FINANCIAL OVERSIGHT

Induction Handbook for

Members of Parliament and Provincial Legislatures

A publication of the South African Legislative Sector

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FOREWORD

In the fourth parliamentary term (2009-2014), the South African Legislative Sector under the leadership of the Speakers' Forum pioneered professional development programmes for members of Parliament and provincial legislatures. These programmes were designed to ensure systematic development of members to enable them fulfil their constitutional responsibilities as representatives of the people of South Africa.

Over time, the Sector has successfully developed and implemented accredited programmes, tailor-made to meet the development needs of members. This has been achieved through partnerships with various institutions of higher learning.

To enhance the learning experience of members, we present a series of seven (7) Induction Handbooks which have been crafted by the South African Legislative Sector committed to building stronger Legislatures through collaboration.

On behalf of the Speakers' Forum of the South African Legislative Sector, we trust that all new and returning Members will find the information contained in the Members' Induction Handbooks a useful guide over the next five years.

Capacitated Parliaments are stronger Parliaments and this is good for our democracy. When you know more, you do more.

M.V. Sisulu, MP
Chairperson: Speakers' Forum of South Africa
June 2009 – May 2014

PREFACE

The Induction Programme is the first step in a series of the broader South African Legislative Sector Capacity Building Programmes. It lays a solid foundation for other subsequent programmes and is based on the work that members are expected to carry out as part of their overall responsibility to the South African people. The Capacity Building Programmes enable members from different education and development backgrounds to enter at various levels and have an opportunity to exit at Post Graduate Level.

This is one of the seven (7) Induction Handbooks focusing on core business areas of the South African Legislative Sector:

Module 1: Rules, Practice and Procedure in the House
Module 2: Legislative Process
Module 3: Committee Procedures, Practice and Systems
Module 4: Oversight and Accountability
Module 5: Financial Oversight
Module 6: Public Participation
Module 7: International Relations and Protocol

A sincere word of gratitude is extended to the members of the Speakers' Forum for their vision, unwavering support and political guidance, my colleagues in the Reference Group of the Speakers' Forum on Capacity Building (Mr M Mthimkhulu, Mr K Phala and Ms B Tunyiswa) for their dedication and insight in the development and implementation of the broader Capacity Building Programme.

This would not have been possible without the involvement in content development by Secretaries of Parliament, National Assembly, National Council of Provinces and Provincial Legislatures organised through Secretaries Association of Legislatures of South Africa (SALSA). We thank the Legislative Sector Support for ensuring that this vision is realised in the design and development of the handbooks and implementation of the broader Capacity Building Programme.

We hope this handbook will add value to your role as you navigate the Legislative Sector environment.

Hon M.A. Tsopo
Chairperson: Speakers' Forum Reference Group on Capacity Building
June 2009 – May 2014

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Ms Sandisiwe Schalk
Executive Director and Project Leader

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1. DEFINITION OF TERMS

Accruals: accounts on a balance sheet that represent liabilities and non-cash-based assets used in accrual-based accounting. These accounts include, among many others, accounts payable, accounts receivable, goodwill, future tax liability and interest expense.

Adverse audit opinion: the financial statements contain misstatements that are not confined to specific amounts or the misstatements represent a substantial portion of the financial statements.

Aggregate Fiscal Discipline: entails the effective control of the budget totals.

Allocative Efficiency: the capacity to establish priorities within the budget and to distribute resources on the basis of government's priorities and programme effectiveness.

Audit evidence: all of the information that was used by the Auditor in arriving at the conclusions on which the audit opinion is based. Audit evidence includes the information contained in the accounting records underlying the financial statements and other information.

Balance: the difference between total outflows and total inflows.

Balanced Budget: a budget in which cash outflow does not exceed cash inflow.

Budget Process or Budgeting: the process by which governments create

and approve a budget.

Capital Expenditures: expenditure on capital items or fixed assets such as land, buildings, roads, equipment, etc. that are projected to generate income in the future.

Capital Revenues: proceeds from the sale of fixed capital assets such as public land, buildings and other structures or equipment.

Clean audit outcomes: the financial statements of the Department or public entity are free of material errors or omissions.

Compliance: when all activities, financial transactions and disclosed information are in accordance with the relevant laws, legislation, regulations and agreements.

Conditional Grants: grants that are allocated to supplement the funding of sub-national government service delivery mandates and to direct funding towards national priority service areas. The grants are allocated with conditions attached thereto that the recipient government sphere has to abide by.

Current Expenditures: daily operating expenses or those expenses usually incurred in the conduct of normal State operations, such as wages and salaries, administration, purchase of goods and services for current consumption, acquisition of furniture and equipment, inputs used in service delivery, etc.

Deficit: refers to total outflow exceeding total inflow. If a deficit is incurred, government generally incurs expenditures that are in excess of revenues. Deficit spending usually indicates an unbalanced budget, and is generally financed by borrowed funds, and its major objective is to stimulate economic activity by increasing purchasing power within an economy.

Disclaimer of audit opinion: the department or entity provided insufficient evidence or documentation on which to form an audit opinion.

Direct Charge against National Revenue Fund: the amount spent on items

of the statutes which do not require any parliamentary approval. These include Payments in terms of the following Acts: (1) Remuneration of Public Office Bearers Act (No. 20 of 1998) - covering the President's salary and the salaries of Members of Parliament;2 (2) Remuneration and Allowances of Deputy Presidents, Ministers and Deputy Ministers Act (No 53 of 1994) - covering the salary of the Deputy President3; and (3) Judges' Remuneration and Conditions of Employment Act, 1989 (No 88 of 1989) - covering salaries and allowances of Judges and Judges seconded to governments of other countries.

Division of Revenue: allocation of funds between the spheres of government, as required by the Constitution of the Republic of South Africa, 1996.

Estimates of National Expenditure: this document sets out the detailed spending plans of each government department for the coming year. The document serves as background to the Appropriation Act that makes these spending plans legally binding.

Expenditure: payment of cash or cash-equivalent for goods or services, or a charge against available funds in settlement of an obligation as evidenced by an invoice, receipt, voucher, or other such document.

Extraordinary Income: receipts that do not regularly accrue to the government; and collections which are indefinite or do not depend entirely on the authority of government. Extraordinary income includes, amongst others, repayment of loans and advances by state-owned corporations or local government units, and receipts and shares in income of the Reserve Bank.

Financially unqualified audit opinion: the financial statements contain no material misstatement. Unless there is a clean audit outcome, findings have been raised on predetermined objectives and/or compliance with laws and regulations.

Findings/Emphasis of matter(s): without qualifying their opinion, the Office of the Auditor-General draws attention to certain matters, on which they do not express a qualified/adverse/disclaimer of opinion, but that they nevertheless need to highlight as they are critically important matters

presented or disclosed in the financial statements. The Auditor may also modify the report by using an emphasis of matter(s) paragraph to report matters other than those affecting the financial statements, such as the material inconsistency of other information included in the Annual Report.

Fiscal Dumping: when money is not spent for its intended purpose, but on other item or services that ultimately yield no (or less) value for money.

Fruitless and wasteful expenditure: expenditure that was made in vain and could have been avoided had reasonable care been exercised.

Function Shifts: when a function is shifted to another Vote or institution in terms of legislation or following the realignment of responsibilities and mandates.

Grants (donor): financial assistance that (hopefully) does not require monetary commitments on the part of the borrowing State; gifts of money or technical assistance or materials that do not have to be repaid.

Governance: describes the role of persons entrusted with the supervision, control and direction of an entity. Those charged with governance are accountable for ensuring that the department or entity achieves its objectives, financial reporting, and performance reporting to interested parties. This includes management and the leadership of an organisation.

Internal control: the process designed, implemented and maintained by those charged with governance, management and other personnel to provide reasonable assurance about the achievements of the entity's objectives with regard to the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

In-year-Monitoring: monthly and quarterly budgetary oversight over the Executive is carried out throughout the financial year and budget cycle to ensure proper implementation of government policies.

Irregular expenditure: expenditure that was incurred without complying with applicable laws and regulations or action required to be taken prior to incurring the expenditure.

March Spike: when the majority of expenditure is executed during the fourth quarter or just before the end of a particular financial year.

Material misstatement of fact: found in additional or supplementary information when such information, not related to matters appearing in the audited financial statements, is incorrectly stated or presented.

Materiality: information is material if its omission or misstatement could influence the economic decisions of users taken on the basis of the financial statements. Materiality depends on the size of the item or error judged in the particular circumstances of its omission or misstatement. Thus, materiality provides a threshold or cut-off point.

Material loss: section 42 (1) of the Public Audit Act (No. 25 of 2004) requires that the Auditor draw attention to or emphasise instances of any material losses through criminal conduct, as well as any material irregular expenditure, and any fruitless and wasteful expenditure that occurred during the financial year.

Medium-Term Expenditure Framework (MTEF): the three-year spending plans of national and provincial governments, published at the time of the Budget.

Misstatement: a misstatement of the financial statements that can arise from fraud or error.

National Budget: a financial document used to project future income and expenditure for the South African Government.

Non-compliance: refers to acts of omission or commission by the entity being audited, either intentional or unintentional.

Operational Efficiency: the capacity to deliver services at the lowest possible cost (minimum cost per unit of output).

Opinion: The Auditor's report contains a clear written expression of opinion on the financial statements as a whole. An unqualified opinion is expressed when the Auditor concludes that the financial statements provide a true and

fair view (or are presented fairly, in all material respects) in accordance with the applicable financial reporting framework.

Pervasive: is used to describe the effects on the financial statements of (possible) misstatements, which are undetected due to an inability to obtain sufficient appropriate audit evidence.

Qualified audit opinion: the financial statements contain material misstatements in specific amounts or there is insufficient evidence for the Auditor to conclude that specific amounts included in the financial statements are not materially overstated or understated.

Reporting against predetermined objectives: reporting by departments or entities on their actual service delivery achievements against their stated plans.

Restatement of corresponding figures: when corresponding figures for the prior year's balance sheet have been restated as a result of an error discovered during the current balance sheet in the financial statements of the department at, and for the year ended, [prior year's balance sheet date].

Roll-overs: unspent funds from the preceding financial year may be rolled-over when planned activities have not been completed by the end of that year but are almost close to completion, and commitments have been made with service providers.

Qualified audit opinion: the financial statements contain material misstatements in specific amounts or there is insufficient evidence for the Auditor to conclude that specific amounts included in the financial statements are not materially overstated or understated.

Reporting against predetermined objectives: reporting by departments or entities on their actual service delivery achievements against their stated plans.

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department at, and for the year ended, [prior year's balance sheet date].

Roll-overs: unspent funds from the preceding financial year may be rolled-over when planned activities have not been completed by the end of that year but are almost close to completion, and commitments have been made with service providers.

Savings: unspent funds that the Department explicitly indicates it would not reallocate to fund other programmes. These are unspent funds that remain after the service has been delivered as opposed to under-spending.

Schedule Five Grants: specific purpose allocations to provinces aimed at addressing priority sectors such as health, education, and transport; amongst others.

Shifting of funds: utilisation of a savings or under-expenditure towards defrayment of increased expenditure within the main programme (division) of a Vote between different segments of the main division.

Unauthorised expenditure: expenditure that was in excess of the amount budgeted or allocated by government to the entity or that was incurred not in accordance with the purpose for which it was intended.

Unavoidable unforeseeable expenditure: expenditure that could not be anticipated at the time of the main budget process.

Under-expenditure: the portion of the budget that has not been spent at the end of a given period or as per projections. These are the funds that are left in the budget when the service is not yet rendered.

Value-for-money: a transaction, event, programme, project, part of project, process, etc. that promotes the economical acquisition and the efficient and effective use of resources.

Virements: defrayment of savings or under-spent funds from amounts appropriated from one main division towards another main division within the same Vote.

2. OBJECTIVES OF THE MODULE

The objective of this Module is to draw from common practices within the South African Legislative Sector (SALS) and deduce guidelines for Financial Oversight to be utilised by all legislative authorities within SALS as a benchmark.

3. STRUCTURE OF THE MODULE

The module on Financial Oversight is subdivided into manageable learning units. These units start from the legislative framework of financial oversight, ex-ante financial oversight, in-year financial oversight, ex-post financial oversight and the tools of financial oversight together with annexures depicting practical examples of financial oversight reports.

4. UNIT 1: LEGISLATIVE FRAMEWORK AND SCOPE

4.1 The Principle of Legality

Section 1 of the Constitution enshrines, as one of the founding values, the principle of rule of law and the supremacy of the Constitution. Any law or conduct inconsistent with the Constitution is invalid. The Constitutional Court gave content to these provisions when, in its first decision on the rule of law, it concluded that a fundamental principle of the rule of law is that "the exercise of public power is only legitimate where lawful. The rule of law – to the extent at least that it expresses this principle of legality – is generally understood to be a fundamental principle of constitutional law." (*Fedsure Life Assurance and Others v Greater Johannesburg Transitional Metropolitan Council and Others* 1998 (12) BCLR 1458 (CC) at para [56].) The Constitutional Court in *Fedsure Life Assurance and Others v Greater Johannesburg Transitional Metropolitan Council and Others* express itself on the principle of legality as follows:

> "It seems central to the conception of our constitutional order that the legislature and executive in every sphere are constrained by the principle that they may exercise no power and perform no function beyond that conferred upon them by law."

In other words, without the appropriate authority in law to support a certain action, omission or decision, such action or omission or decision is inconsistent with the Constitution and invalid.

In giving effect to its constitutional duties of oversight and accountability, Parliament and provincial legislatures are also bound by the principle of

legality. In other words, Parliament and provincial legislatures may do only what is authorised to do in terms of the Constitution and legislation. For this purpose, it is necessary to examine the legislative framework for financial oversight.

4.2 Legislative Framework

The prerogative of Parliament and provincial Legislatures to conduct financial oversight over the executive arm of government emanates from the Constitution. Sections 55, 92, 114 and 133 of the Constitution, referred to above, require that Parliament and provincial legislatures ensure that all executive organs of state in the national and provincial spheres of government, respectively, are accountable to the relevant legislatures and to maintain oversight of the exercise of executive power, including the implementation of national legislation. However, the Constitution does not provide for any mechanisms in this regard in the manner it sets out the processes for passing laws. This task is left for Parliament and provincial legislatures to regulate in terms of legislation and rules.

The "Oversight Model of the South African Legislative Sector (September 2011)" defines oversight as

> *The proactive interaction initiated by a legislature with the Executive and administrative organs …that encourages compliance with the constitutional obligation on the Executive and administration to ensure delivery on agreed-to objectives for the achievement of government priorities.*
>
> The functions of oversight include many political, administrative, financial, ethical, legal and strategic elements. Broadly the aim is to improve the transparency of government operations and enhance public trust in the government, which is itself a condition of effective policy delivery. The oversight function concerns the monitoring of the achievement of goals set by the Constitution, legislation and government's own programmes.

The South African Legislative Sector Oversight Model refers to accountability as "the hallmark of modern democratic governance. …

Accountability refers to institutionalised practices of giving account of how assigned responsibilities are carried out." Accountability simply means that those in power must be held accountable for their acts, omissions and decisions – including those affecting expenditure or policies. The concept of accountability therefore includes, and in fact originates from, accounting in the financial sense, although its scope is far wider than its origins. The function of accountability, in essence, is to hold the government to account in respect of how taxpayers' money is used.

Sections 213 and 226 of the Constitution provide that funds withdrawn from either the National or Provincial Revenue Funds must be done either in terms of an Act of Parliament or a provincial Act, respectively. The Division of Revenue Act, the Appropriation Act and various provincial Appropriation Acts, all passed annually, are used for this purpose. Other money Bills can also be used for this purpose. The Division of Revenue Amendment Act, the Adjustments Appropriation Act and various provincial adjustments appropriation Acts, also passed annually after the review of government expenditure in the middle of the financial year, supplements the appropriation of funds to departments in the national, provincial and local spheres of government and organs of state in these spheres. These Bills are classified by the Constitution as money Bills and enjoy a specific status under the Constitution.

