



**REPORT ON THE CONSOLIDATED FINANCIAL STATEMENTS OF THE GOVERNMENT
OF LESOTHO FOR THE THREE YEARS 2013/14; 2014/15 AND 2015/16 AND OTHER
INCIDENTAL FINDINGS.**

**PRESENTED
BY THE
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ACRONYMS

CAO- Chief Accounting Officer

GOL- Government of Lesotho

LCE – Lesotho College of Education

LP– Lerotholi Polytechnic

MoET– Ministry of Education and Training

MoGYSR – Ministry of Gender and Youth, Sport and Recreation

MoH– Ministry of Health

MoSD– Ministry of Social Development

NUL – National University of Lesotho

PAC– Public Accounts Committee

MoF-Ministry of Finance

IFMIS- Integrated Financial Management Information System

GOLFIS-Government of Lesotho Financial Information System

NMDS-National Manpower Development Secretariat

OAG-Office of the Auditor General

AG- Auditor General

TSD- Teaching Service Department

DCEO- Directorate on Corruption and Economic Offences

LMPS- Lesotho Mounted Police Service

NSS- National Security Service

FY- Financial year

PREFACE

The Public Accounts Committee of the tenth Parliament of Lesotho is composed of eleven (11) Members of Parliament under the stewardship of Hon. Selibe Mochoboroane. Full names of the Members of the Committee are attached as annexure 1 at the end of the report. The Committee was indeed blessed with commendable members for their unwavering dedication to the scrutiny and oversight work of the Committee.

The Committee is also supported by technical support staff from the Lesotho Mounted Police Service, Directorate on Corruption and Economic Offences, Office of the Auditor General, Office of the Accountant General and two Committee Clerks whose immeasurable support cannot be overlooked.

EXECUTIVE SUMMARY

The Public Accounts Committee (PAC) is a sessional Committee of the Parliament of Lesotho which may be established under Standing Order No.97(5), which reads as thus, The Committee shall consider the financial statements and accounts of all Government Ministries and Departments, Executive organs of State, Courts, Authorities and Commissions established by the Constitution and of each one of the two Houses of Parliament; consider any audit reports issued on the financial statements, accounts or reports referred to the Committee by the House, the Speaker or these Standing Orders.

The Public Accounts Committee may report on any of the financial statements, accounts, or reports considered by it to this House; or initiate any investigation in its area of competence. The Committee shall perform any other duty assigned to it in terms of the Constitution, these Standing Orders, any other legislation, or by the House including those concerning Parliamentary financial oversight or supervision of Government ministries and departments, courts, authorities and commissions established by the Constitution and of each one of the two Houses of Parliament. The powers of Portfolio Committees as set out in Standing Order No. 95 (Powers and Functions of Portfolio Committee) shall be applicable to the Public Accounts Committee.

The PAC may also be established under the Public Accounts Committee Order 19(2) (1) of 1972. In this Order the Committee's mandate is further elaborated as follows, "In its examination of accounts, the Committee will, inter alia, satisfy itself that there is adequate control over the collection of revenue and that moneys voted have been applied only for purposes intended and enquire into such cases of unauthorized excesses on heads and subheads of expenditure as it deems necessary, and investigate cases of wastage or extravagance brought to its notice by the auditor General or in the course of its deliberations.

In accordance with Section 117 (4) of the Constitution of Lesotho and Section 6 (1) of the Audit Act 1973, the Auditor General submitted Consolidated Financial Statements of the Government of Lesotho for the financial years 2013/14, 2014/15 and 2015/16. The Committee decided to consider the three of them at the same time.

What is reflected in these three reports shows that there is nearly no difference in terms of improvement on the management of public funds for almost a decade. The same issues raised by the Auditor General since 2008/09 keep recurring. The Office of the Auditor General has always been pointing out that there are always significant accounting errors and omissions as well as fundamental disagreements and uncertainties on the accounts that lead to qualification of the accounts since then. The qualification or basis for adverse opinion for the three years under review was brought by, among other things, by the following major issues:

- Supplementary Estimates for these years were not submitted to Parliament for approval;

- Advances from the Contingencies Fund were directly and irregularly allocated to Heads of Expenditure. That expenditure remained unauthorized and advances not cleared as there was no Supplementary Appropriation Act for these years.
- Omissions and misstatements of donor grants and external loans
- Omissions of dividends paid to the Government by some Parastatals.
- Misstatement of foreign debt service figures
- Omissions of bank balances from Central Bank of Lesotho, Nedbank, Standard bank, ABSA (NMDS), Foreign Missions and Sub-Accountancies; not all transactions and balances are recognized.
- Inconsistencies of data generated by IFMIS. The quality, accuracy, validity and completeness of information produced by IFMIS remain doubtful as the cut-off date for the postings is not observed. There were postings done after the financial statements had been sent for audit.
- Exclusion of Below the Line Balances held in the GOLFIS from the Consolidated Financial Statements (They are still not reconciled)
- The financial statements had not included all government controlled entities, state-owned enterprises, extra-budgetary funds and local governments.
- The financial statements included a small number of accrual items, which had not been cleared at the reporting date such as accounts payable, advances, third party trusts and deposits.
- Non-reconciliation and inadequate maintenance of bank accounts remain a serious challenge because the cash balances provided cannot be relied upon. Moreover, reconciliation was not done on inflows and outflows, thus rendering the accounts completely unreliable.

In view of the above facts, the Auditor General concluded that the Consolidated Financial Statements set out in the reports do not present fairly the financial position of the Government of Lesotho for the three Financial Years under review in accordance with International Public Sector Accounting Standards. She labelled them as "Adverse". The Committee was concerned that the Government has not done enough to protect the public purse mainly because public officers deliberately fail to account for the use of the funds and also fail to do the basics of accounting such as frequent reconciliation of the statements. These and others have opened a huge channel through which public funds are not only exposed to misappropriation, but also exposed to abuse by public officers. However, the past Parliaments have not awakened to this reality as no sanctions have been applied against the culprits.

There are laws governing the use of public, but it seems officers deliberately override the controls. With regard to the absence of the Supplementary Appropriation Act for authorization of expenditure, the Ministry of Finance acknowledged negligence on their part

and promised to submit Supplementary Appropriation Bills from the year 2009 to 2017 to Parliament for approval in the year 2018. This negligence was considered as serious breach of the law as stated below:

In terms of Section 114(1) of the Constitution of Lesotho “Parliament may make provision for the Minister for the time being responsible for Finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from that Fund (Contingencies Fund) to meet that need”. The Constitution further states that “when any advance is made from that Contingencies Fund, a Supplementary Estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced”.

