



Draft Public Audit Amendment Bill, 2018

Response of the Auditor-General of South Africa to the Draft Public Audit Amendment Bill, 2018 and the public commentary received in response thereto

1. Introduction

The purpose of this document is to summarise the key observations emanating from the Draft Public Audit Amendment Bill, 2018 ("the Bill") and to formulate the Auditor-General's ("the AG's") views in response to the Bill. The document further summarises relevant public commentary received and proposes an AG response to those comments.

The ultimate purpose of the response that the AG will deliver on Wednesday, 14 March 2018 is to equip the Standing Committee on the Auditor-General ("Scoag") to finalise its work on the Bill and to submit a well-thought through proposal for a statutory amendment to the National Assembly ("the NA").

The document will inform a PowerPoint presentation that will guide the AG's response to Scoag and provides a broader context to each topic captured in the PowerPoint presentation.

The AG's feedback will be structured as follows –

- 1.1 Background to the Bill – a brief explanation of the mischief that ultimately gave rise to the proposed Bill.
- 1.2 The AG's response to the Bill – this section will also include the AG's response to the public comments received on the various amendments.
- 1.3 The AG's response to those comments that, although valuable and requiring further attention, fall outside of the scope of the Bill.
- 1.4 Conclusion – a reflection on why the AG and his office possess the required capacity and experience to undertake the task.

2. Background to the Bill

2.1 Historical reflection on the implementation of audit recommendations

- Since the commencement of the PAA on 1 April 2004, the Auditor-General South Africa (“AGSA”) has engaged in numerous activities to improve the audit outcomes in the public sector (reports with detailed root causes and recommendations; door-to-door visits; media briefings; status of records review etc.)
- Irrespective of these initiatives, the overall picture deteriorated.

Audit cycle	Expenditure type	2009/10 results	2016/17 results
PFMA	Unauthorised	6 605 m	1 467 m (59% not dealt with)
	Irregular	11 009 m	46 687 m (estimated +/- 60 000 m for 16/17 audits) (88% not dealt with) (<1% recovered)
	Fruitless/wasteful	437 m	1 023 m (81% not dealt with) (2% recovered)
MFMA	Unauthorised	6 005 m	12 603 m (74% not dealt with)
	Irregular	4 455 m	28 372 m (82% not dealt with) (<1% recovered)
	Fruitless/wasteful	209 m	1 526 m (89% not dealt with) (<1% recovered)

- The growing trend in irregular expenditure over time was largely found in the following areas –
 - Extensive use of consulting services.
 - Use of complex mechanisms to perform public functions on behalf of government such as implementing agents (for example, Estina was an implementing agent for the Free State Department of Agriculture).
 - Large infrastructure projects with big budgets and limited monitoring of the activities that took place on those projects.

- The growing trend of UIFW is further amplified by the significant lack of consequences assigned to those responsible and accountable for it.

2.2 The fight against corruption and the waste of public resources

- Parliament is the body charged with oversight over the manner in which the executive arm of government utilizes public resources targeted for delivery of services and the achievement of goals.
- Parliament's intolerance of corruption and waste of public resources was eloquently articulated in the following statement made by SCOPA chairperson Honourable Themba's Godi - *The fight against corruption must find expression in Parliament as the centre of that fight, because of our constitutional obligation and also because of our political obligation as representatives of the people (16 May 2017).*
- Parliament has access to all structures and institutions that can assist in this fight, including the Auditor-General as an independent and reputable Chapter 9 institution.
- This Committee Bill is therefore the result of a strong political will to not only fight corruption and waste, but to overcome it.
- The ultimate objective of these statutory amendments is therefore an attempt to restore the integrity of the financial and performance management systems (which govern the management of government finances) aimed at the delivery of service to the people of South Africa and the achievement of government's goals.