4.2.1 Constitution of the RSA

Sections 77 and 120 of the Constitution provide for national and provincial money Bills in similar terms. A money Bill is a Bill that:

- appropriates money;
- imposes national / provincial taxes, levies, duties or surcharges;
- abolishes or reduces, or grants exemptions from, any national / provincial taxes, levies, duties or surcharges; or
- authorises direct charges against the National / Provincial Revenue Fund.

A money Bill may not deal with any other matter except-

- a subordinate matter incidental to the appropriation of money;
- the imposition, abolition or reduction of national / provincial taxes, levies, duties or surcharges;
    - the granting of exemption from national / provincial taxes, levies, duties or surcharges; or

- the authorisation of direct charges against the National / Provincial Revenue Fund.

The Division of Revenue Bill, envisaged in section 214 of the Constitution, is expressly excluded from the definition of a money Bill although it authorises direct charges. The reason for the exclusion is procedural: whereas money Bills follow the procedure for ordinary Bills not affecting provinces set out in section 75 of the Constitution, the Division of Revenue Bill must follow the procedure for ordinary Bills affecting provinces set out in section 76 of the Constitution.

It follows that the contents of money Bills are constitutionally defined and may thus only deal with financial and fiscal matters, except a subordinate matter incidental to the appropriation of money. A money Bill that deals with taxes, levies, duties or surcharges or direct charges may only deal with the financial aspects of the policy priority. The administrative part of such money Bills must be dealt with in another Bill. Therefore, while the Appropriation Bills deal with both the financial part and the administrative part; the Taxation Laws Amendment Bill deals only with the financial part and the Tax Administration Laws Amendment Bill deals with the administrative part.

An interesting aspect of procedure applicable to money Bills and the Division of Revenue Bill is that section 73(2) of the Constitution provides that only the Cabinet Member responsible for national financial matters – in other words the Minister of Finance – may introduce it in the National Assembly. Similarly, section 119 of the Constitution provides that only the member of the Executive Council responsible for financial matters in the province may introduce a money Bill in the legislature.

4.2.2 Money Bills Amendment Procedure and Related Matters Act

On 16 April 2009, Gazette No. 32137 indicated that the President had assented to the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No. 9 of 2009) of which the Act came into effect on the same date. In broad terms the Act provides the procedure for Parliament to amend the budget, which includes the annual Division of Revenue Bill, although this Bill is not classified as a money Bill in terms of the Constitution, the annual

appropriation Bill and adjustments appropriation Bill, as well as revenue Bills such the annual Taxation Laws Amendment Bill. Provision is also made for the procedure to amend other money Bills. The administrative support to ensure the integrity of the procedure is provided for in the Act; viz. the Parliamentary Budget Office (PBO).

The Money Bills Amendment Procedure and Related Matters Act provides the procedure to amend the framework underpinning the budget – the so-called fiscal framework - as well as the budget itself. Therefore the Act requires that the Minister of Finance submits a multi-year fiscal framework with the Bills giving effect to the budget. The "fiscal framework", defined in section 1 of the Act, is the relationship between revenue, including borrowing, and expenditure, including cost of financing.

According to the definition, "fiscal framework" means "the framework for a specific financial year that gives effect to the national executive's macro-economic policy and includes—

- estimates of all revenue, budgetary and extra-budgetary specified separately, expected to be raised during that financial year;
- estimates of all expenditure, budgetary and extra-budgetary specified separately, for that financial year;
- estimates of borrowing for that financial year;
- estimates of interest and debt servicing charges; and
- an indication of the contingency reserve necessary for an appropriate response to emergencies or other temporary needs, and other factors based on similar objective criteria;".

The Bills giving effect to the budget are mostly appropriation Bills and the annual Division of Revenue Bill and taxation bills that impose taxes for the purpose of revenue. The Money Bills Amendment Procedure and Related Matters Act applies to all money Bills and the Division of Revenue Bill.

The procedure to amend the fiscal framework or the money Bills hinges on the constitutional obligation of Parliament to maintain oversight of the exercise of national executive authority. Therefore the annual assessment of national departments by the National Assembly through its committees provides the starting point of the procedure. In this respect the Act requires committees of the Assembly to submit annual budgetary review and

recommendation reports (BRRR) after the adoption of the Appropriation Bill and prior to the adoption of the reports on the Medium Term Budget Policy Statement (MTBPS). This period is usually between June and November. The Minister of Finance and the relevant member of Cabinet are informed of the assessment.

The purpose of a BRRR is to provide an assessment of the department's service delivery performance given available resources; an assessment on the effectiveness and efficiency of the departments use and forward allocation of available resources; and may include recommendations on the forward use of resources. To do this the Act requires that a BRRR must refer to:

- the medium term estimates of expenditure of each national department, its strategic priorities and measurable objectives, as tabled in the National Assembly with the national budget;
- the prevailing strategic plans of the department;
- the expenditure report relating to such department published by the National Treasury in terms of section 32 of the Public Finance Management Act;
- the financial statements and annual report of such department;
- the reports of the Committee on Public Accounts relating to a department; and
- any other information requested by or presented to a House or Parliament.

The BRRR is thus a consolidated account of the view of the National Assembly on the performance of government departments. Parliament's reporting on the MTBPS is the next oversight element in the procedure. The Act requires the Minister of Finance to submit to Parliament the MTBPS at least three months prior to the introduction of the national budget and sets out its required contents: including, a revised multi-year fiscal framework, the spending priorities of national government for the next three years, and a review of actual spending by each national department and each provincial government between 1 April and 30 September of the current financial year.

The MTBPS is referred to the respective committees on finance and committees on appropriations of the National Assembly and the National Council of Provinces for consideration before reporting back to the

respective Houses. The Houses may require their committees on finance or appropriations to consult with any other committee in considering matters referred to it. Committees must report within 30 days from the date of the tabling of the MTBPS, and the reports may recommend amendments to the fiscal framework or the division of revenue should these remain materially unchanged when submitted with the national budget before the start of the following financial year. The reports from the committees on finance and committees on appropriations must be submitted to the Minister of Finance within 7 days after its adoption by the respective Houses.

The BRRR and the reports on the MTBPS serve as indicators whether amendments might be proposed to the fiscal framework and the Bills giving effect to the budget when these are introduced the following year. In fact, the Minister of Finance must submit a report to Parliament setting out how the Division of Revenue Bill and the national budget give effect to, or the reasons for not taking into account, the recommendations contained in the BRRR and the reports on the MTBPS when the national annual budget is introduced in the National Assembly. The context to amend the fiscal framework, and thereafter the Division of Revenue Bill, is now set.

In addition to pinning the procedure established on the oversight function of Parliament, the Act requires Parliament to follow a certain sequence when passing the budget. Firstly, the fiscal framework must be adopted, with or without amendments, by Parliament. Any amendments to the Division of Revenue Bill, the Appropriation Bill or the revenue Bills must be consistent with the adopted the fiscal framework. Secondly, the Division of Revenue Bill must be adopted. Any amendments to the Appropriation Bill must be consistent with the adopted fiscal framework and the Division of Revenue Bill passed by Parliament.

The next phase of the budget process is the introduction in Parliament of the budget, including the fiscal framework, the Division of Revenue Bill, the Appropriation Bill and tax and other revenue proposals. The fiscal framework and revenue proposals are referred to the committees on finance who are required to hold joint public hearings. This provision gives effect to the constitutional right to participate in the budget process. The process of referral, consideration, hearings, comments from the Minister if amendments are proposed to the fiscal framework, reporting and adoption

by the respective Houses must be done within 16 days after the introduction of the fiscal framework.

After the adoption of the fiscal framework, the Division of Revenue Bill and the Appropriation Bill are referred to the Committee on Appropriations of the Assembly to follow the legislative procedure as set out in the Constitution. In this instance the Act requires Parliament to pass the Division of Revenue Bill "no later than 35 days after the adoption of the fiscal framework"; and, the Appropriation Bill within 4 months from the start of the financial year to which it relates. In considering these Bills the respective committees must conduct public hearings, consult with other parliamentary committees, and allow affected members of Cabinet, provinces, and local governments to respond to the proposed amendments, as provided for in the rules. The Act requires committee reports on the Division of Revenue Bill and the Appropriation Bill to include reasons for any amendments, the effect of amendments on the strategic priorities of the relevant budget, the impact on service delivery and how the amendments related to reports of the Auditor-General and committee reports of the House, amongst others.

Specifically in respect of the Appropriation Bill, the Act provides that another committee may advise a committee on appropriations that a sub-division of a main division within a vote be appropriated conditionally; or that an amount must be appropriated specifically and exclusively for a purpose mentioned under a main division within a vote. In the case of a conditional appropriation, the proposal must be aimed "to ensure that the money requested for the main division will be spent effectively, efficiently and economically." It is therefore a powerful oversight mechanism that can ensure value for money.

Revenue Bills, such as taxation Bills, are referred to the Committee on Finance of the National Assembly and, after approval, to the National Council of Provinces for consideration by its Committee on Finance. As is the case with the other Bills giving effect to the budget, the Act requires that committees on finance must hold public hearings on the revenue Bills and consult with other committees.

The Act also provides for the procedure to amend the adjustments budget, which is introduced in the beginning of the second semester of the financial

year. The adjustments budget aims to balance the annual budget based on the actual revenue and expenditure of the first semester of the financial year. In other words, it is used to re-align the revenue and expenditure between departments. It also provides an opportunity to appropriate funds for unavoidable and unforeseen expenditure. The adjustments budget includes the adjustments appropriation Bill, a revised fiscal framework if the adjustments budget effects changes to the fiscal framework and a division of revenue amendment Bill if the adjustments budget effects changes to the Division of Revenue Act for the relevant financial year. The referral of these instruments follow the same sequence as the budget process; namely, the revised fiscal framework to a joint sitting of the committees on finance; the division of revenue amendment Bill to a joint sitting of the committees on appropriations after the adoption of the revised fiscal framework; and, in the event of a revised fiscal framework, an adjustment appropriation Bill to the Committee on Appropriations of the National Assembly only after the Division of Revenue Amendment Bill is passed by Parliament.

The Act also provides for the procedure to consider amendments to money Bills other than the Appropriation Bill, Revenue Bills, or the Adjustments Appropriation Bill. These Bills must be referred to the respective committees on appropriations who are required to conduct public hearings on the relevant Bill.

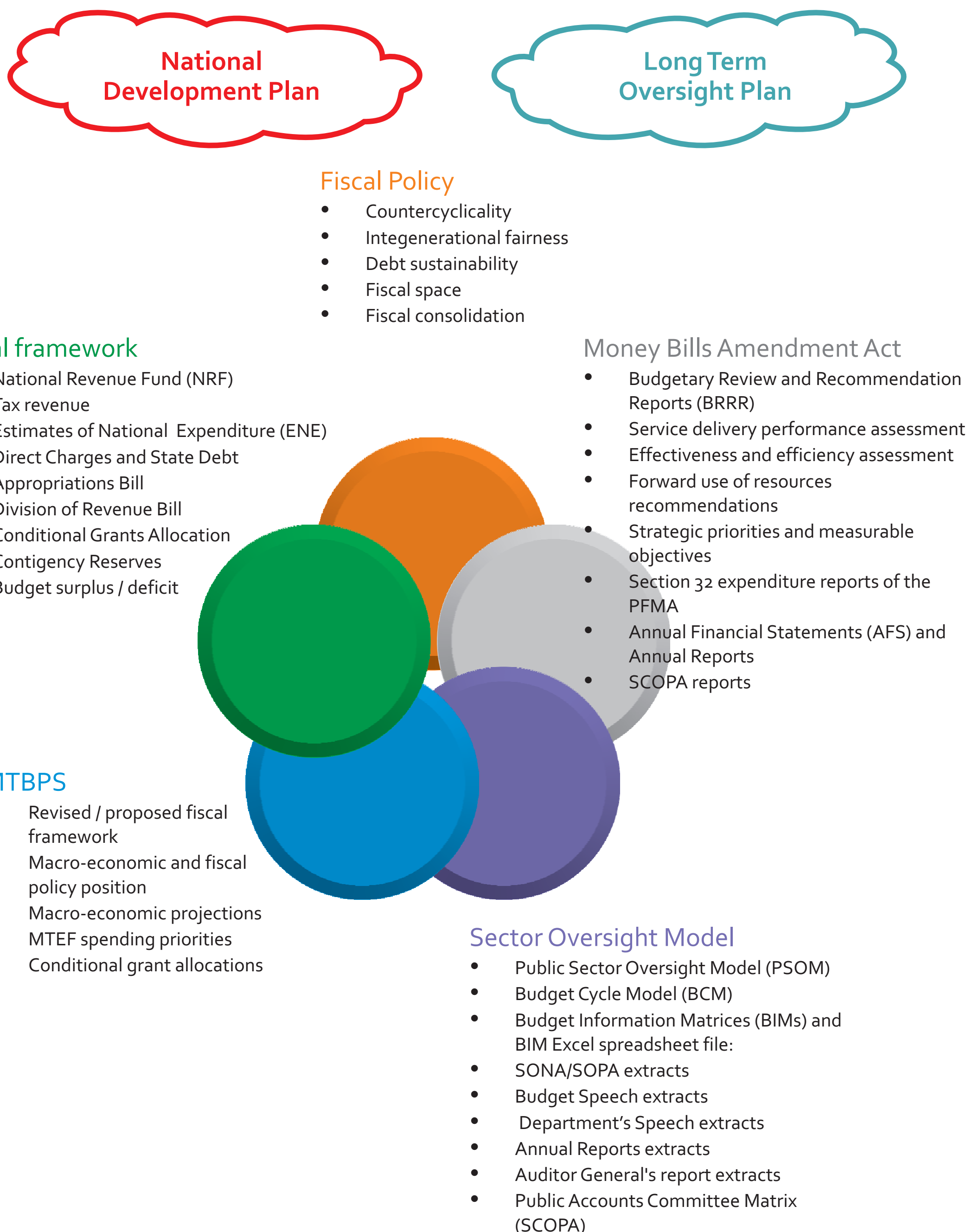
The Act requires Parliament and its committees, when taking any decision in terms of the Act, such as any report pursuant to Parliament's financial oversight function, report on the MTBPS, amendment to the fiscal framework, amendment to a money Bill or the Division of Revenue Bill take the following principles of fiscal discipline into account:

- ensure an appropriate balance between revenue, expenditure and borrowing;
- ensure reasonable debt levels and debt interest cost;
- ensure the cost of recurrent spending is not deferred to future generations;
- ensure adequate provision for spending on infrastructure development, overall capital spending and maintenance.
- consider the short, medium and long term implications of the fiscal framework, division of revenue and national budget on the long-term growth potential of the economy and the development of the country;

- take into account cyclical factors that may impact on the prevailing fiscal position; and,
- take into account public revenue and expenditure, including extra-budgetary funds, and contingent liabilities.

Section 16 of the Money Bills Amendment Procedure and Related Matters Act provides for Norms and Standards for Provincial Legislatures by saying that Provincial Legislatures must adhere to norms and standards. It is expected that Provincial Legislatures will enact their own Money Bills Amendment Procedure and Related Matters Acts within the course of the 5th Parliamentary Term.

Figure 4.2.2: Scope of Financial Oversight



Financial Oversight is a very complex phenomenon, which in the main refers to role that is played by Parliament and provincial Legislatures in approval and oversight of the medium term budget policy statement, fiscal policies, fiscal framework and other Money Bills.

4.2.3 Division of Revenue Act

The Division of Revenue Act ('DORA') is of particular importance as it is the first step of dividing national revenue between the three spheres of government. As required by section 214 of the Constitution, DORA is enacted each year:

- to provide for the equitable division of revenue raised nationally among the national, provincial and local spheres of government;
- to determine each province's and municipality's equitable share of that revenue; and
- to allocate grants to provinces and local government from the national government's share of revenue, and any conditions on which those allocations may be made.