It is stated from the Auditor General’s report and the Ministry of Finance’s response to the audit query that for the three years under review, there was supplementary expenditure incurred, but was never brought to Parliament for approval and this act is in contravention with the above said Constitutional provision and certain provisions of the Public Financial Management and Accountability Act, 2011. As a matter of fact, this constitutes a serious breach of law and disregard to Parliament’s power of the purse.

Considering the inconsistencies of data in the system, the Committee noted that the system was constantly abused by the users and firm restrictions had not been imposed by the Accountant General to prevent postings into the system after the cut-off date. Therefore, there were a lot of data errors and technical challenges in the AG’s audit task such as unreliable financial information; reports that were generated manually and relying on the information provided by the Debt Department. These resulted in limitations in establishing performance on revenue and expenditure control; budget execution, reporting and financial accountability.

After holding the interviews with Government ministries and departments, the Committee noted with serious concern that there is laxity when it comes to implementing penalties (no surcharges are effected); there is non-compliance of the rules and a huge waste of public funds; there are delays in banking public moneys such that cash is kept for more than a month in the cash box; there is lack of reliable records for control of public assets and lack of accountability for losses of cash and stores; funds were spent on ineligible expenditure; there is inadequate impact of certain development projects and funds were budgeted for projects that were not ready to commence.

The Committee went a step further to investigate incidental matters which were not reflected in the audit reports. A lot of issues not covered by the Auditor General kept surfacing. Therefore, this was a sign that the Office of the Auditor General needs more resources in order to widen the scopes of their audits.

The Committee felt that internal controls and procedures must be strengthened across board and the rules must be adhered to. Harsh measures must be implemented for non-compliance in order to secure public funds across ministries and departments.

1. INTRODUCTION AND BACKGROUND

The Public Accounts Committee of Parliament is a specialized financial oversight committee dealing with the audit stage or ex post phase of the budget cycle. The ex post phase is about investigating whether or not government expenditure complied with Parliament's intention and expected standards, and also whether or not value for money was obtained.

Joachim Wehner (2002) indicates that there is a global trend towards greater openness in government finances. This is based on a belief that transparent budgetary practices can ensure that funds raised by the state for public purposes will be spend as proposed by the government, while maximising the benefits derived from spending. One crucial component of a transparent system of resource allocation involves an independent assurance of the integrity of public budgeting and spending through an audit process, and the scrutiny of its outcomes by the representatives of the people, in the form of Parliament.

Parliamentary engagement with the budget normally has several stages. First, Parliament appropriates public moneys, and then it might monitor budget execution. Finally, Parliament has to consider whether budget implementation complied with relevant laws and regulations. The audit of accounts has traditionally been performed by a body distinct from the legislature, in some cases a court or an auditor general. But it is Parliament that is tasked with considering the results of such an audit. While some legislatures do not have a dedicated committee to perform this function, many legislatures have established PACs for this purpose. This is especially the case in the Westminster tradition of government, where parliament has retained only minimal and usually symbolic *ex ante* control over the budget, and instead focuses on *ex post* scrutiny (Schick 2002, esp. pp. 33-35; Davey 2000).

The Auditor General has been giving a disclaimer opinion for so many years, but since 2010/11 the AG has been giving an adverse opinion to Parliament to date on the consolidated accounts and the PAC has been making recommendations for the Ministries and Departments to implement. However, these recommendations have been implemented to a very limited extent and not at all in some instances. The Committee therefore intends to submit this report to the House in order to raise awareness and appeal to the Government of Lesotho to react to the danger posed by these qualified public accounts, which calls for the Government to drastically improve control of the public resources, financial and otherwise.

- **METHODOLOGY**

The Auditor General produces audit reports on The Consolidated Financial Statements of the Government Ministries and Departments and gives it to the Minister of Finance who then tables it before the Parliament. The Speaker of the National Assembly refers it to the relevant Committee, which is the Public Accounts Committee.

The Committee sent letters to the Government Ministries and Departments, requesting Chief Accounting Officers (CAOs) to give written responses to address the queries raised on the financial irregularities identified by the Auditor General. The Committee, thereafter, called the Office of the Auditor General to brief them about the contents of the audit report.

The Committee studied the responses, devised the *modus operandi* and developed strategic questions that would assist them to obtain information from the CAOs and other Government officials. A second batch of letters was sent to the Chief Accounting Officers, inviting them to the Committee's meetings to give oral explanations where necessary (interviews). The CAO's were also asked to attend with a delegation of officers, particularly heads of departments who would assist in answering questions affecting their departments directly.

During the meetings, the Committee was supported by representatives from the Directorate on Corruption and Economic Offences (DCEO), Lesotho Mounted Police Service (LMPS), Office of the Auditor General (OAG), National Security Service (NSS) and Accountant General (ACCG).

The Committee used extensive interviews, written responses and attached supporting documents from the Ministries and Departments to obtain information. Sources of information were not limited to the above mechanisms but also witnesses were called for more information.

After meeting all the Government Ministries and Departments which had queries in the audit reports, the Committee sat down again to formulate appropriate recommendations. These recommendations are expected to assist CAO's and their ministries to improve their work on service delivery. Lastly, the Committee compiled this report on its findings for presentation and discussion in the House.

3.0 SPECIFIC FINDINGS AND RECOMMENDATIONS PER MINISTRY

3.1 MINISTRY OF FINANCE

3.1.1 Regularity of Expenditure, (2013/14, page 6)

The Ministry acknowledged absence of Supplementary Appropriation Act 2013/14 to authorize additional M60 million from the Contingencies Fund. It was explained that the practice of sending Supplementary Expenditure to Parliament for authorization had not been happening but there was a Cabinet approval to send all Supplementary Expenditure for regularization from the year 2009 to 2016. The Committee condemned this practice as it is likely to open a gap for misappropriation of public funds.

After the interview, the Minister of Finance brought those bills to Parliament for retrospective authorisation.

(a) Recommendation

- 1. The Committee recommends that any supplementary expenditure should be appropriated by Parliament.*

3.1.2 Payments of dividends (2013/14) page 78

The Committee learned that some of the Government Parastatals and State-owned Enterprises have not been paying their dividends to the Government and some of them have not repaid their on-lent loans faithfully. These companies claim to be running losses of which the Committee and the Ministry are not convinced that it is true. The MoF indicated that the shareholders' agreements and share pricing practices were the contributing factors to the non-payment as they greatly favoured the other shareholders and disadvantaged the Government of Lesotho.

Econet Telecom Lesotho is another company that the Government of Lesotho borrowed money from the Development Partners on its behalf. The Government of Lesotho signed a loan agreement with Exim Bank of China on 9th May 2008 and 14th December 2011 to finance Telecom National Network Phases I and II respectively to increase network coverage and improve services. The principal loan disbursed to Econet for Phase I project was M221,194,835.10 and Econet has made a repayment of the principal loan to the tune of M14,373,161.67. The accumulated arrears amounted to M66,731,611.70 and the interest paid so far is M74,517,233.39. The outstanding balance stands at M202, 474,194.15.