3. AG response to the Bill and the public commentary on the Bill

3.1 Overall view on the Bill and public comments received

- The AG and his office understand the mischief that the Bill seeks to address. The mischief lies in the glaring lack of compliance with law, including the lack of consequences, and the disregard of audit recommendations. The latter results in the continuous increase of UIFW expenditure and erosion of governance in all three spheres of government.
- Should the Bill be accepted and ultimately approved, the AGSA will be aligned to both ISSAI 10 and 12 (*To be effective, the AG needs appropriate mechanisms to*

follow up on audit recommendations. This is one of the key pillars of an independent and effective audit office that enables accountability, a key value of our Constitution).

- The AG and his office therefore strongly support the Committee Bill, barring a few refinements to give better articulation to the statutory intent thereof.
- The public response to this Bill was overwhelming, but very encouraging. It was indeed a privilege to have sight of and been invited to listen to the submissions made to Scoag. Out of 35 submissions, a very significant majority of the contributors supported the overall objective that the Scoag wishes to achieve through this Bill. Support for the Bill has come from reputable institutions such as –
 - The audit regulator (IRBA).
 - Accounting Standards Board (setting standards for the accounting profession).
 - Professional bodies, such as SAICA, SAIGA, CIGFARO, Institute for Internal Auditors. SAICA, for example, supported the Bill, as long as proper guidance and criteria are developed to support the implementation of the Bill. The AG agrees wholeheartedly, which is why a set of regulations will soon follow the adoption of the Bill.
 - Our auditees (refer to local government representation in particular).
 - Civil society (Corruption Watch, Accountability Now, Council for the Advancement of the South African Constitution). Corruption Watch made a very pointed and significant contribution when suggesting that, among others, sections 38, 50, 51, 81, 83 and 86 of the PFMA clearly outlined the fiduciary and other responsibilities of accounting officers and accounting authorities, as well as the penalties and offences that should follow the contravention of those provisions. In practice though, these are simply ignored.
 - National Treasury

In the detailed responses below further reference is made to specific views, contributions and proposals offered by these contributors.

3.2 AG response 1: Definitions included in the Bill

- Retrospectivity of the Bill – The inclusion of former accounting officers and accounting authorities in **section 1(a)** of the Bill created the perception that the Bill, if enacted, would have a retrospective effect. This is not correct. The amendments will have prospective effect. The intention of the inclusion of former officials was to include those under whose watch material irregularities occurred during a financial year that commenced from 1 April 2019 onwards.

The AGSA will not object to proposals by Scoag's legal advisers to clarify these definitions further. If the intention of the amendment was indeed to have recourse against accounting officers or authorities for actions or omissions during financial years prior to the enactment of this Bill, that would constitute retrospectivity and the Bill must clearly spell it out. There is a presumption in law against the retrospective application of a statute, therefore the retrospectivity will have to be expressly captured in the Bill and must be properly motivated.

- Definition of "debtor" – This definition in **section 1(d)** appears to be superfluous. Section 5(1A) makes mention of accounting officers and accounting authorities, and not to debtors. Section 5(1B) only refers to debtors in the context of the debt recovery process and the deposit of recovered funds into the National Revenue or relevant provincial revenue funds. It is common course that the debt recovery responsibility will be removed from the Bill.

The AGSA recommends the deletion of the definition of debtor.

- Definition of "undesirable audit outcome" – The AGSA accepts the strong objection raised by those who made submissions to the Bill. The definition as it stands in **section 1(g)** does not constitute a technical term and is therefore confusing.

The AGSA considered all contributions made with regard to this particular point, specifically those made by IRBA and SAICA, and proposes that the definition of "undesirable audit outcomes be substituted by a definition of "material irregularities". This definition can read as follows –

"Material irregularities" mean any non-compliance with legislation, fraud or theft or a breach of fiduciary duty identified during an audit performed under this Act that causes or is likely to cause a material financial loss, the misuse or loss of a material* public resource or substantial* harm to a public sector institution or the general public.*

*** The assessment of materiality and substantial harm will be done by means of criteria that will be prescribed in the form of regulations.**

We furthermore propose corresponding amendments to sections 5(1A) as a consequential amendment. We proposed appropriate wording under paragraph 3.5 below.