Parliament may pass the Division of Revenue Bill, which after signature by the President and publication, becomes DORA, only after consulting provincial governments, organised local government and the Financial and Fiscal Commission (FFC). Before Parliament passes the Division of Revenue Bill, it must consider the recommendations of the FFC and take into account the following criteria listed in section 214(2) of the Constitution:

- the national interest;
- any provision that must be made in respect of the national debt and other national obligations;
- the needs and interests of the national government, determined by objective criteria;
- the need to ensure that the provinces and municipalities are able to provide basic services and perform the functions allocated to them;
- the fiscal capacity and efficiency of the provinces and municipalities;
- developmental and other needs of provinces, local government and municipalities;
- economic disparities within and among the provinces;
- obligations of the provinces and municipalities in terms of national legislation;
- the desirability of stable and predictable allocations of revenue shares;

and

- the need for flexibility in responding to emergencies or other temporary needs, and other factors based on similar objective criteria.

The consultation process is further regulated in terms of the Intergovernmental Fiscal Relations Act, including considering the recommendations made by the FFC. The memorandum to the DORA includes specific responses to each of the items listed in section 214(2)(a) – (j) of the Constitution. The memorandum also sets out the policy priorities underpinning equitable division of revenue and the equitable share allocated to each province.

4.2.4 Appropriation Acts

The national or provincial appropriation acts appropriate money from either the National Revenue Fund or relevant Provincial Revenue Fund, respectively, for the requirements of the State or relevant province during the particular financial year. Because these Acts are usually passed after the commencement of the financial year to which these relate, the Acts provide for conditions applicable to spending funds withdrawn for the financial year prior commencement of the relevant Act. Appropriation of funds in an appropriation Act is divided into different votes – each vote referring to a department – and into main divisions within each vote – referring to the main programmes within each department's budget.

4.2.5 Public Finance Management Act

The Public Finance Management Act (PFMA) is an important piece of legislation that contributes to the financial oversight by requiring government departments to plan in the form of strategic plans, annual performance plans, to budget, to utilise resources economically, effectively and efficiently, produce in-year monitoring (IYMs) reports and develop annual reports with audited annual financial statements. This documents are important sources of data for financial oversight over government departments.

Within this context of oversight, meaning must be given to sections 77(3) and 120(3) of the Constitution. These provisions authorise Parliament and

provincial legislatures, respectively, to amend money Bills in accordance with a procedure set out in the respective Act of Parliament or provincial Act. It is envisaged that these procedures will be based on financial oversight results and empower the legislative arm of government in the national and provincial spheres of government to amend money Bills accordingly. Parliament passed the Money Bills Amendment Procedure and Related Matters Act, 2009 (Act No 9 of 2009). Provincial legislation is yet to be passed.

4.2.6 Adjustments budgets

Within a financial year, expenditure that was not provided for in the relevant appropriation Act may be authorised if such expenditure cannot, without serious prejudice to the public interest, be postponed for a future parliamentary appropriation of funds. This emergency expenditure is limited to two per cent of the annual budget and must be authorised by an Act of Parliament. Such authorisation is contained in the relevant Adjustments Appropriation Act. This Act, and provincial adjustments appropriation Acts – the latter dealing with appropriation of funds that have become available to the province – may also provide for other adjustments in the budget:

- required due to significant and unforeseen economic and financial events affecting the fiscal targets set by the national budget;
- unforeseen and unavoidable expenditure recommended by the national executive or any committee of Cabinet to whom this task has been assigned;
- money to be appropriated for expenditure already announced by the Minister of Finance during the tabling of the annual budget;
- the shifting of funds between and within votes or to follow the transfer of functions between departments;
- the utilisation of savings under a main division of a vote for defraying expenditure under another main division of the same vote (so-called virements); and
- providing for the roll-over of unspent funds from the preceding financial year.

The control of the adjustments appropriation Acts, whether national or provincial, is provided for in the Public Finance Management Act (PFMA). The PFMA, and the Local Government: Municipal Finance Management Act ('MFMA'), are the two primary finance statutes dealing with the financial

management of the funds and reporting on the use of the funds. Whereas funds are appropriated for the use of national and provincial government through the DORA and the various appropriation Acts; the PFMA, particularly, regulates the planning, budgeting, accounting, reporting and auditing of national and provincial government departments, public entities and constitutional institutions.

Each of the PFMA and MFMA has important regulations attached to them, which form part of the respective Acts. The PFMA includes the amended Treasury Regulations for Departments, Trading Entities, Constitutional Institutions and Public Entities ('Treasury Regulations') and the MFMA includes the Municipal Supply Chain Management Regulations, Municipal Investment Regulations, and Municipal Public-Private Partnership Regulations.

Financial oversight by Parliament and provincial legislatures takes place within the context of the Money Bills Amendment Procedure and Related Matters Act, PFMA and other relevant legislation.

5. UNIT 2: EX-ANTE FINANCIAL OVERSIGHT

This Unit on Ex-Ante financial oversight discusses activities that take place before the budget is tabled as proposal by the executive arm to Parliament and Provincial Legislatures.

5.1 Government Priorities

Prior to the approval of the budget, it is important for the legislative authorities to be cognisant of government priorities. Government priorities are expressed in the following country strategic documents:

- National Development Plan
- The State of the Nation Address / State of the Province Address
- Medium Term Strategic Framework (MTSF);
- Medium Term Expenditure Framework (MTEF);
- Strategic Plans, Annual Performance Plans and IDPs;
- Medium Term Budget Policy Statement (MTBPS);
- Budget Votes and budget documents;
- Estimates of National Expenditure (ENE) / Adjusted Estimates of National Expenditure (AENE)
- Millennium Development Goals; and
- Other strategic documents and policies.

Comprehensive description about the above strategic documents are broadly discussed in Module 4 on Oversight and Accountability. An outcomes approach has been adopted by government for planning and reporting purposes. The following description of terms is imperative to understand the link between inputs, activities, outputs, outcomes and

impact:

- **Inputs:** Measure what is put into the process. These are all resources that contribute to the production and delivery of outputs. They include finance, personnel, equipment and buildings.
- **Activities:** These are the processes or actions that use a range of inputs to produce the desired outputs, and ultimately outcomes.
- **Outputs:** Measure direct products of a particular programme or project. The final products, or goods and services produced for delivery. For example, the number of beneficiaries receiving a particular good or service.
- **Outcomes:** Measure the results of the policy or programme. The medium-term results for specific beneficiaries that are the consequence of achieving specific outputs. Outcomes should relate clearly to the department's strategic goals and objectives set out in its strategic plans and annual performance plans. For example, increased health, educational levels, availability of time.
- **Impact:** These are the results of achieving specific outcomes, such as reducing poverty and creating jobs.

5.2 Budget Cycle

The budget cycle comprises the major phases involved in making decisions about the budget, and implementing and assessing those decisions. The specific characteristics of the budget cycle differ from country to country. The South African budget mainly consists of four phases of the budget cycle. These are:

5.2.1 Phase 1: Drafting (Formulation) phase

The budget plan is compiled by the Executive branch of government via National Treasury, with the Cabinet being responsible for crafting policy priorities that inform the macroeconomic and fiscal framework as well as division of revenue across the three spheres of government. Key steps of this phase include inter alia:

- Policy prioritisation: This mainly begins with the Medium Term Strategic Framework (MTSF) and the National Development Plan (NDP), which forms the basis for the medium term priorities as outlined in the State of

the Nation Address in February of each year.

- The Ministers' Committee on the Budget (MinComBud) at national government level and the Premier's Budget Committee (PBC) at provincial government level sets broad priorities on issues such as the allocation of resources within the social and economic sectors. The PBC derives its mandate directly from the national priorities. These are smaller technical subcommittees of the Cabinet, which are most closely involved in the development and oversight of the upcoming budget and its compliance with government goals.
- The Budget Council and the MinComBud review medium term priorities and takes an interest in issues pertaining to local government (i.e. vertical division of revenue), with the South African Local Government Association (SALGA) as the representative of local government.
- The Finance and Fiscal Commission (FFC) also submits its recommendations on the division of revenue (vertical and horizontal) for the forthcoming year.
- Cabinet and the provincial executive committees make policy choices; which entails the evaluation and balancing of competing and complementing socioeconomic priorities against scarce resources. Therefore Cabinet approves a set of Medium Term Policy Priorities; and also indicates aggregates for the division of revenue and budget allocations for national departments. Indicative allocations for provincial departments are set by provincial executive committees.
- Preparation of MTEF budget submission: This process normally commences with the review of the Medium Term Fiscal Framework (MTFF) by National Treasury and the Budget Council. National and Provincial departments prepare MTEFs based on specific guidelines and formats set by National Treasury. Similarly, provincial treasuries issue their own guidelines for provincial departments MTEF submissions as informed by national guidelines.
- After evaluation of the departmental MTEF submissions at national and provincial level, National Treasury and provincial treasuries make comments, and may require that certain departments respond to the comments during or prior to the Medium Term Expenditure Hearings.
- Review of Macroeconomic and Fiscal Framework and Division of Revenue (DORA): This is a technical consultative process between national and provincial treasuries; and national and provincial departments.

to the comments during or prior to the Medium Term Expenditure Hearings.

- Review of Macroeconomic and Fiscal Framework and Division of Revenue (DORA): This is a technical consultative process between national and provincial treasuries; and national and provincial departments.

The key inputs of this process are the Medium Term Policy Priorities and draft MTEFs. A consultative process between National Treasury and organised local government, represented by SALGA, also takes place for local government grants. The MTEF proposals from national departments must include details of existing and possible new conditional grants to provincial and local governments that would need to be taken into consideration in the process of determining the equitable division of revenue among the three spheres of government. Important focal points in these meetings include provincial spending pressures and the determination of concurrent mandates, as well as matters relating to the administration and implementation of conditional grants.

The recommendation of the medium term allocation process is driven by national and provincial Medium Term Expenditure Committees (MTECs) which conduct hearings that seek to evaluate the MTEF submission by national and provincial departments, examining the departmental priorities within their baseline allocations. Important issues for MTEC hearings include:

The proposed revisions to a department's medium-term plans and how they link to government's policy priorities and the key challenges identified for each sector.

- The credibility of the costing and affordability of the new proposals.
- The department's ability to implement any new proposals over the MTEF period, based on past performance and expenditure trends.
- The outputs to be achieved in support of measurable objectives.

The MTEC discusses each of the above areas with the relevant department, and sends their recommendations to MinComBud and Cabinet at national government level and the PBC at provincial government level. The recommendations should include at least the following changes:

- Department's programme structure;
- Measurable objectives; and
- Changes to the programme of MTEF allocations.

Key role players in the MTEC include the National and provincial Treasuries, Director-Generals (who chairs these Committees) or Deputy Director-Generals, Senior National and provincial Treasury Officials and Director-Generals from key Departments (i.e. Public Service and Administration; the Presidency; and Office of the Premiers). At this stage, departments are required to defend the proposed increases or decreases to their MTEF allocations.

The Technical Committee on Finance refines recommendations arising out of the provincial MTEC hearings before they are submitted to the Budget Council for consideration. Therefore, based on the recommendations, the Budget Council makes recommendations on the division of revenue to the extended Cabinet meeting at the end of September. In light of the preliminary macroeconomic and fiscal framework and division of revenue proposals, the national MTEC submits recommendations to MinComBud on changes to the three-year allocations for national votes in early October. The MTEC also takes into account government's broad policy and spending priorities for the forthcoming three years, as guided by the political discussions throughout the budget cycle. The National and provincial Treasuries incorporate all discussions that have taken place at national, provincial and local government level when they drafts the MTBPS. Before the MTBPS is tabled by the Minister of Finance at national Parliament and MECs of Finance at provincial legislatures at the end of October, further processes would entail the following:

- A revised macroeconomic and Fiscal Framework as well as Division of Revenue that is presented to the Budget Council, Budget Forum, and thereafter the Cabinet.
- Presentation of the national and provincial MTEF allocations to the MinComBud. Cabinet approves the draft MTBPS before it is tabled in Parliament and provincial legislatures towards the end of October.
- Deciding on the Medium-Term Allocation Process: This sub-phase begins with the issuing of projected allocations to national and provincial departments by the National Treasury; detailing the national, provincial and local government equitable share from the division of revenue and

conditional grants share. Based on these allocations, the treasuries hold the second round of MTEC hearings before the final allocations to national and provincial departments are made in December.

- Preparation of the Budget: The National Treasury and provincial treasuries direct the Budget Review process and coordinate the compilation of the departmental strategic plans and annual performance plans; as well as the Estimates of National Expenditure (ENE) and Estimates of Provincial Expenditure, respectively. National Treasury also prescribes the format of the budget documentation that the provincial treasuries have to produce.

The budget preparation process forms part of the consolidation of the Division of Revenue Bill and the MTBPS, which entails the finalisation of the Budget Review and Estimates of National Expenditure for the national government and the Overview of Provincial Expenditure and Estimates of Provincial Expenditure for provincial government.

5.2.2 Phase 2: Legislative (Authorisation) phase

At this stage legislative authorities become more critical and involved through several activities including budget debates, budget vote presentations, budget amendments and finally passing, amending or rejection of the budget as an Act[1]. Prior any amendment of the budget legislative authorities should, through the finance and appropriations committees adopt the Fiscal Framework and revenue proposals with or without amendments so that any amendment in the money bill should be in line with the adopted Fiscal Framework[2]. The Parliamentary Budget Office plays an important role in providing independent, objective and professional advice and analysis to legislative authorities on matters related to the budget and other money Bills.

A fiscal framework can be defined as a set of rules/principles which guide fiscal behaviour, fiscal decision making and fiscal evaluation over the MTEF. The setting of these rules is important as they serve as yardsticks against which the Executive should be held accountable. These rules are applicable to
which the Executive should be held accountable. These rules are applicable to
all stages of the budget process, from budget preparation to reporting on budget outcomes and auditing. The fiscal framework serves as an important

1 Money Bill Amendment Procedures and Related Matters Act 09 (2009)
2 Idasa (2005)

framework to the whole budget process by providing the foundation upon which detailed policy and budget decisions depends. It represents a way of shaping the financial, social and economic landscape of a country through the budget process[3].

Through clearly laid down rules, the fiscal framework will assist in setting targets for the resources available for a variety of social and economic objectives the government wishes to pursue. It is important to note that the fiscal framework is reviewed periodically in light of changing macroeconomic and fiscal conditions. The annual process of presenting the budget speech and tabling the budget starts with the Minister/MECs of Finance first tabling the Budget documents which include the following:

- Responses of the Minister/MEC on the recommendations made by finance committees during the Medium Term Budget Policy Statement (MTBPS) ;
- Appropriation Bill;
- Division of Revenue Bill;
- Fiscal Framework;
- Budget Review; and
- Estimates of National expenditure or Estimates of Provincial Expenditure[4].

Legislative authorities thereafter discusses these budget documents, which often entail intensive work in legislative committees, including the finance and appropriations committees. The entire process of budget considerations takes approximately three to four months before it is officially adopted or passed by Parliament or the legislature into law. These important budget documents are attended and scrutinised by Committees, after which they are reported and adopted by the House.

The Budget can be adopted with or without amendments as prescribed by the Act. In order for the processes to be exercised effectively and efficiently, the strength of determining whether or not the budget needs to be amended depends on the strength of legislative committees and the support staff.

At this stage, legislative authorities facilitate public involvement in terms of organised interest groups and civil society, the media and the general public. In this way, the legislature not only scrutinises the expenditure and revenue

3 Ibid

4 National Treasury (2010)

proposals of the Executive, it also ensures greater transparency and public participation. Public participation processes are conducted through public hearings in which written and oral presentations are received and considered from organised groups representing different sectoral interests.

The implementation of a public participation process as required by the Money Bills Amendment Procedure and Related Matters Act is as follows:

- Fiscal Framework and revenue proposal hearings are held by the Standing and Select Committees on Finance ;
- Division of Revenue Bill hearings are held by the Standing Committee on Appropriations, and thereafter the Select Committee on appropriations after the provinces' negotiating mandates have been considered;
- Appropriations Bill hearings are held by the Standing Committee on Finance;
- Revenue Bill hearings are held by the Standing Committee on finance; and
- Other money bill hearings are held by the Standing Committee on Appropriations.

