



10 September 2019

## REVIEW OF NORTH-WEST MUNICIPALITIES

### 1. Introduction

The AG's reported very bleak results shown by a regression in the audit outcomes of municipalities for the financial year ending June 2018. Accountability is deteriorating shown by regression in audit outcomes (63 municipalities regressed and only 22 improved); 21 municipalities submitted their financial statements late and financial statements of eight were still outstanding by 31 January. Irregular expenditure remains high at R25,2 billion although it decreased slightly from R29,7 billion<sup>1</sup>.

### 2. North-West Municipalities

All the four municipalities received disclaimers consecutively for the past three years. Only Bojanala is not under administration. The three local municipalities: LekwaTeemane, Madibeng and Mamusa were placed under administration in May 2019

**Table 1: North-West Municipalities**

	2015/16	2016/17	2017/18	Intervention
<b>Bojanala District</b>	Disclaimer	Disclaimer	Disclaimer	None
<b>Lekwa Teemane</b>	Disclaimer	Disclaimer	Disclaimer	Section 139 (1)(b)
<b>Madibeng</b>	Disclaimer	Disclaimer	Disclaimer	Section 139 (1)(b)
<b>Mamusa</b>	Disclaimer	Disclaimer	Disclaimer	Section 139 (1)(b)

In North West, 20 out of 22 municipalities had deteriorating audit performance in terms of the audit outcomes of 2016/17 financial year. Twelve out of the 22 North West municipalities are in serious financial distress and of which 8 received disclaimers in audit outcomes. Previous Section 139 interventions in five municipalities have not yielded results<sup>2</sup>.

The audit outcomes of North-West municipalities were the worst since 2012/13. The regression indicates that municipalities did not address issues raised by the AG and there was lack of political will to effect consequences<sup>3</sup>. The AG noted that the audit environment became hostile with many municipalities contesting the findings, coupled with pushbacks and threats to auditors. Political instability and the tone set by leadership did not create a conducive environment. Due to the poor state of financial management, the province intervened in eight municipalities.

<sup>1</sup> AG, 2019. MFMA 2017-18

<sup>2</sup> Mkhize, Z. 2018. Address by Minister of COGTA

<sup>3</sup> Ibid



### 3. Unauthorised, irregular, fruitless and wasteful expenditure

The PFMA identifies three types of improper expenditure specifically, irregular expenditure, unauthorised expenditure as well as fruitless and wasteful expenditure. Irregular expenditure is defined as expenditure other than unauthorised expenditure incurred in contravention of or that is not in accordance with the requirements of applicable legislation. Although irregular expenditure does not constitute mismanagement but it occurs when expenditure occurred contravened laws and regulations. Fruitless and wasteful expenditure is expenditure incurred in vain which could have been avoided if reasonable care was exercised.

**Figure 2: Unauthorised; irregular, fruitless and wasteful expenditure**

	Unauthorised	Irregular	Fruitless and wasteful
<b>Bojanala District</b>			
<b>Lekwa Teemane</b>			
<b>Madibeng</b>		R1,4 billion	
<b>Mamusa</b>			

#### Issues for consideration

1. The Municipal Finance Management Act deals with unauthorised, irregular, fruitless and wasteful expenditure

#### Liability for incurring unauthorised, irregular and fruitless expenditure

Section 32 (a) states that a political office bearer of a municipality is liable for unauthorised expenditure if that office bearer knowingly or after having been advised by the accounting officer of a municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;

b) The accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer

c and d) Any political bearer is liable for committing, making or authorising irregular expenditure as well as fruitless and wasteful expenditure

#### Consequence management

Section 2 deals with consequence management by stating that the municipality must recover unauthorised, fruitless and wasteful expenditure. Section 3 absolves the accounting officer if the accounting officer informed the council, the mayor or the executive committee in writing that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure;

Section 4 states that the accounting officer must inform the mayor, the MEC for local government in the province and the AG in writing; stating whether any person is responsible or under investigation including steps taken to recover such expenditure.

#### Reporting to law enforcement

Section 6 states that the accounting (AO) must report to SAPS all cases of alleged irregular expenditure that constitutes a criminal offence, theft and fraud;

In cases where the perpetrator is the AO the council must take all steps to ensure that all cases are referred to SAPS





### 3.1 Bojanala

The municipality had no CFO for the majority of the year. Finance staff lack the appropriate competencies. There is an over reliance on consultants due to instability in senior management positions, particularly the municipal manager and CFO. Consequence management was not implemented.

Supply chain management is an issue which led to the municipality incurring unauthorized, irregular, fruitless and wasteful expenditure. Non-compliance with supply chain management process led to irregular expenditure. The situation got worse in July such that workers were not paid salaries in July 2019 (see attached newspaper clips)

#### Issues for consideration

1. Section 83 (1) states that the accounting officer, senior managers, the CFO and other financial officials must meet the prescribed financial management competency levels. Why does the municipality hire finance officials who do not have competencies? (If consultants are doing jobs of hired people, this is fruitless and wasteful expenditure)
2. What steps have been taken against officials who did not follow SCM procedures? (as required by the MFMA)
3. How many people employed by the municipality are doing business with the state or have close family members who did? (the AG says there are employees and close family members doing business with the state.
4. How much is spent on consultants? Are they doing services which the municipality does not have in its employ.
5. How much has been recovered? (Section 32 (4)(i) steps that have been taken to recover unauthorised, fruitless and wasteful expenditure.
6. Section 32 (6) states that all cases of alleged unauthorised, irregular, fruitless and wasteful expenditure must be reported to SAPS. Has this been done? If no, why?

