to where there were no security cameras, increasing the risk of stock theft.
c. Abuse of power by management as they instruct staff to pay even though they know the company was not creditworthy. Fifty orders were paid while there were no services rendered.
d. Some of the companies have offices within the premises and it's disadvantaged to other suppliers as they don't have privileged information.
e. Some managers were doing business with SAAT and Exco promised to look at that.
f. Victimisation of staff- The gap between the junior staff and leadership (low staff morale) has been raised last year and it's still a concern. Staff was working in fear of querying management as they will be discriminated against should they raise concerns.

g. Delays in performing the duties, resulting in the resignation of technicians and join the rival airlines.
h. The fact that there was resistance from certain managers to be vetted was alarming.

i. Members also quoted on issues raised by AGSA with regards to SA Air Chef. i.e. failure to maintain proper reconciliation; IFWE; SCM.

j. No training to staff on the use of revenue accounting system;

4.3.1 Management:

The Committee also highlighted the following concerns which were not yet resolved:

a. The managers that were implicated in the open water report regarding firing the whistleblowers were still employees of the organization.
b. Stolen spare parts, bins not captured on AMOS, an obsolete stock that is losing value, and lack of asset register.
c. The recruitment process is flawed and there's a lot of nepotism. This referred to the acting CFO who came from London for six months whereas we have accountants in RSA.
d. The matter of huge pilot benefits compared to other employees has been raised several times but not resolved

e. Reasons for low staff morale - ensure that no staff will be fired due to whistleblowing
f. When an emergency occurred and flights are canceled. Too much money is wasted on placing passengers at the hotels without checking other economic alternatives.
g. Use of only two hotels (Southern Sun and Protea) without considering other hotels.

Recommendations by the Committee on SAA Group findings

The Committee recommends that the Accounting Authority ensures that:

- revenue management is enhanced through the recruitment of suitably qualified and skilled staff;

training to staff on the use of the revenue accounting system is provided

The Committee recommends that the Accounting Authority ensures that:

a. The Board oversees weaknesses of internal control and takes corrective action in this regard;
b. The Board implements a business process engineering by fundamentally rethinking and reinventing the way it operates to dramatically improve its operations, specifically about revenue;
c. A skills audit is conducted to determine if the current staff have the required skills set for the entity;
d. The Head of Human Resources and senior management fill vacant posts;
e. In the event of poor performance, the SAA Board implements consequence management not limited to disciplinary action but also to include training interventions;
f. Control activities are identified and developed with consideration to their cost and their potential effectiveness in mitigating risks;
g. Management establishes, documents, and implements a fraud prevention plan;
h. Management implements and maintains an effective risk management policy that continuously evaluates and updates the financial management and internal control risks.
i. Reasonable steps are taken to recover debts from debtors before they are written off, and also from the individuals responsible for losses incurred;
j. Criminal charges are laid against individuals who have committed financial misconduct;
k. Internal control deficiencies are identified and communicated timeously to those parties responsible for taking corrective action;
l. An effective and well capacitated internal audit division for SAA Technical is established;
m. Management implements regular assessment of supply chain performance to ensure that deficiencies are identified;
n. The Board organizational structure addresses areas of responsibility and establishes clear reporting lines to support effective internal controls over financial reporting; and
o. Effective policies and procedures relating to financial reporting are implemented.

The Board reports back to SCOPA on progress made on these recommendations within 30 days of the adoption of this report.

5. TRANSNET SOC LTD

On 23 January 2018, SCOPA had a hearing with Transnet SOC LTD on deviations and expansions.

The Committee met with auditors of Sizwe Ntsaluba Gobodo (SNG) to brief them on the 2018 audit outcomes. A walk through was conducted to the staff at procurement, internal audit, group treasury, and tax and closed with a hearing with leadership. The committee did not get much satisfaction from the staff engagement as expected.

3.1 Meeting with Sizwe Ntsaluba Gobodo

The auditors highlighted in confidence the 2017/18 audit outcomes:

- Irregularities on SCM
- Prior period misstatement
- Ineffective leadership based on good governance
- Lack of communication of laws and regulations
- Lack of resources and skilled people.
- Uncertainty relating to going concerned

3.2 Supply Chain Management Unit

The meeting with SCM staff highlighted the following challenges which contributed to the poor performance of Transnet.

- The staff was afraid to talk due to victimisation however arrangements were made to meet them individually. The following were noted:
- Lack of staff development. The staff was hardly trained on PFMA and other relevant regulations.
- Lack of clarity on policies. Staff had a different understanding and interpretation of policies.
- Transnet is using a manual system while procuring. One office was full of files for one tender.

3.3 Group Treasury

The Committee was informed of the following:

- Staff was overstretched and that created room for human error.
- There was no transparency on investigations of media allegations.
- There's a lack of intervention with leadership.
- Lack of communication i.e. there were rumors that employees will be moving to Waterfall due to maintenance. Transnet owned the building they are using in Carlton Centre but will be renting the other.

3.4 Internal Audit (IA) Unit

The following alarming issues were noted.

- The unit was composed of ten members in a management position responsible for planning and the execution was outsourced to three companies (Nkonki, KPMG, and Sekela-Xabiso).
- The IA planners did not have access to the working papers to verify nor getting involved in the discussion of IA findings.
- The budget for the IA unit was approximately R300m and the maximum was paid to outsourced IA.
- The relationship between the IA and leadership is bad as the management did not take seriously any issues raised.
- The forensic audit section is reporting to the management.
- The contracts were awarded to the wrong company's ignoring IA recommendations.

The Committee recommends that the Accounting Authority ensures that:

a) The delays in finalising cases should be investigated. In instances where individuals failed to exercise their management functions effectively, they should be held accountable; and
b) Accounting Authority exercises constant leadership oversight, including setting the correct "tone at the top" and leading by example.
c) There is a long term plan to strengthen and develop the internal audit capacity.
d) There are skills transfer mechanisms from the outsourced companies.

9. Conclusion

The Committee further recommends that the Executive Authority submits a progress report on the implementation of all the above recommendations to the National Assembly within 60 days of the adoption of this report by the House.

The Committee was generally disappointed by the extent to which the Accounting Authority and management seem to not have addressed the financial management weaknesses identified in the audit report, especially as some of these matters had been raised in the audit report of previous years.

In light of the above, SCOPA resolves that the Auditor-General should conduct a special audit/investigation into the matter of financial weaknesses of the Transnet. The Committee further recommends that the Accounting Authority submits a quarterly progress report on the implementation of the above recommendations to the National Assembly

Report to be considered.

Annexure "TG4"

ZZ2-NTG-067

No 21—2011] THIRD SESSION, FOURTH PARLIAMENT

PARLIAMENT

OF THE

REPUBLIC OF SOUTH AFRICA

ANNOUNCEMENTS, TABLINGS AND COMMITTEE REPORTS

TUESDAY, 1 MARCH 2011

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   (a) Public Protector Report No 33 of 2010-11 on an investigation into complaints and allegations of maladministration, improper and unlawful conduct by the Department of Public Works and the South African Police Service relating to the leasing of office accommodation in Pretoria.

2. **The Minister of Defence and Military Veterans**

   (a) Initial costing of benefits of the Military Veterans Bill – 22 February 2011.

   Referred to the **Portfolio Committee on Defence and Military Veterans** for consideration.

COMMITTEE REPORTS

National Assembly

1. First Report of the Standing Committee on Public Accounts on the Report of the Auditor General on the 2009/10 financial statements of the Department of Justice and Constitutional Development, dated 09 February 2011

1. Introduction

The Standing Committee on Public Accounts (SCOPA) heard evidence on and considered the contents of the Annual Report and the Report of the Auditor-General on the 2009/10 financial statements of the Department of Justice and Constitutional Development. The Committee noted the qualified audit opinion, highlighted areas which required the urgent attention of the Accounting Officer, and reports as follows:

2. Irregular and Fruitless expenditure

The Auditor-General identified the following:

a) As disclosed in note 26 to the financial statements, irregular expenditure to the amount of R812 million was incurred, R436 million of which related to the current year's irregular expenditure and R368 million related to the prior year's irregular expenditure identified in the current year.
b) R3,8 million of irregular expenditure not condoned is a result of competitive procurement procedures not followed and prior approval for procurement not obtained from the Bid Adjudication Committee.
c) Fruitless and wasteful expenditure amounting to R2 million was incurred as a result of officials not boarding flights or not using reserved accommodation.

