No.0425 - 2023: Fifth Session, Sixth Legislature

**GAUTENG PROVINCIAL LEGISLATURE**

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**ANNOUNCEMENTS,**

**TABLINGS AND**

**COMMITTEE REPORTS**

**========================**

Friday, 01 December 2023

# ANNOUNCEMENTS

none

# TABLINGS

none

COMMITTEE REPORTS

**1. The Chairperson of the Standing Committee on Public Accounts, Hon. S Khanyile, tabled the Committee’s Oversight Report on the Report of the Auditor-General of South Africa to the Gauteng Provincial Legislature on Financial Statements of the Department of Social Development for year ended 31 March 2023, as attached:**

**STANDING COMMITTEE ON PUBLIC ACCOUNTS OVERSIGHT REPORT ON THE REPORT OF THE AUDITOR-GENERAL OF SOUTH AFRICA TO THE GAUTENG PROVINCIAL LEGISLATURE ON THE FINANCIAL STATEMENTS OF VOTE 6: GAUTENG DEPARTMENT OF SOCIAL DEVELOPMENT FOR THE YEAR ENDED 31 MARCH 2023**

**30 NOVEMBER 2023**

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**Acronyms**

APP Annual Performance Plan

AGSA Auditor-General South Africa

AOPO Audit of Pre-determined Objectives

CFO Chief Financial Officer

DPSA Department of Public Service and Administration

ECD Early Childhood Development

FDR Fraud Detection Review

GAS Gauteng Audit Services

GDF Gauteng Department of Finance

GPL Gauteng Provincial Legislature

HR Human Resource

MEC Member of the Executive Council

MPL Member of the Provincial Legislature

NGO Non-Governmental Organisation

NPO Non-Profit Organisation

NPI Non-Profit Institutions

PFMA Public Finance Management Act

SAPS South African Police Services

SLA Service Level Agreement

TIDS Technical Indicator Description Schedule

TR Treasury Regulation

1. **INTRODUCTION**

The Standing Committee on Public Accounts (SCOPA) has examined the Report of the Auditor-General of South Africa (AGSA) to the Gauteng Provincial Legislature (GPL) on the financial statements of Vote 6: Gauteng Department of Social Development for the year ended 31 March 2023. This was done as per GPL Rule 178 (2).

The function of SCOPA is to examine the financial statements of the Legislature, all executive organs of the province and other provincial organs of state, including any reports issued by the AGSA on the affairs of GPL, Office of Premier (OoP) and the Departments & Entities of Gauteng Provincial Government (GPG). SCOPA is required to do this on behalf of the Legislature, to ensure accountable utilization of resources and prudent financial management, and to make recommendations to the Legislature.

In the process of examining the financial statements and reports of an organ of state, SCOPA must ensure that they comply with the Constitution of RSA, the Public Financial Management Act, and the requirements of the Public Audit Act No. 5 of 2018. SCOPA must also consider the previous statements and reports of such an organ and report on the degree to which shortcomings have been rectified as required by GPL Rule 178 (3).

1. **PROCESS FOLLOWED**

The Report of the AGSA on the financial statements of Vote 6: Gauteng Department of Social Development for the year ended 31 March 2023, was tabled together with its 2022/23 Annual Report on 31 August 2023. This was done in terms of Sections 188(1) and (2) of the Constitution of the Republic of South Africa, (Act No. 108 of 1996), read with Sections 4, 20, and 21 of the Public Audit Act No 5 of 2018.

The report was referred by the Speaker to SCOPA on 31 August 2023 for consideration, as per Rule 149 read with Rule 233 of the Standing Rules of the GPL.

The Committee analysed the report and produced preliminary questions which were sent to the Gauteng Department of Social Development for responses on 10 November 2023. The Gauteng Department of Social Development submitted its responses to the preliminary questions by the stipulated date.

On Thursday, 19 October 2023, the Committee was briefed by the Auditor-General of South Africa on the audit outcome of the Gauteng Department of Social Development.

