**4. Report of the Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlements on Proactive Oversight Visit to Vhembe District Municipality in Monitoring and Assessing the Implementation of 2017/18 Municipal Audit Action Plan, dated 26 November 2019**

**1. Background and Overview**

1.1 The Select Committee on Co-operative Governance and Traditional Affairs, Water, Sanitation and Human Settlements, having assessed and evaluated the implementation of 2017/18 Post Municipal Audit Action Plan of Vhembe District Municipality, reports as follows:

1.2 On June 2018, the Auditor-General released the 2017/18 Municipal Performance Audit Outcomes Report of all the South African Municipalities. The general report dealt with the audit outcomes of the South African Local Government for the financial year ended 30 June 2018.

1.3 The purpose of the general report is to provide the political leadership with overview of the audit outcomes and internal control deficiencies that may have prevented the municipalities from attaining the desired audit outcomes, i.e. financially unqualified with no material findings on legislation and predetermined objectives related to key performance areas of service delivery and infrastructure development, and local economic development.

1.4 As part of ensuring executive accountability and conducting parliamentary oversight, the Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlement, resolved, to conduct proactive oversight to Vhembe District Municipality in Limpopo Province on 22 October 2019.

**2. Objectives of the Proactive Oversight to Vhembe District Municipality**

2.1 To engage with the Office of the Auditor-General on the 2017/18 performance audit outcomes of the District Municipality.

2.2 To receive briefings on the support provided by the Department of Cooperative Governance and Traditional Affairs (CoGTA) to the District Municipality.

2.3 To receive a briefing on the support provided by the South African Local Government Association (SALGA) to the District Municipality.

2.4 To receive a presentation from Vhembe District Municipality on the implementation of Post Audit Action Plan to deal with the concerns raised, and the recommendations made by the Auditor-General in the 2017/18 Local Government Performance Audit Report.

**3. Composition of the Delegation**

3.1 The Select Committee delegation was composed of the following Members of Parliament and officials: Hon A Gxoyiya (ANC) Northern Cape; Hon IM Sileku (DA) Western Cape; Hon S Shaikh (ANC) Limpopo; Hon G Michalakis (DA) Free State; Hon TSC Dodovu (ANC) North West; Hon S Zandamela (EFF) Mpumalanga; Hon M Mmola (ANC) Mpumalanga; Mr TM Manele (Committee Secretary); Mr N Mfuku (Content Adviser); Mr B Mahlangeni (Researcher); Ms J le Roux (Researcher) and Ms S Skosana (Committee Assistant).

**4. General Overview of the Proactive Oversight Visit to Vhembe District Municipality**

4.1 On 22 October 2019, the delegation of the Select Committee interacted with the Office of the Auditor-General in Limpopo, the Department of CoGTA, the senior official of SALGA and the Mayor and Senior Management of the Vhembe District Municipality.

4.2 The Office of the Auditor-General in Limpopo briefed the delegation on the 2017/18 Performance Audit Outcomes of the Vhembe District Municipality. The presentation focused on summary of disclaimer areas, root causes and recommendations as well as predetermined objectives qualification areas in respect of service delivery and infrastructure development and local economic development.

4.3 The Department of CoGTA briefed the delegation on support provided to the District Municipality. The presentation focused on the key audit challenges (i.e. completeness of revenue and property, plant and equipment; unauthorized expenditure in relation to VBS and cash flow misstatement) and intervention support provided specifically to the District Municipality, and generally to other municipalities.

4.4 The senior official of SALGA briefed the delegation on the support provided to the District Municipality. the presentation focused on support delivery vehicle, summary of audit findings, support programme and commitment of the Association.

4.5 The Vhembe District Municipality briefed the delegation on the municipal audit action plan to deal with the concerns and recommendations made by the Auditor–General. The presentation focused on matters raised in the audit reports 2016/17 and 2017/18, and strategies to improve the audit opinion.

**5. Presentation by the Office of the Auditor-General on the 2017/18 Performance Audit Outcomes of Vhembe District Municipality**

5.1 The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 122(1) of the Municipal Finance Management Act. The Municipality appointed consultants to compile the annual financial statements, however, there were material misstatements identified on them.

5.2 The quality of financial statements submitted for audit remains a concern. The financial statements were not adequately reviewed by the audit committee and the internal audit as they were submitted late. Both the audit committee and internal audit expressed concerns on the quality of the financial statement.

5.3 The quality of Annual Performance Report (APR) submitted for audit is a concern. The annual performance report contained achievements that could not be supported. Inconsistencies were noted between the planned indicators of Service Delivery Budget Implementation Plan (SDBIP), Integrated Development Planning (IDP) and APR.

5.4 The Municipality invested funds in VBS Mutual Bank, which is in contravention with investment Regulation 6. The Municipality participated in the VBS Mutual Bank investment since March 2014. The money was withdrawn/ re-invested when it matured. The district municipality made a total of R1070 000 000.00 since February 2015 with VBS Mutual Bank.

5.5 The District Municipality lost R300 Million as result of investment made with VBS Mutual Bank at the time the bank was placed under curatorship. The interest accrued has not been paid back to the Municipality.