The Committee recommends that the Accounting Officer ensures that:

a) disciplinary actions are taken against employees who were responsible for incurring such irregular and fruitless expenditure as required by section 51 (e) (iii) of the PFMA;
b) The Department strengthens its internal control systems in order to avoid incurring further irregular expenditure.

3. Supply chain management issues

The Auditor-General identified the following:

a) Three price quotations not in all instances invited.
b) Awards to certain suppliers who failed to provide a valid tax clearance certificate.
c) The preference point system as required by the Preferred Procurement Policy Framework was not in all instances applied.
d) Awards to certain suppliers did not score the highest points in terms of the preference points system.
e) Contracts amendments or extensions resulted in circumvention of competitive bidding.
f) Ineffective internal audit evaluation of SCM compliance.

The Committee recommends that the Accounting Officer ensures that:

a) The departmental SCM policy be updated encompassing all the elements of the PFMA, Treasury Regulations, Preferential Procurement Framework Act, Preferential Procurement Regulations and SCM practice notes issued by the National Treasury that will ensure an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.

b) A checklist of all legislative requirements be kept for all SCM related transactions, signed by both the preparer and reviewer.
c) A proper filing system for all information supporting SCM related transactions be kept.
d) Critical vacancies in the SCM unit are filled with adequately skilled officials.
e) Early warning reports listing contracts that will soon expire be compiled and further that new tender processes be entered into timeously.
f) Monthly reconciliations should be done in order to avoid non-compliance with SCM requirements.
g) Internal audit scope with regards to SCM be increased to ensure that day to day controls are effectively implemented and all procurement comply with SCM legislative requirements.
h) The total population of expenditure be revisited to determine the full extent of the non-compliance which will lead to irregular expenditure..
i) Disciplinary measures be taken against all officials that do not comply with the legislative requirements surrounding SCM.

4. Internal Audit Unit

The Auditor-General identified the following:

a) Internal audit unit established but not in operation throughout the year.
b) Internal audit unit did not fulfill required responsibilities.

The Committee recommends that the Accounting Officer ensures that:

a) A fully functional audit committee that promotes independence, accountability and service delivery be established.
b) Internal audit function monitors the adequacy and implementation of internal control.
c) Effective risk assessments and strategies, including fraud prevention plans are maintained, to address identified weaknesses.

5. Human Resources related issues

The Auditor-General identified the following:

a) The vacancy rate for senior management deteriorated by 14% to 25% in 2009/10

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b) Verification of criminal and financial or asset records, citizenship, financial status, qualifications and previous employment for all new appointments were not done
c) Certain officials acted for periods exceeding 12 months.
d) All performance management agreements were not signed by 31 July.
e) More temporary/permanent incapacity leave was granted than entitled to and non-compliance with DPSA's policy and procedure on incapacity leave for ill health retirement.
f) Not all leave taken by employees was captured accurately and in full.
g) All monthly payroll reports were not certified, all certified payroll reports not returned to finance within 10 days, completeness of certified payroll reports were not in all instances checked and corrective measures not in all instances taken where discrepancies were noted.

The Committee recommends that the Accounting Officer ensures that:

a) HR policies are developed and implemented.
b) DPSA policies and procedures are complied with.
c) The vacancy rate is reduced by appointing permanent senior management.
d) Leave forms are timeously and correctly captured on PERSAL.

6. Asset register

The Auditor-General identified that:

The completeness of the asset register and the existence of certain assets could not be confirmed.

The Committee recommends that the Accounting Officer ensures that:

a) All capital assets are properly recorded as required by section 40 (1)(a) of the PFMA and Treasury Regulations 17.2.3.
b) There is regular asset counting, verification and reconciliation in order to avoid incorrect disclosures in the annual financial statements.

7. Governance

The Auditor-General identified that:

> The Department does not have adequate monitoring processes in place to identify deficiencies and ensure that corrective actions have been implemented that will result in reliable performance information.

The Committee recommends that the Accounting Officer ensures that:

a) A monitoring system is developed that will address the adequacy of performance information.
b) Such a system is frequently reviewed in order to address any gaps that are identified.

8. Third Party Funds

The Auditor-General identified the following:

a) No financial statements were prepared for the Third Party Fund as no reliable financial information exists, for revenue to be determined.
b) The potential claims against the fund as a result of fraud, theft and loss to the Department are not complete.
c) The money collected on behalf of the State and not yet paid to the Department could not be ascertained.

The Committee recommends that the Accounting Officer ensures that:

a) A proper financial system is developed or that the current features of the Justice Deposit Administration System (JDAS) be enhanced with the required controls to ensure complete, accurate and reliable financial information and reporting.
b) The vacancies at court level are filled with adequately skilled officials.
c) All fraud, cash shortages and losses are investigated timeously.
d) Disciplinary measures are taken against every official that does not comply with the policies and procedures or who was charged or found guilty of misconduct.

The internal audit scope with regards to the Fund is increased to ensure that daily controls are implemented and effective.

9. Information Systems and related issues

The Auditor-General identified the following deficiencies in the information and related issues:

a) Information technology governance, which provides for the structures, policies and processes through which departments ensure that IT supports the Department's strategic objectives.
b) Security management, which should prevent unauthorised access to the application system that generates the information used to prepare the financial statements.
c) User access controls, through which the Department ensures that only valid and authourised users are allowed access to initiate and approve transactions on the system and that user access is adequately segregated when transactions are captured and approved.
d) IT service continuity, through which the Department ensures the availability of financial and performance in instances of data loss or a disaster.

The Committee recommends that the Accounting Officer ensures that:

a) An IT governance framework is developed that directs the positioning of IT, resource requirements, service continuity in instances of data loss and risk and internal control management.
b) The access control security is strengthened to ensure that no unauthorised access takes place.

10. Conclusion

The Committee further recommends that the Accounting Officer submits a progress report on the implementation of the above recommendations to the National Assembly within 60 days after the adoption of this report by the House.

Report to be considered.

2. Second report of the Standing Committee on Public Accounts on the report of the Auditor-General on the 2009/10 financial statements of the South African Broadcasting Corporation and report of the Auditor-General on an investigation at the South African Broadcasting Corporation, dated 09 February 2011

1. Introduction

The Standing Committee on Public Accounts (SCOPA) heard evidence on and considered the contents of the Annual Report and Report of the Independent Auditors on the 2009/10 financial statements of The South African Broadcasting Corporation (SABC). The Committee also heard evidence and considered the contents of The Report of the Auditor-General on an investigation at the South African Broadcasting Corporation.

The Committee noted the unqualified audit opinion, highlighted areas which required urgent attention by the Accounting Authority and reports as follows:

2. Non-compliance with regulatory and reporting requirements

The Independent Auditors identified the following:

a) There was no formal approved policy or procedure in place to monitor performance information; and
b) The quarterly reports presented during the course of the year did not enable ongoing monitoring and evaluation of performance objectives as not all measures and targets achieved were reported on a quarterly basis.

The Committee recommends that the Accounting Authority ensures that:

a) Policies and procedures related to financial reporting are established and communicated; and
b) Ongoing monitoring and evaluation of performance objectives take place as required by applicable legislation.

3. Usefulness and reliability of information

The Independent Auditors identified that the Corporation had not reported on all predetermined objectives in the annual report as required by section 55(2)(a) of the PFMA and Treasury Regulation 28.2.2.

The Committee recommends that the Accounting Authority ensures that :

> There is compliance with section 55(2)(a) of the PFMA and TR 28.2.2 as a matter of urgency. The Committee views this non-compliance very seriously and therefore calls for the relevant managers to be held accountable.

