

# O.R.TAMBO DISTRICT MUNICIPALITY



**O.R. TAMBO  
DISTRICT MUNICIPALITY**

**DEPARTMENT OF LEGISLATIVE SERVICES**

**MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)**

<b>SPECIAL MPAC REPORT</b>	
<b>FOR PORTFOLIO COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS</b>	
<b>NAME OF COMMITTEE CHAIRPERSON</b>	<b>CLLR. N. P. PEPPING</b>
<b>DATE OF SUBMISSION</b>	<b>14 JULY 2020</b>

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## 1. INTRODUCTION

The Portfolio Committee on **Cooperative Governance and Traditional Affairs (CoGTA)** issued an invitation for the O.R. Tambo District Municipality delegation comprised of the PMT (Executive Mayor, Deputy Executive Mayor, Council Speaker and Council Chief whip), Member of the Mayoral Committee (MMC) for Budget and Treasury, Chairperson of the MPAC, suspended Municipal Manager and Chief Financial Officer (CFO) to attend a virtual meeting that was conducted through Microsoft Teams platform on Friday, the 10<sup>th</sup> July 2020. The meeting was intended to discuss the following: -

1. The Municipalities COVID 19 Response Plans;
2. Breakdown of the spending of Covid-19 funds; and
3. Suspension of the Municipal Manager and trending invoices in the public domain.

In the same meeting, the **Portfolio Committee on CoGTA resolved** that a detailed MPAC report with Portfolio of Evidence (POE) with regard to the following:

-

1. Measures taken by the Committee to address the Irregular Expenditure of R1,4 billion, as per the 2018/19 Auditor's General Report; and
2. Report on functionality and capacity of the Committee and that all reports be submitted on Tuesday, the 14th July 2020.

## 2. LEGISLATIVE BACKGROUND AND PURPOSE

The Council of O.R. Tambo District Municipality (ORTDM) for the term 2016\2021 established the Municipal Public Accounts Committee (MPAC) in line with the provisions of Section 79 of the Municipal Structures Act, 117 of 1998, as a Standing

Committee to play an oversight role over all the institutional departments and the Municipal Entity, as per the adopted Municipal Public Accounts Committee's Terms of Reference (**Annexure A**) read together with the SALGA Guidelines for Establishment of MPAC's (**Annexure B**).

Furthermore, the Council of ORTDM also adopted the Municipal Finance Management Act (MFMA), Circular 63 (**Annexure C**), in line with the provisions of Section 129 (5) of the Municipal Finance Management Act (Act No. 56 of 2003). The MFMA Circular 63 serves as a guide for the process to be followed for formulating the Annual Report and consideration of the Unaudited and Audited Annual Reports with the view to table the Oversight Report on the Annual Report to Council, as per the provisions of Section 129 of the MFMA, 56 of 2003.

The purpose of the report therefore seeks to present to the Parliamentary Committee on Cooperative Governance and Traditional Affairs the functionality of the MPAC and the work done on investigation of Irregular Expenditure identified in the 2018/19 Auditor General Audit Report (AGSA).

### **3.1. OVERSIGHT ON THE 2018/19 IRREGULAR EXPENDITURE OF R1,4 BILLION IDENTIFIED IN THE AGSA REPORT**

For the year ended 30 June 2019, the O. R. Tambo District Municipality received a **Qualified Audit Opinion** from the Auditor General. The basis of the qualification being on three qualification items, including the **Irregular Expenditure**; wherein:

- (a) The municipality did not fully record irregular expenditure in the notes to the financial statements, as required by section 125(2)(d)(1) of the MFMA. This was due to the expenditure incurred in contravention of the supply chain management (SCM) requirements not being detected and appropriately disclosed in the financial statements.
- (b) Auditor General was unable to determine the full extent of the irregular expenditure stated at **R1,4 billion** (2017-18: R3,2 billion) in note 52 to the consolidated and separate financial statements.

