No.0426 - 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 Education 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:05 GAUTENG DEPARTMENT OF EDUCATION (VOTE: 05) FOR THE YEAR ENDED 31 MARCH 2023**

**30 NOVEMBER 2023**

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**Acronyms**

AGSA Auditor-General of South Africa

AO Accounting Officer

APP Annual Performance Plan

CFO Chief Financial Officer

CSD Central Supplier Database

CRO Chief Risk Officer

DoE Department of Education

DID Department of Infrastructure Development

DPME Directorate Planning Monitoring and Evaluation

GPT Gauteng Provincial Treasury

GCRA Gauteng City Region Academy

GDF Gauteng Department of Finance

GDE Gauteng Department of Education

GEDT Gauteng Education Development Trust

HOD Head of Department

LTS Learner and Teacher Support

LTSM Learner and Teacher Support Material

LURITS Learner Unit Record Information and Tracking System

MEC Member of the Executive Council

MGSLG Matthew Goniwe School of Leadership and Governance

MTEC Medium Term Expenditure Committee

MTEF Medium Term Expenditure Framework

MPL Member of the Provincial Legislature

OTP Open Tender Process

PAA Public Audit Act

PFMA Public Finance Management Act

PBC Premiers Budget Committee

PPR Preferred Procurement Regulations

SASA South African Schools Act

TR Treasury Regulations

ToR Terms of Reference

UIF&W Unauthorised, Fruitless and Wasteful Expenditure

VMD Vendor Management Directorate

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 the Gauteng Department of Education 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 of 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 Gauteng Department of Education 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.

On Thursday, 26 October 2023, the Committee was briefed by the Auditor-General of South Africa on the audit outcome of the Gauteng Department of Education.

The Committee analysed the report and produced preliminary questions which were sent to the Gauteng Department of Education for responses by the 01 November 2023. The Gauteng Department of Education submitted its responses to the preliminary questions by the stipulated date.

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 by the Gauteng Department of Education, the Committee resolved not to call the Department for a hearing.

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 Education, 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 no findings on the financial statements of the Gauteng Department of Education.

The Gauteng Department of Education received an unqualified audit opinion with no findings, this is an improved opinion compared to that which it received in the previous financial years (2021/2022) and (2020/2021).

* 1. **Emphasis of Matters**

Emphasis of matters were raised on the following:

* Material uncertainty
* Restatement of corresponding figures

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

* Audit of annual performance report
* Audit of internal controls

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
* Other reports: investigations

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

As reported earlier, the Committee engaged the Gauteng Department of Education 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 and has determined as indicated in this section on areas of findings.

**4.1 MATERIAL UNCERTAINTIES**

**4.1.1 Findings by the AGSA**

The AGSA reported that the Department is the defendant in various claims and that 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 Department reported that in the 2023/24 financial year it was a defended in 222 matters. The matters date as far back as from 2013 to September 2023. All these matters are active and have been categorised through a risk assessment process as follows:

* Remote - No provision for contingency is required as there is no imminent financial outflow.
* Possible - There might be a possibility of financial outflow.
* Probable - A provision is required in the financial statement as there is imminent financial outflow. Even though it is probable the Department might not be liable for the payment of the full amount claimed.

The Department has identified the following as risks pertaining to legal claims against it:

* Delays in responses from the office of the State Attorney which results in default judgements being granted against the Department
* Delays in being furnished with reports from the schools.

Finally, the Department reported that it has developed the following to minimise risk to its financial stability caused by the legal claims which constitute about 2% of the year’s annual appropriation:

* Conduct continuous engagements with the heads of the State Attorney offices;
* Where necessary external law firms are appointed to handle high-profile cases which might attract media attention;
* Taking a lead in managing its own cases;
* Communicating directly with the schools and District Directors;
* Fetching reports from the schools;
* Developed a circular to guide schools on how to report litigation matters;
* Developed an advocacy program to increase awareness to schools regarding section 60 claims (injury of learners at schools);
* Apply Rule 41 (mediation) to speedily finalise the matters; and
* Developed a contingent liability policy which deals with the assessment of all matters to ensure that the contingent liability of the department is reduced.