4. Non-compliance with the Public Finance Management Act No. 1 of 1999 (PFMA)

The Independent Auditors identified the following:

a) Several members serving on the SABC Board during 2009/10 did not disclose in the standard "Disclosure of Interest" register kept by the office of the Company Secretary whether they had any direct or indirect personal or private business interests in any matter, as required by section 50(3)(a).

b) Management did not always follow approved policies and procedures as required by section 57(b).

c) A group-wide procurement policy existed within the corporation. However, there were instances where international content acquisition could not be supported by an approved business plan or signed contracts. Instances of premature procurement (i.e. ordering taking place without appropriate legal contracts with suppliers, or without the required signature by the appropriate delegated authority of the SABC having been obtained) were identified. Both these examples demonstrate that the supply chain management policies and procedures were not appropriately adhered to as required by section 51(1)(a)(iii).

d) The Board of the SABC did not take responsibility to manage and safeguard the assets, revenue, expenditure and liabilities of the SABC, as required by section 51(1)(c) .

e) The system to prevent the unauthorised, irregular, fruitless and wasteful expenditure was not always complied with during the 2009/10 financial year, and as such was not always effective, as required by section 51(1)(b)(ii).

f) The SABC Board did not have effective processes in place to collect all revenue due to the SABC. These processes and systems were not operating effectively as required by section 51(1)(b)(i) and section 51(1)(c).

g) The SABC's Treasury Policy allows, with the prior written approval from the Minister of Finance, for the delegation of transaction powers from the Board to management individuals within the SABC Treasury. However, the SABC did not have the Minister of Finance's written approval to delegate this power to borrow money, issue guarantees, indemnity and securities or enter into any other transactions that may bind the entity to future financial commitment, as required by section 66(6).

h) The SABC did not in the period under review have a centralised compliance control or process in place to ensure the monitoring and reporting of the overall compliance with applicable legislation, as required by section 51(1)(h).
i) The SABC did not put in place a formal risk assessment procedure throughout the organisation.

The Committee recommends that the Accounting Authority ensures that:

a) Members of the Board disclose any direct or indirect, personal or private business interests in the standard "Disclosure of Interest" register and appropriate stern action is taken against any board member who fails to disclose his or her interests;

b) The Corporation improves its internal control environment in order to avoid misuse of financial and other resources;

c) The Corporation has an updated Supply Chain Management policy complying with all the legislative requirements, including the PFMA and the Treasury Regulations, the Preferential Procurement Regulations and the Preferential Procurement Framework Act;

d) The Corporation has an updated asset register and strengthens its internal control environment in order to avoid loss of assets, and a full asset stock count should be conducted annually; and

e) Strict rules and regulations are implemented to ensure that the Corporation is compliant with applicable legislation, and that appropriate disciplinary steps are taken against any transgressors.

5. Non-compliance with Treasury Regulations

The Independent Auditors identified the following:

a) The Internal Audit Plan was not approved by the Audit Committee, as required by Treasury Regulation 27.1.8.
b) The three year rolling audit plan presented to the Audit Committee by the Internal Audit function did not comply with Treasury Regulation 27.2.2.

c) Although cases of financial misconduct were found, no details of disciplinary submissions had been made to the Auditor-General, the National Treasury and the Executive Authority as required by Treasury Regulation 33.3.

The Committee recommends that the Accounting Authority ensures that:

a) The Audit Committee has approved written terms of reference and operates in accordance thereto.
b) Appropriate disciplinary action is taken against transgressors and reported accordingly.

6. Non-compliance with the Broadcasting Act No.4 of 1999

The Independent Auditors identified that the SABC did not prepare separate Financial Statements for the years ended March 2009 and March 2010 for Public Broadcast Services (PBS) and Public Commercial Services (PCS), as required by the Broadcasting Act of South Africa.

The Committee recommends that the Accounting Authority ensures that:

The Corporation strictly adheres to the requirements of the Broadcasting Act of South Africa.

7. Internal Audit Unit

The Independent Auditors identified that:

Although an internal audit unit was established, it was not in operation throughout the year and did not fulfil its required responsibilities.

The Committee recommends that the Accounting Authority ensures that:

There is an effective internal audit function that promotes independence, accountability and effective risk assessments and that strategies are maintained, including fraud prevention plans, to address identified weaknesses.

8. SPECIAL INVESTIGATION REPORT

The Auditor-General reported on the undermentioned investigations and identified the following:

8.1 Supply chain management

a) Evidence could not be found that a total of seven tenders awarded for an aggregate amount of R174, 069 million was approved according to the appropriate levels stipulated in the Delegation of Authority Framework.
b) Deviations from complying with tender processes in respect of contracts to the value of R24,8 million were not approved at the appropriate levels in terms of the approved Delegations of Authority Framework.
c) There were also further deviations in respect of two contracts awarded amounting to R8,4 million and R8,2 million, respectively. which were not approved in accordance with the Delegations of Authority Framework.
d) A material agreement for R326 million was entered into by the former Group Chief Executive Officer and former Head: Legal and Business Advisory Services with a consultant on 28 September 2006, although they did not have the authority to do so.
e) A further eight appointments of consultants were investigated and a synopsis of the deficiencies can be listed as:-
    - The procurement process required by the Group Supply Chain Management Policy was not followed (competitive processes were not followed, contracts were signed after services had already commenced, contract periods were extended without being formalised in addendums to the contracts and payments were made for services not provided for in contracts);
    - There was no segregation of duties as the initiation of the need for services, contract approval and certification of services rendered were done by one individual;
    - Deliverables were not specified in the contracts; and
    - Payments exceeded contract amounts.
f) Contrary to the provisions of section 51 of the PFMA, there was no approved procurement policy which governed procurement for the period prior to October 2007.

g) The bid adjudication committee had a delegated authority to procure up to an amount of R7,5 million. However, while the bid adjudication committee made recommendations and took decisions, the bid adjudication committee members were not formally appointed in writing by the Group Chief Executive Officer, contrary to the requirements of the Group Supply Chain Management Policy.

h) The SABC's ability to manage and provide quality information and reporting relating to Supply Chain Management had also been impeded.

i) The SABC operated in an industry which was characterised by networks and interactions. In this regard, the following was noted:-
   - One thousand four hundred and sixty five (1465) employees who had interests in companies or close corporations were identified. There was no central register of approval granted to the employees, which was an example of inadequate management of information, and due to time constraints, the impact of such interests on the SABC could not be evaluated.
   - Of the above employees, twenty (20) were directors or members of twenty companies or close corporations who had received payments from the SABC to the amount of approximately R3,4 million. This finding is a specific contravention of the Group Supply Chain Management Policy.

j) Non-compliance with procurement policies and the lack of decisive and effective action by those responsible for oversight compounded seemingly prevalent risks facing the organisation which had not been identified in the SABC strategic risk assessment.

These risks were:-
   - Some employees could have devoted attention to their other commercial interests at the expense of the SABC; and
   - Decisions could have been influenced in favour of individual interests rather than on the basis of sound business practice.

The Committee recommends that the Accounting Authority ensures that:

a) The Corporation has an updated Supply Chain Management Policy encompassing all the elements of the PFMA, the Treasury Regulations, the Preferential Procurement Framework Act, the Preferential Procurement Regulations, and Supply Chain Management practice notes issued by the National Treasury that will ensure an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.

b) Early warning reports are prepared listing contracts that will expire soon and there is timeous intervention to invite new tenders when necessary.
c) The internal audit scope with regards to Supply Chain Management is increased to ensure that day to day controls are implemented and effective, and that all procurement complies with legislative Supply Chain Management requirements.
d) The total population of expenditure is revisited to determine the full extent of the non- compliance.
e) Appropriate disciplinary measures are taken against all officials that do not comply with Supply Chain Management legislative requirements.
f) The SABC board enforces the Delegations of Authority "Non-compliance with any provision of this policy shall be an offence punishable in terms of the disciplinary action of the SABC's disciplinary code."
g) Committee members of the various procurement committees are appointed in writing and that their roles and responsibilities are clearly stated in appointment letters.
h) Supply chain personnel are trained in all Supply Chain Management policies and procedures.