5.2.3 Phase 3: Execution (Implementation) phase

The implementation phase occurs when the budget has been enacted by Parliament/provincial legislatures; and is also the phase which permits roll-out of service delivery. The budget is implemented by the Executive (i.e. political head of the departments) through government departments and State Owned Enterprises (SOEs). This occurs after the funds are released by National Treasury in accordance with the approved budget.

This stage of the budget cycle also involves monitoring of expenditure. Section 4 (4) (a) of the Money Bills Procedure and Related Matters Act requires the Standing Committee on Appropriations to reflect on monthly departmental spending patterns and respond to any apparent inconsistencies on the spending patterns of departments. The Committee also produces an analysis of quarterly expenditure reports. The key role players at this stage of the budget are departmental officials and implementing agencies who are responsible for programme implementation; as well as legislative bodies - this exercise is derived from an oversight perspective.

Legislative authorities play an important oversight role at this stage as they have powers to summon the executive to account. Legislative bodies can also request any person or institution to provide evidence and can receive petitions or representations from any interested person. Committees can also undertake oversight visits and study tours in order to attain primary evidence regarding the service delivery performance of departments. In directly overseeing government departments and statutory bodies, legislative authorities may request oral or written reports.

Committees also have the power to invite departments or any organ of State that accounts to them to provide an explanation for activities pertaining to implementation of its programmes and expenditure of the funds allocated to it by Parliament or the provincial legislatures. Finance, appropriations and budget Committees play an important role in the in-year monitoring of the budget. This is done through analysis of the monthly and quarterly expenditure and revenue statements released by the National Treasury in terms of section 32 of the PFMA[5]. The Committee analyses these reports on a quarterly basis as part of the continuous process of budget oversight in order to hold the Executive accountable for the budget allocated to them.

The Money Bills Procedure and Related Matters Act empowers the Standing Committee on Appropriations to partner with or invite other portfolio committees when addressing certain issues that relate to their sector departments during this stage. This assists by ensuring that there is synergy between all relevant committees when conducting oversight during this stage, which in turn allows for issues that cut across both committees to be dealt with in one platform and therefore eliminate duplication and ensure that the responses that the committees get are consistent[6].

In-year monitoring and year-end monitoring are conducted by legislative authorities through Committees, as part of their budget oversight. Organised civil society and the general public also perform in-year and year-end financial monitoring through presentations to legislative authorities and other avenues such as the media.

Regular monitoring of the budget is a vital component in ensuring that revenues and expenditures against the approved budget are reliable and readily available for discussion. It also allows for the revision of management

5 Public Finance Management Act 1 of, 1999 (As amended by Act 29 of 1999)
6 National Treasury (2005)

action and projections, should these be necessary. Monitoring is a crucial aspect of the implementation phase as it promotes accountability and ensures that the budget is effectively and efficiently producing the desired outputs and outcomes.

5.2.4 Phase 4: Evaluation (Auditing) phase

This is the final stage of the budget, at which the budget is audited and assessed to ascertain whether it has been implemented as planned and whether public funds have been spent economically, effectively and efficiently in a manner that would enrich the lives of South Africans. At this stage, the Executive branch of government reports extensively on its fiscal and service delivery implementation programmes and activities to legislative authorities.

The auditing stage involves verification of the performance of departments and entities by independent audit institutions such as the Auditor General, as informed by:

- Financial management and budget control
- Compliance with laws and regulations
- Predetermined objectives
- Internal control and management oversight

After performing its auditing function, the AG offers his/her opinion on the status and quality of the financial statements and management as reflected in the year-end documents. The Constitution (section 188) prescribes the functions of the AG as follows:

The Auditor-General must audit and report on the accounts, financial statements and financial management of:

- All national and provincial state departments and administrations;
- All municipalities; and
- Any other institution or accounting entity required by national or provincial legislation to be audited by the Auditor-General.

In addition to the duties prescribed above, and subject to legislation, the Auditor-General may audit and report on the accounts, financial statements, financial management and performance management of:

- Any institution funded from the National Revenue Fund or a Provincial Revenue Fund or by a municipality; or
- Any institution that is authorised in terms of any law to receive money for a public purpose.
- The Auditor-General must submit audit reports to any legislature that has a direct interest in the audit, and to any other authority prescribed by national legislation. All reports must be made public.

Following the auditing process, the Auditor General submits the report to the legislative authority, which is a reflection on how the approved budget has been executed. Legislative authority would, through the Committee on Public Accounts which was established through the rules of Parliament/provincial legislatures would thereafter invite government departments to appear before the Committee. These hearings are an important part of Parliament and legislatures' oversight role over the Executive, as they enable legislative authorities to get clarity on the performance of departments and therefore decide on the most appropriate interventions by the Executive with regard to audit findings. The auditing and assessment stage of the budget allows the Executive to embark on the following activities:

- It provides the government an opportunity to strengthen and evaluate the alignment between medium and long term plans, as well as funding proposals in the fiscus.
- It provides an opportunity for the Executive to revise its policy priorities and resource envelope (Fiscal Framework).

5.3 Budget Votes Format

A budget gets tabled in Parliament and provincial Legislatures in a format of a Budget Vote. The format of a Budget Vote is demonstrated in the following table:

Table 5.3.1: Budget Vote format

[Vote number]

[Name of vote]

Budget summary

R million	2010/11					2011/12	2012/13
	Total to be Appropriated	Current payments	Transfers and subsidies	Payments for capital assets	Payments for financial assets	Total	Total
MTEF allocation							
Programme name							
Subtotal							
Direct charge against the National Revenue Fund							
Item							
Total expenditure estimates							
Executive authority	Minister						
Accounting officer	Director-General / Chief Operating Officer						
Website address							

The Estimates of National Expenditure booklets for individual votes are available on www.treasury.gov.za. They provide more comprehensive coverage of vote specific information, particularly about goods and services, transfers, public entities and lower level institutional information.

Source: National Treasury, 2013

Subsequent to the presentation of the Budget by the Minister/MEC of Finance, each parliamentary committee hold hearings with a government department over which that committee exercises oversight. Budget votes get debated in the Houses of Parliament and provincial legislatures once committees have finished their consideration of the budget votes.

5.4 Components of the budget

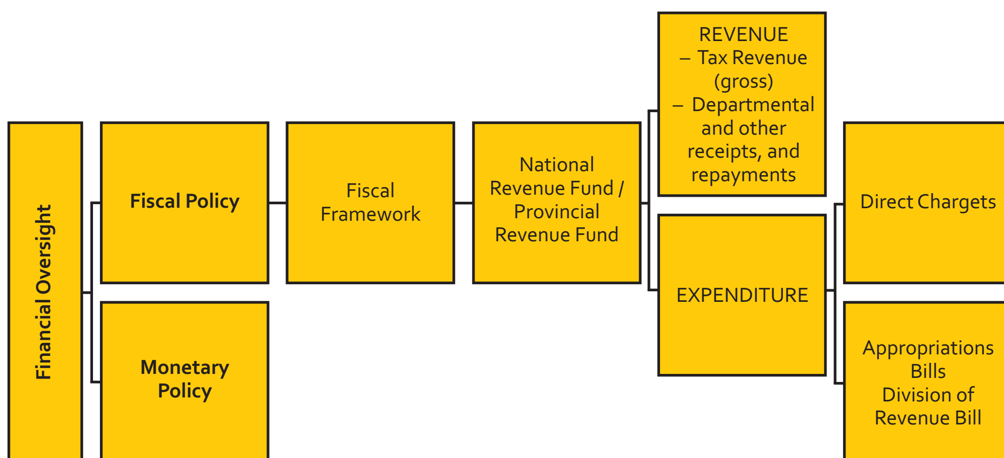
The budget has two components. These are ***revenue*** or ***current account*** and ***capital*** or ***debt account***. The revenue account displays receipts from tax collection and from other sources of public income during the course of the year. The capital account shows all debt liabilities and payments of interest on loans. Government loans may be internal in the form of borrowing from national financial institutions. It may also be in the form of **external** debt from international agencies such as the **International Monetary Fund** (IMF) or **International Bank for Reconstruction and Development** (IBRD).

If the **current/**revenue ***account*** receipts are exactly equal to ***proposed expenditure***, then the budget is said to ***balanced***. If the revenue receipts fall

short of the proposed expenditure then it is a case of a ***deficit budget***. On the other hand if revenue receipts exceed the proposed expenditure then it is called a ***Surplus budget***.

In case of a ***deficit budget***, government expenditure has exceeded receipts, which could indicate that the government intends to spend more and increase the size of the aggregate or effective demand. This can be done by raising fresh debts to finance extra expenditure. Alternatively, tax rates can also be reduced in order to enable people to spend more. A ***surplus budget* on the other hand,** is exactly the opposite as public revenue exceeds public expenditure in this case. It then becomes possible for the government to repay some debt burden. It is also possible to raise tax rates and to withdraw some purchasing power from circulation.

Figure 5.4.1: Structure of the Financial Oversight



5.5 Fiscal Policy

According to the National Treasury, fiscal policy ensures the health of the public finances by applying the principles of countercyclicality, debt sustainability and intergenerational fairness. Government intervention in an economy can take two forms - fiscal policy and monetary policy. Every government spends money and levies taxes to finance its expenditure; and must therefore regularly decide how much to spend, what to spend it on and

how to finance its expenditure; and thereafter develop a policy in respect of the level and composition of government spending and taxation. This is called *fiscal policy*.

Fiscal Policy is therefore the means by which a government adjusts its spending levels and tax rates to monitor and influence a nation's economy. Through fiscal policy, regulators attempt to improve unemployment rates, control inflation, stabilise business cycles, maintain a healthy value of money and influence interest rates in an effort to control the economy. The direct and indirect effects of fiscal policy can influence personal spending, capital expenditure, exchange rates, deficit levels and even interest rates, which are usually associated with monetary policy.

The role of fiscal policy is to provide growth and stability to the economy of the nation through government intervention in taxation and the adjustment of government expenditure. Long-term fiscal policy aims include the reduction of poverty for a nation's citizens and the sustainable growth of an economy. Furthermore, to increase or decrease taxation and government spending depending on the needs of the economy. When an economy slows, a government can attempt to stimulate it through increased expenditure and lowered taxes, providing citizens with an increased amount of money to spend. Increased spending from more disposable income is returned to the government in taxes collected at both local and national levels. Economic growth is the long-term aim of fiscal policies introduced by a government at sustainable levels that do not allow an economy to grow at uncontrollably fast or slow levels.

Fiscal policy is planned and implemented through the annual budgets. A ***budget*** is an *estimated* or anticipated account of *government receipts* and *expenditure* in the next financial year. The Budget is presented annually by the Minister of finance to Parliament and provincial MECs of Finance to provincial legislatures. In the budget the Minister/MEC outlines government's spending plans for the forthcoming financial year, which runs from 1 April of the current year to 31 March of the following year, and also outlines how government proposes to finance its expenditure (through taxes, borrowing, etc). Budgetary Policy relates to two important implements: ***government expenditure*** and ***taxes***. Taxes are collected in order for government to carry out expenditure on various public facilities.

The budget is essentially a reflection of political decisions about how much to spend, what to spend it on and how to finance the spending. The size and composition of government spending and the way in which it is financed (including the types and levels of the various taxes) can have a significant impact on important macro-economic variables, such as aggregate production, income and employment and the price level, as well as on the distribution of income. These effects have to be taken into account when the budget is prepared.

5.5.1 Types of Fiscal Policy:

Fiscal policy and Monetary Policy can be used to influence both expansion and contraction of GDP as a measure of economic growth. When used correctly, fiscal and monetary policies can have similar results in both stimulating the economy and slowing it down when it heats up. The following types of fiscal policy are discussed:

5.5.1.1 Expansionary Fiscal Policy

Fiscal policy becomes meaningful when budgets either show deficits or surpluses. The deficit budget is also known as an expansionary policy. This is because through deficits and enhanced public spending, the overall level of effective demand can be expanded. Such a policy is pursued during periods of deflation. Under such conditions the price level is depressed, the output level is falling and the level of unemployment is increasing. Therefore the rising level of effective demand is expected to act as a remedy. In implementing expansionary Fiscal Policy, the government exercises its powers by lowering taxes and increasing government expenditures.

5.5.1.2 Contractionary Fiscal Policy

Contractionary fiscal policy is useful under inflationary conditions. During inflation, the general price level shows a strong tendency to move sharply upwards. Therefore such a situation can be corrected by withdrawing some purchasing power from the people. This helps to bring down the level of effective demand. Contractionary fiscal policy therefore entails a slashing of government expenditures.

5.5.1.3 Countercyclical Fiscal Policy:

When an economy is in a boom, the government should run a surplus; other times, when in recession, it should run a deficit. Countercyclical fiscal policy increases spending and tax cuts in times of economic booms, but reduces spending and raises taxes in response to economic downturns.

5.6 Monetary Policy

According to the South African Reserve Bank, the primary objective of monetary policy in South Africa is to achieve and maintain price stability in the interest of sustainable and balanced economic development and growth. Price stability reduces uncertainty in the economy and, therefore, provides a favourable environment for growth and employment creation. Furthermore, low inflation contributes to the protection of the purchasing employment creation. Furthermore, low inflation contributes to the protection of the purchasing power of all South Africans, particularly the poor who have no means of defending themselves against continually rising prices.

Fiscal policy has to be coordinated with Monetary Policy; otherwise the one type of policy may counteract or negate the effects of the other type of policy. That is why there is close liaison between the National Treasury, which is responsible for the execution of fiscal policy, and the South African Reserve Bank, which applies monetary policy in South Africa. Through Monetary Policy, the South African Reserve Bank influences the nation's money supply. By using a mix of monetary and fiscal policies (depending on the political environment and the democratic dispensation), governments are able to control economic phenomena.

Monetary policy constitutes the measures taken by the monetary authorities to influence the quantity of money or the rate of interest with a view to achieving stable prices, full employment and economic growth. This implies that there must be some link (or links) between monetary variables (such as the quantity of money and interest rates) and macroeconomic variables (such as the price level, the level of employment and the (GDP)). These links are called the *Monetary Transmission Mechanism*, that is, the way in which monetary changes affect the real economy.

5.7 Fiscal Policy vs Monetary Policy

	Fiscal Policy	Monetary Policy
Definition	The use of government expenditure and revenue collection to influence the economy.	The process by which the monetary authority of a country controls the supply of money, often targeting a rate of interest to attain a set of objectives oriented towards the growth and stability of the economy.
Principle	Manipulating the level of aggregate demand in the economy to achieve economic objectives of price stability, full employment, and economic growth.	Manipulating the supply of money to influence outcomes like economic growth, inflation, exchange rates with other currencies and unemployment.
Policy-maker	Government (e.g. National Treasury, etc)	South African Reserve Bank
Policy Tools	1) **Taxes:** If demand is low, the government can decrease taxes. This increases disposable income, thereby stimulating demand. 2) **Government spending:** If inflation is high, the government can reduce it's spending	• **Interest Rates:** Interest rate is the cost of borrowing or, essentially, the price of money. By manipulating interest rates, the Reserve Bank can make it easier or harder to borrow money. • **Reserve requirement:** Banks are required to

	Fiscal Policy	Monetary Policy
	thereby refraining from competing for resources in the market (both goods and services). This is a contractionary policy that would lower prices. Conversely, when there is a recession and aggregate demand is flagging, increased government spending in infrastructure projects would lead to higher demand and employment.	hold a certain percentage (Cash Reserve Ratio) of their deposits in reserve in order to ensure that they always have enough cash to meet withdrawal requests of their depositors. Not all depositors are likely to withdraw their money simultaneously. By changing the CRR requirement for banks, the Reserve Bank can control the amount of lending in the economy, and therefore the money supply. • **Currency peg:** Weak economies can decide to peg/attach their currency against a stronger currency. This tool is usually used in cases of runaway inflation when other means to control it are not working. • **Open market operations:** The government can create money out of thin air and inject it into the

	Fiscal Policy	Monetary Policy
		economy by buying government bonds. This raises the level of government debt, increases the money supply and devalues the currency causing inflation. However, the resulting inflation can support asset prices such as real estate and stocks.