On the other hand, the Government of Lesotho keeps on paying this loan faithfully to the Exim Bank of China without any arrears though the Government still has an outstanding loan of M276,373,047.34 (CNY 129,713,020.60) (Converted to Yuan Renminbi at the rate of 2.13). Similarly, for Phase II project, the principal loan given to Econet was M245,297,692.05

of which Econet paid only M22,570,853.05 to the Government of Lesotho while the arrears stand at M34,933,333.32. The outstanding loan is therefore M222,726,839.

The Committee found this scenario of events very disturbing because Econet is failing to pay the dividends and experienced sluggish repayment of the loans and the arrears. The Company claims that it is not making profits but this is hard to believe as the Committee suspects transfer pricing practices. Again, the services have not improved as expected when the loan was secured for Econet. The Committee was concerned that the Government of Lesotho is shouldering the burden of paying the loans on behalf of Econet while Econet is not remitting anything to the Government. (Annexure 6).

(a) Recommendations:

- I. Econet must be up to date with repayments of the loan as per their loan agreement and pay their arrears within 12 months
- II. The audited financial statements reports of these companies must be presented before Parliament within the six months after the end of their financial years in order to comply with Standing Order no. 105 (C) (1) which states that;

“A Minister whose portfolio is responsible to the statutory entity and/or Ministry that is statutorily to present a report to Parliament shall table such a report in the House.”

- III. Government as a Shareholder should seriously consider review of Shareholders and Management agreements within 90 days.

Lesotho Flour Mills (LFM) is one Company which the Government of Lesotho has been asking to declare the dividends since around 2012, but the Company has not been obliging citing reasons that their operating costs were higher than the revenue. Therefore, there was a plan that its contract would not be renewed upon the expiration in 2018. But the Basotho nation was concerned that Lesotho Flour Mills is operating in 2019.

The Committee has a suspicion that Seaboard Overseas and Trading Group, which holds a majority stake in LFM (50%), did not serve the interests Lesotho which owns 49%. The suspicion is that Seaboard has been inflating the operation costs deliberately in order to avoid declaring the dividends and has also been engaged in transfer pricing activities. Furthermore, it was discovered that the Company is run by its shareholders, prompting suspicion that profits are deliberately not declared. The Committee also made a surprising discovery that company's contract was renewed for one year in December 2018 by the Ministers of Finance, Trade and Industry, and Agriculture and Food Security, as alleged by the Principal secretaries of these ministries. Procedurally, this was not supposed to be the case.

Hon. Tefo Mapesela, the then Minister of Trade and Industry, was also interviewed in connection with this issue. He also agreed with the Committee's suspicions that Seaboard indulges in extensive manipulation of financial statements and transfer pricing to paint a negative financial picture which negates the payment of dividends. He highlighted that it is true that the Government of Lesotho had been planning to seek the review of the management agreement/contract with Seaboard which seemed to be disadvantageous to the Government of Lesotho in the sense that the agreement allowed Seaboard to appoint its own Chief Executive Officer (CEO) and run the operations of the LFM; thus prompting a greater possibility of financial manipulation and transfer pricing with buy services from their holding or sister companies. The last time he was involved in this issue was in a meeting where it was proposed that the Cabinet would be informed about the intention to review the management contract of LFM with the other two shareholders. Thereafter, he was reshuffled to become the Minister of Defence and National Security.

Hon. Dr. Moeketsi Majoro clarified the whole situation regarding the existence of Lesotho Flour Mills. He explained that Lesotho, Seaboard and the third partner are guided by Shareholders Agreement which has no expiry date; the assumption is that they would be shareholders till the collapse of the business. The other guiding tool is the Management Agreement which expires after every ten years. It expired for the second time in 2018. Hon. Majoro agreed with the views expressed by Hon. Mapesela about the skewed benefits enjoyed by Seaboard and the other partners. Seaboard had been enjoying the benefit of running the company on behalf of the other shareholders. That is where manipulation of the financial statements and transfer pricing are suspected to be practiced by Seaboard.

He indicated that they were advised by the directors to renew the Management Agreement for one year to give time for all the partners to review the Management Agreement. The negotiations are expected to start in April 2019. He reiterated the stand point of the Government of Lesotho that they want to do away with the Management Agreement and put in place a Board that will work for the interests of all the shareholders. He further explained that Lesotho Flour Mills had realised profits of about M35 million for the past two years, but there were always bottlenecks that they used to avoid paying dividends. Last year, LFM wanted to declare dividends to the tune of M400,000 of which Minister Majoro rejected because it was too little. He is adamant that their Management Agreement must be abolished.

Hon. Majoro also reiterated the concern expressed by G8 Countries about multi-national companies like Seaboard which practice transfer pricing and avoids paying taxes. Again, he indicated that The Organisation for Economic Co-operation and Development (OECD) has provided Lesotho with a template that is able to test transfer pricing. This is intended to assist the Government to see which companies are practicing transfer pricing so that actions could be taken in time.

The CAO indicated that they were working on the legal frameworks with those Parastatals or State-Owned Enterprises to map out the way forward. She indicated that they are in the process of reviewing and renegotiating the shareholders' agreements at the beginning of the financial year 2019/2020 in preparation for the implementation in 2020/21.

(a) Recommendations

- I. Ministers must refrain from interfering in administrative issues*
- II. This agreement between Lesotho Flour Mills and the Government must be reviewed within 90 days*

3.1.3 Old Age Pension Scheme (OAP)

The Committee raised a concern that maladministration of OAP has resulted in huge loss of Government funds. It was discovered that under the leadership of Mr. Thabo Ramochela corruption is rife within the section whereby officers deliberately engaged into unethical practices. For example, they decided to abandon the use of cash boxes when paying the elderly pensioners but used their own handbags. Cases of 'ghost' pensioners were revealed, whereby some pensioners died long time ago, but their names were not removed from the payrolls. The Committee was informed that some officers were benefiting from the payments of deceased pensioners. The Ministry had no exact figures nor estimations of the lost funds in this scheme.

The following 'ghost pensioners' among others were identified as those who were still receiving their pensions at the time of interview with the Ministry: Motlatsi Mothae, Mahlopheho Makashane, Makhala Likoekoe, Phepheng Ralienyane, Seapehi Makatjane and Mamoeletsi Thoola.