3.3 AG response 2: Amendment to sections 4(3) and 4(4) of the PAA

- Dr Ramola Naidoo appealed to the Committee to reject the proposed amendments to sections 4(3) and 4(4) of the PAA. The intention of the amendments was to give the AG a wider discretion to opt out of small, mandatory audits such as boards, trusts and museums. She further appealed to the Committee to make the auditing of all public entities mandatory audits for the AGSA.
- This proposal is not supported at this stage. The economics of the office would not sustain such an obligation. Our decision to outsource a portion of the work is in response to the economics that influence our operational design. However, the organization intends to, over time and in a responsible manner, take back the audits of bigger and higher risk audits of the country's SOCs. Note should also be taken that the mandatory auditing of public entities will require an amendment to section 188(2) of the Constitution of the Republic of South Africa, 1996, something that is not anticipated at this stage.

3.4 AG response 3: Mandate to conduct performance and international audits

- Performance audits – the AGSA firmly believes that the strengthened mandate to conduct standalone performance audits in **section 5(1)(aA)** of the Bill will further strengthen its ability to engage in these important audits. The AGSA supports the proposed amendment in its current form, and notes that there were no adverse views raised on this matter.
- International audits **section 5(1)(aB)** – In her submission on the content of the Bill, the Public Protector questioned whether the audit of international bodies falls within the constitutional mandate of the AG, which is to strengthen the constitutional democracy of South Africa. She further argued that the auditing of non-organ of state or non-public entity institutions could not be categorized as services rendered to strengthen constitutional democracy, but for commercial gain. She also pointed out that the prior approval by Scoag to render those services might not pass the test for constitutional independence.

The submission made by the Council for the Advancement of the South African Constitution (CASAC), on the other hand, paid attention to this aspect from a constitutionality point of view, and had no objection to the proposed amendment. A valuable contribution made by CASAC was that the international services should be substantially linked to the powers granted to the AG in section 188 of the Constitution, and these were to audit and report.

The AGSA obtained an opinion by Senior Counsel to test the constitutionality of this provision in the Bill. Counsel opined as follows –

In my opinion, section 188(4) of the Constitution clearly preserves the National Assembly's prerogative to legislate as it deems fit within the broad prescripts of the Constitution. Legislating for international audits by the Auditor General is not per se unconstitutional even if it cannot be directly related to the strengthening of constitutional democracy. I am, however, by no means convinced that the engagement in international audits does not and cannot strengthen our constitutional democracy by inter alia fostering international relations. I also am mindful of the fact that the Auditor General may already in terms of Section 5(2) of the Act co-operate with persons, institutions and associations, nationally and internationally, and to do any other thing necessary to fulfil the role of Auditor General effectively. Being involved in international audits will expose the Auditor General's staff to new audit areas and development worldwide and with the knowledge and skills gained from these audits can be brought back to the Republic and applied by the Auditor General. A solid, independent supreme audit office is invaluable to boost investor confidence in the Republic. I am therefore of the opinion that the submissions critical of the amendments allowing international audits are without merit.

The AG wishes to remind the Committee of the origin of this amendment. The Ad Hoc Committee on the Review of Chapter 9 and Associated Institutions ("the Kader Asmal Committee) was not opposed to the idea of a South African SAI involved in international audit engagements, but recommended that the mandate to engage in these audits should be clarified in the PAA.

The AGSA therefore firmly supports the inclusion of the mandate to conduct international audits as an attempt to give effect to the recommendation in the Kader Asmal report. We also believe that there is room for better consultation with Scoag prior to accepting these engagements. The Committee may therefore consider substituting the requirement of prior approval from Scoag to prior consultation with Scoag to address the concern raised by the Public Protector.