It is critical to note that of the **R1 351 743 222, 00** Irregular Expenditure balance as at 30 June 2019 are the following amounts:

- Remaining prior years' balance amounting (prior years) to **R369 239 593**
- 2018/19 Irregular Expenditure amounting (current year) to **R982 503 629,00**

During March 2020, the Committee held its meetings where it conducted its oversight on 2018/19 Annual Report and it noted Irregular Expenditure amount stated above, when the Office of the Auditor General presented the ORTDM 2018/19 Audit Report to the Committee on the 3<sup>rd</sup> of March 2020. Furthermore; **the committee noted with great concern for inclusion in the departmental sessions the following critical findings** from the Auditor General's Report: -

1. Repetitive findings.
2. Material misstatements of the Annual Financial Statements.
3. Validity of the Institutional' s Asset Register which requires auditing of all the assets of the Municipality.
4. Consistent non-adherence of the management in the implementation of the Management Audit Action Plan's (MAAP) remedial action,
5. Non- implementation of the committee's recommendations submitted to Council for adoption.

However, it is worth noting that the Committee intended to submit and present its report on Oversight of the 2018/19 Annual Report to Council by 31 March 2020 with its findings and recommendations, which amongst the recommendations include the Council approval for investigation of the **R1,4 billion** Irregular Expenditure as noted in the Auditor General Report. Due to the outbreak of the COVID-19 pandemic which was declared a National Disaster and led to the National shutdown which delayed the submission of the MPAC oversight report to Council i.e. this report is yet to be submitted to Council.

However; during 2018/19 financial year, the Committee successfully investigated Unauthorised, Irregular and Fruitless and Wasteful Expenditure as refereed to it by the Council. The Committee submitted its final report to the Council on 26 August and 26 November 2019 respectively and amongst the Committee recommendations were the following:

- The total amount of Irregular Expenditure set aside for consequence management is **R201 195 724, 98** i.e. this amount is included in the **R369 239 593** prior year remaining expenditure.
- Transaction to value of **R168 514 810, 64** that could not be traced to the supporting documentation for the additional items for 2012/13 to 2017/18 be set aside to be reviewed further by MPAC
- That the Service Level Agreement (Contract) for Swift Travel and Tours be submitted to the MPAC for further scrutiny.
- That the Accounting Office provide reasons and report regarding the state of Municipal Records Management processes in relation to the payment vouchers that could not be obtained as per recommendation above submit it to MPAC within six months i.e. 28 February 2020.
- The Council must consider finalising the Establishment of Disciplinary Board for Financial Misconduct.
- The Council notes that Public Audit Amendment Bill has been signed, which gives the Auditor General significant new powers to act against irregular expenditure. It is therefore the duty of the Accounting officer and the Council to concertize the responsible personnel on the new act and consequences thereof.
- The Executive Mayor promptly reports/tables the register for Unauthorised, Irregular and Fruitless and Wasteful Expenditure to the Council on a Quarterly basis rather than annually.
- Accounting Officer must review and update the SCM Policy within three (3) months to include the following:
  - Compliance with the SCM Policy and legal requirements clause.

- Disciplinary action clause for non-compliance and ensure its alignment to the Human Resources Policy and Basic Conditions of Employment Act.
  - Workshop the SCM Policy to all the affected and relevant parties.
  - Ensure acknowledgement forms are signed by all the affected parties to acknowledge that they have read and understood the Policy requirements thereof.
  - Implement punitive measures to individuals failing to comply with the SCM Policy in order to enforce consequence management.
- The Accounting Officer must ensure probity audits are conducted by Internal Audit for competitive bids i.e. tenders above R200 000 prior being finalised for awarding.
  - The Accounting Officer must ensure that all the Bid Committees; Senior Manager's (Directors) and Middle Managers are trained on Municipal SCM Policy; Municipal Supply Chain Management Regulations and other relevant SCM Legislation at least once per each financial year.
  - The Accounting Officer and Chief Financial Officer must ensure that the staff working at Supply Chain Management Unit attend SCM related training at least twice per each financial year.
  - The Accounting Officer must facilitate the review of the Municipal Organogram to provide for Contracts Manager position.
  - That the Accounting Officer must commence the procurement processes regarding the following contracts which one has expired and some are due to end/expire in March 2020:
    - Mlobs Security Services JV Tyeks Security Services-ORTDM SCMU 02-15/16;
    - Swift Travel and Tours- ORTDM SCMU 002-2016/17;
    - Tyeks Security- ORTDM SCMU 21-17/18; and
    - Madolo Security Services-ORTDM SCMU 20-17/18.
  - The Accounting Officer (Municipal Manager); Chief Financial Officer; all Directors; all Middle Managers, All SCM Officials and all Municipal Officials be