The AG also states that the quality of financial statements submitted were poor. The effectiveness of the audit committee as an assurance provider is hampered by the leadership's inability to act on recommendations made by the audit committee. The AG also indicated that all assurance levels such as MPACs, municipal councils, internal audit, senior management and executive mayor provides limited assurance.

#### Issues for consideration

1. Why is management not implementing the recommendations of the audit committee?
2. Why is the mayor not discharging his duties as laid out in Section 27 in cases of misconduct?

The AG had the following concerns:-

- Poor record keeping;
- Performance reports were not useful and reliable;
- There was disregard for laws and regulations;



- Risk management;

#### Issues for consideration

1. Section 62 (1)(b) full records of financial affairs are kept and the municipality failed to keep proper records; Why is this not done
2. Section c) states that system of financial and risk management and internal control must be kept. The municipality has weak controls so this section is contravened.

### 3.2 Madibeng

Madibeng has a history of corruption and maladministration. There were SIU investigation dating back to 2010. Even in 2014, there were serious cases of maladministration.

This municipality, there were a lot of issues including threats and intimidation of auditors. Unauthorised, Irregular expenditure, fruitless and wasteful expenditure is very high. Documents were missing relating to procurement and contract management resulting in consequence management not done. The municipality invested R60 million into VBS.

The municipality owes ESKOM R428 million. Madibeng invested R31 million of their conditional grant. Non compliance with legislation is a major concern. Repeat findings were identified relating to poor quality of AFS, lack of systems for expenditure management, asset management and procurement and contract management.

Governance structures such as the audit committee and internal audit has capacity but the recommendations were not implemented.

The newspapers reported a contract to lease 50 vehicles for R17 million a month. (see attached paper)





#### Issues for consideration

1. This municipality has failed to comply with the MFMA (procurement and contract management, SCM, human resources). The mayor has failed to comply with Section 27 of the MFMA. The AO has failed to comply with Section 62, 63, 64 and 65 of the MFMA. Section 173 states that the accounting officer is guilty of an offence if they fail to comply with these sections. Section 174 states that if a person is guilty of contravening Section 173 must be imprisoned for a period not exceeding 5 years. Why is the mayor not enforcing this clause?
2. Who took a decision to invest in VBS?
3. Is there a council resolution on VBS investment allowing the municipality to invest in VBS?
4. Was there a cost benefit analysis done to determine what is cheaper between buying and leasing?
5. Which service provider was given this tender?
6. Section 131 states that the municipality must deal with issues raised by the AG. The AG has raised these issues repeatedly. Why was this not addressed? The mayor has a responsibility to ensure compliance. Did the mayor ensure that officials comply with Section 131?
7. Which grant was the money invested in VBS taken from? (service delivery suffered as a result)

### 3.3 Lekwa Teemane

The municipality has a long history of corruption and maladministration with no consequence management. The AG raised many issues relating to its audit. Lekwa Teema had vacancies in senior management positions such as the CFO, therefore relied on consultants. The internal audit and audit committee was not effective although it has people who have skills and can assist the municipality in dealing with issues raised by the AG. The recommendations of the audit committee were not implemented.

The financial health of the municipality is concerning. Current liabilities exceed current assets by R249, 1 million. Creditors were not paid for more than 120 days instead of the 30 days according to Section 65(2)(e) of the MFMA.

The disclaimer was due to areas such as lack of supporting documents, lack of review by management of the municipality. Non-compliance with legislation remains a major concern. There is lack of consequence management relating to unauthorized, irregular, fruitless and wasteful expenditure.



#### **Issues for consideration**

1. How much is spent on consultants?
2. This municipality has failed to comply with the MFMA (procurement and contract management, SCM, human resources). The mayor has failed to comply with Section 27 of the MFMA. The AO has failed to comply with Section 62 , 63, 64 and 65 of the MFMA. Section 173 states that the accounting officer is guilty of an offence if they fail to comply with these sections. Section 174 states that if a person is guilty of contravening Section 173 must be imprisoned for a period not exceeding 5 years. Why is the mayor not enforcing this clause?
3. How much is spent on the audit committee per annum? This amount is wasteful and fruitless as the municipality has chosen not to implement the recommendations of the audit committee.



## References

1. AG. Briefing notes: Mamusa- 2019
2. AG. Briefing notes: Madibeng- 2019
3. AG. Briefing notes: Bojanala- 2019
4. AG. Briefing notes: Lekwa Teemane- 2019
5. AG. 2019. MFMA 2017/18
6. The Municipal Finance Management Act, Act No 56 of 2003