The following officers were interrogated in connection with payments made to ghost pensioners **without proper documentation**. They acknowledged this breach of law but responded that they did it because the names of the deceased pensioners were still on the payroll. They indicated that the payroll was not updated regularly:

- Mahlape Thaanyane
- Retselisitsoe Khethisa
- Moahloli Paseka
- Rahaba Lebeko
- Ponts'o Lephatsa
- Limpheo Ranthake
- Limakatso Ts'ilo

The Committee advised that a thorough internal audit must be done and thereafter a forensic audit must be done in the Pensions Department to establish how much the Government has lost due the Old Age Pension Scheme.

Cases of armed robberies that happened at the Post Offices keeping cash for the payment of these elderly pensioners were revealed. Reported robberies happened in Maputsoe (M1,600,000); Mafeteng, (M3,200,000) ,Hlotse (M380,700) and Roma (M3,239,750).The evidence laid before the Committee regarding how the robberies were executed led the Committee to suspect that they happened with the assistance of the officers of the Pensions Section (it was an inside job). Mr. Adam, head of security of the post offices, also agreed with the observation of the Committee. The Committee asked the PS and the investigating bodies to make a follow up regarding the status of the cases.

There were arrests made in respect of some robberies. For example, at Roma Post Bank, there were five suspects namely Sekhoane Mosamo, Ts'eliso Mareka, Lehlohonolo 'Mote, Keketso Mosamo and Kulehile Mokhitli who were remanded, but the cases are still pending hearing in court. The case numbers are as follows: Roma RCI:330/07/13 and CR 740/13. For Mafeteng robbery, the suspects were identified as Teboho and Thabiso Mahase (father and son) who were remanded. For Hlotse and Maputsoe, there are no suspects as yet and the cases are still under investigation.

(a) Recommendations

- I. *The court must accelerate the investigations of the robbery cases at Roma and Mafeteng within 60 days.*
- II. *The police investigations must be completed within 60 days for Hlotse and Maputsoe.*
- III. *The officers who drew the funds days before the pay day must face disciplinary actions.*
- IV. *Life style investigations must be launched regarding all officers of the Pensions Unit. The investigations must be extended to the relatives, friends and associates (girlfriends/boyfriends/concubines etc).*
- V. *DCEO and the Police must expedite these cases relating to corruption in the Pensions Unit:*
 1. *RCUI - 01-03-2018*
 2. *RCUI - 02-03-2018*
 3. *RCUI - 03-03-2018*
 4. *RCUI - 04-03-2018*

5. RCUI - 05-03-2018
6. RCUI - 06-03-2018
7. RCUI - 07-03-2018
8. RCUI - 08-03-2018
9. RCUI - 09-03-2018
10. RCUI - 05-03-2018

3.1.4 Withdrawal of EU Grant: M454,000,000 (2015/16, page 78).

The Government of Lesotho lost huge funding aimed at supporting the budget. The Ministry acknowledged that EU withdrew its grant to the tune of M454 million from the on-going budget support programme because the Government of Lesotho delayed to implement policy reforms. According to the Ministry of Finance, Lesotho failed in Public Financial Management Reforms, Review of Legal Frameworks and Procurement systems, thereby failing to meet the set targets.

The Ministry also blamed unstable governance, claiming that they failed to meet policy reforms because the Government was busy with political reforms after the Phumaphi Commission. However, the ministry indicated that the Interim Reforms Steering Committee and other stakeholders are working together on the tracking tools in order to meet the criterion.

The Committee was concerned with **serious laxity and carelessness** on the part of the officers and advised the PS to ensure that officers strive for effectiveness and efficiency in their respective departments.

(a) Recommendations

- 1. The Minister must report on the progress and implementation plan with time lines to the Parliament as per the recommendation of the Auditor General within 30 days.*

3.1.5 Capital Budget Execution (Reallocations) of all line ministries (2015/16, page 104-105).

The Ministry acknowledged that Cabinet approved reallocation of M230 million of uncommitted and unspent funds from approved capital budget for 2015/16. The funds were from ministries' projects, which were not ready for implementation in that financial year. A weird case of over-expenditure surfaced from the Ministry of Trade whereby the Ministry exceeded their budget by 752%.

The officers informed the Committee that top authorities (politicians) have influence in the approval of projects in their ministries, thus leaving the public servants with no choice but to do as they are told. Secondly, line ministries do not provide true information regarding the readiness of the projects to take off.

(a) Recommendations

- I. *The Committee recommends that the public officers should seek intervention from relevant Parliamentary Portfolio Committees whenever they encounter problems with politicians and the Committee strongly condemns lack of cooperation between Ministry of Finance and Ministry of Development Planning.*

3.1.6 Costs of Fleet Management (2015/16) page 100.

The cost of fleet management was increased by 60% when the Government of Lesotho entered into a contract with BIDVEST Fleet Services as compared to the time when the Government had a contract with AVIS Fleet Services. In 2014/15, the Government spent a total of M164, 031,06 on the long-term hire, but the cost increased to M261,833,030 on the short term hire resulting in an increase of M97,801,961.

The Committee was not only alarmed by this situation, but also felt that this was a huge waste of public resources and the Government must review its decisions on fleet management urgently. The Committee demanded accountability on this issue. However, the Committee was notified that there are pending cases in the courts of law in respect of the issues surrounding payments made to Bidvest. The former Minister, Hon. Mamphono Khaketla and one Mr. Thabo Napo have been accused in connection with this case (RCUI - 02/04/2017 RCUI - 01-08-2016).

It is evident that this project was never properly appraised and selective tendering method was irregularly used; this method does not ensure value for money. It was observed that Cabinet made a decision before appraisal and procurement procedures were followed; that is, it was a top-down approach as opposed to the normal procedures of bottom-up approach.

(a) Recommendations

- I. *The Government must resort to long term hire practices which are cheaper*
- II. *The Committee recommends that procurement laws and regulations regarding selective tendering must be followed and value for money must be ensured before using selective tendering.*
- III. *The laws regarding selective tendering must be reviewed and restricted.*
- IV. *Cabinet should refrain from being involved in the procurement processes.*

V. *The cases involving the former Minister and Mr. Thabo Napo, RCUI- 02/04/17 and RCUI- 01/08/16, must be completed within 60 days.*

3.1.7 Loans for Members of Parliament and statutory positions (2015/16) page 81-82

It came to the awareness of the Committee that by the end of 2014/15, there was an outstanding balance of M31,472,844 for guaranteed loans to Members of Parliament, Senate and other statutory position holders which was fully repaid by the Government in April 2015 after the dissolution of the 8th Parliament. Additional M617,039 was paid as interest for these loans. The total that the Government paid is therefore M32,089,883

Again, the Government repaid the loans of the Members of Parliament, Senate and other statutory position holders after the dissolution of the 9th Parliament. The outstanding balance of loans according to the Debt Section in the Ministry of Finance was M61,345,162, but the AG pointed out that audited outstanding balance for MPs with constituencies was different from the records kept by the Debt Section. It was understated by M11,081,923.

