

AUDIT PERSPECTIVES

Preventative controls and the amended Public Audit Act



The Public Audit Act amendments – a case for strong preventative controls by all public sector leaders.

By Kimi Makwetu

In the most recent times, South Africans have been numbed by the sheer staggering numbers of wasteful, fruitless, unauthorised and irregular expenditure. In common definition, this is the type of expenditure that should not be tolerated by citizens whatever technical justifications are attached to their occurrence. The very existence of such expenditure suggests that those that persistently incur it, are not bothered for as long as there is no accountability or consequences.

Over the years, auditors-general in our country have reported these matters together with very negative audit outcomes. This indicates that people entrusted with public money do not always carry this task with the level of care required by the country's constitution. It is not about whether there is such a thing as 'a clean audit' or 'it does not necessarily mean money was lost' or there was corruption; when lame defences are mounted against

irregular expenditure. It means accountability and due care in managing public resources are not part of the overall objective.

As a consequence, we have been exposed to many projects that are abandoned midstream. Suppliers are being paid far more than what they were initially engaged for. Extensions and variations on contracts without following prescribed regulations are prevalent and pervasive. There is a widespread lack of proper and verifiable documentation to substantiate commitments and transactions entered into. These are cumulative observations and negative findings over a decade and a half.

The worst has been a lack of due care in managing finances. These weaknesses are common across all spheres and have found particular pride of place in local government. It is shocking that people without the requisite skills and competencies are charged with handling citizens' finances. This shows utter disrespect to both taxpayers as well as non-taxpaying citizens – all of whom are often on the receiving end of services that never come or are shoddily delivered and not even worth the paper they are written on.

These finance weaknesses will often find expression in the books of the institution not being constantly and regularly checked and balanced. The people entrusted with this task do not feel guilty when they cannot explain certain transactions when auditors make enquiries. In certain cases, external consultants engaged to prepare the books and financial statements are asked to explain

these transactions to the auditors. How do you do this when the consultant is clearly not accountable for anything they will say? Let alone that they themselves were not favoured with supporting documents to explain certain adjustments they process through the accounts – a local government nightmare! It is not uncommon for documentation supporting a transaction being unavailable; again without any consequences when this becomes the new normal.

The many laws that govern public finances in South Africa are all clear as to the responsibilities of those charged with the administration and superintendence of these finances. They even stretch to the extent of prescribing certain sanctions should deviant behaviour persist. The leadership outside the administrative functions are assigned the most significant role, with a clear bias towards preventing and correcting wrongdoing and the flagrant disregard of financial management disciplines.

In addition to the above, the work of the auditor-general has always cautioned against the devastating impact this is having on accountability – one of the key tenets of our constitution – and the achievement of planned objectives, including delivering various services to citizens and much-needed infrastructure to the economy in general.

When the matter of the persistent disregard of our audit findings and recommendations was stared in the eye after some 15 years of 'singing a sweet song like an owl sitting on an oak tree', the amendment of the Public Audit

Act became the only plausible option left on the table. This step was preceded by many years of initiatives by the audit office – from door-to-door campaigns at all municipalities between 2009 and 2012 to regular briefings of all ministers, accounting officers, members of parliament, premiers, members of executive councils, municipal councils, audit committees, accounting authorities and various other bodies across the country. Key messages continue to advocate good financial management control and governance to promote transparency and accountability by those looking after other people's money. At this point impunity was beginning to take centre stage as evidenced through the audit outcomes. Impunity cannot coexist with accountability.

The intervention of the Public Audit Act amendments seeks to achieve what is traditionally the role of those charged with oversight if this task is carried out with due care, diligence and professional competence. In addition, the public purse is hugely exposed not only to those that handle the decisions and actions that trigger the flow of money from one party to another but also to those outside these public institutions once they detect that the preventative controls are not at a level designed to protect this money.