3.5 AG response 4: Referral of undesirable audit outcomes for investigation and subsequent recovery of debt by means of a certificate [Sections 5(1A) and 5(1B)]

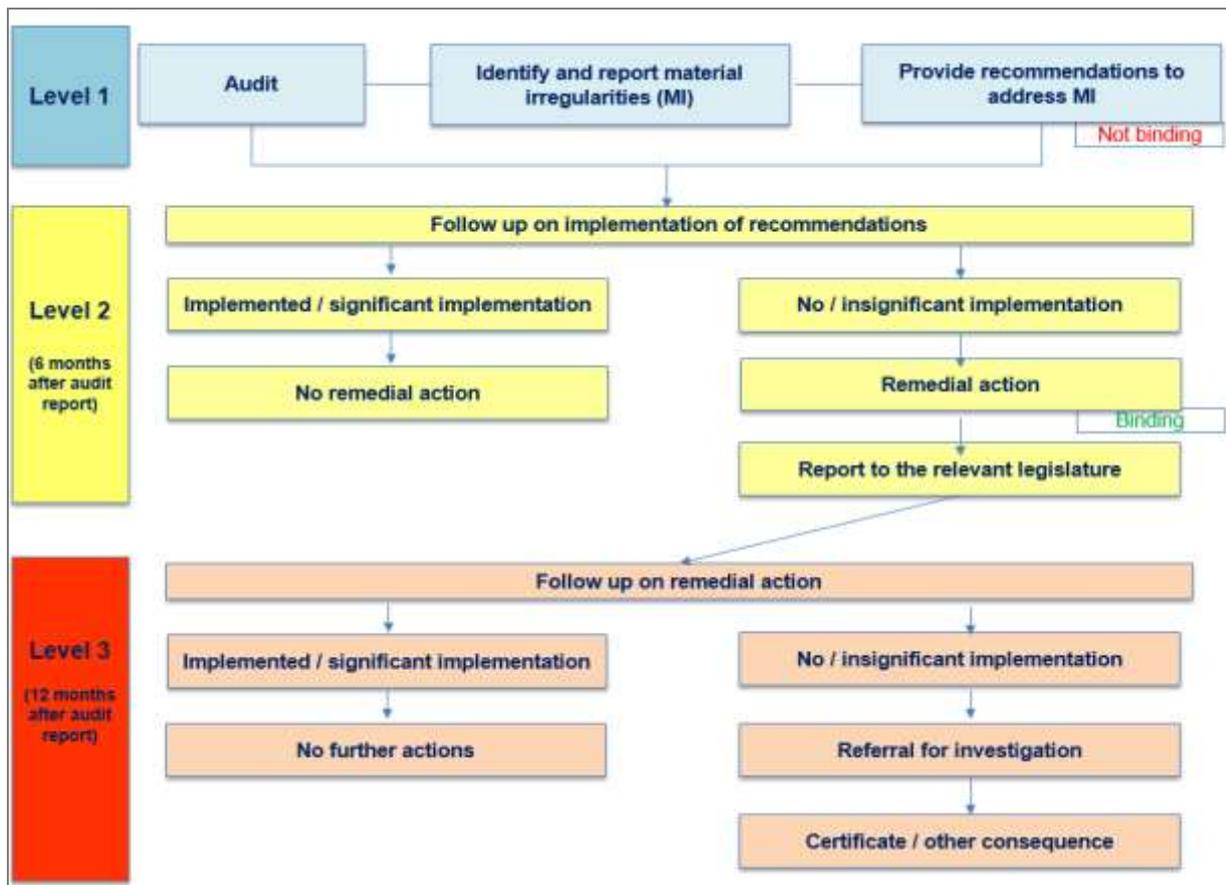
- Numerous objections have been raised to the proposed referral of matters for investigation and the recovery of debt by means of a certificate of debt. The nature of the objections varied –
 - (a) It was unclear what would constitute an “appropriate body”.
 - (b) The dependency of the AG on another body may dilute the AG's independence and cause severe time delays. The competence and capacity of those other bodies were also questioned.
 - (c) “May refer” was problematic as it left a wide, subjective opportunity for the AG to inconsistently refer matters.
 - (d) The duty to investigate UIFW and to recover losses were inherent functions of accounting officers/authorities and were clearly outlined in the PFMA and MFMA. The duplication of roles and assumption of powers by the AG was therefore questioned.
 - (e) The Accounting Officer/Accounting Authority is often not the offender and often unaware of the transgression committed. Imposing strict liability in this manner is a legal concern.
- We have taken these concerns to heart, particularly those that speak to the potential duplication of functions and the AG's reliance on other bodies to effectively use its extended powers. It is the AGSA's carefully considered view that the provisions in sections 5(1A) and 5(1B) could be further refined without deviating from the initial intention to assign consequences for wrongdoing in the management of public resources. The AGSA therefore proposes to the Committee to subject the referral of alleged and suspected material irregularities (previously “undesirable audit outcomes”) in section 5(1A) to the following 3-tier approach –