It was not the only discrepancy. The total balance for the loans was actually, M72,549,200 according to the audit findings, not the figures provided by the Debt Section. This cast a serious doubt about the reliability of the records maintained by the Debt Section. Moreover, the Government paid a total interest amount of M4,135,963 in 2015/16. The total amount that the Government has spent on these loans is M76,685,163.

(a) Recommendations

- i. *Members of Parliament Salaries (Amendment of Schedule) Regulation, 2019, all Sections relating to statutory loans must be repealed. The Minister of Finance must bring the bill to Parliament for repeal within 30 days.*

3.2 MINISTRY OF FORESTRY, RANGE AND SOIL CONSERVATION.

3.2.1 Losses of Cash and Stores (2015/16, page 86)

The Ministry acknowledged loss of cash amounting to M1,041,146 as recorded in the audit book for the financial year 2015/16. It was reported that this money was stolen the night before payments were going to be made to the catchment workers (*Fato-Fato*). The then PS, Ms. Doreen Chaoana and Ms. Lineo Tlali, another signatory, were interviewed and related that armed persons (men in LDF uniform) used grinders to forcefully open the strong room where the money was kept. One of the suspects was a member of the LDF team guarding the cash. The case was opened against Lemohang Borotho and others. The suspect was remanded in custody, but the two other suspects are still at large as they are South African citizens. The Committee was concerned about keeping such huge cash in the office instead of withdrawing it on the payment day.

Other cases of loss of cash were revealed. It was alleged that cash to the tune of M1,697,865.40 disappeared “mysteriously” in the bank in December 2016 where it was claimed that an officer of the Standard Lesotho Bank was dealing with unknown persons in this fraud. His case is still pending in the court of law according to Police Constable Molefi. A case (RCI 64/07/17) was opened against Lehlohonolo Selate who was remanded in custody per this case CR 0182/19 and the case is under investigation. It is pending patrol to RSA in order to get some other suspects.

It was also revealed that cash estimated to the amount of M82,000.00 disappeared on the way to pay catchment workers at Ha- Ramorakane between Mrs. ‘MaNathaniel Qhobela and Ms. Hlompho Mohlahatsa in the year 2010. The two suspects were interviewed. The former gave conflicting and unconvincing statements while the latter claimed she did not remember the incidences leading to the loss of this cash. Ms. Hlompho Mohlahatsa indicated that in the cash box, it was only the envelopes that were used to keep cash when they started looking for it on their way to Ha- Ramorakane. This was also confirmed by the current Director Forestry, Mr. Sekaleli who also indicated that the information which reached their ministry was that money “had turned into papers”. The bottom line is that only the papers/envelopes were retrieved from the cash box.

(a) Recommendations

- I. *The Minister of Police must report to the Parliament the progress regarding the investigations of cases pending in courts within 30 days: Lemohang Borotho and others, RCI 64/07/17 and CR 0182/19.*
- II. *It is recommended that ‘MaNathaniel Qhobela and Ms. Hlompho Mohlahatsa must face the legal action so that the lost cash could be recovered.*

3.2.2 Loss of Omitted Cash by Treasury (2015/16 page 86)

The Ministry acknowledged that there was a loss of cash amounting to M17,317 that was meant to pay workers at Makhoakhoeng who were fencing the wetlands. The officer of the Ministry, Mr. Mokone Khekhe misappropriated the cash and no surcharged was made because the Ministry never got a response from the Ministry of Finance.

(a) Recommendation

- I. *The Committee recommends that the PS must ensure that surcharge is effected against Mr. Khekhe within 30 days so that the lost cash is recovered accordingly.*

3.3 MINISTRY OF PUBLIC WORKS AND TRANSPORT

3.3.1 Budget Execution on Donor Funds (2013/14, page 69).

Delay to expend the donors' funds hampers development, especially when it is attributed to lack of efficiency and effectiveness on the part of the public officers. Ministry of Public Works and Transport failed to utilise donor funds satisfactorily in the budget year to the tune of M59,126, 550 to construct Nyenye-Mapoteng road (Project). In their response, the Ministry indicated that the contractor awarded the contract demanded higher payments, claiming that the nature of designs of the road would reduce the economic rate of return.

In view of the above situation, the World Bank (WB) (the Sponsor) advised the Ministry to redo the designs at lower costs and also to lower the standard of the road. Thus, a new consultant was engaged to do the designs again. The funds were spent in the next financial year. It was also revealed that Request to Incur Expenditure (RIE) information relating to the project was not captured into the IFMIS.

The Committee was shocked and not convinced that WB would encourage the Ministry to build sub-standard roads. In addition, the Committee questioned the initial handling of the contract by the Ministry with the former Consultant and lastly, the Committee expressed fear that failure to capture RIE information into the system leads to misstatement of figures; hence, the credibility of the financial statements of the Ministry would be doubtful.

(a) Recommendations

1. *Public funds should not be spend on the sub-standard goods or services, therefore, the Minister of Finance must set up a team to investigate the above allegation and the handling of the contract and report to Parliament within 30 days.*

3.3.2 Advances from the Contingencies Fund (2013/14, pages 56-57)

The Ministry acknowledged receipt of advances from the Contingencies Fund amounting to M1, 495,657. The advances were requested for the payment of annual subscriptions to the following international Organisations: ICAO, AFCAC and SADC COSCAP. The Committee demanded an explanation why they did not budget for subscriptions, which are budgeted for by all ministries. The Chief Accounting Officer (CAO) responded that they had budgeted for them but their Ministry's ceiling was reduced badly that they could not pay the subscriptions.

The Committee was not satisfied with their response because there were also subscriptions arrears dating as far back as the year 2011. For that matter, the Committee concluded that there was poor budgeting on the part of the officers.

(a) Recommendations

- I. Contingencies Fund is used for unforeseen circumstances only; therefore, the Ministry of Finance must refrain from approving advances from the Contingencies Fund which could have been budgeted for by the line ministries. Section 114 of the Constitution must be adhered to.*

3.3.3 Revenue Collection (2013/14, pages 58-59)

The Ministry fell 15% short of the target revenue as stipulated in the audit book. As a response, the Ministry cited some challenges in respect of revenue collection, some of which included fluctuation of vehicle registration every year and some line ministries that did not go ahead with their intended projects. Therefore, the Building Designs Services and the Traffic Department did not collect the anticipated revenue.

The Committee disagreed with the responses relating to the Traffic Department. The Committee cited lack of control mechanisms to curb rife corruption in the department where bribery is practiced by public officers in the offices and the police on the roads. It was revealed that services are deliberately delayed in order for officers to solicit bribes from the public and the police have become part of the corrupt system, whereby they take bribes from road users, who break the laws every day.

