



NATIONAL COUNCIL OF PROVINCES (NCOP)

BUDGET AND FISCAL OVERSIGHT WORKSHOP

*“Ensuring Accountability and Public Expenditure through Effective
Parliamentary Financial Oversight and Accountability”*

4 – 5 MAY 2021

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SALGA President

**Municipal Finance Management Act (MFMA) and the Role of
Parliament in the Oversight of the Budget**

Chairperson and Deputy Chairperson of the NCOP
Honourable Ministers and Deputy Ministers present
MECs present
Honourable Members of the NCOP
Auditor-General
SALGA NEC members present
SALGA NCOP reps
Members of the Academia
Members of the Public Service

It is a distinct honour to address NCOP's Budget and Fiscal Oversight Workshop to give our input as the South African Local Government Association (SALGA) with the specific focus on Municipal Finance Management Act (MFMA) and the Role of Parliament in the Oversight of Budget.

Honourable Chairperson, allow me to reflect on the great strides achieved by the democratically elected Government in successfully executing the ambitious project of state formation and building. To this end and led by the Constitution, government published a White Paper on Local Government in 1998, and subsequently introduced a series of laws, policies and support programmes to direct the establishment of local government as a distinctive, interrelated and interdependent

sphere of government. Great progress has been achieved post 1994 of establishing municipal systems and processes.

The legislation governing the systems and processes of local government includes Municipal Demarcation Act of 1998, the Municipal Structures Act of 1998, the Municipal Systems Act of 2000 (MSA) and the Municipal Finance Management Act of 2003 (MFMA).

Honourable Chairperson, on the 5th of December 2020, South Africa celebrated 20 years of democratic local government. It is SALGA's view that government and in particular local government has undergone rapid transition and transformation over the last 20 years. There can be no doubt that local government has had a profound impact on the lives of ordinary South Africans in expanding the provision of services to our people. While it is true that a number of serious and complex challenges persist in some municipalities, by and large local government has delivered quality services and a better life for the majority of our people.

Official statistics show that tremendous progress has been made particularly in historically neglected areas like former homelands, despite the reality that municipalities are continually chasing a moving target due to our population growth and in-migration rapidly giving rise to new settlements. The latest Non-Financial

Census of Municipalities, released by the Statistician General in 31 March 2021, confirms that the number of households receiving services from municipalities increased between 2017 and 2019.

It is within this context that we welcome this valuable initiative by the NCOP of engaging highly esteemed stakeholders from Public Service and Academia on “***Ensuring Accountability in Public Expenditure through Effective Parliamentary Financial Oversight and Accountability***” as per the theme of this gathering. I would like to kick start the discussions by touching on just some of the vexing issues we as SALGA believe should be debated and reflected upon.

Honourable Chairperson, by way of **INTRODUCTION**, Local Government has come under a lot of scrutiny recently. Perhaps necessarily so as this is the most visible sphere and closest to the people. Furthermore, our system of wall to wall municipalities means that all developmental work happens within a ward and in a municipality. In one way or another, almost all the services our people get or do not get from government find the most concrete expression at a municipal level.

Despite its most pivotal role, local government was the last sphere to be considered and conceptualized during the

negotiation period. As such, the development of its policies, systems, practices and funding has tended to lag behind the other two spheres. This is more aptly demonstrated by the still continuing debate on the Powers and Functions of municipalities, the vertical allocation of finances from the fiscus and the continuing refinement of systems and policies affecting this sphere.

Over the past 20 years, various policy, legislative, regulatory and support program measures have been brought about to stabilize local government and to give it its necessary impetus to operate optimally. Among these support measures has been various interventions which all seem not to have yielded the intended results e.g. Municipal Support Program, Project Viability; Project Consolidate, Local Government Turn Around Strategy, Siyenza Manje and the current Back to Basics. Where to next and how do we bring about stability, capacity, institutional resilience, good governance, better resourcing and improved service delivery?

In dealing with the current state of local government and the challenges attendant to, consideration has to be given to political, institutional, and financial aspects as a package instead of wanting to deal with them in isolation.