8.2 Fruitless, wasteful and irregular expenditure

a) With regard to the acquisition of international programmes, there were irregularities of approximately R111,746 million relating to double payments, overpayments, material paid for but not received, agreements that had to be renegotiated and programme titles acquired more than once from the same supplier during the same licence period.
b) No evidence could be provided that corrective actions were implemented by the SABC board or executive management to address deficiencies and possible transgressions in the acquisition of international programmes content.
c) The Delegation of Authority Framework required sponsorship to be managed by means of a business plan. However, no business plan could be provided in respect of the Presidential Golf Day for sponsorship to the value of R342 780.
d) Contracts with a private travel company were not managed in terms of the agreement signed with the SABC. The business plans should have been approved by the chair of the SABC board. However, contracts amounting to R7,8 million relating to travel arrangements for the Beijing Olympics and Beijing Paralympics were based on plans approved by a group executive.

e) The former SABC board members and executive managers who travelled with their partners to the Olympic Games were liable for tax on fringe benefits in terms of the Income Tax Act. However, the Human Resources Division was not notified of the benefits and did not levy the tax on the employees and former board members.
f) Excessive petrol card expenditure was incurred by some senior managers. The SABC was exposed to potential abuse due to deficiencies in the policy governing the usage of petrol cards.
g) The oversight by the leadership over petrol card expenditure was also deficient partly due to the non-availability of quality management information. Monitoring by the Finance Department took place on an ad hoc basis and structured management information on individual actual costs was not generated routinely.

The Committee recommends that the Accounting Authority ensures that:

a) Stern disciplinary actions are taken against employees who were responsible for incurring irregular and fruitless expenditure in terms of section 51 (e) (iii) of the PFMA, and where appropriate, criminal charges be laid.
b) The corporation strengthens its internal control systems in order to avoid incurring further irregular expenditure.

8.3 Human resources related issues

a) The former Group Chief Executive Officer (GCEO) resigned from the SABC with effect from 1 February 2009. Settlement and restraint of trade agreements were signed between the chairperson of the interim board and the former GCEO on 14 August 2009. An amount of R7.4 million was due to the former GCEO by the end of October 2009.
b) Thirty-four (34) employees were suspended with pay during the period April 2006 until August 2009 (one employee suspended twice). They were suspended for different reasons; inter alia, dishonesty, unauthorised industrial action and contravention of the PFMA. It is estimated that the total salary cost of the suspended officials amounted to R8,3 million.
c) Individuals at Group Executive level were not adhering to internal policies and procedures.
d) Allegations of nepotism and favouritism in the Sales and Marketing Division, including allegations of unilateral changes having been made to the payment of commission to staff without proper consultation, were reported.

e) Concerns were raised about the ability and qualifications of management to properly and effectively manage the organization.
f) Although the SABC and SAPS received evidence under oath that an employee received a cash kickback (corrupt benefit) from a supplier, he remained an employee.
g) Although an employee was found guilty on serious charges in a disciplinary hearing, certain employees were trying to stop the intended civil recovery against the employee.

The Committee recommends that the Accounting Authority ensures that:

a) The delays in finalising cases should be investigated. In instances where individuals failed to exercise their management functions in an effective way, they should be held accountable; and
b) The board and executive management exercise constant leadership oversight, including setting the correct "tone at the top" and leading by example.

9. Conclusion

The Committee further recommends that the Executive Authority submits a progress report on the implementation of all the above recommendations to the National Assembly within 60 days of the adoption of this report by the House.

Report to be considered.

3. Report of the Portfolio Committee on Communications on the filling of four vacancies on the SABC Board, dated 1 March 2011:

The Portfolio Committee on Communications, having considered the request by the National Assembly to recommend four suitable candidates to fill the vacancies on the SABC Board, referred to it for consideration and report on 20 October 2010, reports as follows:

The Committee invited the public to nominate persons for consideration and recommendation to the President for appointment on the Board by means of advertisements in the print media. Responses were received from 84 individuals.

On 13 January 2011, 14 candidates were selected to be interviewed (see ATC of 18 January 2011), namely:

Mr Kenneth Herold, Dr Sethe Patricia Makhesha, Prof Sadhasivan Perumal, Ms Maureen Makole Manyama-Matome, Mr John Sembie Danana, Prof Govindasamy Reddy, Adv Cawekazi Benedicta Mahlati, Mr Lumko Mtimde, Mr Vusumuzi Mavuso, Prof David Luka Mosoma, Ms Xoliswa Florence Eugenia Kula-Ameyaw, Mr Peter Druchen, Prof Mahavishnu Padayachee and Ms Fawzia Moodley.

After having interviewed the above candidates in open meetings at Parliament on 18, 19 and 20 January 2011, the Committee resolved that the House, in accordance with the *Broadcasting Act, (Act No 4 of 1999)*, recommends to the President that the following candidates be appointed, namely:

1. Dr Sethe Patricia Makhesha
2. Mr John Sembie Danana
3. Adv Cawekazi Benedicta Mahlati
4. Mr Lumko Mtimde

Report to be considered.

Annexure "TG5"

Third Report of the Committee on Public Accounts on its oversight visit to the South African Broadcasting Corporation (SABC) in Johannesburg, and the South African Post Office (SAPO), on 28 and 29 March 2017, dated 16 August 2017.

1. Introduction

The Standing Committee on Public Accounts (the Committee) undertook an oversight visit to the South African Broadcasting Corporation (SABC) in Johannesburg, and the South African Post Office (SAPO) in Centurion, on 28 and 29 March 2017, respectively. The Committee hereby reports its findings and recommendations to the House as required by Rule 137 of the National Assembly.

Delegation:

Mr NT Godi	(APC), Chairperson, leader of the delegation;
Mr V Smith	(ANC);
Mr E Kekana	(ANC);
Ms N Khunou	(ANC);
Ms T Chiloane	(ANC);
Mr M Booi	(ANC);
Mr D Ross	(DA);
Mr M Hlengwa	(IFP).

Apologies:

Mr T Brauteseth	(DA)
Ms V Mente	(EFF)

Support staff:

Mr B Kali; Ms N Nkabinde (Secretariat); Mr S Magagula (Researcher); and Mr E Bazier (Committee Assistant).

SABC Delegation:

Mr J R Aguma	- Acting GCEO
Ms B L Tugwana	- Acting COO
Ms M A Raphela	- Acting CFO

Mr M Lephaka	- GE: Human Resources
Ms N Philiso	- GE: Television
Ms S Motsweni	- GE: Sport
Mr T Mulaudzi	- GE: Commercial Enterprises
Mr K Mosweu	- Acting GE: Corporate Affairs
Ms N Maseko	- Acting GE: News & Current Affairs
Mr K Kganyago	- Head: Group Communications
Ms TV Geldenhuys	- GE: Risk & Assurance
Mr S Vilakazi	- GE: Legal Services
Mr T Ralitabo	- GE: Media Technology Infrastructure
Ms I Cupido	- CEO: SABC Foundation
Mr S Tebele	- Coordinator Special Projects
Ms L V Bayi	- Group Company Secretary
Ms C Keevy	- GM Strategic Planning & Support
Mr S Molaudzi	- Head: Supply Chain Management
Mr J Mathebula	- Acting Chief Audit Executive
Mr A Mashigo	- GM: Forensics
Ms A Mkhize	- General Manager: Supply Chain Management Governance &

Special Projects

Mr A Moodliar	- Group Secretary
Ms F Valla	- Deputy Company Secretary

Interim Board

Ms K Kweyama

Mr M Tsedu

Ms F Potgieters- Gqubule

Mr J Matisonn

Mr K Naidoo

South African Social Security

Mr T Magwaza

Auditor- General:

Mr V Ndaba	- Manager
Mr Z Mdluli	- Manager

Ms A Muller - Business Executive

2. The SABC

2.1 Background

The SABC has been consistently receiving qualified audit opinions over the past 4 years. The Committee held a hearing with SABC on 1 March 2017 regarding the irregular, fruitless and wasteful expenditure reflected in the 2015/16 annual report. Upon probing the entity, the Committee was not satisfied with the responses provided by the management of the SABC in all areas, hence its decision to conduct a site visit for more insight into the prevailing problems. The Auditor-General also highlighted areas of concerns in addition to the irregular; fruitless and wasteful expenditure such as:

a) Reliability and usefulness of performance information;
b) Non- compliance with certain legislation such as the Public Finance Management Act (PFMA) and other reporting standards such as International Financial Reporting Standards;
c) Lack of consequence management; and
d) Slow pace of on-going investigations into governance related matters and SCM related issues.