(a) Recommendation

- I. Arrangements must be made that Lesotho Revenue Authority must collect non-taxable revenue within 180 days.*

3.3.4 Absence of Vehicle Registration Database (2015/16, page 142)

The Ministry acknowledged absence of computerized database and pointed out that their National Traffic Information System (NATIS) is managed in Pretoria by the Republic of South Africa, but they have register books in all districts to keep their data.

The Committee raised a concern that lack of computerized NATIS encourages corruption whereby the manual figures are likely to be manipulated and as thus, revenue collected is susceptible to embezzlement.

(a) Recommendation

- I. The Ministry must work towards having computerized database (NATIS) of their own and give progress report on this matter within 60 days.*

3.3.5 Extension of Contracts without Justification (2015/16, page 143)

The Committee was informed that contractors for provision of blank number plates and printing of driving licenses had their contracts extended on several occasions unlawfully.

The Ministry acknowledged that Uni-Plate Company's contract had been extended without following the proper procedures and cost the Government M3,743,770. They sought the approval of the Tender Panel, not the Minister of Finance, thereby contravening Section 8 of Public Procurement Regulations 2007. The Committee was concerned by the practices of the officers of this Ministry and reiterated the recommendations of the Auditor General.

Link Engineering Solutions was also engaged without proper procedures and supplied the Ministry with wrong paint for the roads (apparently water paint), but no action was taken against the company. The paint was stored at the Ministry.

The Committee observed that Management of the Ministry is reluctant to report fraud cases to the Police station, thus prompting suspicions that some officers are benefiting from these corrupt practices. The Committee advised the Ministry to decentralize their services to reduce overcrowding in Maseru for people who need services. It was also suggested that the fees for services must be increased in order to cover the costs of the materials such as licenses and number plates.

(a) Recommendations

- 1. The police and the DCEO must start investigations regarding the whole matter within 30 days.*

3.4 MINISTRY OF EDUCATION AND TRAINING

3.4.1 School Feeding Programme (2013/14, pages 107-108)

The Committee learned that the school feeding programme has never been properly planned and administered by the Ministry. There was no clear policy at the start of the scheme. Therefore, this lack of proper administration led to cases of fraudulent practices within the programme where perpetrators took advantage of the poor system. For example, the Committee heard a case whereby Ruele Catering Company failed to pay cooks claiming that the Ministry also failed to pay their company. There was a dispute that Ruele was not paid because it had not fulfilled its obligation of feeding the kids. Ruele made claims for payment using the previous years' lists of students and some of their documents were not in order.

The Committee learned about other cases of unpaid cooks and caterers which resulted in provision of unwholesome meals to learners. The interviews in the meeting confirmed the findings of the Auditor General as stipulated in the audit report and other findings related to fraudulent practices by school principals and officers from the Ministry were brought to the attention of the Committee.

Therefore, the Committee concluded that a forensic audit is needed on the whole school feeding programme in order to find permanent solutions.

(a) Recommendations

- I. The Office of the Auditor General must do procurement audit of this programme with six months.*

3.4.2 Non- Existing Teachers (Ghost Employees)

The Teaching Service Department was found to be overshadowed with serious problems with regard to the non-existing employees commonly known as 'Ghost workers'.

There were cases of teachers who had pay slips and appeared under certain schools, but such teachers were not physically present in those schools. For example, Ms. Evodia Halang was paid as Motamolane Primary School employee, but there was no such a teacher. A case (RCI 12/04/17 was opened regarding this matter and it is still under investigation. TSD Registry has not complied with the police request to release allocation register and the police are still waiting for the STD Board Members Statements. The Government is estimated to be losing about M4.2 million a month (M52 million a year) on ghost teachers due to lack of monthly salary bill reconciliation.

There were cases of teachers who had two casualty returns e.g. Ms. Senate Lebona and some teachers were reported deceased in 2011 e.g. Mariana Naume but her salaries were still being paid till the end of 2012. The Ministry acknowledged lack of auditing of teachers' files that resulted in the prevalence of 'ghost employees' in the entire country.

The Ministry indicated that the auditing of teachers' files has started though there is too much backlog due to the shortage of staff. Upon investigation by the Committee, it was discovered that there were over 400 employees in the whole country receiving salaries though their physical existence could not be verified by the Ministry.

The Ministry of Education and Training blamed Resource Link System operated from the Public Service. The Committee was alarmed by huge loss of public funds perpetrated by officers of this Ministry who fail to reconcile the pay roll against the physical existence of the teachers.

(a) Recommendations

- I. Information Technology (IT) audit must be done by the Office of the Auditor General within 3 months.*

3.4.3 Lerotholi Polytechnic (2014/15, page 100)

The Auditor General issued a qualified opinion on the financial statements of Lerotholi Polytechnic College in 2008. It was revealed that the institution has been experiencing both

administrative and financial problems for several years in spite of the M28 million subventions that the institution is getting from the Government.

The root causes of financial crisis were buttressed by cases of fraud that were exposed within the institution, whereby it was alleged that the former rector (Mr. Tsietsi Lebakae) had been paying for teaching materials to some fake companies based in the Republic of South Africa but those teaching materials were never delivered. Though the funds were spent under the umbrella of teaching materials, evidence laid before the Committee showed that no money was stolen from the teaching materials vote, but from the main operations coffers. The institution lost about M32 million to this fraud. All the employees interviewed confirmed that those materials were never delivered except Mr. Lebakae who claimed the materials were delivered. A case of fraud had been opened against the former Rector and the matter is subjudice.

Further investigations by the Committee revealed that Mr. Lebakae had been deceived like everybody else. Evidence laid before the Committee pointed to Mr. Nosi Motale as the one who orchestrated all the fraudulent transactions.

Mr. Motale Nosi, former senior accountant, admitted to cases of fraud whereby he acknowledged defrauding the institution of the above-mentioned cash though he acknowledged stealing only M16 million. He forged signatures of his colleagues and gave the specimens of their signatures to his accomplices/ syndicate in order to effect all of those transactions. The signatures of the following persons were forged: Ms. Mpho Morojele (Bursar); Mr. Nkhethoa Machela (Deputy Rector); Mr. Palo Pokothoane (Acting Rector); Mr. Moshe Sesoane (Deputy Rector- academic) and Ms. Limpho Motanyane (Acting Deputy Rector).

Motale confessed that he managed to steal from the institution because reconciliation was not done at all; signatories were careless and not observant. He promised the Committee to pay the M16 million within a year.

The Committee therefore felt he should be held accountable for the M32 million. Thereafter, he was handed over to the police for further investigation. The suspect was remanded in custody and the case is still under investigation. The case number is RCI 1074/11/14.

