Compliance with regulations and laws in government will fulfil the aspirations of citizens

In the relentless drive to improve the governance environment within the public sector, and reach the goal of clean audits by 2016, the public sector as a whole has adopted a zero-tolerance approach to non-compliance with regulations and laws. Such a proactive stance would go a long way in bolstering public confidence in our growing democracy.

Public confidence in government is paramount and can only be strengthened if leaders and officials within the public sector carry out their duties legally, efficiently, coherently, and mystically. In accordance with the set rules and regulations.

Any given nation is faced with a myriad of challenges and therefore adheres to laws and regulations at addressing some of these challenges. Our country is no unique and has its own share of obstacles. This include the plaguing realities of poverty, unemployment, health, etc., the list is endless.

Auditing of compliance with laws and regulations by the AGSA

As the Auditor-General of South Africa (AGSA) we are charged with monitoring compliance with these laws and regulations through the auditing of the public sector, but in the end, the issue to prevent and detect non-compliance rests on the leadership within government departments.

Our work as the AGSA is dictated by the Public Audit Act, 2004 (Act No. 25 of 2004) (PAA) which requires us to annually audit the public sector’s compliance with existing laws and regulations. Within this framework, we as the AGSA have the responsibility to determine the scope of these audits and what standards apply while taking into account recognised best practices.

While the AGSA is only the entity that audits compli- ance in government, there are other role players that have the responsibility for implementing these laws through the internal audit units of departments and municipalities, audit committees, compliance officers and various national departments and entities, especially those who have a coordinating role within government, namely the Treasury and the Depart- ment of Cooperative Governance and Traditional Affairs (COGTA) to name but a few.

The AGSA’s ultimate vision with this type of auditing is to be able to express an audit opinion on compli- ance with laws and regulations, as we do on financial information. It is for this reason we have in the past couple of years drastically increased our scope of audit and enhanced our methodology.

All this is to ensure that overall accountability is improved and that the vital socio-economic objec- tives that have been set for ourselves as a developing nation are not undermined.

Our focus and criteria areas are determined per audit cycle based on public interest and services provided, it includes areas where there is a high risk of non-compliance, or those that are the subject of significant legislative focus.

Areas where non-compliance affects reported financial and performance information are also given attention.

Some criteria tests that are part of the focus areas include:

- Adherence to reporting requirements as prescribed in the financial management acts (PFMA and MMFA) as well as the Treasury Regulations: This is required in order to minimise material misstatements in the financial and service delivery information as contained in the financial statements.
- Adherence to supply chain management provisions in procurement and services. Examples of non-compliance in this area include unfair tender processes and government employees or their relatives conducting business with government, amongst others.
- Prevention and detection of irregular, unauthorised and wasteful expenditure.
- Human resource planning and appointment of officials.
- Whether mobile offices for special projects, e.g. learner transport at schools or the building of schools, is used for the purpose for which is intended.
- Late payment of service providers. Legislation prescribes the payment of service providers within a 30-day period.

Any findings on non-compliance and its root causes are reported to the management of the respective entities and to those charged with governance and accountability.

The AGSA also adds further value to this process by making recommendations on how to remedy the situation, prevent it from happening, and ensure such an event does not happen in the future.

As indicated in my previous column on these engage- ments, the objective here is to proactively notify the leadership of any and obtain their commitment in ensuring the consistent implementation of controls.

Until we get to the stage where we will be giving an audit opinion on compliance with laws and regulations, our current approach is to report only on mate- rial instances of non-compliance in the audit report which is published in the annual report of the Auditor General.

To give an illustration of the extent of findings on the lack of compliance and accountability in the MFMA) in the 2010-11 financial year, material instances of non-compliance were reported for 67% of depart- ments and public entities. They were not thus able to obtain a clean audit opinion partly because of non- compliant behaviour. Instances of instances of non- compliance show the figure is significantly higher at local government level. There is a direct relationship between service delivery, compliance with laws and regulations and the status of financial management in the public sector.

Compliance with laws and regulations can be improved

Leadership and oversight structures can play a significant role in improving government’s compliance with the laws and regulations. Such focused attention can contribute to the advancement of the accountability of the public sector and will ensure that everyone is accountable within the boundaries of rule set by legislation.

Leadership must therefore set the tone for officials to acknowledge that there is a difference between a rule of thumb and a rule, and that there is a duty of care to ensure and control by means of specific measures.

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