Honourable Chairperson, allow me to summarise some issues that require further detail and that have been raised during the LG Week and the Budget Forum held in December 2020:-

With regards to **LEADERSHIP AND OVERSIGHT** it is our observation that the Auditor General's 2018/19 Municipal Audit Outcomes confirms that Mayors provide 25%; Municipal Councils provide 26% and Municipal Public Accounts Committees provide 27% independent assurance and oversight at municipal level. With the exception of the attempts made by opposition parties in Councils, there is very little oversight played by Mayors over what happens in the municipal administration and similarly very little oversight by Municipal Councils over the Mayor and Mayoral Committees or Executive Committees.

Whereas almost all municipalities have established MPACs, they in most instances are however under-capacitated, under-resourced, junior councillors are deployed to lead them and most of their oversight recommendations have no binding effect with very little to no follow through or execution. The MPACs don't carry the weight of SCOPA, hence they have not been able to refer their findings to investigative agencies, table forensic reports or hold the executive leadership of the municipality accountable. By and large they have tended to be partisan and have lost their strategic intent and significance.

We proposed that as Parliament was processing amendments to the Structures Act that they legislate the role of MPACs, the political assurance providers must play a more active role in ensuring that preventative controls are implemented. In particular, the legislative process should be fast-tracked to formalise the role of MPACs, so that they can play an effective oversight role.

With regards to **CONSEQUENCE MANAGEMENT** it is our observation that one of the key findings of the Auditor General over the past years has been that cases of violations and transgressions in municipalities are not pursued and those responsible are not sufficiently held accountable. While the amendments to the Audit Act seeks to remedy some elements of this, the focus is mainly on individuals, neglecting the systemic issues that may pervade the entire municipality.

Whereas SALGA has done some work towards a Consequence and Accountability Framework, it is proposed that a Consequence Management Framework that will focus on both individual and institutional dimensions of poor management at local government level should be developed. Without creating a duplication with the AG proposals, this framework could, for example, entail elements such as the grading of municipalities based on performance levels and the awarding of salary

increases and bonuses based on overall institutional performance, etc. These elements would cover both the political leadership and administration and could be based on agreed upon performance indices emanating from AG Audit Outcomes, StatsSA municipal non-financial census reports, and other such municipal performance rating instruments.

Honourable Chairperson, as it relates to the **Costs of reforms**, various reforms have been brought about in the past couple of years to improve the local government sector. The most recent of these has been the introduction of mScoa (municipal standard chart of accounts) by National Treasury. A couple of other regulations and reforms are in the pipeline, for example from DPSA. Most often these reforms are not properly costed nor are municipalities given sufficient technical, personnel and financial resources to execute them. This tends to cause a huge financial and compliance burden on municipalities and does need to be resolved urgently.

Honourable Chairperson, as it relates to **TECHNICAL MATTERS**, the White Paper on Local Government intended a developmental role for local government. The intended role, was accompanied by certain policy assumptions including the focus of the new local government system and how the system will be

resourced and supported. Towards 20 years of democratic local government the following questions should be answered: -

Do the assumptions still hold?

Is the current two-tier system as prescribed in the Municipal Structures Act still relevant and necessary?

What is to be done with the one-third dysfunctional and unviable municipalities?

Where next with the demarcation instrument?

It is for this reason that the Budget Forum was convened on the 11 December 2020 and resolved on a number of issues as we seek to set the municipal sector on a path of sustainability to realize its Constitutional Mandate. The first phase of the Budget Lekgotla addressed amongst others matters below which will address issues that SALGA has been raising as follows:

SALGA has been of the view that central to addressing local government challenges is a **REVIEWAL OF THE VERTICAL ALLOCATION OF RESOURCES.** We hold this view in the context that over the past 20 years the financial resources available to municipalities have fallen short of the demands on municipalities for services and infrastructure delivery needs and this has been worsening over time. This is further complicated

by the current state of the economy, especially limited tax revenues, retracted economic growth and rising debt levels.