(a) Recommendations

- I. The court must finalise the case and DCEO must execute recovery measures within 30 days.*

3.4.4 Lesotho College of Education (2014/15, page 101)

Lesotho College of Education's financial statements were last sent for audit in 2009. The Rector was asked to submit the financial statements in 2014, but submitted the statements

that incorporated the **write offs**. The statements were returned for correction and are yet to be submitted this year.

The rector and her delegation failed to give convincing answers to the questions regarding preparation of the financial statements and revealed that the School's Council gave authority to write off the figures that could not be reconciled. This was a breach of the law of which the Committee condemned strongly.

The Committee questioned the credibility and loyalty of the Council when it comes to the finances of the school. The Committee wondered why the school has been struggling with financial issues for a long time despite the Government 31 Million subvention given to the school and concluded that this is due to mismanagement of funds by the management of the school.

(a) Recommendations

- I. The School resubmitted the financial with the write offs; therefore, the Office of the Auditor General must re-audit the financial statements of Lerotholi Polytechnic College (LPC).*

3.4.5 National University of Lesotho (2014/15, page 104-105)

The National University of Lesotho is expected to lead by example as the highest academic institution in the country when it comes to handling finances, but this was not the case. The Auditor General issued a disclaimer of opinion on the financial statements of the institution in 2015 and a qualified opinion on the financial statements of the Sefika project for the year ended June 2013. The Vice Chancellor, Professor Nqosa Mahao, acknowledged all the findings and attributed failure to meet the requirements due to lack of timeous reconciliation and use of old Integrated System 2. However, he indicated that efforts were being made for the institution to move to Integrated System 3 and promised that timeous reconciliation will be done to avoid qualifies financial statements.

(a) Recommendations

- I. The Committee recommends that the Vice Chancellor must ensure that the University sets a good example in terms of compliance with adopted accounting standards and financial laws and regulations.*

3.4.6 Ketane Half-way Home

The Committee discovered that M382,992 was paid to Geo Construction Company for uncompleted work. The catering equipment in the dining hall was not delivered. To the amazement of the Committee, the PS, Dr. Thabang Lebese, had no idea of such a construction. He was ordered to make a follow up on the project and report back to the Committee of which he also confirmed the findings of the Auditor General.

The Committee also discovered that the payment was effected based on the information given by Mr. Sesoane, former Director EF and was signed by both Mr. Sesoane and Mrs. Khoali. Mrs. Khoali alleged that the misleading information about the completeness of the project was brought by Mr. Sesoane who was the only one who was always going to Ketane for inspection.

(a) Recommendation

- I. Action should be taken within 2 months against Mr. Sesoane and Mrs. Khoali to recover the lost funds (M382,992.00)*

3.4.7 Performance Contract for the Principals (2010)

The Committee inquired issues surrounding the five years Performance Contract that was entered into by some Principals and the Ministry from 2010. There was an outcry from the former principals that they did not receive their gratuities upon termination of the contract by the Ministry. The Ministry explained that the contract was terminated along the way because so many loopholes were discovered in the contract, thus rendering it ineffective.

(a) Recommendations

- I. The Committee recommends that the affected principals must be paid their gratuities and the contract must be reviewed against the law.*

3.4.8 Illegal "Pilot" Placement of Teachers in Schools

A controversial issue was brought up by the Educational Secretaries of Church Schools and some principals of certain Government schools who complained about the placement system of teachers in 2015 and 2016 in their schools without consensus with the owners of the schools. They contested that the placement was politically motivated and most of the teachers placed in their schools were not the type of teachers they needed. There was a complaint that Dr. Mahali Phamotse imposed the system without following the acceptable procedures of involving principals and owners of the schools. Further, the decision was made against the law. It was a breach of Sections 25 and 42 of the Education Act 2010 which prescribe the bottom up (not top-down) approach in the employment of teachers.

The main concern here was that Governing school boards had been side-lined and there was no transparency in the placement of the teachers. This practice is suspected to have cost the government huge sums of money because these teachers were rejected in the schools where they were "dumped" but were still getting paid though they were not working.

Hon. Dr. Mahali Phamotse, the then Minister of Education and Training was interviewed on this issue. She indicated that it came to her attention that there were many unfilled vacancies in schools yet those posts had been allocated funds. She said there were people who complained to her about malpractices in the employment of teachers. Some sources

cited nepotism, bribery, religious affiliations etc. On that account, she engaged TSC and TSD about a possible solution to that alleged crisis.

It was then decided to embark on a study relating to the alleged crisis that would inform the actions to be taken to redress the situation. Educational Secretaries of Church Schools were informed, but the Ministry and those secretaries did not agree on the composition of the team to undertake the study. She indicated that as the ministry, they felt it would not be right to include the educational secretaries and other schools' representatives as they were also implicated in the corrupt employment practices.

The ministry unilaterally conducted the study by interviewing those who had registered themselves as teachers with TSD, but had not been offered employment. According to Dr. Phamotse, the report of the study confirmed some of the allegations- nepotism, lack of transparency in the interviews, political and religious affiliations. In some schools, some teachers paid bribes to the school boards and principals. A cited example involved a bribe to the tune of M7,000.

The Minister indicated that she was advised by the Ministry's officers, particularly the Chief legal officer, Mr. Mofoka and Mrs. 'Maselloane Sehlabi (Chief Education Officer Teaching Services) to seek approval of the Cabinet to implement the alleged "Pilot Placement" of which it was approved. New database of the registered teachers was made, and teachers were placed in schools. Hon. Kholumo, who was the then Deputy Minister of Education and Training, distanced himself from this placement. He argued that he never formed part of the team that advised the Minister to seek the Cabinet's approval nor advised the Minister as an individual.

The Educational Secretaries, who were in the interviews, indicated that their disagreement with the ministry was brought by the composition of the team to conduct the study and the way it was conducted. The Secretaries argued that the study was limited to only those people who had not been offered employment (complainants) and excluded those who were employed, schools' proprietors, school boards etc. Again, the original agreed composition of the team to conduct the study was to include the police, DCEO, representatives from the schools etc of which Dr. Phamotse negated.

The disagreement between the Educational Secretaries of the schools and the Ministry of Education and training forced the ministry to implement the "pilot" placement in the Government Schools and Community Schools. Another surprising thing in the placement system is that the PS, Dr. Lebese, had informed the Committee that he had been informed by TSD officers, including Mrs. Sehlabi, that some of the lists of the placed teachers came from the Minister's office of which Dr. Phamotse did not comment on it.

