



AUDITOR-GENERAL  
SOUTH AFRICA

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Parliament of the Republic of South Africa  
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Dear Madam,

### Comments on the Traditional and Khoi-San Leadership Bill

The Auditor General of South Africa (AGSA) reviewed the Traditional and Khoi-San Leadership Bill (the bill), as introduced in the National Assembly, with specific attention to sections 19, 20 and 23 of the bill.

The AGSA hereby wishes to bring the following comments to the attention of the drafters of the bill for consideration:

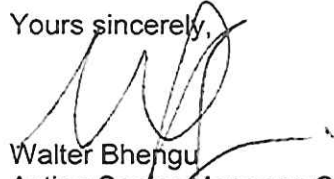
Bill reference	Comment
Section 19(2)(b): "A kingship or queenship council or principal traditional council must have its financial statements audited by the Auditor-General and submit such audited statements to the Premier within one month from the date of receipt thereof."	<p>The AGSA is concerned about these requirements in the current bill and would like to take the opportunity to urge the preparers of the bill to reconsider it for the following reasons:</p> <ol style="list-style-type: none"> <li>1. The Public Audit Act, Act no 25 of 2004 (PAA) gives the AGSA the mandate to audit public sector entities. In terms of section 4(1)(f): "The Auditor-General must audit and report on the accounts, financial statements and financial management of any other institution or accounting entity required by other national or by provincial legislation to be audited by the Auditor-General".</li> </ol> <p>The current wording of the bill, read with the PAA, does not give the AGSA any discretion to decide which councils will be audited.</p>
Section 20(2)(b): "A traditional and Khoi-San council must have its financial statements audited by the Auditor-General and submit such audited statements to the Premier within one month from the date of receipt thereof."	<ol style="list-style-type: none"> <li>2. Due to the small size and few activities of some of the councils, it is not cost beneficial for them to be subjected to an audit.</li> <li>3. There are more than 800 established traditional councils. The AGSA does not have the capacity to audit all the traditional councils.</li> <li>4. The bill prescribes a very short timeline of submission to the Premier (one month from the date of receipt), which is interpreted to mean that the auditor's report must be signed and issued within one month of receipt of the financial statements. This provides the AGSA with a very short period of time to complete the audit.</li> <li>5. The bill does not specify the periods that the AGSA is expected to audit, e.g. will it be retrospective and include all years not previously audited, or only prospective. There are a large number of councils that have never submitted financial statements for audit and a backlog exists of many years.</li> <li>6. There are also existing legislation at national and provincial level that are not clear in terms of financial statement preparation and the auditing thereof. The national legislation requires the preparation of financial statements while the provincial legislation requires the preparation of</li> </ol>

	<p>accounts. It is not clear whether this Bill will replace the existing legislation or whether the existing legislation will remain.</p> <p>We therefore recommend that:</p> <ol style="list-style-type: none"> <li>1. Existing legislation should either be retracted or contradictions should be eliminated.</li> <li>2. National legislation should make a distinction between those councils for which complete financial statements are required and those for which limited accounts (e.g. a statement of income and expenditure) will be sufficient. This distinction could be based on whether a council has assets and liabilities other than a bank account and who the users of the financial information are.</li> <li>3. When financial statements are required the specific financial reporting framework that should be applied should be specified.</li> <li>4. When a statement of income and expenditure is required it should be specified that the statement should be prepared on the cash basis. A specific format or template should be provided for councils to complete.</li> <li>5. Audit requirements should be clarified. The legislation should clarify whether an audit or for example agreed upon procedures should be performed on a statement of income and expenditure.</li> <li>6. The legislation should deal with mechanisms to make the financial information publicly available, as a minimum to the national and provincial CoGTAs as well as the community members of each specific council.</li> </ol>
<p>Section 23(3)(b): <i>“For the purposes of the management of any account referred to in paragraph (a), a Premier may, in consultation with the relevant Provincial Treasury and subject to any legislative or other measures as contemplated in subsection (1), determine:</i>  <i>(i) the financial systems and controls applicable to such account;</i>  <i>(vii) the reporting requirements applicable to such account”</i></p>	<p>The bill does not address the following matters, which are critical in order to meet other requirements of the bill, such as sections 19 and 20:</p> <ol style="list-style-type: none"> <li>1. The financial year and therefore the year-end date that is applicable to the “account” for financial reporting purposes.</li> <li>2. The period of time within which financial statements must be submitted to the AGSA for audit. **  <p>[Note however comments above as the AGSA do not believe it should be required to audit the accounts of all councils.]</p></li> <li>3. The financial reporting framework that should be applied. **</li> </ol> <p>** According the AG Directive, issued in terms of the PAA, the following would apply in the absence of prescriptive legislation:  <i>“38. The financial statements of an auditee which is not subject to the PFMA, MFMA or any other legislation that is prescriptive in respect of the financial statements, must:</i>  <ul style="list-style-type: none"> <li>- <i>Be prepared in accordance with the Generally Recognised Accounting Practice (GRAP) reporting framework issued by the Accounting Standards Board (ASB).</i></li> <li>- <i>Comply with the PFMA requirements applicable to entities as they pertain to the information to be contained in the financial statements, as well as the period within which the financial statements are to be submitted for audit.”</i></li></ul></p> <p>Since the bill states “a Premier <i>may</i>...”, there will likely be many instances where this remains undetermined in a province and by default the above will apply. We do not believe it would be appropriate for the accounts of all councils to be prepared in accordance with GRAP as smaller councils will not have the skills and other resources necessary to comply with all the requirements of GRAP. We furthermore believe that it should not be left to each province to determine, as this may lead to inconsistencies and non- or delayed implementation in selected provinces.</p>

At this stage we suggest that the Bill removes reference to the AGSA and merely state that traditional councils will be audited without reference to who will conduct the audit. This would be in line with other similar legislation and the discretion powers provided for by the PAA.

We trust that the comments will be of use to the drafters of the bill. We are available to discuss these comments should this be required.

Yours sincerely,



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