5.8 Fiscal Framework

One most important elements to financial oversight, following a fiscal policy that outlines the fiscal stance or principles that a government has adopted, is a fiscal framework. In general terms, a fiscal framework is like an income and expenditure statement of government, which outlines the revenue generated against government expenditure for a particular fiscal year. According to the National Treasury, South Africa's fiscal framework is grounded in a sustainable, countercyclical approach managing revenue and expenditure. The latest statistics of the South African fiscal framework are outlined in the table below:

Table 3.1 Consolidated fiscal framework, 2010/11 – 2016/17

	2010/11	2011/12	2012/13	2013/14	2014/15	2015/16	2016/17
R billion/percentage of GDP		Outcome		Estimate		Medium-term estimates	
Revenue	**762.9**	**842.3**	**909.3**	**1 010.5**	**1 099.2**	**1 201.3**	**1 324.7**
	27.7%	*28.2%*	*28.4%*	*29.2%*	*29.0%*	*28.9%*	*29.1%*
Non-interest expenditure	804.6	871.3	951.7	1 041.6	1 131.1	1 218.1	1 306.5
	29.6%	*29.4%*	*29.9%*	*30.2%*	*30.0%*	*29.5%*	*28.8%*
Interest payments	75.3	81.7	93.5	107.7	121.2	133.5	145.1
	2.7%	*2.7%*	*2.9%*	*3.1%*	*3.2%*	*3.2%*	*3.2%*
Expenditure	**879.9**	**953.1**	**1 045.2**	**1 149.3**	**1 252.3**	**1 351.6**	**1 451.6**
	32.0%	*32.0%*	*32.7%*	*33.2%*	*33.0%*	*32.6%*	*31.9%*
Budget balance	**-117.1**	**-110.8**	**-135.9**	**-138.8**	**-153.1**	**-150.3**	**-126.9**
	-4.3%	*-3.7%*	*-4.3%*	*-4.0%*	*-4.0%*	*-3.6%*	*-2.8%*

Source: National Treasury, 2014

5.9 Role of Finance and Fiscal Commission (FFC)

The Financial and Fiscal Commission (FFC) is an independent, advisory body that was established in terms of Section 220 of the Constitution Commission as an independent and impartial body that is distinct and separate from government. It is a permanent expert Commission with a constitutionally defined structure, set of generic responsibilities and institutional processes. Its primary role is to ensure the creation and maintenance of an effective, equitable and sustainable system of intergovernmental fiscal relations in South Africa.

One of its important responsibilities is to make recommendations regarding the equitable sharing of nationally collected revenue. The recommendations, which it is constitutionally required to make, concern such matters as revenue sharing, financial allocations, taxation, borrowing, criteria used in the determination of these matters and general financial and fiscal policies of governments. The Commission's role is to ensure the creation and maintenance of an effective, equitable and sustainable system of intergovernmental fiscal relations.

Given that most of the government revenue in South Africa is collected by national government, it was considered important that this revenue be divided equitably amongst the three spheres of government (the vertical division of revenue). Once this (vertical) division has been made, it is equally important that the local and provincial shares are equitably distributed amongst municipalities and provinces (the horizontal division of revenue).

The Constitution seeks to ensure that the element of subjectivity in this resource allocation process is mediated by the inputs of an impartial and non-partisan agency like the FFC. It is thus the mandate of the FFC to provide advice on the division of revenue between and across the spheres of government.

In the spirit of Chapter 3 of the Constitution (co-operative governance), the FFC interacts frequently with government stakeholders as part of its overall consultation process and in order to obtain data and information that is necessary for it to fulfil its constitutional obligations. The FFC submits recommendations and advice to all spheres of government based on research and consultations on a range of intergovernmental fiscal issues. The

research includes:

- Development of principles for intergovernmental fiscal relations, which are based upon analysis of international best practice;
- Analysis of local, provincial, and national government budgets, with a view to understanding revenue and expenditure trends;
- Identification and measurement of factors influencing provincial and local revenues and expenditures; and
- Assessment of fiscal policy instruments, such as conditional grants, equitable share transfers, and taxes.

Government is required by the Constitution and other legislation to consult with the FFC on issues such as provincial and local government revenue sources; provincial and municipal loans; and the fiscal implications of the assignment of functions from one sphere of government to another. In accordance with the Intergovernmental Fiscal Relations Act of 1997, the Commission submits its recommendations on the division of revenue before the Minister of Finance tables the budget in Parliament in February. The FFC's Annual Submission addresses issues that relate to the next budget year and to the Medium Term Expenditure Cycle. In addition, the FFC makes occasional submissions in response to requests from organs of state.

Section 3 of the Intergovernmental Fiscal Relations Act states that national, provincial, and local organs of State can request the advice of the Commission. However, such request should relate to the mandate of the FFC. Government, through the agency of the Minister of Finance, is required to respond to the proposals of the FFC indicating the extent to which it has taken account of the Commission's recommendations. This response is typically contained in an Annexure to the annual Division of Revenue Act.

The FFC reports to Parliament, the provincial Legislatures, and organised local government (through the South African Local Government Association). The FFC also consults and interacts with organs of state (e.g. national and provincial government departments and municipalities). The FFC has on-going contact with other government institutions such as Statistics South Africa and the South African Reserve Bank.

The FFC actively participates in the on-going review of the provincial and local government equitable share formulae. This involves research into and

analysis of the factors that influence costs in the delivery of Constitutionally Mandated Basic Services and other constitutional obligations of government. This also includes the assessment of revenue sources and revenue-raising capacity of provinces and municipalities.

The effectiveness of fiscal decentralisation forms an important theme in the FFC's research and recommendations programme. A key task is to assess the optimal assignment of expenditure functions and revenue sources in South Africa's intergovernmental fiscal system.

The Financial and Fiscal Commission may be consulted by Committees amongst other things to assist them with:

- Feedback and comments on Intergovernmental Fiscal Review (IGFR) reports, its implications on macro-economic and Public Finance Policies.
- Comments on the other years of Medium Term Expenditure Framework (MTEF) and whether the allocations are in keeping with policy, objective targets and instruments of government's overall growth targets and plans.
- Assessments on expenditure performance of government departments against budget projection for IGFR systems.
- Information on Medium Term Budget Policy Statements (MTBPS) with respect to expenditure and revenue policy issues.
- Possible incorporation of FFC comments and assessment into the National Assembly Reports.
- And interaction on MTBPS, MTEF and Budget Policy Review.

5.10 Gross Domestic Product (GDP)

According to Statistics SA, the GDP is the market value of all officially recognized final goods and services produced within a country in a year. GDP per capita is often considered an indicator of a country's standard of living. In general, GDP is a national account that measures the level of production of the South African economy.

GDP can be determined or calculated in three ways, all of which should, in principle, give the same result. They are the production (or output) approach, the income approach, or the expenditure approach. The most direct of the three is the production approach, which sums the outputs of every class of

enterprise to arrive at the total. The expenditure approach works on the principle that all of the product must be bought by somebody, therefore the value of the total product must be equal to people's total expenditures in buying things. The income approach works on the principle that the incomes of the productive factors ("producers," colloquially) must be equal to the value of their product, and determines GDP by finding the sum of all producers' incomes.

According to Statistics SA, the latest nominal GDP at market prices of South Africa in 2013 was R3,4 trillion, which is R246 billion more than in 2012. The most notable performances were finance, real estate and business services that expanded by R54 billion to R652 billion and general government services that expanded by R52 billion to R518 billion.

6. UNIT 3: IN-YEAR FINANCIAL OVERSIGHT

6.1 Month Expenditure Reports (IYMs)

An important aspect of budget monitoring is in-year monitoring. This is undertaken to ensure that Parliament can detect discrepancies in expenditure and service delivery in advance, before the end of the financial year, to facilitate the process of intervention, or finding and implementing solutions to any challenges that may be uncovered.

Legislatures monitor expenditure, specifically through the Committees on Appropriations in both Houses[7], and utilises expenditure figures as provided in monthly (for national departments) and quarterly (for national and provincial departments) National Treasury Statements on National Revenue, Expenditure and Borrowing. These statements are published in terms of Section 32 of the Public Finance Management Act (PFMA) and reported to the Houses on a quarterly basis.

The Section 32 reports are an important resource as they provide an overview of expenditure for all national departments. The information provided by the Section 32 reports is nevertheless limited, as it does not include non-financial (service delivery performance) information. Financial information and analysis of expenditure trends is, however, important for "in-year" monitoring by Parliamentary Committees, especially in respect of monitoring and tracking expenditure. In light of the new extended role of Parliament and provincial Legislatures in the budget process, in terms of the Money Bills Amendment Procedure and Related Matters Act, the importance of this function of Legislatures has grown in importance[8].

7 National Assembly and National Council of Provinces.
8 Act 9 of 2009

6.2 Quarterly Expenditure Reports

The quarterly expenditure reports are published a month after the end of the review period. For example, the first quarter expenditure report, which covers the first quarter of the financial year from April to June, would only be available at the end of July in that financial year to allow time for departments to submit their financial information to National Treasury (which happens within two weeks of the end of the period) and for National Treasury to compile all departmental expenditure and compile a report (within a month of the end of the period). The following Quarterly Expenditure Reports can be expected:

6.2.1 July - First Quarter Expenditure Report

The first quarter expenditure report provides an indication of expenditure from 1st April to 31st March of the financial year. The first quarter analysis must be used to check for any pertinent over/under-expenditure. This will assist with the tracking of overall expenditure trends throughout the financial year. A comparative analysis of the previous year's first quarter expenditure with the current year's first quarter expenditure can be conducted to identify any problematic trends, e.g. consistent under-spending in the first quarter of each year and overspending in the last two quarters.

6.6.2 October - Second Quarter Expenditure Report

The second quarter analysis must be compared to the first quarter expenditure report in order to alert the Committee of any pertinent over/under-expenditure. The second quarter report provides a more accurate picture of the department's expenditure trends due to the fact that it is published mid-year. The Committee can consult with the department if there are any conspicuous expenditure trends, such as when the committee becomes aware that there is a possibility of under-expenditure at the end of the financial year.

6.2.3 January - Third Quarter Expenditure Report

At the end of January, the third quarter expenditure report is published by the National Treasury and posted on the Treasury website.

The third quarter expenditure report reflects the overall expenditure of a Department by the end of the first nine months of the financial year. Committees should be aware of how much their sector department has spent at the end of the third quarter and report any under or over-spending to their Committees. This information will be used to identify incidences of possible fiscal dumping when compared with data from the fourth quarter expenditure report, when tabled. Fiscal dumping refers to the expenditure phenomenon whereby departments under-spend on their budget in the first nine months of the financial year, only to spend a greater proportion (i.e. between 40 to 50 per cent, or more) of their allocated budget in the fourth and final quarter of the financial year.

Committees should also analyse the third quarter expenditure report in relation to the Adjusted Estimates of National Expenditure (AENE) published annually by National Treasury with the Medium Term Budget Policy Statement in October of the previous financial year.[9] Committees should look at the adjustments to their Votes (specifically increased/decreased allocations to any specific programme) and relate it to the third quarter expenditure figures.

For example, if the third quarter expenditure for a programme that received an additional allocation in the mid-year adjustment process is less than the 75 per cent budget norm, it is unlikely that the original allocation and the additional allocation will be spent in full by financial year-end. Incidences of under-spending related to additional allocations or virements, as well as the shifting of funds during the adjustment process, should be noted in reference to third quarter and year-end expenditure outcomes.

6.2.4 April - Fourth Quarter Expenditure Report – Concluding Financial Year

The fourth quarter expenditure report, tabled in April, provides a break-down of expenditure for all four quarters of the foregoing year. This information should be linked to all other information gathered thus far, i.e. update and reinforce the information provided up to the Strategic Plan stage.

The fourth quarter expenditure report should be compared to the third quarter expenditure report to identify incidences of fiscal dumping. Fiscal dumping results from a drive to spend in the fourth quarter, usually to

9 That is, the MTBPS tabled in October 2012 related to the 2012/14 budget, and the MTBPS tabled in October 2013 will relate to the 2014/15 budget.

improve the outlook of the department's overall expenditure performance for the year. As a result, the funds are usually spent on non-priority items that were not originally planned for.

The fourth quarter expenditure report should be compared to the third quarter expenditure report to identify incidences of fiscal dumping. Fiscal dumping results from a drive to spend in the fourth quarter, usually to improve the outlook of the department's overall expenditure performance for the year. As a result, the funds are usually spent on non-priority items that were not originally planned for.

6.3 The Role of Quarterly Performance Reports

When a government is voted into office, an inevitable contract of accountability is entered into between government and the citizens. It is therefore incumbent on government to inform the citizens and legislatures on what it intends to achieve by way of predetermined objectives. These predetermined objectives are reflected in:

- Performance agreements between a Minister/MEC and the head of the department;
- Service delivery improvement programmes;
- Strategic plans;
- Annual performance plans;
- Quarterly performance reports and
- Estimates of expenditure.

It is important for the legislative sector to conduct oversight over the performance reports. Performance information indicates how well an organisation is performing against its aims and objectives. Good performance information helps identify what policies and processes work and why they work. Making the best use of available data and knowledge is critical to improving the performance of government as a whole; and is essential for effective management, including business planning, monitoring and evaluation.

7. UNIT 4: EX-POST FINANCIAL OVERSIGHT

7.1 Annual Reports with audited Annual Financial Statements

Annual reports are the key reporting instruments for departments to report against the performance targets and budgets outlined in their strategic plans, read together with the ENE (for the national sphere) and Budget Statement Two (for the provincial sphere). Annual reports are therefore required to contain information on service delivery, in addition to financial statements and the audit report. It is meant to be a backward-looking document, focusing on performance in the financial year that has just ended. It reports on how the budget for that financial year was implemented.

The annual report with annual financial statements that have been audited by the external audit office, who in South Africa is the Office of the Auditor General, provides parliament with an opportunity to discuss the outcome of the previous year's budget and, if needed, to take follow-up actions. Section 40 of the PFMA states that the accounting officer of a department trading entity or constitutional institution—

- must keep full and proper records of the financial affairs of the department, trading entity or constitutional institution in accordance with any prescribed norms and standards;
- must prepare financial statements for each financial year in accordance with generally recognized accounting practice;
- must submit those financial statements within two months after the end of the financial year to—
    - the Auditor-General for auditing; and
    - the relevant treasury to enable that treasury to prepare consolidated financial statements.

- The annual report and audited financial statements must-
  - fairly present the state of affairs of the department, trading entity or constitutional institution, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year concerned; and
  - include particulars of any material losses through criminal conduct, and any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure, that occurred during the financial year; and
  - any criminal or disciplinary steps taken as a result of such losses, unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure.

7.2 The Role of the Auditor General's Reports

7.2.1 Mandate of the Auditor-General

Chapter 9 of the Constitution of the Republic of South Africa, 1996, establishes the Auditor-General of South Africa as one of the state institutions supporting constitutional democracy. The Constitution recognises the importance and guarantees the independence of the Auditor-General of South Africa (AGSA), stating that the AGSA must be impartial and must exercise its powers and perform its functions without fear, favour or prejudice.

Section 3 of the Public Audit Act, 2004, states that the Auditor-General-

- is the supreme audit institution of the Republic;
- has full legal capacity, is independent and is subject only to the Constitution and the law;
- must be impartial and must exercise the powers and perform the functions of office without fear, favour or prejudice; and
- is accountable to the National Assembly.

The functions of the AGSA are described in section 188 of the Constitution and further regulated in the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA), which mandates the AGSA to perform constitutional and other functions. Constitutional functions are those which the AGSA performs to comply with the broader mandate described in the Constitution. Section 4 of the PAA makes a further distinction between mandatory and discretionary audits.