5.6 The investment was approved by the Municipal Manager and the Chief Financial Officer. The investigations were conducted and concluded that the Municipal Manager and the Chief Financial Officer failed to comply with the cash management and investment policy of the Municipality and the Municipal Investment Regulation.

5.7 The investigation report also indicated that there are no investment records for the amount of R200 000 000.00 that was transferred to VBS Mutual Bank on the 12th September 2017. The Municipal Manager and Chief Financial Officer were subsequently taken for disciplinary hearing by the council, which resulted in the settlement agreement between the District Municipality and the senior officials.

**6. Presentation by the Department of Co-operative Governance and Traditional Affairs on Support Provided to the Vhembe District Municipality**

6.1 Assisted with the development of deviation and UIF registers and supported compliance with section 32 of the MFMA on reporting irregular, fruitless and wasteful expenditure.

6.2 Assisted on compliance with the implementation of SIPDM infrastructure and with SCM policy compliant on reporting timeframes for unauthorized expenditures.

6.3 Supported the District Municipality in the implementation of appropriate consequences management by monitoring adherence to section 32 of the MFMA on a quarterly basis.

6.4 Conducted state of readiness of municipalities to prepare and submit annual financial statements making use of annual financial statement questionnaire.

6.5 Assisted the Municipality with technical indicators description and conducted workshop on awareness on performance management systems.

6.6 Assessed and monitored the development and implementation of AG remedial Plan (Section 131 of the MFMA), established forum for AG action plan.

6.7 Supported credible records management systems and monitored implementation of consequence management, submission UIFW’s reports to the MEC.

6.8 Guided and supported the Municipality on the development of credible compliant asset policy and register.

**7. Presentation by the South African Local Government Association on the support provided to the Vhembe District Municipality**

7.1 The South African Local Government Association reported that municipal audit support was launched with the aim of addressing findings raised by the Auditor-General. The support provided was based on pillars related to institutional capacity; financial management; leadership and governance.

7.2 The overall objectives of the support were to municipalities who have qualified or adverse audit outcomes, in order to gradually improve and sustain improvement to their audit outcomes.

7.3 The other objective of the support programme was to assist the municipalities in addressing the root causes and risk areas, as identified by the Auditor-General and also support municipalities with unqualified audit outcomes in order to maintain and sustain their audit outcomes.

7.4 The leadership of the Association (SALGA) had structured engagement with the MEC, the Speaker of the North West Provincial Legislature and the Auditor-General to discuss matters affecting the municipalities.

7.5 The matters discussed during the engagement included constitutional court order invalidating the Local Government: Municipal Systems Amendment Act that may cause delays in filling of positions; low spending on MIG grants; escalating debts owed to municipalities and improvement of municipal financial viability.

7.6 The Association (SALGA) reported that the training provided generally to municipalities included training of members of MPAC; establishment of Chief Whips and Speakers Forums; ethics and financial misconduct; assistance with addressing and resolving audit findings raised by the Auditor-General.

**8. Presentation by Vhembe District Municipality on Municipal Audit Action to deal with 2017/18 Municipal Audit Outcomes**

8.1 The District reported that the municipality has developed an audit action plan in line with the guidelines of the National Treasury. The audit plan focuses on proper record keeping; compilation of internal financial statement; implementation of measures to prevent unauthorized, irregular, fruitless and wasteful expenditure, perform and review monthly bank reconciliation.

8.2 The District reported also that in order to improve audit opinion, the Municipality has ensured that the annual financial statement is reviewed by the Audit Committee and Internal Audit and submitted in all material respects in accordance with the requirements of section 122(1) of the MFMA.

**9. Observations and Opinions of the Select Committee: AGSA Presentation**

9.1 The Select Committee has noted that the overall message contained in the presentation indicated and demonstrated that the district municipality has not fully implemented the action plan for the findings raised in the prior financial year, and as a result repeat findings were identified during the audit.

9.2 The Select Committee has further noted that the District Municipality has been getting repeat disclaimer audit opinions for the past three financial years, due to non-submissions of requested information to support financial statements. In the financial year, the financial statements were again disclaimed due to a lack of proper records management.

9.3 The Select Committee has further noted that the root causes that the District Municipality needs to address, according to the audit findings, include inadequate controls implemented for Supply Chain Management (SCM) compliance resulting in irregular expenditure, inadequate consequences for poor performance and SCM transgression, non- implementation and monitoring of audit action plan, lack of control measures to monitor compliance with laws and regulations and ineffective processes for collecting, verifying and reporting on performance information.

**10. Observations of the Select Committee: Department of CoGTA Presentation**

10.1 The Select Committee has observed and noted the audit root causes and challenges related to non-compliance to supply chain management legislatives, severe financial constrains/unfunded mandates.

10.2 The Select Committee has further noted that the District Municipality has incurred unauthorized, irregular, fruitless and wasteful expenditure and which resulted to multiple appointments on infrastructure projects without terminating previous service provider which lead to litigation.

10.3 Furthermore, the Select Committee has noted that the District Municipality failed to comply with the SCM Regulations and implementation of the previous audit action plan.