In the process of SCOPA considering the reports of the AGSA, the following reports were received from the Stakeholders of the Committee on 19 October 2023:

* The report by the Office of the Premier on Gauteng Forensic Unit report on progress made on special focus cases and investigations referred by Departments;
* The report by the MEC for Finance on the Assessment of consolidated AFS and consolidated Audit Outcomes;
* The report by the Office of the Public Service Commission in Gauteng on GPG Departments Public Administration Practices; and
* The report by the Gauteng Office of the Public Protector on Investigations related to Gauteng for the period 2022/23 and outstanding for prior years.

In examining the report and responses by the Gauteng Department of Social Development, the Committee resolved not to conduct a public hearing with the department.

On Friday, 30 November 2023, the Standing Committee on Public Accounts (SCOPA) considered and adopted its Oversight Report on the report of the Auditor-General of South Africa for the Gauteng Department of Social Development, for the year ended 31 March 2023.

1. **FINDINGS BY THE AGSA ON THE REPORT**
   1. **Audit Opinion**

The Auditor-General of South Africa issued an unqualified audit opinion with findings on compliance with key legislation on the financial statements of the Gauteng Department of Social Development.

This is an unchanged audit opinion, compared to that which it received in the previous two financial years (2021/22 and 2020/21).

* 1. **Emphasis of Matters**

Emphasis of matters were raised on the following:

* Material uncertainty related to contingent liabilities
* Under-spending on the annual appropriation
  1. **Audit Findings**

The AGSA did not identify any findings or significant deficiencies in the following areas of audit.

* Audit of annual performance report: Programme 3 - Children and Families

There were, however, findings or significant deficiencies raised on the following, which will be discussed in detail in this report.

* Audit of compliance with legislation
* Audit of internal controls

1. **COMMITTEE FINDINGS AND CONCLUSIONS ON THE FINDINGS BY AGSA**

As reported earlier, the Committee engaged the Gauteng Department of Social Development through preliminary questions which were generated during the analysis of the report of the Auditor-General of South Africa. The Committee has analysed the responses by the Gauteng Department of Social Development and has determined as indicated in this section on areas of findings.

**4.1 MATERIAL UNCERTAINTY RELATED TO CONTINGENT LIABILITIES**

* + 1. **Finding by the AGSA**

The AGSA reported that the Department was the defendant in various lawsuits amounting to R124 116 000 (2022: R51 897 000). The ultimate outcome of the matters could not be determined and no provision for any liability that may result was made in the financial statements.

* + 1. **Committee findings**

The Committee noted that;

* The Department's Contingent Liability on 31 March 2023 was R364 690 524-00. Of this figure approximately 64% (a total of R236 262 643,40) is attributed to a matter involving a Contractual Dispute for Damages between a Service Provider and the Department. The litigation was instituted by the Service Provider. The matter is being heard in the Johannesburg High Court and is therefore *sub judicae;*
* The departmental Contingent Liability is currently R371 561 001-56;
* The Department has seventy-nine (79) active litigious cases; and
* A further five (5) cases are regarded as dormant. Written Instructions were sent to the Office of the State Attorney to file Applications in Open Court for the dismissal of the cases because the Applicants have not taken any further legal steps against the Department for a minimum of three (3) years.

The Committee further noted the following plan to minimize litigations;

* The Department utilises Alternative Dispute Resolution in the form of Arbitration to attempt Settlement of matters;
* Sessions are conducted amongst Departmental Officials to raise awareness on compliance with Legislation etc. to limit litigation against the Department; and
* Matters are evaluated and where possible it is settled out of Court to reduce legal fees thereby saving departmental financial resources.
  1. **UNDER-SPENDING ON THE ANNUAL APPROPRIATION**
     1. **Finding by the AGSA**

The AGSA reported that as disclosed in the appropriation statement, the Department materially under-spent the budget by R91 739 000 on the following:

* Programme 4 – Restorative Services.
  + 1. **Committee findings**

The Committee noted that under-spending was due to the following;