7.2.2 Classification of audit opinions

The AGSA annually produces audit reports on all government departments, public entities, municipalities and public institutions. Over and above these entity-specific reports, the audit outcomes are analysed in general reports that cover both the Public Finance Management Act (PFMA) and Municipal Finance Management Act (MFMA) cycles. In addition, reports on discretionary audits, performance audits and other special audits are also produced. The AGSA tables reports to the legislature with a direct interest in the audit, namely Parliament, provincial legislatures or municipal councils. These reports are then used in accordance with their own rules and procedures for oversight. The following table outlines the range of opinions used by the external auditors in terms of international standards of auditing and gives an explanation of the different opinions:

Table 7.2.2: Classification of audit opinions

Classification of audit opinions used by the external auditor	
Audit Opinion	**Explanation**
a. Unqualified audit opinion	Good opinion - the financial statements may be regarded as fairly reflecting the financial status of the Department or entity.
b. Unqualified opinion with emphasis of matter	Least severe opinion - the financial statements may be regarded as fairly representing the financial status of the Department or entity, but there are a number of issues that are cause for concern which are raised in the emphasis of matter.
c. Qualified opinion (look for the words "except for")	Severe opinion - when the auditor concludes that the unqualified opinion cannot be expressed, but that the effect of any disagreement with management, or limitation on the scope of the audit is not so material or fundamental as to require an adverse opinion or a disclaimer of opinion.

Classification of audit opinions used by the external auditor	
Audit Opinion	**Explanation**
d. Adverse opinion (look for the words "do not fairly present"	Most severe opinion - expressed when the effect of a disagreement is so material and fundamental to the financial statements that the auditor concludes that a qualification of the report is not adequate to disclose the misleading or incomplete nature of the financial statements.
e. Disclaimer (look for the words "I do not express an opinion)	No opinion expressed (also very severe) - when the auditor concludes that the possible effect of a limitation on the scope of the audit is so material and fundamental that the auditor has not been able to obtain sufficient appropriate audit evidence, and accordingly is unable to express an opinion on the financial statements.

Source: National Treasury, 2013

7.3 The Role of SCOPA Reports

The Standing Committee on Public Accounts (SCOPA) acts as the watchdog over the way taxpayers' money spent by the executive. Every financial year the Auditor General tables reports on the accounts and financial management of the various Government departments and state institutions. Heads of these bodies are regularly called to account by this committee, which can recommend that the National Assembly take corrective actions if necessary. Furthermore, state departments submit audited annual reports that are examined by the relevant committees of the two chambers.

In consideration of annual reports and audited financial statements, SCOPA focuses on the following:

- Issues raised in the General Report of the Auditor-General on Audit Outcomes;
- Issues of financial probity (e.g. fraud), as highlighted in the audit report or disclosed in the management report or in notes to the financial

statements, or that come to the committee's attention in any other way;
- Compliance with the PFMA and associated Treasury Regulations, the Audit Committee and the accounting officer in his or her management report in the annual report, taking into account matters that the Auditor-General may have reported on in this regard;
- The interrogation and evaluation of instances of over-expenditure (relative to appropriations), and other instances of unauthorised expenditures and the authorisation or non-authorisation of these expenditures for purposes of drawing up the Finance Bill, or initiating processes to recover the funds;
- The interrogation of instances relating to irregular and fruitless and wasteful expenditure;
- The functioning of risk management systems, including fraud prevention, financial management systems, personnel management systems (e.g. leave management and disciplinary processes) and other transversal systems in government. The Auditor-General reports on many of these issues in his General Reports. It is also the task of the Audit Committees to report on the state of these systems;
- Supply chain management and procurement, particularly large tenders, large capital projects and Public Private Partnership deals;
- The disposal of significant state assets, and any major financial or related losses suffered by government;
- Corporate governance of departments, public entities and constitutional institutions; and
- The consolidated financial statements of government, and the National Treasury's adherence to its deficit targets.

7.4 The Role of other Portfolio Committees on Annual Reports

Given their involvement in the legislative, budget and in-year monitoring processes, portfolio committees are ideally placed to exercise oversight of the service delivery performance of departments and public entities that fall within the same portfolios. To give effect to this role, portfolio committees should consider the annual reports focussing on:
- The technical quality of the annual reports produced by the department and public entities that fall within its portfolio;
- Whether entities report on each and every performance target specified in their strategic plans and budget (ENE for national government, Budget

Statement Two for provinces);

- The quality of the performance information as highlighted by any audit of performance information which the Auditor-General may perform, or in the light of any other information that comes to the committee's attention;
- The economy, efficiency and effectiveness of service delivery as measured by the performance indicators presented in the annual report, or as measured by the Auditor-General in a performance audit, or by way of other information that comes to the committee's attention;
- The equity of service delivery;
- The implementation of the entity's service delivery improvement programme;
- Evaluating management's explanations as to why the entity's service delivery performance did not attain the targets set in the strategic plans and budgets;
- Investigating the circumstances that led to under- or over-expenditure of the entity's budget, the impact this had on service delivery and the measures taken by management to comply with the *Budget*; and
- Commenting on the Minister's or MEC's evaluation of the accounting officer's performance and the appropriateness of the proposed performance bonus or sanction.

Though portfolio committees will focus primarily on service delivery, they must also consider entities' financial performance. This is to ensure that the portfolio committee develops a holistic understanding of the department or public entity's performance in the exercise of its oversight responsibility.

8. UNIT 5: TOOLS FOR FINANCIAL OVERSIGHT

8.1 Money Bills Amendment Act tools

8.1.1 Money Bills Amendment Procedure and Related Matters Act, 2009

(Act No.9 of 2009) was passed into law on 16 April 2009. The Act aims to provide for a procedure to amend money Bills before Parliament and related matters. In broad terms the Act provides the procedure for Parliament to amend the budget, in which includes the annual Division of Revenue Bill (although the bill is not classified as a money bill in terms of the Constitution), the Annual Appropriation Bill and Adjustments Appropriation Bill. Provision is also made for the procedure to amend other money Bills.

In this respect the Act requires committees of the Assembly to submit annually Budgetary Review and Recommendation Report (BRRR) after the adoption of the adoption of the Appropriation Bill and prior to the adoption of the reports on the Medium Term Budget Policy Statement (MTBPS). The BRRR and the reports on the MTBPS serve as an indication whether amendments might be proposed to the fiscal framework and the budget bills when these are introduced the following year. In fact, when the Minister of Finance introduces the national annual budget, a report to Parliament setting out how the Division of Revenue Bill and the national budget give effect to, or the reasons for not taking into account, the recommendations contained in the BRRR and the reports on the MTBPS.

8.1.2 Recommendation to amend the Medium Term Budget Policy Statement:

In terms of the Money Bills Amendment Procedure and Related Matters Act, committees of the Assembly are required to make recommendations on the Medium Term Budget Policy Statement (MTBPS) as follows:

- At least three months prior to the introduction of the national budget (*approximately end of October each year*), the Minister of Finance is required to submit to Parliament a MTBPS.
- Among other things, the MTPBS must include the ff:
  - A **revised fiscal framework** for the present financial year and the **proposed fiscal framework** for the next three years;
  - An explanation of the **macro-economic and fiscal policy position**, the **macro-economic projections** and the assumptions underpinning the fiscal framework;
  - The **spending priorities** of national government for the next three years;
  - The **proposed division of revenue (DoR)** between the spheres of government and between arms of government within a sphere for the next three years;
  - The proposed substantial adjustments to **conditional grant allocations** to provinces and local government; and
  - A review of **actual spending** by each national department and each provincial government between 1 April and 30 September (1st and 2nd quarterly expenditure reports) of the current fiscal year.
- A House must refer the **revised fiscal framework** for the present financial year and the **proposed fiscal framework** for the next three years, the **macro-economic and fiscal policy position**, the **macro-economic projections** and the assumptions underpinning the fiscal framework to its **Finance Committee**;
- Each **Finance Committee** must submit a report 30 days after the tabling of the MTBPS (*approximately end of November each year*) to the House on the **proposed Fiscal Framework** for the next three fiscal years;
- The **Finance Committee** report may include **recommendations to amend** the proposed Fiscal Framework;
- The **Finance Committee report** on proposed Fiscal Framework must be submitted to the Minister of Finance within 7 days after its adoption by a House;
- A House must refer the **spending priorities** of national government for the next three years, the **proposed DoR** and the proposed substantial adjustments to **conditional grant allocations** to provinces and local

government to its **Appropriations Committee**.

- Each **Appropriations Committee** must submit a **report on the proposed DoR and the conditional grant allocations** 30 days after the tabling of the MTBPS to the House.
- The **Appropriations Committee report** may include **recommendations to amend** the **DoR and the conditional grant allocations**.
- The **Appropriations Committee report** on proposed **DoR and the conditional grant allocations** must be submitted to the Minister of Finance within 7 days after its adoption by a House.

8.1.3 Budgetary Review and Recommendation Reports (BRRR) on National Budget

Prior to introduction of the **national budget**, Parliament through its committees must annually submit BRRRs for each department.

A BRRR:

- Must provide an **assessment** of the **department's service delivery performance** given available resources;
- Must provide an **assessment** of the **effectiveness** and **efficiency** of the departments **use and forward allocation** of available resources; and
- May include recommendations on the **forward use of resources**.
- A BRRR must assess the performance of each department with reference to the following:
    - The medium term **estimates of expenditure** (ENE) of each department, its **strategic priorities** and **measurable objectives**, as tabled in the NA with the budget;
    - Prevailing **strategic plans;**
    - **Section 32 expenditure reports** of the PFMA relating to such a department;
    - The **annual financial statements** (AFS) and **annual report** of such department;
    - The **SCOPA reports** relating to such department; and
    - Any other information requested or presented to a House or Parliament.
- A BRRR must be submitted to the Minister or the member of Cabinet responsible for the budget vote to which the BRRR applies after its adoption by the National Assembly and prior to the adoption of the

reports on the MTBPS.
- Additional BRRR may be submitted at the discretion of a committee.

8.2 The Sector Oversight Model (SOM) tools

The purpose of SOM is to a set a standard for the practice and conduct of oversight in the South African legislative sector. SOM attempts to redefine the concept of oversight by introducing an oversight regime based less on institutional or political confrontation by emphasising that legislatures are a central component in the public service delivery machine. The redefinition rests on the understanding that if the legislatures' oversight role is exercised in pursuit of good government, then the legislatures too bear some responsibility for overall government performance.

SOM recommends the following tools as an approach to conduct oversight:

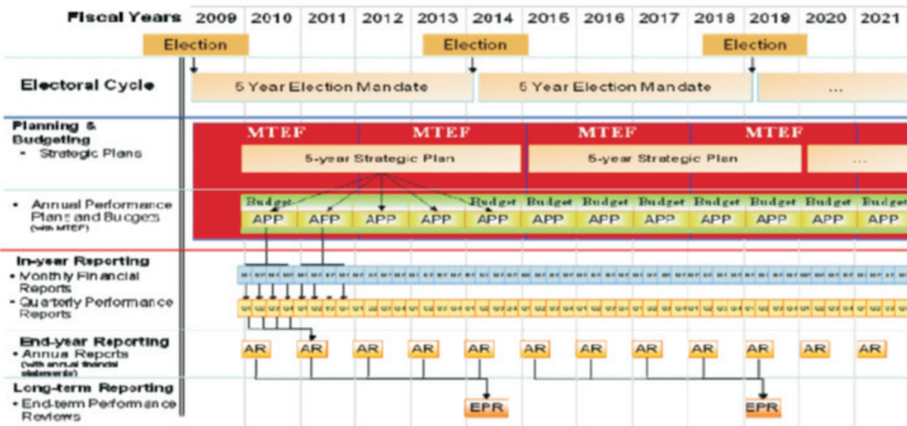
8.2.1 Public Sector Oversight Model (PSOM):

The PSOM itself is not a guide of action. It presents a paradigm or a framework by which oversight is informed by performance evaluation and budget analysis should be conducted. The PSOM states that the government priorities, inputs (or resource allocation) and resulting outputs of a government programme must achieve a desirable equilibrium with the outcomes they produce. The activation of the PSOM requires separate instruments: the Budget Cycle Model (BCM); the Budget Information Matrices (BIMs); and a toolkit of basic performance evaluations and budget analyses. In other words, the PSOM is operationalised on three pillars. The first of these is the Budget Cycle Model, the Budget Information Matrices and the Toolkit.

For example, in a given year, the Department of Police prioritises the reduction of highway hijackings. Reduction of highway hijackings would be the priority. The Department devotes a given number of vehicles and personnel to patrol the highways, which constitutes the input. The number of hours spent patrolling the highways are the output. The reduction in levels of highway hijackings is the desired outcome. The priority, inputs and outputs balance against the outcomes they generate.

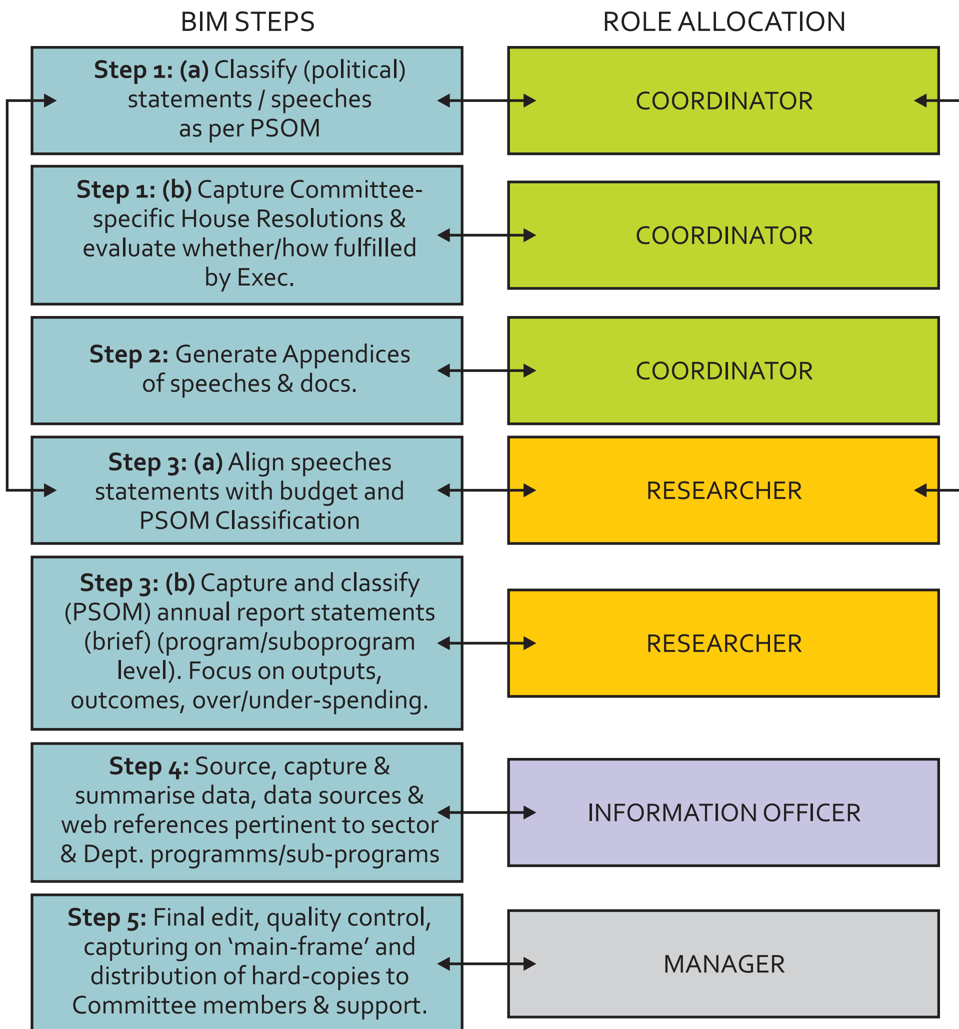
8.2.2 Budget Cycle Model (BCM):

The BCM is founded upon PFMA and defines timelines for reporting by department, of which those reports contribution to the financial oversight function of legislatures. The generic cycle is set out in the PFMA and relevant legislation as follows:



8.2.3 Budget Information Matrices (BIMs):

BIMs are founded upon the principle of consistency of information detailed in departmental reports. The BIMs are the 2nd pillar to operationalise the PSOM. The BIM must be created per committee. While BIMs vary in substance from one committee to the other, they have fundamental categories of information that are utilised when engaging in programme evaluation and budget analysis. To complete BIM, committees are required to follow the approaches:



Source: Sector Oversight Model, 2011

A BIM captures all relevant data about a department's operations (hard and electronic versions) and should serve as an induction manual for new members and staff members supporting a committee.

