

Responses to outstanding questions from the Ad Hoc Committee Meeting held on 15 March 2021.

Purpose

This document provides responses to questions from the Ad Hoc Committee for the North West Province. The relevant administrators and coordinators from the intervening national departments have prepared the responses.

Questions and Responses

Question 1. What has been the impact of the administrators in the province seeing that irregular expenditure is still reported each year and what measures have they put in place to ensure that cases of non compliance do not continue? When will the irregularities of the past be addressed?

The intervention has recorded positive impact in a number of areas, despite a challenging and often hostile environment. Capacity for service delivery has been built through filling key management posts, investment in infrastructure and equipment and improved systems. Capacity building has taken place across departments to strengthen supply chain management. Irregular project management units and costly outsourcing contracts have been terminated and processes are underway to recover losses to the State. Provincial departments have been reconfigured to align with national norms. Community and labour peace has been achieved and maintained through ongoing engagements with workers on issues of concern. Alignment of planning between departments to deliver on service delivery priorities has taken place. Functions previously centralised in the Premier's Office have been transferred back to their original departments

The latest audit results (2019/20) show a significant improvement in the number provincial departments receiving unqualified audits (from 4 in 2018/19 to 7 in 2019/20). This improvement ends five years of decline and stagnation in audit results. One of the five departments under section 100(1)(b) – the Office of the Premier – received an unqualified audit for the first time since 2014/15. The Department of Education maintained its unqualified status. The three remaining departments under section 100(1)(b) (the Departments of Health, Public Works and Roads and Community Safety and Transport Management) received qualifications, however the areas of were qualification were reduced.

Irregular expenditure (IR) in the province remains a challenge, however the most recent audit results recorded a 31% decrease in annual IR, (from R3.8 billion to R2.6 billion)¹ in departments under section 100(1)(b). Of the R2.6 billion, R1.8 billion (69%) of the IR incurred in 2019/20 was because of multi-year contracts irregularly entered into before the intervention. These contracts took time to set aside, because - although they were irregular – they were providing critical services. as this would have had an adverse impact on service delivery. The administrators have successfully terminated or regularised these contracts (such as leaner transport and the transversal security contract), which will reflect as a significant reduction in annual irregular expenditure in 2020/21. The historic irregular expenditure stood at R23,2 billion by the end of 2019/20. The condonation of this has been a stubborn challenge, with a number of challenges being faced by the administrators in their efforts to deal with this. The National Treasury, working with the Provincial Treasury have developed a roadmap process to deal with the past irregularities. This road map is attached as an appendix to this document.

Question 2. What are the reasons for the regression of the audit outcome and service delivery deterioration in some departments in the provinces if the administrators were doing their work effectively?

As discussed above, the departments under section 100(1)(b) did not see a regression in audit outcomes. In the departments where there were qualifications matters of emphasis raised by the Auditor General of South Africa (AGSA) have significantly reduced, with qualifications attributed to historic contractual obligations. In terms of service delivery there are a number of examples where improvement has been registered. These include in the services provided by the Department of Health, the Department of Social Development and a steady improvement in the matric results. These have been detailed in the *Progress Report to the National Council of Provinces Ad Hoc Committee*. The one department that received a disclaimer was the newly established Department of Human Settlements. This department – which is under section 100(1)(a), with the HOD of the former NW Department of Tourism appointed as accounting officer - was confronted with significant capacity and governance challenges, which resulted in the disclaimer. These challenges are being addressed with the support of the National Department of Human Settlements. The AGSA summarised its 2019/20 assessment of the North West province with the following statement: “Encouraging trend, but there is a need to embed preventative controls and promote a culture of consequence management”.

¹ Recognising that one of the departments received a qualification for incomplete disclosure of irregular expenditure

Question 3. What informed the decision to provide administrators with security officers?

Administrators were provided with close protectors based on threat assessments conducted by security officials in each of the intervening national departments, the State Security Agency and SAPS Crime Intelligence.

Question 4. What has happened to the R134 million, an amount which was inadvertently transferred to Bojanala Local Municipality and disappeared immediately? Has this money been recovered? Have the implicated officials been charged?

The funds intended to finance project implementation for human settlements by the Rustenburg Local Municipality were erroneously paid over to the Bojanala District in the 2018/19 financial year by the then NW Department of Local Government and Human Settlements. The National Department of Human Settlements confirms that Bojanala District repaid R134 million on 19 November 2020 to the Provincial Treasury account.

The Municipal Manager and CFO of Bojanala District were charged internally and were dismissed. A criminal case into the matter is under investigation by the South African Police Service.

