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**MINISTRY FOR COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**

**REPUBLIC OF SOUTH AFRICA**

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**PROGRESS REPORT REGARDING THE ASSESSMENT OF FORENSIC REPORTS**

1. **Purpose**

To provide the Portfolio Committee with the progress on the implementation of recommendations of forensic reports commissioned by provinces and municipalities.

1. **Background**

A number of forensic investigations have been commissioned following allegations of corruption and related offences at municipalities. Most of the forensic reports made recommendations that certain remedial or other corrective measures should be taken. However, some municipalities have failed to implement resolutions emanating from these reports.

In October 2014, the Department requested provinces and municipalities to submit copies of forensic reports commissioned by municipalities since April 2009. Thus far, 119 copies of forensic reports were received from Provinces and municipalities. The assessment of forensic reports was conducted in line with the Good Governance pillar of the Back to Basics approach adopted by Government

1. **Discussion**

**3.1 Principles of the Assessment**

The assessment of forensic reports was informed by the need to ensure that recommendations emanating from forensic reports are implemented. The assessment of forensic reports was conducted with a view to identify:

* forensic reports with asset forfeiture potential.
* reports where criminal and civil matters can be pursued with the assistance of law enforcement agencies.
* reports where internal disciplinary processes can be pursued
* other areas of corruption and related offences that require focused attention.

**3.2 Stakeholders involved in the assessment process.**

The assessment was conducted by the Department with the assistance of law enforcement agencies and stakeholders listed below:

* Directorate for Priority Crimes Investigation (DPCI)
* Asset Forfeiture Unit (AFU)
* Special Investigating Unit (SIU)
* National Treasury
* Office of the State Attorney

In instances, where AFU potential was identified, such reports were referred to the AFU to investigate further to ensure the forfeiture of assets. Where criminal actions are recommended, such reports were handed over to the DPCI and SIU for further investigations with a view to ensure successful prosecutions. The advocates from the State Attorney were providing legal advice to the various stakeholders.

**3.3 Forensic reports assessed**

Out of the 119 copies received, 109 have been assessed. The 10 other reports submitted were not really forensic reports that could qualify for assessment. The table below illustrates a list of forensic reports received per province:

|  |  |
| --- | --- |
| **Municipality** | **Province** |
| Eastern Cape | 34 |
| Free State | 05 |
| Gauteng | 02 |
| KZN | 19 |
| Limpopo | 11 |
| Mpumalanga | 15 |
| Northern Cape | 03 |
| North West | 04 |
| Western Cape | 16 |
| **Total** | **109** |

**3.4** **Major issues identified from the assessment.**

Following the assessment, below are the key focus areas which have been identified:

* Irregular, wasteful, and unauthorised expenditure
* Tender / Procurement Irregularities
* Appointment Irregularities
* Theft of Cash
* Fraud, Corruption and Maladministration

**3.5** **Outcome of the assessment**

52 forensic reports have been referred to law enforcement agencies as follows:

* 11 forensic reports were referred to the SIU for further assessment to determine if the cases meet the requirements to be investigated under the Presidential proclamation.
* The AFU has identified that there is potential for assets forfeiture in 18 forensic reports.
* 23 of the forensic reports were referred to the DPCI for further investigations.

The remaining 57 have been referred back to MECs requesting progress regarding the implementation of recommendations.

**3.5.1 Progress from the** **Special Investigating Unit (SIU)**

The table below illustrates the progress from the SIU with regard to the 11 forensic reports referred:

|  |  |  |
| --- | --- | --- |
| **PROVINCE** | **MUNICIPALITY** | **STATUS** |
| **Free State** | Setsoto LM | On motivation stage |
| **Mpumalanga** | Mbombela LM | On motivation stage |
| **Limpopo** | Thabazimbi LM | On motivation stage |
| Mogalakwena LM | On assessment stage |
| Mopani DM | On assessment stage |
| **Eastern Cape** | Makana | On assessment stage |
| **KwaZulu Natal** | eThekwini | The SIU is of the view that the matter has prescribed.  |
| **Eastern Cape** | NMBM (4 forensic reports) | Forensic reports are being dealt with by other law enforcement agencies. |

**3.5.2 Progress from the (Directorate for Priority Crime Investigation (DPCI)**

Out of the 23 forensic reports referred to the DPCI, the table below illustrates the progress:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Province** | **Municipality** | **Charges** | **Amount involved** | **Status** |
| Mpumalanga | Thembisile Hani | Fraud | R291000.00 &R294000.00 | Matter in Court. |
| Mpumalanga | Emalahleni LM | Fraud |  | Matter in Court. |
| KwaZulu Natal | EThekwini Metro | Fraud | Approximately R70 000 000.00 | Awaiting decision by SPP. |
| Eastern Cape |  | Fraud |  | Under investigation |

**3.5.3 Progress from the Asset Forfeiture Unit (AFU)**

Out of the 18 forensic reports referred to the AFU, 12 case are still outstanding as per the table below illustrates six cases that are completed. We await progress report on the other 12 forensic reports.

|  |  |  |  |
| --- | --- | --- | --- |
| **Municipality** | **Province** | **Allegations** | **Status** |
| Pixley ka Seme | Mpumalanga | Theft  | The AFU will pursue the likelihood of Confiscation Order once the suspect is convicted. Awaiting court case to be finalised.  |
| Albert Luthuli |  | Fraud | AFU still trying to source the docket from SAPS in order to be able to make final decision regarding forfeiture. |
| Nkomazi |  | Procurement irregularities | The AFU advised that the matter be referred to the SAPS Anti-Corruption Task Team. AFU will also be involved with the investigations. |
| Mbombela |  | Various allegations of financial irregularities. | Matter already being dealt with by the SIU. The AFU to work closely with the SIU once the proclamation is signed by the President.  |
| Mkhondo |  | Fraud, corruption and maladministration | Currently the docket is with SAPS to obtain further evidence as requested by the prosecutor. The outcome of this decision will guide AFU intervention. |
| Emalahleni |  | Fraud and corruption | The prosecutor declined to prosecute, SAPS now consider the case to be closed. No AFU potential. |

**3.6 Post assessment processes**

Following the assessment, letters and annexures of recommendations have been sent to MECs requesting them to provide progress report in respect of the recommendations set out in the forensic reports. Further, the Department is engaging the National Prosecuting Authority with a view to request them to assign a dedicated team of prosecutors to focus specifically on cases of corruption and related offences in municipalities.

1. **Conclusion**

The Department will continue to collaborate with law enforcement agencies to ensure the success with regard to implementation of recommendations. The focus will also be in obtaining Council resolutions with regard to implementation of forensic reports.

Given the amount of time that has lapsed since some of the forensic reports were commissioned, some of the matters have prescribed, while in some instances it is difficult to obtain supporting evidence.

It is important to highlight that the assessment only focused on forensic reports received from Provinces and municipalities. It is therefore possible that other forensic reports may not have been submitted to Department, while others are also being dealt with by other law enforcement agencies.

1. **Recommendation**

It is recommended that the Portfolio Committee note the progress with regard to implementation of recommendations emanating from forensic reports.