Level 1: The AG audits and detects an alleged or suspected material irregularity. The AG makes recommendations on the best way to address the material irregularity. The finding stands, but the recommendations are not binding. This is part of the normal auditing process that auditees are familiar with.

Level 2: Six (6) months from the date of the audit report, the AG follows up on the implementation of his recommendations made in respect of the alleged or suspected material irregularity. If the recommendations have been implemented, or the implementation has progressed well, there will be no referral for further investigation. However, if the recommendations have not been implemented, or not implemented satisfactorily, the AG issues a “yellow card” in the form of remedial action. The recommendation (remedial action) in respect of the alleged or suspected material irregularity is now binding and must be implemented by the responsible accounting officer/authority within a prescribed number of days. The format in which the AG will announce the remedial action taken against the responsible accounting officer or authority will be an extension of the management report, and will be simultaneously submitted to the responsible executive authority.

Level 3: If the remedial action has been implemented within 12 months from the date of the audit report, there will be no referral for further investigation. However, failure to implement the remedial action within 12 months of the date of the audit report will give effect to a “red card”. The red card in practical terms is the referral of the alleged or suspected material irregularity to an appropriate body for an in-depth investigation. The outcome of such investigation may be a certificate of debt, issued in the name of the responsible accounting officer/authority, or any other appropriate sanction levelled against the accounting officer or accounting authority.

Schematically illustrated, the 3-tier approach would take the following shape -



Schematic illustration of the 3-tier approach

- The AG and his office believes this three-tier approach will provide an effective supervisory instrument through the audit of the execution of accounting officers' and authorities' statutory responsibilities. The latter will include the execution of delegated responsibilities, since, for example, section 44(2)(d) of the PFMA provides that the act of delegation does not divest the accounting officer of the responsibilities concerning the exercise of the delegated power or the performance of the assigned duty.
- Additional to the 3-tier approach described above, the AG must retain the power to refer any identified, material irregularity for further investigation and consequences within the powers of the recipient body. Such referral is allowed for in terms of section 5(2)(a) of the PAA. For example, the AG may decide to refer a matter for investigation to the Public Protector. Once the investigation is performed, the Public Protector may institute remedial action in accordance with the mandate of that institution. Whether such referral is feasible will be determined bearing in mind the capacity and resources of the institution at the time when the referral is considered.
- The AGSA believes that the 3-tier model will effectively address the fears of statutory overreach and interference. Remedial action issued to a responsible accounting

officer/authority will merely force him/her/them to fulfil the duties that they already have under the law. The Committee is referred to a recommendation made by Drakenstein Municipality on 7 March 2018 to convert AG recommendations to remedial action.