Question 5. Whether the Ayamah Consulting case was resolved and recovered the prepayments which were made including the R103 million as stated by the Ad Committee Report?

The contract between Ayamah Engineering Consultants expired in May 2018. The department has instituted a forensic investigation on the matter, which was carried out by National Treasury. Further to the investigation, the department has also conducted an assessment on the work done by Ayamah Engineering Consultants with a view to determine value received on the R103 million prepayment.

In terms of the investigation and the assessment, the department did not receive full value, as some of the work that was supposed to be done could not be verified. The department has commenced processes to recover the payments where work done could not be verified.

The Presidency has since issued a proclamation (Proclamation 210 of 2021) for the Special Investigations Unit to investigate the matter. The investigation has started and is expected to be finalised by end of January 2022.

Question 6. Whether there are any high profile politicians who happened to have interests into the government tenders and contracts?

The administrators have not uncovered any evidence directly linking high profile politicians with interests in government tenders and contracts.

Question 7. Whether there was any particular reason for the Inter–Ministerial Task Team (IMTT) not to subject the administrators to the vetting process in pursuit to avoid appointing individuals with compromised track records?

The appointment of administrators was the responsibility of the individual intervening national departments, with the approval of the responsible ministers. These appointments were done in line with relevant prescripts and policies.

Question 8. The Committee requested a breakdown by line items for the R70 million expenditure, which is incurred as an expenditure for the administrators, including their security cost.

The amount of R70 million was reported as part of the input made by National Treasury to the committee on 19 February 2021. This is a costing of the intervention from June 2018 to October 2020, based on expenditure incurred by departments intervening in terms of section 100(1)(b), (as well as the Department of Planning, Monitoring and Evaluation (DPME), which was responsible for the appointment of a Coordinator). The total was based on the compensation expenditure for staff contracted specifically for the intervention, but excluded compensation for those officials who were fulltime employees. The line item costs for goods and services included expenditure on security for the administrators, as well as travel and accommodation for the administrators and their teams, as well as expenditure on forensic investigations contracted by National Treasury.

As indicated by the Convenor of the IMTT, a full evaluation of the cost of the intervention will be undertaken at the close of the intervention.

Breakdown of costs from June 2018 – October 2020.

| Intervening national department | Staff contracted in for the intervention in addition to departmental establishment | Security | Travel | Accommodation | Totals |
|--|---|-----------------|---------------------|----------------------|---------------|
| DPME | R 1 417 144 | R 0 | R 403 911 | R 1 014 377 | R 2 835 432 |
| DPSA | R 9 519 659 | R 490 380 | R 3 835 869 | R 4 721 206 | R 18 567 114 |
| DoH | R 0 | R 454 240 | R 862 034 | R 4 761 918 | R 6 078 192 |
| DOT | R 0 | R 0 | Figure not provided | R 4 695 000 | R 4 695 000 |

| | | | | | |
|--|--------------|-------------|-------------|--------------|--------------|
| DPW | R 1 767 220 | R 2 418 000 | R 1 303 256 | R 2 255 935 | R 7 744 411 |
| DBE | R10 412 800 | R 756 000 | R 934 000 | R 1 957 000 | R 14 059 800 |
| Subtotal | | | | | R53 797 949 |
| NT managed forensic investigation | | | | | R 15 664 684 |
| Total | R 23 987 483 | R 4 118 620 | R 6 935 158 | R 19 405 435 | R 70 515 293 |

Source: Information provided by respective national departments

Question 9. Whether there were any deviations by administrators from the agreed performance objectives as stated in the signed MOUs and implementation protocols? What is being done to correct this?

The agreed performance objectives as stated in the signed MOUs and implementation protocols have guided the work of the administrators at all times. In the course of implementation, as a result of deeper analysis, project plans were amended with addition of projects, amendment of timeframes and in some cases, the shelving of projects initially deemed relevant.. In addition, administrators were appointed as accounting officers for the departments under s100(1)(b) and were therefore also required to perform management functions not explicitly stated in the implementation protocols. However, these are in line with their responsibilities as required by sections 36 and 38 of the PFMA.

Question 10. Why was the local businesses or companies were not being considered for business opportunities in government to empower local people, alleviate poverty, address inequalities and unemployment and to ensure that the local economy was growing?

All procurement under the responsibility of the administrators is done mindful that a key focus of the intervention is to address irregularities and corruption of supply chain management processes. Therefore, adhering to the prescripts of the Public Finance Management Act and section 217 of the Constitution has been a priority. It is however not true that local businesses were excluded from business opportunities. Where they tendered or quoted for the provision of goods and services, such tenders and quotes for services and products were objectively considered in terms of the prescripts of the Preferential Procurement Policy Framework Act 5 of 2000.