- A *BIM Excel spreadsheet file* must be created every financial year, which includes:
  - Extracts of the **State of the National Address/ Province Address (SONA)/(SOPA)**.
  - Extracts of the **Budget Speech** by the Minister/MEC of Finance.
  - **Department's Speeches** by the Minister/MEC
  - Department's Budget presentation by the Minister/MEC
  - **Projected Outputs**: Support staff to sift through the presentation document and extract the statements that constitute outputs (***S***). This requires the most rigorous application of the conceptual model's logic and therefore, should be done exclusively by the Researcher.
  - **Annual Reports** – must be captured in the same fashion as the budget presentation documents.
  - **Public Accounts Committee Matrix (SCOPA)** – a SCOPA researcher must develop a matrix for each AG Report per financial year as it will provide extensive information on input planning and implementation or utilisation.
  - **Whitebook formatted Appropriation and Adjustment Bill figures** – for the Department of Finance to supply figures of the Bills in the whitebook format as this is easy to transcribe the numbers into spreadsheets.
  - **Legislation and Policy papers** – the BIM must contain a page that reflects existing legislative and policy frameworks.
  - **Department's statistics** – the statistical and other sources of information that it has used in defining the policy environment must be submitted along with the report it is tabling. This will allow the committee to track the information used by a department
  - **External statistics** – a BIM also demands the independent verification of information. The external stakeholders on the Committee coordinator's list will assist the committee to achieve this through the submission of information on the policy environment they generate for various stages of the BCM.
  - **Policy literature** – the BIM will also contain a list of all relevant journal pieces, books and government publications on issues tackled by a committee.

9. UNIT 6: COMMITTEE STRUCTURES FOR FINANCIAL OVERSIGHT

9.1 Role of Legislatures in the Budget Process

In South Africa, legislative authority is vested in Parliament and provincial legislatures[10], Section 43 (a) (b) and (c) of the Constitution provides for procedures of executing legislative authority between the national, provincial and local sphere of government. The National Assembly has the power to pass, amend or reject it. Parliament presently follows its internal rules when it deals with money bills and in monitoring the activities of the Executive. The Constitution requires the legislative authorities to maintain oversight of the activities of the Executive by providing mechanisms to monitor the Executive.

In addition, the Executive must report to legislatures on its activities at predetermined intervals. The fact that all Organs of State at the national sphere of government are accountable to the Parliament means that:

- Legislatures, through its committees, can call on any Organ of State to appear before it and explain its actions.
- That Organs of State might be required to remedy any wrong-doing resulting from their actions.

9.2 Budgetary Oversight by Committees

The active participation of legislatures in the budget process is vital because the budget is one of the most important economic tool of government that provides a comprehensive account of the nation's priorities together financial resource allocation. Since legislatures are the representative of the

10 Constitution of the Republic of South Africa, Act 108 of 1996

people, it is responsible for ensuring that limited available resources best match the needs of the nation. This process becomes more critical in times where there is a challenge of reprioritisation of resources within and between the spheres of government.

Legislatures operate through various types of committees namely, Select Committees, Portfolio Committees, Standing Committees and Ad hoc Committees. The Finance Committees and Appropriations Committees play a particularly important role in the budget process. Finance Committees form part the oversight and accountability mechanism of legislatures. Reports of these committees are referred by the House, including expenditure reports, Audit reports, Appropriation Bills and Revenue Laws among others. In all committees, the responsibility for all reporting lies with the Chairperson of the Committee or a member of the Committee designated by the Committee.

Committee Reports are essential monitoring tools for legislatures that provide parliamentarians with an opportunity to discuss matters tabled in the House and develop recommendations and/or resolutions on these. Committee Reports are important because they inform Members of Committees about what is happening within their departments, and normally include suggestions of possible future actions for the Committee.

Committees play an important role in oversight. As delegated instruments of the House, they have the ability to deal with detailed reports and can request that members of the Executive and public servants provide them with the necessary information. After review and deliberation of reports, Committees table recommendations in the House.

9.3 Oversight Mechanisms for Accountability

Parliaments and Provincial Legislatures use many mechanisms to fulfil their oversight responsibilities and to implement specific obligations such as those outlined in Section 55 and 114 of the Constitution which state that Parliament and Provincial Legislature must provide for mechanisms[11]:

- To ensure that all National and Provincial Executive organs of State are accountable to them; and
- To maintain oversight of:

11 Constitution of the republic of South Africa (Act 55 and 114 of 1996)

- The exercise of executive authority; and
- Organs of State.

State Institutions Supporting Constitutional Democracy that are tasked with deliberate oversight functions include the Public Protector, the Human Rights Commission and the Auditor-General. Although the oversight role played by these institutions is, to a certain extent, similar to the oversight function allocated to provincial legislatures, their mandates remain more specific and distinct from those of legislatures.

9.4 Parliamentary Committees that Oversee the Budget Process

In addition to Portfolio committees, which oversees budget and service delivery implementation in their sector departments and report on such in their Budgetary Review and Recommendation Reports, the following committees play a key role in the budget process:

9.4.1 The Standing and Select Committees Committee on Finance

The Standing and Select Committees on Finance conduct hearings on macroeconomic and fiscal policy, revenue issues, as well as the Division of Revenue between the three spheres of government. The Standing and Select Committees on Finance consider amendments to the fiscal framework, revised fiscal frameworks, revenue proposals and Bills. The Select and Standing Committees schedule several joint sittings, including joint public hearings, in order to avoid duplication. Other Portfolio Committees also schedule departmental briefings on their respective Budgets.

9.4.2 Committees on Appropriations

The Standing and Select Committees on Appropriation from both Houses were established in terms of Section 4(3) of the Money Bills Amendment Procedure and Related Matters Act. The roles of these committees include considering and reporting on the following areas:

- Spending issues;
- Actual expenditure published by the National Treasury;
- Amendments to the Division of Revenue Bill;

- The Appropriation Bill, Supplementary Appropriations Bills and the Adjustment Appropriations Bill;
- Recommendations of the Financial and Fiscal Commission (FFC) including those referred to Intergovernmental Fiscal Relations Act No. 97, of 1997 (IFR); and
- Amendments to the Division of Revenue Bill, Supplementary Appropriation Bills and Adjusted Appropriation Bill.

Central to the effectiveness of the Appropriations Committees work is the timeous reporting to the respective Houses of national, provincial and local government expenditure trends and follow ups on the implementation of recommendations made by these Committees during oversight.

The Appropriations Committees have to review section 32 reports as published by National Treasury. These reports are used as a tool to scrutinise expenditure trends of national, provincial and local government budgets; and serve to strengthen the oversight function of the Appropriations Committees. It is however important to emphasise that timeous reporting for these Committees is an essential prerequisite of the Committees' function in order for the respective House to adopt these reports on time. In terms of the legislation, section 32 of the Public Finance Management Act requires that the reports be published within 30 days after the end of prescribed period.

9.5 Relationship between Appropriations Committees and other Stakeholders in passing Division of Revenue Bill

Section 9 (1) of the Money Bills Act provides that the Division of Revenue Bill should be referred to the Committees on Appropriations after the adoption of the fiscal framework. Section 9 (7) of the Money Bills Act indicates that the Committees on Appropriations, when dealing with the Division of Revenue Bill, should consult with the Financial and Fiscal Commission (FFC) and also afford the Minister of Finance an opportunity to respond to any further amendment proposed at least 3 days prior to the submission of the report to the relevant House. The process of consulting the FFC is vital in ensuring good governance and soliciting independent inputs.

The Act also requires that the Appropriations Committees ensures that the

report on the division of revenue includes the response of the Minister regarding any proposed amendment. The Act further provides that the Committees on Appropriations should indicate whether the proposed amendments by the three spheres of government are in line with the adopted fiscal framework. Furthermore, the report should motivate in terms of service delivery improvements and also demonstrate that the impact of the amendment has been taken into account in relation to the service delivery obligations of all affected departments.

9.6 Relationship between Appropriations Committees and other stakeholders when passing the Appropriations Bills

Section 10 (1) of the Money Bills Act provides that the Appropriations Bill must be referred to Appropriations Committee of the National Assembly after the adoption of the fiscal framework, while (2) provides that after the Appropriations Bill has been referred to the National Council of Provinces (NCOP), the Bill must be referred to the Committee on Appropriations of the Council. The Appropriations Committees may not consider any amendment to the Bill prior to the adoption of the Division of Revenue Bill because any amendment of the Appropriations Bill must be consistent with the adopted fiscal framework and the Division of Revenue Bill passed by Parliament.

While dealing with the Appropriations Bill section 10 (5) of the Money Bills Act provides that another Committee may advise a Committee on Appropriations that a sub division of a main division within a vote be appropriated conditionally to ensure that the money that is requested for the main division is spent effectively, efficiently and economically. Sub-section 6 of the Money Bills Act also provides that another committee may advise a Committee on Appropriations that the amount must be appropriated specifically and exclusively for a purpose mentioned under a main division within a vote. Sub-section 7 of the Act provides that Parliament must pass with or without amendments or reject the Appropriation Bill within four months after the start of the financial year to which it relates. Finally, sub section 8 of the Money Bills Act of 2009 provides that the standing rules must be adhered to be the Committees on Appropriations. These include:

- To hold hearings on the Appropriations Bill and proposed amendments;
- Report to the House on the comments on and amendments to the

Appropriations Bill;
- Other committees to consult with the Committees on Appropriations in respect of proposed amendments to transfer payments, recurrent and capital payments of a vote or main division within a vote and taking into account any report adopted by the House;
- Other committees to consult with a Committee on Appropriations in respect of proposed conditional appropriations;
- The Committee on Appropriations to mediate between committees which are proposing conflicting amendments to the appropriations Bill; and
- Committees on Appropriations must recommend to the House that proposed amendments which are inconsistent with the adopted fiscal framework and adopted Division of Revenue Bill be rejected.

Public Accounts Committees

In order to exercise oversight over the management and use of public funds, the legislative authority needs:
- Audited Financial Statements from all Departments and public entities that are accountable to them; and
- Reports and recommendations from the Public Accounts Committees to inform their response to the financial management and expenditure of public monies.

Once the audited financial statements of the Departments have been tabled in the relevant legislature, the Speaker of the legislature refers the Department's annual report and audited financial statements (including the Auditor-General's report) to the Public Accounts Committee. Amongst other things, the Committee must consider the following[12]:
- The financial statements of all executive Organs of State and constitutional institutions that are submitted to the legislative authority;
- Any audit reports issued on those statements;
- Any reports issued by the Auditor-General on the affairs of any executive Organ of State, constitutional institution or other public body;
- Any other financial statements or reports referred to the Committee in terms of the Rules. The Public Accounts Committee may report on any of those financial statements or reports to the House, and may also initiate any investigation in its area of competence; and

12 SCOPA Guidelines for accounting officers, ministers and other persons appearing before the Committee, 2003

- Must perform any other functions, tasks or duties assigned to it in terms of the Constitution, legislation, the Rules of Parliaments/legislatures, including functions, tasks and duties concerning parliamentary financial oversight or supervision of executive organs of State, constitutional institutions, or other public bodies.

The Speaker must refer the annual financial statements and reports to the Public Accounts Committee when they are submitted to the legislative authority irrespective of whether they are also referred to another Committee.

In the event of the Auditor-General's report containing a finding of a material problem or irregularity, SCOPA requests the Auditor-General's office to present a report to it. SCOPA may thereafter hold a hearing, and summon the relevant department's Accounting Officer to appear before it. SCOPA may also summon the relevant Minister to appear before it. At such hearings, SCOPA may investigate the relevant matter and call upon the Accounting Officer to:

- Indicate how the relevant department is responding to the problems raised by the Auditor-General; and
- Enquire about the reason why any persistent problems have not been resolved.

The Committee then consolidates its findings in regard to the report received from the Auditor-General and may recommend remedial action that must be ultimately determined by the relevant department. Based on the report, the Committee will report back to the House with its findings and recommendations.

Challenges of the Standing Committee on Public Accounts

The Committee on Public Accounts encounters the following challenges in carrying out its oversight duties:-

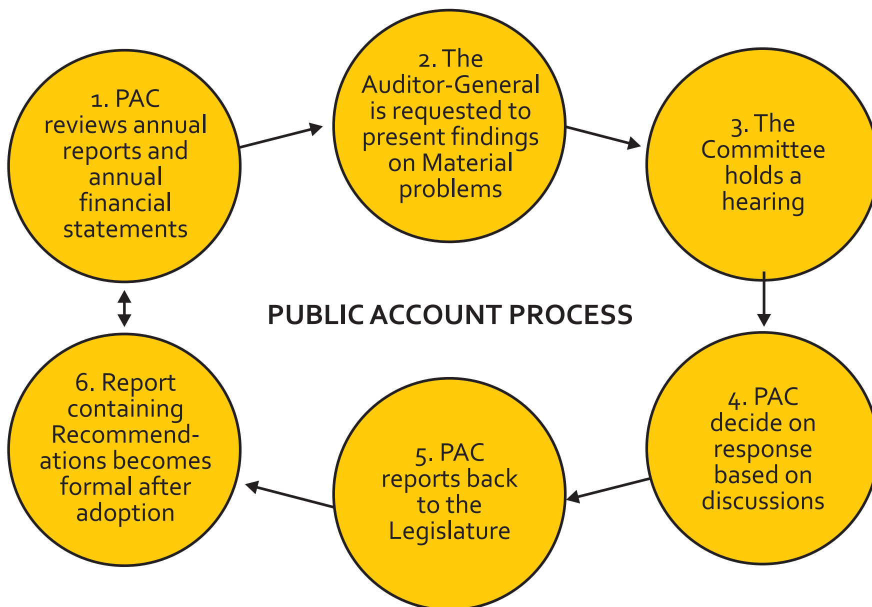
- **Follow-up on resolutions** - The Committee subpoena Departments and entities to answer for misuse of public funds as the Committee is a guardian of the public purse. After holding a hearing with a department, resolutions on what should be done to avoid recurrence of negative audit outcomes are adopted by the House. Upon adoption, the Department or

entity is given 60 days to report on progress of implementation of House resolutions. While some Departments do not respond at all, others do respond however, usually not within the set time frame.

Implementation of resolutions is vital in order to reduce financial mismanagement and to improve the Department's financial management. A close relationship between the Committee on Public Accounts and the Office of the Accountant-General can assist in ensuring that resolutions are implemented by Departments.

- **Insufficient collaboration with Portfolio Committees** - Strong collaboration between the Public Accounts Committee and Portfolio Committees can strengthen oversight by ensuring that issues raised by SCOPA are dealt with by the Department and the respective Portfolio Committee ensures that resolutions are implemented.

Diagram 9.6.1 SCOPA PUBLIC ACCOUNT PROCESS AND STEPS



Municipal Public Accounts Committees

South African municipalities are required to improve financial control and accountability in order to eliminate corruption and financial

mismanagement, which can have detrimental consequences for effective and efficient service delivery to communities. Financial control and responsibility are important considerations in determining the success or failure of local government as these serve as important building blocks for a democratic dispensation relying on effective and efficient municipal government and administration.