- If the Committee is agreeable to consider the inclusion of the 3-tier approach to effect consequences for material irregularities as soon as is reasonably possible after detection thereof during the audit process, the following revised wording for section 5(1A) of the Bill could be considered –

5(1A) The Auditor-General must, subject to sub-paragraph (a) to (c), refer any alleged or suspected material irregularity identified during an audit performed under this Act to an appropriate body for investigation, and the relevant body must keep the Auditor-General informed of the progress and the final outcome of the investigation.

(a) Six months from the date of the audit report issued in terms of section 20 of this Act, the Auditor-General must follow up on the implementation of recommendations issued in respect of such alleged or suspected material irregularities.

(b) If the responsible accounting officer or accounting authority has failed to implement the recommendations in respect of the alleged or suspected material irregularities, the Auditor-General must take appropriate remedial action.

(c) If the responsible accounting officer or accounting authority fails to implement the remedial action issued in accordance with paragraph (b) within 12 months of the date of the audit report, the Auditor-General must refer such alleged or suspected material irregularity to an appropriate body for investigation, and the relevant body must keep the Auditor-General informed of the progress and the final outcome of the investigation.

To give effect to the outcome of the investigation, once completed, we propose the retention of section 5(1B) in the following revised form –

5(1B) In the event that an appropriate body confirms the alleged or suspected material irregularity referred under section 5(1A)(c), the Auditor-General must issue a certificate in the prescribed form to the relevant accounting officer or accounting authority, or take any other action appropriate to the address the material irregularity.

- NB – In the event that the Committee is not agreeable to the alternative approach, the AGSA recommend to clearly link to the subject matter addressed in section 5(1A) to a certificate of debt. We propose that the Committee consider inserting a new section, directly after section 5(1A) that reads as follows –

5(1A)(1) If as a result of an investigation in terms of section 5(1A) the Auditor-General is satisfied that a loss has occurred from a material irregularity as defined in section 1 of this Act, the Auditor-General must issue a certificate in the prescribed form to the responsible accounting officer or accounting authority specifying the amount due and the reason for the recover.

5(1A)(2) The amount specify in the certificate referred to in paragraph (1) constitutes a debt to the State.

5(1A)(3) The Auditor-General must submit a certificate issued in terms of section 5(1A)(1) to the responsible executive authority to recover the amount specified in the certificate from the responsible accounting officer or accounting authority.

3.6 AG response 5: Setting up a review or appeal body

- Several contributors were concerned by the lack of an internal review or appeal mechanism. The avenue of judicial review by the High Court, so they argued, is drawn out and costly.
- The supplementary submission by CASAC offers a workable solution. Although the appointment of an internal review or appeal structure pose a conflict of interest, such conflict will be mitigated by the retained option to take the matter on review to the High Court.
- Should the Committee be open to the idea of an internal dispute resolution mechanism prior to a review by the High Court, a structure can be created in terms of section 5(2)(b) of the PAA, together with clear terms of reference. The membership of the relevant structure can be determined by the AG, in consultation with Scoag, and can consist of external expertise similar to the Quality Control Assessment Committee. The benefit of this approach is that the structure can be created in terms of section 5(2)(b) without any amendment to the section.

- The AGSA supports the creation of an internal review or appeal mechanism. It will give further effect to the Constitutional right to fair administrative action and may very well prevent the cost of litigation as a result of proceedings before the High Court.
- Note to the Committee – bear in mind that advisory structures established in terms of section 5(2)(b) do not take decisions. The AG will still be the final decision-maker in the process.