Question 11. Whether the IMTT coordinators together with the administrators have developed measures to engage with the public sector unions on regular basis as per the Ad Hoc Committee recommendations? If not, Why not?

Regular meetings with public sector unions were held in terms of department policies and recognition agreements.

Question 12. Whether there has been consequence management instituted against companies whose contracts were irregular prior the intervention and thus were terminated when the intervention started and whether monies lost to the state have been recovered in the affected departments?

Consequence management processes are underway against several companies who benefitted from irregular contracts. These companies include service providers and project management units in the Office of the Premier, Department of Health, Department of Education, Department of Public Works and Roads, North West Development Corporation Department of Agriculture, and Rural Development, Department of Community Safety and Transport Management.

The administrators have referred several matters to the Special Investigations Unit and the Directorate of Priority Crime Investigation (DPCI) for investigation. The courts have been approached to set aside illegal contracts and the Asset Forfeiture Unit has been approached to freeze assets pending the outcome of criminal investigations.

More details can be found in the detailed departmental narrative reports provided to the committee as part of the *Progress Report To The National Council Of Provinces Ad Hoc Committee.*

Question 13. Why are the forensic reports recommendations not being implemented to ensure consequence management and recover the lost monies to the state? What has the IMTT done to ensure that these reports are implemented?

The forensic reports recommendations are being implemented to ensure consequence management. The reports have been shared with DPCI for further criminal investigations. The Asset Forfeiture Unit (AFU) is closely working with DPCI to recover the proceeds.

Question 14. When will the HOD be appointed in the Department of Agriculture?

The newly appointed HOD, Mr T.Z. Mokhatla, took office on 1 April 2021.

Question 15. Why have disciplinary proceedings not been instituted against the alleged transgressors?

The committee is requested to provide details to enable this question to be answered.

Question 16. What progress has been made particularly with respect to service delivery challenges that gave rise to the need for the intervention?

The collapse of health services in the province was one of the priority service delivery failures that gave rise to the intervention. Progress with regard to addressing these challenges has included filling of management and clinic vacancies, addressing infrastructure and equipment shortages as well as addressing long outstanding labour relations problems. Services provided by the Department of Social Development were

also severely affected by labour unrest in April 2018. The Department has also showed progress in service delivery, with several performance indicators showing improvements, such as:

- Number of older persons accessing community based care and support services improved from 6 813 in 2018/19 to 7 556 in 2019/20.
- Number of older persons accessing statutory services also improved from 1 573 in 2018/19 to 4 286 in 2019/20.
- Number of persons accessing social rehabilitation services improved from 4 771 in 2018/19 to 6 604 in 2019/20.
- Number of children accessing registered ECD programmes improved from 36 948 in 2018/19 to 52 224(59 961 as audited by AG) in 2019/20.
- Number people accessing food through DSD feeding programmes (Centre based) increased by 21 593 between 2018/19 (15 479) and 2019/20(50 319).

Significant challenges in the delivery of basic services remain unresolved at the local government level. The national department of COGTA and the National Treasury are working closely with their provincial counterparts to address this.

More details, together with progress of other departments, is presented in the *Progress Report to the National Council of Provinces Ad Hoc Committee*.

Question 17. How was the security at the airport appointed given the accounts by SCOPA members that the security is below par?

Shaya Security was appointed by MAMCO (Mahikeng Airport Management Company) and PAMCO (Pilanesberg Airport Management Company) for GD Montshioa Airport and Pilanesberg Airport, respectively. MAMCO and PAMCO were appointed by SA Express, therefore upon termination of SA Express, their contracts were automatically terminated. The Aviation Security Company was also terminated and a month-to-month contract entered by and between Shaya Security and Projects and the Department, with the intention to advertise an open tender. This was as a result of the contract being declared as irregular by the Auditor-General and Provincial Internal Audit. The tender was advertised in the previous financial year but appointment was not done due to issues raised by the Provincial Treasury.

Therefore, in order to close the irregular expenditure, the Department resolved to terminate the month to month contract and appoint a security company through a close bid for a period of five (5) months while the procurement of the longer duration unfolds. Currently, the aviation company, Bothbest (PTY) Ltd has been appointed to render aviation security services at both airports. Procurement of the new service provider(s) is underway. The current aviation security company was appointed to render services at both GD Montshioa and Pilanesberg International Airport at a cost of R 1 050 000 per month; compared to R1 200 000 per month that was sometimes paid to Shaya Security.