The role of municipalities in deepening democracy is clearly defined in the Constitution, whilst the requirements of municipalities to promote good governance and their oversight functions are less clearly defined. This lack of constitutional clarity on matters of good governance and oversight provides municipalities an opportunity to establish their own governance structures individually, and as effectively as they can. As is the case with provincial and national government, oversight committees play a pivotal role in this regard; their ability to summon and investigate inefficiencies emanating from poor governance structures within departments is a model that can be implemented across the three spheres of government.

In enhancing the provisions of intergovernmental relations, national and provincial public accounts committees are expected to focus primarily on the oversight of government in their sphere. Thus the national Public Accounts Committee should focus primarily on national government and national statutory bodies, while the provincial Public Accounts Committees focuses primarily on provincial government and provincial bodies.

The Cabinet member responsible for local government must report annually to legislatures on the actions taken by MECs for local government to address issues raised by the Auditor General in audit reports and on municipal financial statements, as per section 134 of the MFMA[13].

The implementation of Municipal Public Accounts Committees is a positive development at the local government sphere to enforce accountability at the local government sphere. A Municipal Public Accounts Committee is a committee of the municipal council that is appointed by the council to investigate financial issues and to report to the council. The effective and efficient enforcement of financial control measures can ameliorate the occurrence of corruption and financial mismanagement at municipalities. This could serve as a guarantee for excellent municipal financial

13 Impact of the MFMA on the oversight and accountability process

management and can add to the public opinion and interest in the municipality – which is the fundamental objectives of a democratic local government and management.

Establishment of Municipal Public Accounts Committees was necessitated by the Municipal Structures Act, Municipal Systems Act, the Public Finance Management Act and the Municipal Finance Management Act[14]. The current local government legislation however, particularly the MFMA as it relates to financial management at local government level, does not explicitly provide for the establishment of Municipal Public Accounts Committees. Section 129 (4) (b) of the MFMA nevertheless provides for the National Treasury to issue guidelines on the functioning and composition of any public accounts or oversight committees established by the council to assist it to consider annual reports. Where established, the Municipal Public Accounts Committees would more or less perform the same functions as that of the National and Provincial Public Accounts committees in the case of national and provincial departments.

All Public Accounts Committees have a general mandate of enhancing financial management standards of public sector institutions, and Municipal Public Accounts Committees' scope of operation is fairly sizeable because they oversee a reasonably sized pool of entities. Their role includes considering issues of in-year monitoring in order to enhance their level of acquaintance with financial management issues relevant to their respective municipalities. Municipal Public Accounts Committee members deal with municipal annual reports at the tail-end after the reports have gone through council, executive management, internal auditing and external auditing.

14 Mahlangu Q (2008)

10. ANNEXURE 1

PROGRAM EVALUATION AND BUDGET ANALYSIS: TEST YOUR KNOWLEDGE

Statement	True	False
1. When a Department delivers all its set outputs despite using less resources (inputs), this is a sign of effectiveness		
2. When a Department delivers all its set outputs as per its targets, this is a sign of efficiency		
3. According to the PFMA, an outcome is the amount of money a Department has spent		
4. A prosperous, safe and secure community is an example of an output		
5. A priority is what a Department sets out to address through its service delivery program		
6. The various phases of the budget cycle and PSOM variables are theoretically unrelated		
7. Program evaluation is concerned with Departmental effectiveness		
8. Budget analysis is concerned with Departmental efficiency		

Source: Sector Oversight Model, 2011

11. ANNEXURE 2

BRRR on Department of Water Affairs

DEPARTMENT OF WATER AFFAIRS
1ST DRAFT RESOLUTION
2009/10

1. Introduction

The Standing Committee on Public Accounts (SCOPA) heard evidence on and considered the content of the Annual Report and the Report of the Auditor-General (AG) on the 2009/10 financial statements of the Department of Water Affairs, the Water Trading Entity and the Special Investigations Report of the AG. The Committee noted the qualified audit opinion, highlighted areas which required the urgent attention of the Accounting Officer, and reports as follows:

2. Immovable assets

The Auditor-General identified that:

The existence and completeness of immovable tangible assets stated at R33 499 000 (2009: R5 043 122 000) as disclosed in note 32 to the financial statements could not be verified.

The Committee recommends that the Accounting Officer ensures that:

a) The Department maintains an asset register for each category of assets as required by the Department Financial Reporting Framework Guide.

b) The assets on these registers be verified and correspond to financial records of the Department regularly.

3. Movable Assets

The Auditor-General identified the following:

a) The closing balance for all movable tangible capital assets of R90 724 000 as disclosed in note 30 to the financial statements, does not correspond to the balance of R48 257 427 per the asset register.

b) The Department did not provide sufficient and appropriate evidence to explain the difference between the disclosure note and the underlying asset register of R42 895 573.

c) The Department's record did not perform the application of alternative procedures to verify the existence and completeness of moveable assets.

The Committee recommends that the Accounting Officer ensures that:

a) The asset register is reconciled frequently to the financial records in order to identify and correct any discrepancies.

b) All officials who record transactions are provided training on the use of Standard Charts of Accounts (SCOA) codes.

4. Goods and services

The Auditor-General identified the following:

a) The additions for movable tangible assets of R33 800 000 as disclosed in note 30, to the financial statements does not correspond to the additions of R16 160 794 in the asset register.

b) The difference is a result of misclassification of expenditure on goods and services as capital expenditure.

c) The Department did not reconcile the difference.

d) The effect of the misclassification on the tangible assets balance and on the goods and services amount contained in the financial statements could not be determined.

The Committee recommends that the Accounting Officer ensures that:

a) The asset register is reconciled frequently to the financial records in order to identify and correct any discrepancies.

b) All officials who record transactions are provided training on the use of (SCOA) codes.

Water Trading Entity
Suspense

The Auditor-General identified the following:

a) Treasury Regulation 17.1.2 requires the source of the transactions in a clearing account to be readily identifiable, as well as monthly reconciliations to confirm the balance of the account. This information could not be provided for the transactions in the clearing account disclosed as part of the unallocated receipts note 10.2 to the financial statements.
b) The transactions that have been journalised out of this clearing account could not be supported by adequate supporting documentation.
c) The entity's records did not permit the application of alternative audit procedures regarding the clearing account.
d) Sufficient appropriate audit evidence to satisfy existence, obligations, completeness, valuation and allocation of the clearing account could not be obtained.

The Committee recommends that the Accounting Officer ensures that:

a) The CFO, Finance Director and Revenue Directors closely monitor the exercise of clearing of suspense accounts by designing and implementing action plans to ensure that these accounts have insignificant balances at year end.
b) Design adequate policies and procedures for the clearing of suspense accounts.
c) Adequate review of suspense accounts is performed timeously.

5. Water related services revenue

The Auditor-General identified the following:

a) An amount of R231 791 894 relating to "return to sender" invoices was excluded from water related services revenue.
b) The South African (SA) Statement of Generally Accepted Accounting Practise (GAAP), International Accounting Standards (IAS) 18

(AC111), Revenue requires that revenue should be recorded when it is probable that economic benefit will flow to the entity.

c) There was an inadequate system of control to assess the probability of recording these amounts as revenue which is reliable for audit purposes.

d) Audit evidence to support the completeness of water related services revenue of R1 643 715 as disclosed in the statement of comprehensive income could not be obtained sufficiently.

The Committee recommends that the Accounting Officer ensures that:

a) Adequate evidence exists to conclude that it is not probable that economic benefits will flow into the entity for a specific invoice.

b) Revenue recorded is complete.

c) The Entity complies with IAS 18

6. Unrecorded liabilities

The Auditor-General identified the following:

a) There was no system of control over the recording of outstanding invoices at year-end.

b) There were no satisfactory audit procedures to obtain reasonable assurance that all outstanding invoices have been accrued or provided for.

c) The completeness of the accrual liability in the annual financial statements could not be concluded.

The Committee recommends that the Accounting Officer ensures that:

a) Adequate cut-off procedures to guarantee that all transactions for the current year are recorded in the annual financial statements.

b) Adequate creditor reconciliations for all significant creditors at 31 March to ensure all outstanding liabilities have been recorded in the annual financial statements.

7. Accounts Receivable

The Auditor-General identified the following:

a) The completeness, existence and valuation of water user debtors as disclosed in note 10.1 to the financial statements could not be

verified.

b) A limited amount if debtors confirmed their balances and the alternative audit procedure did not render satisfactory results

c) Reasonable assurance that debtors balance exists and are disclosed at the correct value in the annual financial statements

d) The completeness of the trade debtors due to the limitation in the completeness of the water related services revenue could not be concluded.

The Committee recommends that the Accounting Officer ensures that:

The monthly debtors reconciliations are prepared and reviewed through regular monitoring to ensure that the debtors balances at year-end are correct.

8. Irregular expenditure

The Auditor-General identified that:

As disclosed in note 27 to the financial statements, irregular expenditure to the amount of R6 907 000 was incurred, as proper tender processes had not been followed.

The Committee recommends that the Accounting Officer ensures that:

a) The Entity has an updated Supply Chain Management Policy encompassing all the elements of the PFMA, the Treasury Regulations, the Preferential Procurement Framework Act, the Preferential Procurement Regulations, and Supply Chain Management practice notes issued by the National Treasury that will ensure an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost effective.

b) Appropriate disciplinary measures are taken against employees who were responsible for incurring irregular expenditure in terms of section 38(1)(h)(iii) of the Public Finance Management Act (No.1 of 1999) (PFMA).

c) The Department implements effective, efficient and transparent financial and risk management processes.

d) The Department strengthens its internal control systems in order to avoid incurring further irregular expenditure.

9. Restatement of corresponding figures

The Auditor-General identified that:

As disclosed in note 23 to the financial statements, the corresponding figures for the year ended 31 March 2009 have been restated as a result of errors discovered during the year ended 31 March 2010 in the financial statements of WTE at, and for the year ended, 31 March 2009.

The Committee recommends that the Accounting Officer ensures the following:

a) The financial statements and other information included in the annual report are checked and reviewed for completeness and accuracy prior to audit.

b) All amendments to financial statements and information are effected before the annual audit commences.

10. Material losses through write-off of debtor balances and impairment of infrastructural assets

The Auditor-General identified the following:

a) As disclosed in note 7 to the financial statements, impairment of infrastructure assets of R446 533 000 occurred as a result of assets not being able to functionally perform as contemplated when they were initially designed, mainly because of limited utilisation and loss of functionality due to siltation.

b) As disclosed in note 10.1 to the financial statements, R115 197 000 of long outstanding debt has been written off due to management's assessment that the recoverability of these amounts is slim.

The Committee recommends that the Accounting Officer ensures that:

a) Infrastructure assets are serviced and maintained by approved service providers on a regular basis to prevent further impairment of infrastructure assets.

b) Effective and appropriate steps are taken timeously to collect all money due to the entity including maintenance of proper accounts and records of all debtors as required by Treasury Regulations 11.2.1(a).

c) Monthly debtor's reconciliations are prepared and reviewed on a regular basis.

d) There is continuous monitoring of debtors accounts to guarantee that account balances at year-end are correct.

11. Special Investigation Report

The Auditor-General reported on the under-mentioned investigations and identified the following:

Supply Chain Management (SCM)

As required by section 38 (1)(a)(iii) of the Public Finance Management Act (PFMA), Act No 1 of 1999, a Procurement User manual exists at the Department of Water Affairs (DWA). Instances were identified where officials of the DWA did not always appropriately adhere to the DWA Procurement User manual and the procurement directives issued by the National Treasury. The PFMA stipulates that, where procurement prescripts are contravened, the expenditure incurred should be regarded as irregular expenditure. The irregular expenditure can be condoned ex post facto. The appointments of the service providers are mentioned below:-

Extension of contract with Arivia.kom

- According to the DWA Procurement manual, contract periods may only be extended for a maximum period of a year. The DWA Delegation of Authority indicates that the original contract value may not be increased by more than 50%.
- According to a unsigned contract, the DWA entered into a contract with Arivia.kom for a period of 36 months ending 28 February 2006 for an amount of R180 million. According to the above regulations, the contract could only be extended until 28 February 2007 for an amount of not more than R90 million (50% of the original value).
- The contract was extended by 49 months and the original value was increased from R180 million to R1,056 billion (587% instead of 50%).
- The former Director-General (DG) approved the extension 01 March 2009 to 30 November 2009 (9 months) for an amount of R344 million in contravention with the DWA Procurement User Manual and DWA Delegation of Authority.

- The suspended acting DG approved a further extension of the contract for the period 01 December 2009 to 31 March 2010 for an amount of R80 million in contravention with the DWA Procurement User Manual and DWA Delegation of Authority.
- Although AGSA reported in May 2010 that the contract was extended in contravention with DWA Procurement User Manual and DWA Delegation of Authority and constitutes irregular expenditure, the contract has not been cancelled.

Appointment of Solexperts AG

- The chairperson of the departmental adjudication committee (DBAC) approved the request to approach a sole provider on 31 October 2008 and the appointment of Solexperts AG as the sole provider for the upgrading of the Trivec Surveillance System on 15 December 2008.
- No significant deviations were identified except that DWA could not provide the contract with Solexperts AG.

Appointment of Dr Olver

- The DWA paid Dr Olver an amount of R289 902 before a contract was signed. The former DG approved the appointment but did not disclose in the DWA annual report 2008/9.
- The former DG and Dr Olver were co-directors in strategic partners in Tourism and Nehanda Group therefore a personal relationship existed.
- No evidence could be found that the former DG excused herself from the appointment of Dr Olver.

Appointment of PISM

- The DWA requested PISM to submit a proposal without following a bidding process. Reasons for not inviting competitive bids were not recorded as required according to DWA Procurement User Manual.
- Although a bidding process was not followed, the DBAC rectified and approved the appointment of PISM on 23 June 2008.
- The proposal submitted by PISM was for an amount of R3 890 740 (VAT inclusive), however the contract was signed for an amount of R4 356 932 (VAT inclusive) and PISM was paid an amount of R4 115 378 (VAT inclusive).

Appointment of Duma Travel, Connex Travel and Sure Flywell Travel for the rendering of travel reservation services

- An open bidding process was followed. The BEC recommended that Travel with Flair should be appointed as the other bids did not comply with the bid specifications.
- The former DG did not agree with the composition of BEC and ordered the proposals to be re-evaluated by a different BEC established by her.
- The second BEC appointed Duma Travel, Connex Travel and Sure Flywell Travel. The service providers did not comply with Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000).
- The former DG approved the appointment of Duma Travel, Connex Travel and Sure Flywell Travel for an amount of R120 million for a period of 24 months on 1 December 2008.

The Committee recommends that the Accounting Officer ensures that:

a) Appropriate corrective action be taken against officials of the DWA for approving the extension of the contract on various occasion in contravention of DWA Procurement User Manual and the DWA delegation of Authority.

b) Contract period extensions, where appropriate, should be finalized well in advance before the contract expires and should be approved properly by the DBAC and the DG.

c) The total amount paid to the service provider for the period when the contract was extended in contravention of the DWA Procurement User manual and DWA Delegation of Authority should be reported as irregular expenditure in terms of the requirements of the PFMA.

d) The DWA should consider taking appropriate corrective action against officials of the DWA for contraventions of the Treasury Regulations (TR) and the practice notes issued by the National Treasury.

e) As SCM prescripts have been contravened in the appointment of the service providers, all payments made to the service providers amounting to R85, 6 million should be regarded as irregular expenditure and reported in accordance with the stipulations of the PFMA.

f) The DBAC is composed of functional teams comprising of senior officials, of which one must be a SCM practitioner.

12. CONCLUSION

The Committee notes that the AGSA concluded following a Special Investigation that massive irregular expenditure had been incurred in both contracts and procurement practices in the DWA, and further that these irregularities are alleged to have involved officials at the highest level of the administration of the DWA. The Committee urges the Minister to apply whatever corrective measures that are necessary to recover all and any monies found to have been irregular expended.

The Committee further recommends that the Executive Authority submit a progress report on the implementation of the above recommendations to the Parliament within 60 days after the adoption of this report by the House.

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