3.7 AG response 6: Alternative bodies or structures to facilitate collection of debt

- It is common course that the duty to recover debt will be removed from the Bill. The Committee correctly asked for proposals from those who attended the public hearings on possible structures that could be considered for this task.
- In its supplementary submission to the Committee, CASAC builds a strong case in favour of the National Treasury as the preferred organ of state to take charge of the debt recovery obligation.
- In another, equally interesting proposal made by Adv Hoffman SC, the suggestion was made that the legal profession (firms of attorneys) allocate a set number of hours to recover debt on behalf of the state *pro bono*. Adv Hoffman has already made contact with a representative of the Law Society to test the idea.
- The AGSA recommends that Scoag take these suggestions forward through the portfolio committees on Finance and Justice in Parliament.

3.8 AG response 7: Amendment to sections 7 and 34 of the PAA (Remuneration Committee)

- The Committee received a number of views on the AG's power to establish and appoint members to a remuneration committee. The concern revolved around the conflict of interest should the AG appoint a structure that would be responsible for the determination of his salary and benefits.
- The concern regarding this provision arose as a result of the misreading of the proposed provision. The remuneration committee will not determine the salary and benefits of the AG. Those are determined by the President, on recommendation by the Independent Commission established in terms of the Determination of Remuneration of Office-Bearers of Independent Constitutional Institutions Amendment Act, 2014 (Act No. 22 of 2014). The Bill merely inserts an obligation on the Independent Commission to consult

the remuneration committee on appropriate remuneration benchmarks before a recommendation is made by the President.

- As an administratively autonomous institution, AG determines the conditions of service of his employees, including remuneration and benefits. The amendment to section 34 of the PAA seeks to place an obligation on the AG to first consult the remuneration committee before making any determinations in that regard.
- The AGSA supports the inclusion of the provisions relevant to the remuneration committee.

3.9 AG response 8: Amendment to section 10 of the PAA (accountability reports)

- The AGSA supports the proposed amendments to section 10 of the PAA to ensure open and transparent reporting on the extended powers included in the Bill, provided that the section is redrafted in accordance with the final decision of the Committee regarding the powers to issue remedial action, certificates of debt and to refer material irregularities for further investigation.

3.10 AG response 9: Amendment to section 20 of the PAA (audit reports)

- The intention of the amendment of section 20 of the PAA was to allow for limited assurance and review engagements as opposed to reasonable assurance engagements, irrespective of the size and risk profile of an auditee. The intention was further to allow for the cyclical audits of certain auditees that stretch over more than one financial year.
- The AGSA supports the proposed amendment, subject to the following changes to sections 20(2)(a) and (b) –

(a) The annual financial statements of the auditee; and/or

(b) Compliance with any applicable legislation relating to financial matters, financial management and other related matters; and/or

(c) Reported performance of the auditee against its predetermined objectives.

The above amendment should be crafted in accordance with accepted drafting conventions in the event that the use of and/or is not acceptable.

3.11 AG response 10: Amendment to section 23 (6) of the PAA (1% audit fees)



- The current status with regard to the National Treasury contribution towards the audit fees for auditees in financial distress is reflected below -

	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	Total
	R million	R million	R million				
1% invoiced to NT	87	77	115	121	174	133	707
Payment as per allocation	30	41	41	42	44	46	244
Additional payment	-	-	20	-	36	-	-
Percentage Paid	34%	53%	36%	35%	25%	35%	35%
Outstanding	57	36	74	79	130	87	463

- The proposed change to include national and provincial government components – The AGSA has no challenges to recover audit fees from these entities and AGSA has no strong views with regard to the possible exclusion of these auditees.
- The proposed change that AGSA and NT must annually agree on “*an amount not exceeding...*” poses a risk to the financial independence of the AGSA, as it may result in a situation where the AGSA becomes dependent on the continuous recognition by the NT of the settling of audit fees as a national priority.
- Should this amendment be made and the NT and AGSA cannot agree on the excess fees, it will leave the AGSA in an unenviable position and the AGSA will be unable to defray any of the excess audit fees (because an agreement is the condition for receiving an NT contribution).
- The AGSA cannot legally claim the excess from the auditee as the auditee is only liable for their 1% portion.
- The proposed amendment in its current form poses risks to the financial independence of the AGSA and is not supported. There are other options that can be considered to achieve the intended objectives, such as inclusion of a clear process in a memorandum of understanding or even a regulation in support of the provision.