Although local government is responsible for 46% of the constitutional functions, local government still gets about 9.1% as a sphere from the national fiscus. The current Local Government Equitable Share (LGES) formula, based on a very loose assumption of costs of providing services at a horizontal level, affects the vertical distribution to such an extent that LG is completely underfunded for primarily basic services but also other components. In many instances Cost of providing basic services exceeds the Equitable share based on the following key factors

- Topography (flat, rolling or mountainous terrain);
- Location (coastal or inland);
- Distance from economic centres;
- Development status referring to number of settlements and densities; and
- Loss of economy of scale.

It should further be noted that in some instances consumption of indigents exceeds basic services, particularly in instances of yard connections.

As such the Budget Forum held on the 11th December 2020 resolved to review and relook at the LGES towards the provision of Free Basic Services and National Treasury is to lead this particular work stream.

Honourable Chairperson, further to the solutions for local government is to **DEAL WITH MUNICIPAL FINANCIAL HEALTH CHALLENGES**. The Auditor General 2018/19 Municipal Audit Outcomes confirms that the financial statements show increasing indicators of a collapse in local government finances. The AG further confirms that the financial woes of local government also weighed heavily on municipal creditors.

As it relates to **DEBTS OWED TO MUNICIPALITIES** it is a well-known fact that an average of 59% of municipal debtors are not recoverable; in 55 municipalities more than 80% cannot be recovered; and debt collection at 99 municipalities was more than 90 days. As at December 2020 the debt owed to municipalities is in excess of R230 billion and classified as follows - Organs of State debt (R20.7bn) 9.0%; Commercial – (R39.0bn) 16.9% and Household debt – (R166.5bn) 72.2%

In light of these realities we are tabling the following for consideration:-

1. Put together measures to write-off the ever increasing household debts to municipalities, including the introduction of a national Bill for the writing off of these household debts in exchange for the installation of prepaid water and electricity metres;
2. Improve municipal revenue collection instruments through measures such as:-
 - a. Amending the Tax Administration Act so that before SARS pays tax refunds, they first check if the particular tax payer does not have monies due to his/her municipality. If the tax payer owes, the amount due to the municipality will be paid first before a refund is deposited to the tax pay account.
 - b. Amend schedule 2 section 10 of the Municipal System Act so that it is not only municipal councillors and employees who may not be in arrears with their municipal bills for a period more than three months. This requirement should be extended to all state employees and elected and appointed representatives in other spheres.

- c. Establish a District Revenue Collection Agency. This will achieve better collection efficiencies and will free up municipal personnel to focus on more pressing service delivery efforts. SARS systems and processes would be considered in putting this together after due diligence is done.
 - d. Amending the Procurement Regulations to make it compulsory for any potential service provider to produce a Municipal Services Rates compliance certificate, prior to being awarded a government contract and during the contracting period.
3. Resolve the Constitutional Issue relating to Electricity Reticulation;
4. Resolve Municipal Debts to Eskom: The municipal debt to Eskom continues to rise without any improvement, the debt owed to municipalities by customers including organs of state is also still rising sharply, and this will worsen under the current COVID-19 impact. Observations are that the adherence to Payment Arrangements is still problematic for a number of municipalities while the historical debt is still also accumulating interests. Generally, the Municipalities with overdue balances also struggle to pay their current account resulting in overdue balance increasing. When Equitable Share is received, payments to Eskom improve

by a small margin but this also affect the other services that were meant to be covered by the equitable share.

SALGA recommends that Government take this situation as a matter of urgency and act decisively. The findings of the National Treasury in-depth study to finances of the owing municipalities is not just limited to the notion out in the public of corruption, lack of leadership and political will, but there is a number of municipalities who genuinely cannot come back from this situation due to their economic situation. This needs pragmatic solutions from government.

