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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: FEBRUARY 2018.**

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. However, the failure by municipalities to implement resolutions emanating from forensic reports still remains a matter of concern. Most of the forensic reports made recommendations that certain remedial or other corrective measures should be taken.

In October 2014, the Department requested provinces and municipalities to submit copies of forensic reports commissioned for municipalities since April 2009. Thus far, 120 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 focus 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. Below is a list of forensic reports received per province:

**3.3 Forensic reports assessed**

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 | 12 |
| Mpumalanga | 15 |
| Northern Cape | 03 |
| North West | 04 |
| Western Cape | 16 |
| **Total** | **110** |

**3.4** M**ajor 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**

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

Out of the 11 forensic reports were referred to the SIU, the table below illustrates the progress from the SIU:

|  |  |  |
| --- | --- | --- |
| **PROVINCE** | **MUNICIPALITY** | **STATUS** |
| **Free State** | Setsoto LM | The matter is closed due to lack of evidence. However, the DPCI is pursuing some of the allegations. |
| **Mpumalanga** | Mbombela LM | An enquiry into the allegations on the forensic report is underway. |
| **Limpopo** | Thabazimbi LM | The President signed the proclamation on the matter. Investigation is underway. |
| Mogalakwena LM | An enquiry into the allegations on the forensic report is underway. |
| Mopani LM | The President signed the proclamation on the matter. Investigation is underway. |
| **Eastern Cape** | Makana | An enquiry into the allegations on the forensic report is underway. |
| **KwaZulu Natal** | EThekwini | Some of the allegations pertaining to the matter are being dealt with by the DPCI. |
| **Eastern Cape** | NMBM (4 forensic reports) | Forensic reports being dealt with by the dPCI/SAPS. |

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

The table below illustrates the progress received from the DPCI on some of the reports referred to them:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Province** | **Municipality** | **Charges** | **Amount involved** | **Status** |
| Mpumalanga | Mkhondo municipality | Fraud | R 2.6 million | The matter is on trial |
| Mpumalanga | Thembisile Hani | Fraud | R291000.00 &  R294000.00 | Provisionally withdrawn. |
| Mpumalanga | Pixley Ka Seme LM | Theft and Fraud | R 1 900 000.00 | Provisionally withdrawn. |
| Mpumalanga | Thaba Chweu LM | Fraud and Corruption | R 7 million | The matter is under investigation. |
| Free State | Setsoto LM | Fraud | Still to be determined | The matter is under investigation. |
| Mpumalanga | Emalahleni LM | Fraud | Still to be determined | Awaiting decision by the SCCU |
| KwaZulu Natal | EThekwini Metro | Fraud | Approximately R70 000 000.00 | Awaiting decision by SPP. |
| Eastern Cape | Nelson Mandela Bay Metro | Fraud (hummewood CAS 405/08/2011) | Value Unknown | The accused were found guilty (still awaiting details regarding sentence). |
| KwaZulu Natal | Harry Gwala | Fraud and Corruption | Value Unknown | The matter is under investigation |
| Gauteng | Midvaal LM | Fraud | R 2 706 899.00 | The matter is under investigation |

**3.5.3 Progress received directly from some of the municipalities on forensic reports**

|  |  |  |  |
| --- | --- | --- | --- |
| **PROVINCE** | **MUNICIPALITY** | **ALLEGATIONS** | **STATUS** |
| Eastern Cape | Nelson Mandela Bay Metro | Various allegations of corruption and related offences on 21 forensic reports. | * 4 cases were referred to the Hawks/SAPS for criminal investigations. * Executive Director Human Settlements discharged * 1 company blacklisted with the National Treasury and the municipality database * Other matters are still under litigation and in some instances disciplinary processes are still underway. |
| KwaZulu Natal | Newcastle LM | Corruption and related offences | 5 accused were arrested, 3 of the accused were convicted, and the matter relating to one accused is on trial, whilst a warrant of arrest has been issued for the other accused as he failed to appear in court. |
| Mpumalanga | Bushbuckridge LM | Corruption and related offences | The matter is court. Further, the AFU is considering to restrain the pension of the accused. |
| Limpopo | Bela-Bela LM | Corruption and related offences | Final written warning given to the implicated officials as part of the corrective action. Further, criminal case had already been opened against implicated official hence the municipality deemed it not necessary to open parallel case. |

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

We still await progress from the Asset Forfeiture Unit

1. **Conclusion**

The Department will continue to collaborate with other law enforcement agencies to ensure the success with regard to implementation of recommendations.

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.

The assessment is being conducted as a way of intensifying the fight against fraud and corruption within municipalities.

On 18 November 2017, the Minister launched the revised Local Government Anti-Corruption Strategy and the Municipal Integrity Management Framework. The strategy is being rolled out in municipalities throughout the country.

1. **Recommendation**

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