2.2 Objectives

The main objectives of the oversight visit to the SABC were to:

a) Ascertain the effectiveness and challenges of the Internal Audit unit; Human Resources; Supply Chain Management; as they contributed to irregular, fruitless and wasteful expenditure;
b) Assess the extent of weaknesses of internal controls; and
c) Engage with the Interim Board and Management.

2.3 Findings

Before meeting with Management, Members visited the following 3 departments and these were the findings:

2.3.1 Supply Chain Management

a) Processes required by the Public Finance Management Act (PFMA), such as tax clearance were flouted due to SABC's procurement policies not being aligned with the PFMA. According to the SABC, such policies have now been reviewed and are now aligned to the PFMA and have been in operation for about a year;

b) Contracts were awarded to certain suppliers without following correct procurement procedures;

c) Certain requirements were included later in the process in order to short circuit the course of proper procedures. In a number of cases, instructions would be communicated verbally by management to circumvent procedures;

d) The SABC had no centralised compliance control or process in place to ensure the monitoring and reporting of the overall compliance with applicable legislation, as required by section 51(1)(h) of the PFMA;

e) The SABC did not put in place a formal risk assessment procedure throughout the organisation.

2.3.2 Human Resources

a) There is a high turnover at the executive and board level;

b) Capacity constraints coupled with the number of vacancies contributed to some of the existing challenges;

c) A skills audit had been conducted;

d) Citizenship of prospective employees was not verified; and security clearance not done;

e) The IPAC Company has for the past 4 years been commissioned to verify prospective employee qualifications, and also to do security checks. According to SABC, this practice has now been incorporated in company policies;

f) There are about 3 500 permanent employees and about 1 400 freelancers. Freelancers work 8 hours per day, and 160 hours per month.

2.3.3 Internal Audit

a) Internal Audit reports to the Audit Committee, but administratively reports to the Group Company Executive Officer (GCEO);
b) Management disregards issues raised by the audit committee;
c) Controls are generally by-passed, despite such malpractices being raised by Internal Audit.

2.3.4 Investigations

a) The company, Sekela Xabiso, which was appointed in November 2016 to conduct an investigation on irregular, fruitless and wasteful expenditure came to the meeting to address the Committee, and committed to produce a complete report by the end of May 2017;
b) Management does not show that there is a will to finalise investigations relating to irregular, fruitless and wasteful expenditure.

2.3.5 Reporting lines

The change from reporting to the GCEO, as outlined in the charter, to the newly formed Governance Assurance Division, has adversely impacted on the authority, mandate and independence of the SABC Internal Audit.

3. Recommendations

The Committee recommends that Accounting Authority ensures that:

a) The SABC has a Supply Chain Management Policy which is in line with the PFMA, Treasury Regulations, the Preferential Procurement Framework Act, the Preferential Procurement Regulations, and Supply Chain Management practice notes issued by the National Treasury in order to ensure that an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective is in place;
b) Contracts are managed effectively;
c) The internal audit scope with regard to supply chain management is increased to ensure that day to day controls are implemented and are effective, has sufficient capacity and
d) The total population of expenditure is revisited to determine the full extent of the non-compliance;

e) Proper document management systems are in place and are reviewed on a regular basis;

f) Appropriate disciplinary measures are taken against all officials who failed to comply with supply chain management legislative requirements, as required by section 51(1)(e) of the PFMA and money recovered in cases where this is necessary;

g) The SABC interim board enforces the Delegations of Authority and non-compliance with any provision of this policy shall be an offence punishable in terms of the SABC's disciplinary code;

h) Members of various procurement committees within the SABC are appointed in writing and that their roles and responsibilities are clearly stated in appointment letters and are held accountable for any wrongdoing;

i) Staff with relevant qualifications are appointed;

j) The delays in finalising cases should be investigated. In instances where individuals failed to discharge their management duties in an effective way, they should be held accountable;

k) The board and executive management exercise constant leadership oversight, and lead by example;

l) Pending cases are finalised, and individuals who failed to exercise their duties effectively are held accountable;

m) The Interim Board determines whether or not expenditure incurred amounted to irregular expenditure where the approvals were not in accordance with the Group SCM Policy and as defined in the PFMA, and if not, necessary action is taken as prescribed in section 51(1)(e) of the PFMA; and

n) The SABC reports back to SCOPA on progress made on these recommendations within 30 days of adoption of this report.

4. SAPO

SAPO delegation:

Nichola Dewar	- SAPO
John Nanyane	- SAPO
Mdu Zakwe	- Board Member
Monetlo Molefi	- Board Member
Dawn Marole	- Board Member
Mark Barnes	- SAPO
R. Ramokgopa	- SASSA
Mxolisi Mvimbi	- DTPS

4.1 Background

The Committee had several hearings with the South African Social Security Agency (SASSA) to discuss, amongst other issues, irregular, fruitless and wasteful expenditure and the Cash Paymaster Services (CPS) contract. It emerged from the hearing that SASSA had no plan in place for a service provider to take over the payment of social grants from the current company CPS whose contract was declared invalid by the Constitutional Court. However, the CEO indicated that there are engagements between SASSA and SAPO to assess its readiness for disbursement of grants.

4.2 Objectives

The main objective of the oversight visit to the SAPO was to establish SAPO's readiness to take over the payment of social grants to beneficiaries.

SASSA's current contract with CPS was declared invalid by the Constitutional Court and in this regard SASSA was ordered to ensure that an alternative contract was in place to take over from CPS the responsibility of payment of social grants as of 1 April 2017. Failure by SASSA to comply with this order led to alternative emergency measures being taken, including the possible option of the SAPO taking over this function. It is against this background that SCOPA decided to assess SAPO's position in terms of how ready they are to take over this responsibility.

SAPO's presentation of their state of readiness to pay social grants to beneficiaries is summed up as follows:

4.2.1 Envisaged flow of funds:

a) National Treasury pays funds into SASSA account 3 days before pay out date;

b) SASSA pays funds into SASSA's holding account at Postbank. On the one hand, Postbank transfers funds from the SASSA holding account into beneficiary accounts a day before the pay-out date. Beneficiaries have Postbank accounts, and are issued with cards which they can use at ATMs, POS devices and retailers. On the other hand, Postbank pays Fidelity 3 days before each pay point's pay date. Beneficiaries have bank cards which they can use at mobile pay points operated by SASSA and Fidelity;

c) SASSA will earn interest on the holding account.

4.2.2 Systems readiness:

a) Postbank's banking system stability exceeds industry Service Level Agreement of 98%;

b) SAPO's network upgrade has been approved;

c) The Oracle banking system used by SAPO has additional server space available immediately.

4.2.3 Data security:

a) Only government approved services at pay points will be allowed;

b) State entities will manage biometric data, with cyber security oversight by the Department of Defence;

c) Cash dispensing machines and biometric readers will be replaced with latest technology;

d) Biometric on card will deny loan shark's access to beneficiary cards and PIN numbers.

4.2.4 Verification of SAPO capability:

a) Pre-rollout certification by the Auditor-General that SAPO has the ability to produce and distribute cards, contracts with CIT (Cash In Transit) company, and systems in place to effectively distribute social grants;

b) If SASSA so requires, incremental regional rollouts will be implemented;

c) SAPO does not require additional funding to deliver services to SASSA.