3.12 AG response 11: Amendments to the power of the AG to issue regulations (section 52 of the PAA)

- A concern was raised during the public commentary phase (see Accountability Now) regarding the power of the AG to make regulations. The statement was made that this arrangement "smacks of the player/referee-syndrome, which in effect refers to a conflict of interest.
- The Committee is referred to section 52 of the PAA. This section already mandates the AG to make regulations. AG is best placed to prepare the regulations as the owner and subject matter expert of the Act. Regulations will still have to go through all the legislative processes and will be subject to thorough scrutiny. Furthermore, this is not a departure from other national statutes owned by organs of state. The National Treasury, for example, is mandated by section 76 of the PFMA to make extensive regulations in support of the Act.
- The amendments to section 52 is supported, but must be informed by relevant sections in the Bill. We further believe that the amendments to the Bill will only be effective if supported by well-crafted regulations that are informed by consultation with affected role players. The AG and his office undertake to follow the consultative route in the drafting of regulations, but believe that such consultative process does not have to be legislated in section 52.

4 Input on matters outside of the scope of the Bill

- IFRS/GRAP as a financial reporting framework – Although the AGSA is not legally required to follow the financial reporting framework prescribed by the Accounting Standards Board ("the ASB"), it should lead by example in this area. AG explained the reason for choosing IFRS at the time when GAAP was phased out, as opposed to GRAP that was still in its infancy. The AGSA undertakes to perform a proper assessment of the feasibility to adopt GRAP for future financial reporting and will keep Scoag informed.
- Compliance with and recovery of funds paid in contravention of the B-BBEE Act (ABASA input) – The AGSA recognises and supports the need for transparency as far as it relates to B-BBEE compliance. The PAA, however, is not a suitable instrument to drive such transparency. ABASA is encouraged to continue engagements with relevant structures to promote transformation and to strengthen transparency in reporting on B-BBEE adherence in the public sector.

- Broadened scope for access to information held by the AGSA (submission 2) – The AGSA is privy to and holds vast volumes of information that not only belongs to the institution, but also to the auditees. The provisions in the PAA relating to the safeguarding and disclosure of information had been crafted carefully to ensure a balance between protection and disclosure thereof. The AGSA does not support any amendment to the PAA in this area, but will consider the contribution as part of the review of our internal information management policies.

5 Why the AG?

Parliament, through Scoag, must have comfort that the AG and his office have the capacity and experience to assist the drive to restore the integrity of financial and performance management systems in the public sector.

As an institution, we can act as the proverbial canary in the coal mine and raise an alarm first. We are able to provide an appropriate solution to assist Parliament's fight against corruption and wastage of public resources –

- Our constitutional mandate allows us to act as the ultimate provider of credible, external assurance in the accountability cycle. We are able to independently assess the manner in which the executive arm utilizes the resources available for service delivery and achievement of goals. In the process we strengthen the ability of the legislatures to exercise oversight in the manner required by the Constitution.
- We have adequate knowledge of the environment. This knowledge, coupled with our unrestricted access to any information that may elucidate the business of government, enables us to play a diagnostic role. We identify the ailments in government's systems and have the knowledge to guide government to fix them.
- All that is lacking are adequate mechanisms to follow through on our recommendations, and this is what the Committee's Bill seeks to address. Put differently, the Bill provides an appropriate mechanism to close the gap where enforcement is lacking and to affect the necessary consequences for wrongdoing.

6 Conclusion

The AGSA fully supports Scoag's Draft Public Audit Amendment Bill, provided that the areas in need of further refinement receive the necessary attention.



Kimi Makwetu
Auditor-General South Africa
14 March 2018