Honourable Deputy Chairperson, as it relates to **Support and Monitoring** of municipalities SALGA has observed that in a number of cases these interventions have been ineffective and section 139 has been invoked in a haphazard manner. As such we have proposed a new approach to strengthen support and monitoring of municipalities as follows:

1. Allow for the use of the current reporting mechanisms to introduce an Early Warning System for municipalities. This will ensure the effective use of Section 71 and 72 reports;

2. This Early Warning System would place a municipality in the position to conduct ongoing self-assessment and in so doing:-

- a. identify under performance and self-correct;
- b. Identify targeted support and contract for such support

Whilst central to this approach is a municipality to do self-assessment and correction, this approach would also create sufficient scope for both provincial and national government to monitor municipalities and where required provide targeted support. This approach, in our view, would avoid the hap-hazard and un-structured invocation of Section 139 with no real benefits.

Honourable Chairperson, it would be important to resolve matters related to the **DEVOLUTION OF POWERS AND FUNCTIONS AND UNFUNDED MANDATES** at local government level. The National Development Plan (NDP) indicates that the trend with powers and functions in South Africa, has been a greater differentiation in the treatment of municipalities. The Constitution itself allows for differentiation in the assignment of powers and functions to municipalities through the distinction between local and metropolitan municipalities. There has also been a differentiation in the powers assigned to local and district municipalities for example the provision of bulk infrastructure and network services such as water and sanitation.

The following have been of concern to SALGA that the last 20 years of the democratic local government system:-

- The lack of clarity on the current allocation of powers and functions is problematic and hinders on service delivery with municipalities often unable to make the kind of developmental impacts they are responsible for as they do not have the necessary policy making and financial authority in certain critical areas; and
- For quite some time now there has been much debate about the functionality and the effectiveness of the two tier system. In particular, the role and place of district municipalities vis-à-vis local municipalities have been questioned because their functioning has been fraught with confusion, conflicts and uncertainty.

Mindful of the new District Development Model approach, it should also be noted that municipalities perform functions on behalf of provinces and bears significant costs for the delivery of these unfunded and underfunded mandates, as also confirmed by the Financial and Fiscal Commission's Technical Report.

As SALGA we therefore have suggested the following during the LG week that:-

- The revision of existing Powers and Functions is imperative towards creating an ideal municipal functionality model after which funding should follow; and
- Transfers for assigned functions should not be dependent on the Minister or MEC's discretion but must be directly transferred to municipalities.

The Budget Forum resolved that a critical review of powers and functions linked to fiscal viability is urgently required and the work in the Powers and Functions work stream will assist and Cogta is the lead in this regard.

The second phase of the Budget Forum to be held in June 2021 will focus on Infrastructure Management and sustainable financing of asset maintenance thereof.

Honourable Chairperson, lastly in terms of the Role of Parliament in the Oversight of Budgets, it is our view that the NCOP can strengthen its oversight role to address challenges outlined above in terms of Budgets as follows:

The NCOP through deliberations on the Division of Revenue Bill may ensure that the resource allocation to local government are aligned with its Constitutional obligation particularly the developmental mandate.

The Committee can also intervene when funds to municipalities (in terms MFMA Sec 39) have been stopped due persistent breach of the MFMA, by summoning the Mayors to the NCOP to account.

The NCOP can also assist in their oversight role in all municipalities that have unfunded budgets, not spending their grants or have been listed as being financial distress by monitoring the interventions implemented by National Treasury to ensure compliance.

The NCOP can enhance its oversight role by requesting progress reports from Executive for Local Government in the implementation of Financial Recovery Plans by municipalities which are under Section 139 interventions and the effectiveness and legality of such interventions.

The NCOP can further strengthen its oversight role by ensuring the relevant Executive exercise their responsibility to oversee the implementation of the MFMA and monitoring interventions undertaken to extract accountability by invoking section 214 in an event that there is persistent breach of the MFMA

The NCOP can further strengthen its oversight role during Bulk tariff setting by ensuring that the sustainability aspects are balanced against the socio-economic considerations and affordability by

municipalities and consequently households. The cost escalations of bulk services threaten the provision of these services.

As I conclude Honourable Chairperson, whereas I have highlighted some of the key issues, it is by no means exhaustive. It is our expectation that the outcome of this 2-day workshop will bring about solutions in terms of strengthening the role of Parliament in exercising oversight to hold the Executive accountable as we reflect on the past 20 years of a democratically elected local government.

I thank you.