* R10 900 000 (million) compensation of employees which did not have an impact on service delivery because the department continued to render service with the staff that were appointed by the end of the financial year; and
* R74 200 000 (million) non-profit-institutions allocation due to delays in the expansion of bed capacity for in-patient treatment centres, diversion programmes, and victim empowerment programmes.
  1. **PROCUREMENT AND CONTRACT MANAGEMENT**
     1. **Finding by the AGSA**

Some of the goods and services of a transaction value above R1 000 000 were procured without inviting competitive bids and deviations were approved by the accounting officer but it was practical to invite competitive bids, as required by Treasury Regulation 16A6.1, paragraph 3.3.1 of NTI 02 of 2021/22, paragraph 4.1 of NTI 03 of 2021/22 and TR 16A6.4. Similar non-compliance was also reported in the prior year.

**4.3.2 Committee findings**

The Committee noted that the finding relates to the procurement of maintenance and repairs services as was identified in the previous financial year.

Based on the audit outcome of the 2021/2022 financial year, which concluded on 31 July 2022, the Department halted the procurement process for repairs and maintenance services deemed irregular by the Auditor General. This measure was taken to prevent any additional increases in irregular expenditure in the 2022/2023 financial year.

The Committee further noted that this process was only stopped after the conclusion and finalization of the audit report on 31 July 2022. The Department entered into similar transactions in the first three months of the financial year before becoming aware that the process was irregular.

* 1. **IRREGULAR EXPENDITURE**

**4.4.1 Findings by the AGSA**

The AGSA reported that effective and appropriate steps were not taken to prevent irregular expenditure, as required by Section 38(1)(c)(ii) of the PFMA and Treasury Regulation 9.1.1. The majority of the irregular expenditure was caused by non-compliance with treasury regulation 16A6.

**4.4.2 Committee findings**

The Committee noted that the irregular expenditure relates to a historical practice of procuring maintenance and repair services through an RFQ process that was found to be irregular by the Auditor General in the 2021/2022 financial year.

Upon the conclusion of the audit outcome, the Department immediately took corrective steps and halted all procurement of maintenance and repair services.

The Department has concluded the specifications for a tender and has advertised the relevant tender. Management has taken all necessary steps to prevent any further irregular expenditure in this regard.

* 1. **INTERNAL CONTROL DEFICIENCIES**

**4.5.1 Finding by the AGSA**

The AGSA reported that;

* Management did not always ensure that adequate controls are implemented to ensure compliance with the applicable laws and regulations. Instances of material non-compliance with treasury regulations were identified and reported as material matters in the audit report; and
* Management did not ensure the timely implementation of proper record-keeping relating to the performance information to ensure that complete, relevant, and accurate information is readily available. Furthermore, there was a lack of adequate review and verification of the beneficiaries supporting the achievement reported.

**4.5.2 Committee finding**

The Committee noted that the Department consistently strives to ensure full compliance with prescribed guidelines and frameworks, including the government-wide monitoring and evaluation system. The department has controls in place to ensure the reliability of performance information by testing for validity, accuracy, and completeness. The Directorate of Monitoring and Evaluation conducts quarterly verifications of reported performance information, ensuring the availability of supporting evidence in terms of technical indicator descriptions.

The Committee further noted that for 2022/23 financial year external audit, the AGSA has identified that some of the sampled beneficiaries (older persons) were found to have been deceased.

In addressing and preventing the future occurrence of a similar event, the Department has resolved as follows:

* The Directorate, Monitoring and Evaluation would conduct the verification of performance information (physical verification of beneficiaries and electronic/manual verification of performance information).
* The Directorate, Partnership and Finance would send the letters to the affected NPOs.

1. **CULTURE SHIFT TO SUSTAIN AUDIT OUTCOMES AND SERVICE DELIVERY**

The Committees raises the following matters with which the AGSA has also concurred:

* The Department enhances the verification and monitoring processes on Non-Profit Organisations (NPOs) and their related beneficiaries through utilising IT innovation and integrating with Departments such as e-Gov, Home Affairs and Health, etc. This should also assist in reducing manual processes that are not effective within the performance reporting space.
* The Department enhances oversight and accountability on the Department’s procurement processes, including demand management, to prevent non-compliance with the laws and regulations.