subjected for vetting or life-style audits to confirm if they do not have any interest or financial relationship with the service providers conducting business with the Municipality. ***However; the Council resolved that all the Municipal employees and Councillors be vetted and included for lifestyle audit.***

- The Accounting Officer develops and maintain Gift Register and report that to the Council on a Quarterly basis.
- The Accounting Officer promptly reports any Unauthorised, Irregular and Fruitless and Wasteful Expenditure incurred to the Executive Mayor; Office of the Auditor General South Africa (AGSA) and MEC of Eastern Cape Department of Cooperative Governance and Traditional Affairs in line with Section 32 (4)(a)(b) and (c) of the MFMA.
- The SDBIP and the Performance Agreements for the Accounting Officer, Chief Financial Officer and All Directors must include the Key Performance Indicators and Performance Targets measuring/committing to reduce Unauthorised; Irregular and Fruitless and Wasteful Expenditure.
- The Accounting Officer coordinate an Integrated Government Relations Forum with KSD Local Municipality; Telkom and Eskom to discuss the issue of interest charged by these state institutions by 30 September 2019.

The report is hereby attached as **Annexure D**. Due to the volume of the report annexures for the report can be provided upon request.

### **3.2. PROGRESS REPORT ON THE IMPLEMENTATION OF THE COUNCIL RESOLUTIONS AS PER THE INVESTIGATION REPORT**

It is worth noting that the oversight role played by the Committee is rendered ineffective by the none tabling of the Return On Implementation of Council Resolutions at the end of each quarter to Council. Furthermore; the consistent none submission of the progress report on the Implementation of MPAC Recommendations and non-availability of the Executive and the Accounting Officer to the Committee makes it difficult for the Committee to measure progress



made Institutionally. This is mainly based on the lack of effective internal control measures and consequence management systems.

#### **4.1. PROCESS FOLLOWED FOR OVERSIGHT ON THE 2018\19 UNAUDITED ANNUAL REPORTS**

Following the tabling of the 2018/19 Unaudited Annual Report and unaudited Annual Financial Statements for ORTDM on the 30<sup>th</sup> August 2019, the Committee adopted a process plan for consideration of the reports.

#### **4.2. COMMITTEE FINDINGS AND RECOMMENDATIONS**

1. That Not all departments submitted responses on the 1<sup>st</sup> November 2019.
2. That submitted Portfolio of Evidence had some gaps that had to be attended to as to proceed with analysis.
3. The departments that submitted responses through the **Office of the Municipal Manger on the 1<sup>st</sup> November 2019 together with** portfolio of evidence in hard\soft copy formats were as follows: -
  - 1) Office of the Municipal Manager.
  - 2) Technical Services.
  - 3) Human Settlements.
  - 4) Community Services & Disaster Management.
  - 5) Internal Audit.
  - 6) REDP.
  - 7) Budget & Treasury Office.
4. The Office of the Municipal Manager further committed that the afore enlisted departments will make individual submissions of the pending supporting documents on the portfolio of evidence.
5. The Office of the Municipal Manager further: -
  - (a) informed the committee that the submissions for the following departments were to follow: -
    - 8) Water and Sanitation Services.