**4.2 RESTATEMENT OF CORRESPONDING FIGURES**

**4.2.1 Findings by the AGSA**

The AGSA reported that the corresponding figures for 31 March 2022 were restated as a result of an error in the financial statements of the department at, and for the year ended, 31 March 2023.

**4.3 MATERIAL IRREGULARITY**

**4.3.1 Findings by the AGSA**

The AGSA reported that the Department provided progress made on the material irregularities identified by the AGSA.

**4.3.2 Committee findings**

The Committee noted that no new material irregularities were identified by the AGSA during the year under review and the following corrective actions have been taken to resolve the material irregularity in the prior years:

* Initiated disciplinary process against four officials identified in the investigation report by the SIU, however the fourth official could not be charged as he was found not to be responsible for the daily management of supply chain management of the department;
* The three officials were taken through the disciplinary process and found guilty, however, sanctions have not been imposed as the chairperson of the disciplinary process passed away in April 2023 while assessing the mitigating factors before handing down sanctions;
* Had committed to finalise the investigation in August 2022, however, due to outstanding procedures that investigators needed to perform, the investigation was only finalised in December 2022;
* The investigation report could not determine the excessive amount paid for services rendered due to lack of market related evidence;
* The investigation concluded that additional nine officials to the four officials identified by the SIU are responsible for the irregular appointment of service providers;
* In September 2022, the Accounting Officer sent a letter to the Competition Commission requesting price variations for personal protective equipment which was undertaken during the Covid-19 investigations;
* In a letter dated October 2022, the Competition Commission indicated that the question of whether the Department has been overcharged in respect of services rendered at schools cannot be determined on the basis of suppler invoices and requires a detailed investigation. However, such an investigation may no longer be possible as the regulations have fallen away, and the Commission has completed its work on Covid-19 investigations;
* Requested the State Attorney in June 2023 to appoint a legal firm to assist with the finalisation of the disciplinary process from the Special Investigating Unit (SIU) report and initiation of the disciplinary process based on the outcome of the investigation report; and
* Committed to develop action plan by 31 July 2023, which will among other things, determine appropriate actions to be taken in determining profits gained by 49 service providers and design of controls to prevent a re-occurrence.

**4.4 INVESTIGATIONS**

**4.4.1 Findings by the AGSA**

The AGSA reported that the Department was conducting several investigations based on allegations of procurement irregularities and financial misconduct. Some of these investigations had been finalised while others were still in progress at the date of this auditor’s report.

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

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

* The Department is considering finalising processes of investigation and deal with the high values of irregular expenditure. Although no new irregular expenditure was identified there is a need to implement consequence management and deal with the balances already disclosed.
* The Department was implementing all outstanding committed actions to resolve the material irregularities that have been reported to the Department. MEC to track the implementation of these actions by the Accounting Officer.

1. **COMMITTEE RECOMMENDATIONS**

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

6.2 That the Department must provide the Committee with a report detailing the effectiveness of the measures put in place to minimize the restatement of corresponding figures by 30 April 2023.

6.3 That the Department must provide SCOPA with the quarterly progress report on its implementation of the recommendations of the Auditor-General of South Africa on the identified material irregularity, starting from 30 April 2024.

6.4 That the Department must provide the Committee with a progress report on the investigations it is conducting, detailing the status of each investigation by 30 April 2024, and quarterly progress until finalization thereof.

6.5 That the Department must develop and implement a plan to sustain clean audit outcomes in the financial and performance management, as well as the status of compliance, thereby ensuring good governance and administration of public funds and provide the Committee with a report by 30 April 2024.

1. **CONCLUSION**

In conclusion, the Committee managed to establish the issues that contributed to the Auditor-General of South Africa issuing a qualified audit opinion on the financial statements of the Gauteng Department of Education 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 of Finance, J Mamabolo and officials of the Gauteng Provincial Treasury; 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 Education for the year ended 31 March 2023.

In terms of Standing Rule 117 (2)(c) read together with 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**