5 Recommendations

The Committee recommends that regular interactions between SASSA, SAPO and the National Treasury continue in order to ascertain challenges that can affect the payments of grants after the expiry of the existing contract.

Report to be considered.

ZZ2-NTG-093

Annexure "TG6"

ZZ2-NTG-095

Fourth Report of the Standing Committee on Public Accounts on its oversight visit to the South African Broadcasting Corporation (SABC) in Johannesburg, and the Compensation Fund (the Fund) in Pretoria, from 27 to 29 June 2017, dated 16 August 2017.

1. Introduction

The Standing Committee on Public Accounts (the Committee) undertook an oversight visit to the South African Broadcasting Corporation (SABC) in Johannesburg, and the Compensation Fund in Pretoria. The Committee hereby reports its findings and recommendations to the House as required by Rule 137 of the National Assembly.

Delegation

Mr NT Godi	(APC), Chairperson, leader of the delegation;
Mr E Kekana	(ANC);
Ms N Khunou	(ANC);
Ms T Chiloane	(ANC);
Mr M Booi	(ANC);
Mr D Ross	(DA);
Mr M Hlengwa	(IFP).

Apologies

Mr V Smith	(ANC);
Mr T Brauteseth	(DA);
Ms V Mente	(EFF).

Support staff

Mr B Kali; Ms N Nkabinde (Secretariat); Mr S Magagula (Researcher); and Mr E Bazier (Committee Assistant).

2. Background

The South African Broadcasting Corporation (SABC) had an irregular expenditure of R5.1 billion during the financial year under review. Following a hearing held with the SABC on 1 March 2017, an oversight visit conducted on 28 March 2017, and a subsequent hearing held on 17 May 2017, the Committee undertook to engage the SABC once more on outstanding matters that arose from previous engagements in order to ensure that issues that led to irregular, fruitless and wasteful expenditure were rectified. The main focus was on cases that had been referred to the Special Investigating Unit (SIU). The SIU was also invited to the meeting so as to give input on cases that were referred to it. Among the cases referred were the following:

a. Contracts with Lorna Vision, Vision View and Sekela Xabiso;
b. Fruitless and wasteful expenditure incurred between 1 April 2012 and 31 March 2017; and
c. Appointments, promotions, salary increases and bonuses paid to employees as identified in the Public Protector's Report.

3. Objectives of oversight visit

The main objectives of the oversight visit to the SABC were to:

a. Obtain input from the SABC and the SIU on cases referred to the SIU regarding irregularities within the SABC; and
b. Ascertain the scope of the SIU before the proclamation is concluded.

4. Findings

The SABC gave mandate to the SIU to investigate:

a. Questionable contracts as determined by the Parliamentary Ad Hoc Committee on the SABC, particularly Lorna Vision, Vision View and Sekela Xabiso;
b. Fruitless and wasteful expenditure of R94 million incurred between 1 April 2012 and 31 March 2017; and
c. All appointments, promotions, salary increases and bonuses paid to employees as identified in the Public Protector's Report and matters referred to the SIU by the Interim Board.

The Interim Board has so far taken some steps to remedy the situation at the SABC, which include:

ZZ2-NTG-097

a. Defining the scope of work to cover all questionable contract, irregular, fruitless and wasteful expenditure, and governance failures;
b. Cancellation of questionable contracts for Lorna Vision and TNA Business Breakfast;
c. Scanning procurement documents into electronic filing system;
d. Ensuring that all payments go through the SCM Unit;
e. Initiating a monthly reporting process for Supply Chain, Internal Audit, Forensic Audit, Compliance, Governance & Risk Finance to Audit and Risk Committee. This process is intended to provide early warning indicators of irregular, fruitless and wasteful expenditure, so that consequence management may be instituted; and
f. Monitoring of management accounts.

The SIU had noted the report of the Ad Hoc Committee on the SABC Board and its recommendations, among which was that the Interim Board should institute an independent forensic investigation, terminate or renegotiate contracts, recover wasteful expenditure and bonuses, initiate discipline and refer criminal cases for prosecution. The SIU engaged with the SABC Task Team set up by the Interim Board, in preparation for a motivation for a proclamation to be submitted to the President before invoking its powers to investigate matters warranting same. The scope of the Proclamation that the SIU has motivated for includes:

a. The procurement of, and contracting for goods, works or services by or on behalf of the SABC and payments and related unauthorised, irregular or fruitless and wasteful expenditure incurred by the SABC or the State;
b. Maladministration in the affairs of the SABC and any losses or prejudice suffered by the SABC or the State as a result of such maladministration;
c. Any undisclosed or unauthorised interests that certain members of the personnel of the SABC may have had with regard to contractors, suppliers or service providers who bid for work or did business with the SABC; or contracts awarded; and
d. Any improper or unlawful conduct by members of the personnel of the SABC, contractors, suppliers or service providers of the SABC; or any other person or entity relating to the above three areas.

The broad scope of the schedule to the proclamation will allow any additional matters to be investigated over and above the current 5 focus areas. If further matters are identified as the investigation progresses, these will be assessed and will also be investigated in the following phases. Although the SABC had elected to investigate the Irregular Expenditure internally, the SIU recommended to include this in their investigation since it overlaps with the Fruitless & Wasteful Expenditure.

The SIU has finalised and submitted the motivation for the Presidential Proclamation to the Department of Justice on 10 May 2017. The Office of the President is finalising its review of the application for the proclamation. The SIU also indicated that the SABC could be asked to be a co-applicant with the SIU.

The Committee will await the signing of the proclamation.

5. Compensation Fund

Delegation from the Department of Labour and Compensation Fund

Mr T Lamati - Department of Labour
Mr E Nyekemba - Ministry
Ms M Ledwaba - Corporate Support
Ms B Gumbi - Internal Audit
Mr D Hlatshwayo - Committee Chairperson: CF Audit
M V Mafata - CC
Ms K Lebepe - AGSA
Mr M Ntleki - Head of ODG: Department of Labour
Mr P Leving - AGSA
Ms M Skosana - AGSA
Ms Z Keto - AGSA

The Compensation Fund received a disclaimer audit opinion for the past few years, and has appeared before the Committee on several occasions. The Auditor-General raised several findings for the year under review, including insufficient audit evidence to verify amounts disclosed for revenues, benefits, payables, employee costs, operating leases, amongst others. Section 55(2)(b)(i) of the Public Finance Management Act (PFMA), No.1 of 1999 requires public entities to keep proper records and adequate systems of internal control, a requirement which the Fund was found not to have complied with. Irregular expenditure reported includes the following transgressions:

a. Clearing of audit findings and compilation of annual financial statements;
b. Officials enrolled for a programme without a purchase order;
c. Work performed out of scope;
d. Entering into a contract with a deregistered company;
e. Commencement of work without a contract in place; and
f. Variations in excess of 15%.

6. Objectives of oversight visit

The main objectives of the oversight visit to the Compensation Fund were to:

a. Ascertain the extent and root cause of irregular, fruitless and wasteful expenditure;
b. Establish cases of fraud under investigation; and
c. Assess the extent of internal controls and consequence management.

6.1 Irregular Expenditure

a. In 2013, the Fund made loans to medical service providers amounting to R464 975 without the Minister's approval, as required by section 66(3)(c) of the Public Finance Management Act (PFMA);
b. In 2014, the Fund did not recognise irregular loans as irregular expenditure which resulted in qualification of irregular expenditure.
c. In 2015, the Fund recognised irregular expenditure incurred in 2013 in the opening balances; and
d. In 2016, R6.596 million of irregular expenditure related to non- compliance with supply chain processes.

6.2 Fruitless and wasteful expenditure over 4 years

a. The Fund reported fruitless and wasteful expenditure of R403.808 million in 2016 which was due to payment made to the debt collector for breach of contract, as per court order; and
b. In 2015, 75% of R17.297 million related to interest and penalty paid on claims by service providers through legal recourse.

