**Report of the Portfolio Committee on Communications and Digital Technologies on Public Protector Report No 113 of 2021/2022 on an investigation into allegations of maladministration in the appointment of service providers and employees by the State Information Technology Agency (SITA) dated 17 February 2023.**

1. Introduction:

On Wednesday, 18 May 2022, thePortfolio Committees on Communications and Digital Technologies received a referral from the Speaker’s Office relating to the Public Protector Report No 113 of 2021/2022 on an investigation into allegations of maladministration in the appointment of service providers and employees by the State Information Technology Agency (SITA).

Having received the referral, the Committee deliberated on the report on the 30th of August 2022 and resolved that the Minister report to the Committee on what the Department has done in processing the Public Protector reports on SITA, and this will have to be done urgently.

1. Background

Having received legal advice on 8 June 2022 from the Constitutional and Legal Services Office – of which certain sections are highlighted below- the Committee received a briefing on how to proceed with the matter:

30. The Committee should schedule a meeting with the Minister as part of its oversight over the Executive. The Minister should account and report to the Committee at that meeting on the Public Protector’s report, particularly on the remedial action directed at the Speaker as set out in paragraph 5 above. Simply put, the Minister should account for what she has done in processing the Public Protector’s report, including addressing its findings and remedial action.

32. We reiterate that paragraph 10 of the Public Protector’s report does not have any direct bearing on the implementation of remedial action as directed to the Speaker or on the programme of the Committee in processing the Public Protector’s report. However, the Committee should schedule a meeting with the Executive Authority as soon as it is reasonably possible to do so as the Public Protector’s remedial action cannot be ignored without legal consequences.

(A detailed copy of the presentations is available on request to the Committee Section).

On 1 November 2022, the Committee received a report from the Department. Mr Shelembe (Deputy Director General – SOE Oversight) made the opening remarks, and Mr M Kgauwe (Acting Managing Director) made the presentation on behalf of SITA which covered the following:

* Remedial action implemented by SITA to address control deficiencies noted during SITA clean-up by Public Protector
* Public Protector Report no. 113

(A detailed copy of the presentations is available on request to the Committee Section).

The Public Protector’s Report communicates the findings and appropriate remedial action recommended by the Public Protector in terms of section 182(1)(c) of the Constitution, following an investigation into allegations of maladministration in the appointment of service providers and employees by the State Information Technology Agency (SITA).

The complaint was lodged by Mr Ratsie Ismael Kgatle (the Complainant) at the Head Office of the Public Protector South Africa during 2018.

In the main, the Complainant requested an investigation of the following allegations concerning the conduct of SITA:

1. The contracts irregularly awarded to Forensic Data Analysts (Pty) Ltd; Core Focus (Pty) Ltd; Accenture (Pty) Ltd; Fidelity Security Services (Pty) Ltd; Parahelic CC and Jika Africa Advisory Services (Pty) Ltd.
2. The contracts irregularly awarded to the firm of attorneys of Bowmans; Hewu Attorneys and Cyanre Digital Forensic Lab; and
3. The irregular appointment of Mr Sithembele Senti as an Executive in the Chief Executive Officer’s office; and Mr Kenneth Wienand as a Consultant in the office of the Chief Financial Officer.

In essence, the Complainant contended that SITA’s conduct regarding the foregoing allegations was unlawful, improper and constitutes maladministration. The appropriate remedial actions taken in terms of section 182(1)(c) of the Constitution were also directed to the Speaker of National Assembly as follows:

To ensure that the report is tabled before the Communications Portfolio Committee for deliberation regarding:

1. Investigations conducted into allegations of financial misconduct committed by members of the Accounting Authority in terms of Treasury Regulation 33.1.3.
2. The investigation of instances of irregular, fruitless and wasteful expenditure to determine if disciplinary action needs to be taken against implicated officials; and
3. Disciplinary steps have been taken against any officials who made or permitted the irregular expenditure based on the outcome of the investigation in terms of section 51(1)(e)(iii) of the PFMA.
4. Committee Deliberations

Having met with both the Department and SITA, the Committee noted on SITA:

1. that the Entity has received a Qualified audit, although more emphasis should be placed on identified issues;
2. that there are no timelines on when remedial actions should be completed, and the action plan was submitted within the required 30 days;
3. that all actions were already implemented and that it had complied with the report;
4. welcomed the speed with which the Entity responded to the Public Protector’s report;
5. that the Public Protector Section 114 Report has been taken on review; and
6. that the Entity is fully-capacitated to ensure that the Auditor General matters, do not recur**.**

The Committee therefore resolved:

1. that the Department must pay more attention to SITA and resolve all Auditor General recommendations;
2. that SITA must indicate areas where further support from the Committee is required, and that in order to prevent repeat findings, the Department must ensure that all legacy issues are expediently addressed at SITA as well as in other Entities.

The Committee continues to engage the Minister and the Auditor General on the implementation of recommendations for SITA as well as other Entities that report to the Department.

**Report to be considered.**