- 9) Executive Mayoral Services.
- 10) Department of Legislative Services
- (b) That all the expenditure reports as requested by the committee could not be produced as there was a system error, and submissions will be made once the system error has been rectified.
6. That due to delayed submissions by departments, project verifications as per the 2018/19 Annual report be conducted in two sessions, the 5<sup>th</sup> to 8<sup>th</sup> November 2019 and 19<sup>th</sup> to 22<sup>nd</sup> November 2019.
7. That due to the limited number of days in Quarter 2 that ends by the second week of December due to council recess and tight schedule for compliance matters to be tabled in the Ordinary Council Meeting held on the 6<sup>th</sup> December 2019, the MPAC team was unable to start the process for scrutinisation of the responses and portfolio of evidence submitted by departments.
8. That the submissions for the departments enlisted in No. 5 above followed including submission by Corporate Services.
9. Pending supporting documents were submitted in bits and pieces after the closing date from mid-November 2019 up to March 2020, prior the commencement of engagement sessions.
10. Furthermore, departments were also making replacements of submissions that were already made with changes on the information already analysed by Research.
11. Research Unit was unable to make analysis as the critical information in almost all departments was missing for committee's attention.

## **5. PROCESS FOLLOWED FOR OVERSIGHT ON THE 2018/19 AUDITED ANNUAL REPORTS FOR ORTDM AND NTINGA O.R. TAMBO DEVELOPMENT AGENCY SOC LTD**

1. The 2018/19 Audited Annual Report, Audited Annual Financial Statements for ORTDM and Ntinga O. R. Tambo Development Agency, SOC, Ltd, Auditor General's Report and the Management Audit Action Plan for

- ORTDM were tabled in the Council by the Executive Mayor on the 30<sup>th</sup> January 2020.
2. Due to the delayed or none submissions of the responses and the portfolio of evidence, as per the questions distributed by the Committee, the Committee had to revise its process plan for engagement sessions that were meant to be held on the 5<sup>th</sup> to 8<sup>th</sup> November 2019 and or 19 to 21 November 2019 to the 4<sup>th</sup> to 6<sup>th</sup> March 2020.
  3. The Municipal competing activities in the month of February 2020, also led to further delays in completion of the research analysis on the responses and portfolio of evidence that were still submitted by departments until the eve of the scheduled engagement session. As such the committee held an engagement session with the Office of the Auditor General on the Audit Report on the 3<sup>rd</sup> March 2020 followed by departmental engagement sessions on the 4<sup>th</sup> to 6<sup>th</sup> March 2020.
  4. The Committee was greatly moved by little or no evidence submitted by the departments for the engagement sessions and as such all most all departments were referred back to work and resubmit the requested information.
  5. The Committee further established that departments attribute inability to submit requested information to the Municipal competing activities which further delay sittings of MPAC meetings.
  6. For the first time in the term of 2016\2021, the Committee was unable to consolidate an Oversight Report on the 2018/19 Annual Report for tabling to Council by the end of March, as per the provisions of Section 129 of the MFMA, 56 of 2003.
  7. In addition, the outbreak of the Corona virus and National Lockdown by end March 2020 hindered the Committee in the execution of its mandate for oversight in the 2018/19 Annual Report.

## 6. FUNCTIONALITY AND CAPACITY OF THE MPAC TO CONDUCT INVESTIGATION ON IRREGULAR EXPENDITURE

1. The MPAC strives to fulfil its mandates as per the Committees Terms of Reference and Legislative prescriptions.
2. Currently, the committee does not have sufficient capacity in investigating Irregular Expenditure as the Committee: -
  - a) shares its staff resources with the other fifteen (15) Section 79 Committees of Council, e.g.
    - The committee does not have a dedicated MPAC Manager;
    - Researchers used in MPAC are also responsible for the other fifteen (15) Section 79 Committees;
    - There is only one (1) Legal Adviser for the Department of Legislative Services, who is also responsible for other Committees including MPAC and Council;
    - Internal Audit Department also does not have enough staff for provision of technical support, as they are also supporting the five local Municipalities under ORTDM jurisdiction.
3. A recommendation was made to the council for provision with a dedicated staff and that resolution has not yet been implemented up to date.