10.4 Additionally, the Select Committee has noted with concerns that the District Municipality is high in relation to the UIFW’s, mainly due to non-compliance with SCM Regulations and unauthorized expenditures (VBS Investment).

10.5 The Select Committee has also noted the support provided by the Department (CoGTA) in relations to encouragement of the participation of the mayors during audit processes, compilation of annual financial statement, strengthening of audit steering committee meeting for monitoring of process plans, improvement of records management system and ensuring availability of source documents to support financials during audit.

**11. Recommendations of the Select Committee: Department of CoGTA Presentation**

11.1 Provincial Treasury and the Department of CoGTA, Human Settlements and Traditional Affairs should fast track the implementation of the programme to build capacity in the District Municipality to prepare the annual financial statements.

11.2 The political leadership of the District Municipality should ensure and oversee the implementation of the resolutions of the MEC/Mayors Forum which encouraged the municipalities with unfunded budget to develop financial recovery plans and table to the municipal council for consideration and adoption.

11.3 The Executive Mayor of the District Municipality must ensure that budgets are funded, and no unfunded budget is tabled to the council for consideration.

11.4 The political leadership of the District Municipality should ensure the implementation of the post 2017/18 audit action plan and commitments made during the engagement with the delegation of the Select Committee during the period of proactive oversight visit.

11.5 The established Financial Misconduct Board established by the District Municipality in terms of section 32 of the MFMA must fast track the process of investigating irregular expenditure incurred, as reported in the 2017/18 Local Government Audit Outcomes Report by the Auditor-General.

11.6 The Provincial Department of CoGTA, Provincial Treasury and SALGA should jointly ensure capacitation of members of the Municipal Public Accounts Committee, especially in areas of compliance so as to effectively exercise their oversight responsibilities. The tone the above structures must be communicated to senior Managers, Municipal Manager, Chief Financial Officer and the Executive Mayor that there is zero tolerance for poor performance and transgression.

**12. Observations of the Select Committee: SALGA Presentation**

12.1 The Select Committee has observed that the District Municipality is one of the municipalities in terms of the audit outcomes that has been unable to improve its audit outcomes for the second consecutive year of the current administration, and is also one of the municipalities that used consultants and obtained qualified audit opinion.

12.2 The Select Committee has further noted that over the years, the Auditor-General has recommended that the first level of assurance providers (management, municipal manager and mayor) develop strategies to address deficiencies in the internal control environment and to implement effective action plans to deal with root causes of the audit findings.

12.3 The Select Committee is aware of the legislative requirement contained in the Municipal Investment Regulation 6, that requires municipalities to invest with banks registered in terms of the Banks Act. However, the Select Committee has noted with concern that as at 30 June 2018, the District Municipality was one of the eight municipalities that had investment amounting to R1 191 million with VBS Mutual Bank.

12.4 The Select Committee has therefore noted that the District Municipality was also qualified on the VBS Mutual Bank investment balances disclosed in its financial statement. Like the Auditor-General, the Select Committee is extremely concerned about the status of compliance with legislation related the quality of financial statements submitted for auditing, failure to prevent unauthorized, irregular or fruitless expenditure, non-compliance with supply chain management prescripts, effecting of consequences and revenue and expenditure management.

**13. Recommendation of the Select Committee: SALGA Presentation**

13.1 The Select Committee has then endorsed the opinion and recommendation of the Auditor-General that oversight mechanisms such as the MPAC needs to strengthen focus on compliance matters and members of the committee be capacitated with knowledge of legislation and that the leadership must ensure that the Municipality have sound internal control and that there are consequences for transgression with laws, regulations and poor performance.

**14. Observations of the Select Committee: Vhembe District Municipality**

14.1 The Select Committee has noted that in terms of section 32 of the MFMA the municipal council must appoint a committee to investigate unauthorized, irregular, fruitless and wasteful expenditure.

14.2 The Select Committee has further noted that the council of the District Municipality has appointed the MPAC to carry out investigations.

14.3 The Select Committee has further observed and noted that the District Municipality has developed audit action plan in line with the Treasury Guidelines.

**15. Recommendations of the Select Committee: Vhembe District Municipality**

15.1 The MPAC of the District Municipality should fast track the investigation process on irregular expenditure, and table to the council the report for consideration and adoption.

15.2 The Municipal Manager must ensure the implementation of the recommendations of the report of the MPAC, including consequence management where required and applicable.

15.3 The South African Local Government Association, together with the Limpopo Department of CoGTA should continuously monitor the implementation of the recommendations of the MPAC and council resolutions.

15.4 The leadership of the Municipality should implement consequence management for those officials who deliberately or negligently resulted the Municipality incurring fruitless, wasteful and irregular expenditure, and other cases of financial misconduct.

15.5 The Select Committee on Cooperative Governance and Traditional Affairs, Water, Sanitation and Human Settlements should, in collaboration with the relevant Portfolio Committee in Limpopo Provincial Legislature, conduct a joint oversight during 2020 parliamentary period, to monitor the implementation of the recommendations of the Auditor-General and the municipal post audit action plan.

Report to be considered.