Auditors by the very nature of their work perform tests on transactions after the money has been spent or received as well as after assets have been generated or obligations entered into with third parties. The actions often sought by auditors take place after money

has exchanged hands. It is most difficult to recover such monies in an environment where everybody exercises their rights – the 'I'll take you to court to protect my rights' kind of refrain. The experience is that the audited institution often spends additional money before they can even entertain the prospect of recovering that which had been lost.

What are these additional powers of the auditor-general?

The auditor-general is still mandated to inspect and report on the books of account of all institutions that are publicly funded. Put simply, all the institutions and entities that were allocated money by Minister Tito Mboweni must be subjected to a level of scrutiny by the auditor-general to determine, through the audit report, whether this money (R1,9 trillion; in other words, 12 zeros before the comma!) was spent, managed, accounted for and reported in accordance with the financial laws of the country. Once a report is issued, the leaders are required to attend to the matters raised in the report as they are often those matters that create leakages of this money.

When all of this proved too slow to react to or was completely disregarded, the auditor-general agreed with its oversight committee in parliament to amend the Public Audit Act. Firstly, these amendments introduced the concept of a material irregularity in the audit of the financial statements of any entity that is subject to an audit by the auditor-general. This means that whenever the auditor-general performs an

audit, the staff on the audit must satisfy themselves, through various tests of transactions, account balances and systems of control, that there has been no non-compliance or contravention of a financial statute; that the entity is not exposed to situations of fraud which could result in a financial loss or the loss of a public asset; or that the entity is not deprived of providing certain services due to the financial losses incurred.

Should the audit team identify a material irregularity, the auditor-general must report this matter to the accounting officer, requesting the latter to explain the transaction and provide any documentation that may be sought to explain the transaction. If a financial loss has been incurred, the auditors are required to source from the accounting officer steps that will be taken to recover the loss; or if the loss is continuing, steps to be taken to stop the continuing loss. In certain instances, the accounting officer will be required to quantify the extent of the financial loss should the auditors decide that there is indeed a material irregularity. The accounting officer is given up to 20 working days to deal with all of these matters during the course of the audit by responding in writing to the auditor-general.

The auditor-general is empowered, once a material irregularity has been identified or is suspected, to:

a) refer any suspected material irregularity identified during an audit performed under the Public Audit Act to a relevant public body for investigation, and the relevant public body must keep the auditor-general informed of the progress and the final outcome of the investigation

b) take any appropriate remedial action

c) issue a certificate of debt, as prescribed, where an accounting officer or accounting authority has failed to comply with remedial action.

These are clearly onerous responsibilities added to the already tough and contested terrain that is the mandate of the audit office. There are immediate and medium term steps that can be prioritised to operate alongside these powers if the objective were to be achieved.

If the whole of government invests in activating preventative controls across the key areas of accountability, it will not be necessary to activate the new powers. Obviously, preventative controls discourage the emergence of material irregularities. If properly designed and implemented, such controls will detect most material irregularities that could

result in a financial loss. These controls are proactive and are an eloquent expression of the key guards being at their posts at all times. This is relatively cheaper than relying on investigations that will be triggered after money has changed hands in ways that are not credible or transparent. Preventative controls promote transparency, strengthen accountability, and are predictable with known expected outcomes. In essence, preventative controls are an invincible fortress against all possible abuses of the public purse.

Once these are in place and are diligently pursued, there will be more resources available to do most of the things that citizens aspire to or government allocates money to. In order for a regime of preventative controls to see the light of day, a strong tone at the top and an ethical culture must be the concrete foundation on which such a discipline is built. This

requirement is no different than what should be in place if the amended powers of the auditor-general are to have a lasting effect. Where preventative controls are implemented with diligence, they become a natural source of consequences. So there will be no need to debate so-called 'consequence management' – consequences will simply be part of the outcome. Strong preventative controls create tension especially when consequences are part of the deal. It is these positive and progressive tensions that must be embraced as they make preventative controls work for the entire value chain.

Should these new powers be interpreted as a constructive contribution to revitalising the concept of accountability, a strong foundation for proper financial management and related service delivery will emerge.

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