6.3 Fraud and Investigations

a. The SIU performed an investigation at the request of the Minister. This was further investigation based on the outcomes by an independent consulting firm relating to an allegation of financial misconduct involving previous key officials. The investigation has been completed, but the report has not yet been finalised;
b. A total of 130 cases of financial misconduct were investigated during the 2016 financial year, 60 of which were still in progress and 70 of which had been completed; and
c. A total of 110 fraud-related cases were also under investigation during the 2016 financial year. 27of these had been completed, 27 were in the reporting stage, 45 were ongoing, and 11 had not yet been started.

6.4 Consequence management

a. Investigations were not conducted into all allegations of fruitless and wasteful and expenditure committed by officials, as required by Treasury Regulation 33.1.1;
b. Disciplinary hearings were not held for financial misconduct committed by officials, in cases of supply chain contraventions involving issuing of advances to service providers; and
c. Effective and appropriate disciplinary steps were not taken against officials who incurred or permitted irregular expenditure.

7. Recommendations

The Committee recommends that the Accounting Authority ensures that:

a. The Department's audit committee oversees weaknesses of internal control and takes corrective action in this regard;
b. The Fund implements a business process engineering by fundamentally rethinking and reinventing the way it operates in order to dramatically improve its operations, specifically pertaining to revenue and benefit claims;
c. Skills audit is conducted to determine if the current staff have the required skills set for the Fund;
d. The Head of Human Resources and senior management fill vacant posts;
e. In the event of poor performance, the Fund implements consequence management not limited to disciplinary action but also to include training interventions;

f. Control activities are identified and developed with consideration to their cost and their potential effectiveness in mitigating risks;
g. Management establishes, documents and implements a fraud prevention plan;
h. Management implements and maintains an effective risk management policy which continuously evaluates and updates the financial management and internal control risks.
i. Reasonable steps are taken to recover debts from debtors before they are written off, and also from the individuals responsible for losses incurred;
j. Criminal charges are laid against individuals who have committed financial misconduct;
k. Internal control deficiencies are identified and communicated timeously to those parties responsible for taking corrective action;
l. An effective and well capacitated internal audit division is established;
m. Management implements regular assessment of supply chain performance to ensure that deficiencies are identified;
n. The Fund's organisational structure addresses areas of responsibility and establishes clear reporting lines in order to support effective internal controls over financial reporting; and
o. Effective policies and procedures relating to financial reporting are implemented;
p. The Fund reports back to SCOPA on progress made on these recommendations within 30 days of adoption of this report.

8. Conclusion

The Committee was generally disappointed by the extent to which the Accounting Authority and management seem to not have addressed the financial management weaknesses identified in the audit report, especially as some of these matters had been raised in the audit report of previous years.

In the light of the above, SCOPA resolves that the Auditor-General should conduct a special audit / investigation into the matter of financial weaknesses of the Fund. The Committee further recommends that the Accountinq Officer submits a quarterly progress report on the implementation of the above recommendations to the National Assembly.

Report to be considered.

Annexure "TG7"

STANDING COMMITTEE ON PUBLIC ACCOUNTS

Report of the Committee on Public Accounts on the Annual Report and Financial Statements of the South African Broadcasting Corporation (SABC) on the 2018/2019 financial year,

1. Introduction

The Standing Committee on Public Accounts (the Committee), heard evidence on and considered the contents of the Annual Report and the Report of the Auditor-General on the 2018/2019 financial statements, of the SABC. Despite several hearings having been held with the SABC during the 5th Parliament and oversight visit that the Committee undertook in March 2017, the audit outcomes have not given an indication of improvement in the SABC's financial performance. Having identified that the main financial problems of the SABC arise from expansions and deviations, the Committee reports as follows:

2. The Auditor-General identified that:-

The SABC received an adverse opinion in 2016/17, a disclaimer in 2017/18 and a qualified opinion in 2018/19. The entity suffered losses in previous years, resulting in material uncertainty to going concern as current assets exceeded current liabilities. The SABC received R2.1bn of the R3.2bn bailout it requested from the Government.

3. Irregular expenditure

3.1 The Auditor-General identified that:

a. The SABC did not include particulars of all irregular expenditure in the notes to the consolidated and separate financial statements, as required by section 55(2) (b)(i) of the Public Financial Management Act of South Africa, 1999 (Act No. 1 of 1999) (PFMA);

b. The SABC did not implement adequate internal control systems to idendify and record all instances of irregular expenditure in both the current and prior years. This resulted in the irregular expenditure disclosure being understated;

c. The full extent of the misstatement identified could not be quantified and the amount of irregular expenditure to be disclosed by alternative means could not be confirmed. It was therefore not possible to determine whether any further adjustments were necessary to the irregular expenditure disclosure stated at R5 220 726 000 (2018: R4 977 300 000) in note 42 to the consolidated and separate financial statements.

3.2 The Committee recommends that the Accounting Officer ensures that:

a. The Corporation improves its internal control environment in order to avoid misuse of financial and other resources;

b. The Corporation has an updated Supply Chain Management policy complying with all the legislative requirements, including the PFMA and the Treasury Regulations, Preferential Procurement Regulation and Preferential Procurement Framework Act.;

c. Disciplinary action is taken against employees who are responsible for incurring irregular, fruitless and wasteful expenditure, as required by section 38 (1) (h) of the PFMA;

d. Steps are taken to recover the losses incurred due to negligence by officials;

e. The Corporation strengthens its internal control systems in order to avoid incurring further irregular expenditure;

f. Reasonable care is exercised to prevent and detect irregular, fruitless and wasteful expenditure, and that effective, efficient and transparent processes of financial and risk management, as provided for in Treasury Regulations 9.1.1, are implemented;

g. In cases where criminality has been found, those cases are referred to law enforcement agencies; and

h. The Corporation co-operates with law enforcement agencies where criminality has been established.

4. Deviations and expansions

4.1 The Auditor-General identified that:

a. Applications for deviations were submitted late to National Treasury;

b. SABC applied for deviations on the basis of sole supplier, without proof of having tested the market;

c. Companies were awarded tenders but rejected by the SABC and sought to appoint certain suppliers through deviations;

d. Hitachi Vantara (Pty)(Ltd) was condoned in 2019 for R4,9 million and was still under investigation;
e. Despite National Treasury rejecting an application for the extension of Inala Technologies contract on the basis of being irregular, SABC went ahead and applied for a deviation after the extension was rejected;
f. The SABC applied for expansions after contracts had expired, and this was mainly due to poor planning and poor contract management.

4.2 The Committee recommends that the Accounting Officer ensures that:

a. The contract management unit is established and capacitated immediately to guarantee compliance with SCM requirements;
b. The Corporation has an updated Supply Chain Management policy with all the elements of the PFMA, Treasury regulations, Preferential Procurement Framework Act, Preferential Procurement Regulations, and Supply Chain Management policy practice notes issued by the National Treasury, that will ensure an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective;
c. There is a continually updated list of contracts showing their expiry dates, so that a new tender process is initiated on time;;
d. Internal audit scope with regards to Supply Chain Management is increased to ensure that day to day controls are implemented, and that all procurement complies with legislative Supply Chain Management requirements;
e. Disciplinary measures are taken against all officials that do not comply with Supply Chain Management legislative requirements; and
f. The SABC board ensures that committee members of the various procurement committees are appointed in writing, vetted and that their roles and responsibilities are clearly stated in appointment letters.

5. Conclusion

The Committee has serious concerns regarding the high level of irregular; fruitless and wasteful expenditure, and. about the gross disregard for procedures, rules and regulations such as the PFMA, Treasury Regulations, and other relevant legislation.

The Committee further recommends that the Accounting Authority submits quarterly reports to SCOPA on all the above mentioned recommendations.

Report to be considered.

Annexure "TG8"

ZZ2-NTG-108

PARLIAMENT

OVERSIGHT

AND

ACCOUNTABILITY MODEL

ASSERTING PARLIAMENT'S OVERSIGHT ROLE IN ENHANCING DEMOCRACY the reports.