1. **COMMITTEE CONCERNS**

6.1 The Committee is concerned that despite the plans previously put in place to address under-spending nothing much have been done to address the situation.

6.2 The Committee is concerned by the lack of intervention plans to monitor non-compliance with the applicable treasury regulations.

1. **COMMITTEE RECOMMENDATION**

7.1 That the Department must provide the Committee with a report detailing the effectiveness of the Litigation Reduction Plan by 30 April 2024.

7.2 That the Department must implement adequate measures to spend its budget, intensify performance and consequence management processes to mitigate instances of findings on under-spending, and provide the Committee with a progress report by 30 April 2024. Furthermore, provide the Committee with a report on the impact of the measures in the current financial year (2023/24) by 31 July 2024.

7.3 That the Department must provide the Committee with a report detailing the effectiveness of the measures put in place to monitor compliance with the applicable Treasury Regulations to identify and prevent non-compliance by 30 April 2024.

7.4 That the Department must submit its plan to investigate and reduce the irregular expenditure accumulated over the years by 30 April 2024 and provide the Committee with a report detailing the impact of the interventions implemented in the current financial year (2023/24) by the end of June 2024. Furthermore, provide the Committee with a report on the impact of the plan to investigate and reduce the irregular expenditure in the current financial year (2023/24) by 31 June 2024.

7.5 That the Department must provide the Committee with a progress report on the effectiveness of measures put in place to address poor leadership by 30 April 2024. Furthermore, provide the Committee with a report on the impact of the measures implemented to address poor leadership in the Department during the current financial year (2023/24) by 28 June 2024.

7.5 That the commitments and action plans made by the Department to improve the audit outcome by responding to matters arising on the audit as well as the related potential impact on service delivery to communities.

1. **CONCLUSION**

In conclusion, the Committee managed to establish the issues that contributed to the Auditor-General of South Africa issuing an unqualified audit opinion on the financial statements of the Gauteng Department of Social Development on issues raised under emphasis of matters.

1. **ACKNOWLEDGEMENTS**

I would like to thank the following Members: MJ Kanyane; RJ Kekana; BP Mncube; MJ Modise; DP Malema; A De Lange; P Atkinson; AW Cilliers; and P Mdlankomo for their diligent deliberations during this process.

I would also like to express my appreciation to the MEC Mbali Hlophe and officials of the Gauteng Department of Social Development; the Gauteng Business Unit Leader of the Office of Auditor-General South Africa (AGSA), Mr. Dumisani Cebekhulu and his team; Group Committee Co-ordinator, Monica Vaas for tabling the report; Senior Committee Co-ordinators, Simon Magolego, and Mompati Gaonnwe; Committee Co-ordinator, Catherine Thobejane; Committee Researchers, Bongi Dlamini and Lerato Mofokeng; Administrative Assistants, Sizakele Mthembu Media Officer, Pfano Bulasigobo; Senior Information Officer, Jacky Letsoalo; Legal & Procedural Advisor, Winnie Ngubane; Service Officer, Lithemba Simon, PPP Lerato Bodman and the Hansard Operator, Raksha Singh without whom this process would not have been successfully completed.

1. **ADOPTION OF THE REPORT**

After due deliberations, the Standing Committee on Public Accounts (SCOPA) unanimously adopted its report on the Report of the Auditor-General of South Africa to the Gauteng Provincial Legislature on the financial statements of the Gauteng Department of Social Development for the year ended 31 March 2023.

In terms of Standing Rule 117 (2)(c) read together with Rule 164, the Committee presents to this House the above-mentioned report for consideration and adoption.

**Mr. Sochayile Khanyile, MPL**

**Chairperson: Standing Committee on Public Accounts**