In all, the afore stated reasons hinder the Committee to be proactive in playing its oversight role. However; these were reported to the Council in the Policy and Organogram workshop held.

## 7.EFFECTIVENESS OF THE COMMITTEE

1. The MPAC has an Annual Plan and a schedule of activities adopted in the beginning of each financial year, that entails the committees key focus oversight areas as to strengthen accountability and oversight.

2. In carrying out its mandate, the committee conducts its meetings which span over two to four days as per the focus areas for the period under review at least twice in a quarter. These meetings are preceded by project verifications where applicable as to engage the departments on progress reports tabled versus findings in the project sites. Additional meetings are held whenever necessary.
3. The MPAC tables its report to council quarterly and whenever applicable with findings and recommendations.
4. However, the non-implementation of the council resolutions, consequence management and lack of internal controls hinders the committee in playing an effective oversight role, which results in the committee having repetitive findings.
5. The plan of action to ensure effectiveness of the committee calls for strict application of Rule 55.12 of the Council Standing Orders that states that:-
  - (1) The Executive Mayor must report on a quarterly basis on the implementation of all Council resolutions. The Agenda of the meeting of the Council must include a return showing the status of the implementation of each decision of the Council that has not yet been reported as having been finalized on the afore-going schedule.
  - (2) On the recommendation of a Committee, Council may pronounce appropriate measures to be taken by the Executive Mayor in the case of consistent failure to implement decisions of Council.
  - (3) The Executive Mayor must report back at the next Council meeting on measures taken and the outcome thereof.

(4) Council shall reserve the right to give final pronouncement on what further steps should be taken, if measures taken under sub rule (2) above prove to be

## 6. COMMITMENTS OF THE COMMITTEE

The Committee takes notes that there is little progress by management on implementation of Council Resolutions, Oversight Committees (including MPAC and Audit Committee) recommendations and as well as the assurance providers like Internal Audit, Office of the Auditor General South Africa and Treasury which render these Oversight structures and assurance providers. This is evident by the repeat findings raised in the Office of the Auditor General South Africa Audit Reports and repeat insurance of Irregular Expenditure. However; despite all these challenges, the Committee is committed to continuously play its Oversight role by performing the following:

- Continue to maintain and leveraging its relationship with the Audit Committee, Internal Audit, National and Provincial Treasury and AGSA i.e. collaborate MPAC work with the work of the aforementioned assurance providers.
- Continuous engagement of the Political Office Bearer (including Executive/Mayoral Committee) and Administration without prejudice or favour.
- Use of the Internal Audit and AGSA work.
- Monitoring of the Municipal Performance (both financial and non-financial performance).
- Continuous monitoring of Audit outcomes and implementation of Management Audit Action Plans/Audit Improvement Plans and implementation of Council Resolutions.
- Investigation of Unauthorised, Irregular, Fruitless and Wasteful Expenditure, upon referral by the Council including implementation of consequence management.

- Lobby on formal trainings of the Committee members to improve its efficiency and effectiveness.

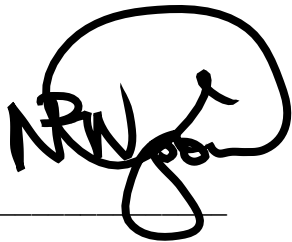
## 8.CONCLUSION

In light of detailed information outlined above; the Committee is committed in performing its responsibilities in line with the Legislation and its approved Terms of Reference. However; the Committee takes notes that its work has been since limited from the late quarter 3 of the financial year due to the outbreak of COVID-19 which was declared as National Disaster and led to the National Lockdown.

This necessitated the Country and the Municipality to move up with pace for implementation of the 4<sup>th</sup> Industrial Revolution which took the Municipality a couple of months to partake on alternative modes of communication and convening of virtual meetings due to difficulties experienced in the Municipal IT infrastructure.

However; the Committee will review its calendar for consideration of oversight reports due to it.

**SUBMITTED BY:-**



CLLR. N.P. PEPPING

CHAIRPERSON: MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

14 July 2020

DATE