4.1.4 Oversight Advisory Section

In developing the oversight model, the need was identified for support services relating to the monitoring and tracking of issues between Parliament and the Executive, and on all other related matters within Parliament's broader mandate. An Oversight and Advisory Section ought to be created in response to the need identified. Its main functions will be to provide advice, technical support, co-ordination, and tracking and monitoring mechanisms on issues arising from oversight and accountability activities of members of Parliament and the committees to which they belong. The work of this section should also include the archiving of relevant information to facilitate the retention of institutional memory.

The foreseen objectives of the Oversight Advisory Section encompass the following:

- Providing information and advisory support to parliamentary oversight activities as an information management section;
- Tracking and monitoring Executive compliance in respect of issues, that individual MPs raised flowing from constituency work;
- Assisting with tracking, monitoring and following up issues raised through the Parliamentary Democracy Offices;
- Ensuring a more co-ordinated, integrated and holistic approach to parliamentary oversight;
- Assisting with co-ordinating all oversight-related information gathered through Parliament's public participation activities;
- Analysing substantive reports by institutions supporting constitutional democracy to advise the Houses on issues for referral to committees for consideration and report;
- Assisting with monitoring and tracking Executive compliance with House resolutions;
- Assisting with monitoring and tracking of government assurances and commitments that emanate from the floor of the Houses; and
- Monitoring and analysing debates, discussions and comments made by the public and participants in the sectoral parliaments with a view to advising the Houses on issues for consideration.

In the establishment of the Oversight and Advisory Section, the following subdivisions can be created:

- Financial Scrutiny Unit, which will develop systems for the scrutiny of finances, for instance:
    - the planning cycle which will include aspects on performance and expenditure targets for departments and spending reviews;
    - the budget cycle which will include aspects of how government makes its assessment on the state of the economy and how it plans to raise revenue the following year;
    - the estimates cycle which is the process by which departments' resources and cash for the year is approved; and
    - the reporting cycle which involves the reporting by departments through reports.

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This will assist the committees responsible for Finance and the portfolio committees to enhance their oversight activities and tracking of issues that are addressed in monthly reports to Parliament and those that would have been raised by the Committee on Public Accounts.

- Tracking and Monitoring Unit, which will address decisions in the House(s) and at committee level, as well as issues from emanating from the floor of the House(s) and from committee reports that get tabled in the House(s).

- Advisory Unit, which will identify issues from sectoral parliaments, other assemblies, international bodies and compliance with international protocols, treaties and conventions as well as petitions.

It is therefore recommended that Parliament must speedily establish this section with full resources, capacity and personnel for the efficient fulfilment of the objectives of oversight and accountability.

4.1.5 Reserve Bank

The South African Reserve Bank Act (No 90 of 1989) regulates the South African Reserve Bank. Section 37 of the Act requires the Minister of Finance in the case of non-compliance by the Bank with the Act or any regulation under the Act to give notice to the board of directors of the Bank of non-compliance and the requirement of compliance within a specified time. In the event that the non-compliance is sustained, the Minister can apply to a division of the High Court to compel compliance. Whilst section 224 (2) of the Constitution stipulates that the Reserve Bank is independent, as an organ of state, it is accountable to Parliament in terms of sections 55 and 69. The exercise of its powers and functions and conditions attached to it must be determined by an Act of Parliament in accordance with section 225. In this regard, it is recommended that the Reserve Bank Act of 1989 should be reviewed and revised for purposes of aligning the act with the Constitution in order that Parliament may exercise oversight over it

4.1.6 Issues from constituency work

In the course of their constituency debates, issues of concern to the public are brought to the attention of members of Parliament. These issues, once introduced in Parliament, can be formally channelled through the parliamentary processes for executive responses.

4.1.7 Appointments to institutions supporting constitutional democracy and other specialised institutions which fall under the mandate of Parliament

The procedural aspects of appointments to Chapter 9 institutions and specialised institutions are assigned to committees. After considering the matter, the committees report their recommendations to Parliament for a decision. The weakness is the lack of co-ordination in handling these very important appointments, and therefore mechanisms in the rules are needed to assist Parliament to give effect to this important mandate.

It is recommended that an ad hoc committee be set up to receive and hear the presentation on the Audit of Statutes and make recommendations that it deems necessary to the presiding officers for consideration.

4.1.8 Public participation

The need to have public participation is required in section 42 of the Constitution. The task team considered the matter of how the public can engage through involvement and participation in parliamentary processes. Amidst the research conducted by the task team and the recent Constitutional Court cases on public participation, the task team identified that the need for public participation and involvement cannot merely be addressed in a chapter of the model but ought to be included in a separate model on public participation, which will be interlinked with the Oversight and Accountability Model. Research, ideas and best practice will be provided to the necessary process that will be established for the development of the model.

4.1.9 Sanctioning non-compliance by the Executive

It is recommended that Parliament develop rules to assist it further in sanctioning Cabinet members for non-compliance after all established existing avenues and protocols have been exhausted, for example naming the Cabinet member by the Speaker of the National Assembly or the Chairperson of the Council based on a full explanation.

4.2 Maximising current mechanisms

4.2.1 Reporting by committees to the Houses

A mechanism for evaluating annual reports from government departments does exist. This is one of the procedures through which Ministers are held to account. Ministers, as the executive authority in terms of section 65 of the Public Finance Management Act (PFMA) have to table annual reports of departments and public entities for which they are responsible within six months after the end of the financial year (30 September). The Speaker' immediately refers all annual reports to the relevant portfolio committee and the Committee on Public Accounts for consideration and report. Late submission requires a written explanation by the Minister providing reasons for the delay. The Committee on Public Accounts reviews the audited financial statements and the audit reports of the Auditor-General and indicates to the relevant portfolio committee which specific issues they should be aware of with regard to oversight. The committee has to evaluate thoroughly the technical quality and the performance information presented in the annual report.

Members should have a clear understanding of the portfolio over which they are conducting oversight and what it is they want to achieve (improve service delivery). There are different phases which lead up to the final reporting, namely:

- *Oversight preparation phase:*
  This starts six to eight weeks prior to 30 September each year. Members need to have access to and interrogate documents which include current and previous annual reports for comparison purposes,

strategic plans and Estimates of National Expenditure of related years, State-of-the-Nation Address, Budget Speech, budget vote speeches, division of revenue information and related policy documents, quarterly performance reports, previous oversight reports and House resolutions.

- Oversight hearing phase:
  Ideally during the last two weeks of October each year, public hearings are conducted to gain clarity/input into the areas that should be addressed in the annual report.

- *Oversight report-writing phase:*
  A report for each of the entities reviewed must be tabled in the House (by the second week in November). The report should contain comments with regard to compliance, spending patterns, a general information section in the annual report, reported performance, key issues of the previous year and recommendations.

It is recommended that a system for tracking resolutions until the matter has been dealt with or an adequate response has been received must be instituted.

A need to strengthen Parliament's mechanisms for evaluating annual reports was identified as it is a critical mechanism through which Ministers are held to account and is dealt with in 3.1.1 above. However there is a need to improve on mechanisms that would ensure that there is reporting on responses by the Executive on resolutions adopted by Parliament.

It is recommended that the current system be improved in the following manner:

- Where a response is required, the House resolution with its date of adoption must be appended to the Order Paper until such response has been received. The Minister's formal response must be addressed to the Speaker or Chairperson of the Council.
- If no response is received within a reasonable time or within the period specified by the House resolution, the House Chairperson should notifiy the Speaker or Chairperson, who should then write to the Minister requesting compliance within 14 days or a written explanation of the delay.
- In the event of sustained non-compliance by the Minister, a written complaint by the Speaker or Chairperson may be sent to the Leader of Government Business, and in exceptional circumstances the Minister may be called to account in the House (e.g. during question time).
- Quarterly reports and an annual report on resolutions (by category) and compliance with outcomes should be made available to the Houses. These reports could be used to feed information into the tracking and monitoring mechanism.

This process does not preclude the committee from monitoring executive compliance as part of its continuous oversight function.

4.2.2 Debates initiated by Presiding Officers

NCOP Rule 84 and NA Rule 103 respectively enable members to request the Chairperson of the