(a) Recommendations

- I. *The Ministry must investigate this situation and report to the House how much the Government has lost under this placement programme where some teachers were paid without working.*
- II. *The Committee recommends that the Ministry must revert to the usual practices and stop dumping unwanted teachers in schools.*
- III. *The DCEO must initiate investigations regarding the breach of the law in respect of the placement of teachers and due legal action be taken against the then Minister, Dr. Mahali Phamotse, Mr. Mofoka and Mrs. Sehlabi.*

3.5. MINISTRY OF LOCAL GOVERNMENT AND CHIEFTAINSHIP.

3.5.1 DISTRICT COUNCILS 2014/15, PAGES 131-147

3.5.1.1 BEREA DISTRICT COUNCIL

(a) Incomplete Work at Ha-Ramachine

Day Star Construction was engaged for maintenance of Water Project at Ha- Ramachine to supply water to the villages in that vicinity in 2013/14. However, the work was left uncompleted though full payment of M638,097.00 had been made by the District Community Secretary. It was claimed that the concerned Council and the management of the Rural Water Supply had indicated that the work was about to be completed, thus ordering the District Community Secretary to effect the payment. This was done during the so called March final with the anticipation that the work would be completed, but the contractor defaulted. After a long time, the Department of Rural Water Supply completed the work.

Furthermore, it was also established that during the audit, two of stand pipes at Ha-Libenyane under the same project had not been completed and the storage tank was leaking. Despite all these faults, the retention fee of M31,904.85 was released to Day Star Construction in 2015 though the work was completed by Rural Water Supply.

I. Recommendations

- i. *The Committee recommends that a case of fraud must be opened in this regard within 30 days.*

(b) Findings on the water supply projects in Community Councils

There was no water supply at Cana as the tank was not working; one of the hand pumps at Ha-Lebina was not working; three out of five hand pumps were not working at Khotsi Ha

Ts'epo and the auditors could not verify the existence of the water tank at Thuhloane because the Community Council Secretary did not know its location. The costs ranged from M60, 800 to 194,000.

II. Recommendations

- i. The Committee could not physically verify the existence of the water tank due to financial constraints and therefore a follow up investigation must be launched by the Office of the Auditor-General within 60 days.*

(c) Irregularities in management of Yellow Plant and machinery

Though the Ministry managed to show records of the machines bought, they failed to provide the Committee with the Blue Cards for these machines, which cast doubt to the committee about the physical existence of the machines. The Ministry also acknowledged the irregularities raised by the Auditor General in this regard as reflected on page 132 of the 2014/15 report.

I. Recommendation

- i. The police must launch investigations regarding procurement and registration of these machines within 60 days. The Minister of Police must report back to Parliament within 7 days after completion of the investigations.*

(d) Poor Monitoring and control of diesel consumption

Cases of fraudulent practices were observed at Motanasela Community Council whereby officers deliberately did not report the failing gauge of the fuel tank, which rendered the fuel susceptible to misuse. The correct quantity of the fuel could not be ascertained. Cases of fuel theft were also reported at the Police station.

I. Recommendations

- i. A disciplinary action must be taken against the officer within 30 days*
- ii. Police investigations must be completed within 30 days*

(e) Non-existing roads

Upon the site visit, the Committee discovered that gravel roads to Ha Rakoloi-Mathebekoane; Tseroane- Thabeng; and Tseroane – Makoanyane had not been constructed though the Economic Planner and the Principal Technical Officer claimed that they had been constructed. The villagers complained about skewed distribution of services offered by this Ministry. It was alleged that services were taken to the councils which had influential councilors.

I. Recommendations

- i. The Committee recommends that those gravel roads claimed to have been constructed must be constructed within 90 days and progress report must be given to Parliament by the Minister within 21 days after the given 90 days.*

3.5.1.2 BOTHA-BOTHE DISTRICT COUNCIL

(a) Failure to prepare financial statements

The Committee learned that Botha-Bothe District Council failed to prepare the financial statements for 2011/12 and 2012/13. Instead, they hired a private consultant to prepare the statements for the District. However, a payment of M58,000 was made for the service that was not fully rendered. Therefore, the Committee questioned the caliber of accountants employed by the Government to assist the Community Councils with the preparation of the statements when they fail to do what they are employed to do.

I. Recommendation

- i. The Committee recommends that a surcharge be made to the person who authorized a payment for an incomplete work within 30 days. The Minister must give feedback to the Parliament after 30 days.*

(b) Irregular payment of security services

Wonderful Security was engaged without a contract to the amount of M82,800 after the expiration of their initial contract. The Ministry failed to give a convincing answer to this query. The Committee warned the Ministry against this breach of the law.

I. Recommendation

- i. A disciplinary action must be taken against then DCS and officers involved in this transaction and report must be given to Parliament within 45 days.*

(c) Wasteful expenditure

Twenty-three (23) tyres were bought for a truck fitting 10 tyres. It was claimed that the tyres were bought before they realized that the truck took too long to be fixed. Therefore, they diverted the first pair of wheels to other trucks. That is, they bought tyres for a truck that was not functional and bought other tyres after the truck had been fixed. The Committee condemned carelessness showed by the officers responsible and asked the PS to act accordingly.

I. Recommendation

- i. The Minister must give feedback to Parliament on the action taken against the officers within 30 days.*

3.5.1.3 MOKHOTLONG DISTRICT COUNCIL

(a) Irregularities for the procurement of services

The Committee discovered that there were irregularities concerning the blasting tender at Makhoaba, Seate Community Council in 2016 that was suspended such that DCEO was involved and the Committee is still awaiting the outcome of the investigation by DCEO. The blasting was in three lots. The first and the second lots were paid, but the second slot was re-tendered and redone yet it was already paid M2, 590,000.00. The Case is under investigation (RCUI 06/02/17) and (RCUI 04/10/17)

There were other cases of inconsistent quotations regarding the procurement of services for the repair of machinery from the dealerships such as Barloworld, Man, Hino and Mercedes. The quotations were either different from the invoices or two different invoices for the same piece of work were observed. The Committee was startled by the fraudulent practices observed in these cases.

I. Recommendations

- i. *The DCEO must complete the investigations regarding the blasting tenders within 30 days and report to Parliament within 7 days.*

3.5.1.4 LERIBE DISTRICT COUNCIL

(a) Rejected Cheques in the Bank

There were two fraudulent cheques that were drawn by the DCS (Ts'eli Sejane) and Administration Manager (Malephallo Mohasoa) amounting to M2,400,000 for payment to non-existing suppliers and the funds were to be withdrawn from the recurrent account as per the evidence given by their Finance Manager (Rejeleng Lithebe). Surprisingly, any payment above M50,000 is processed through electronic funds transfer (EFT) not by issuing cheques. Moreover, the cheque book was collected by the Administration Manager from the bank. Both cheques had the same cheque number though signed on different dates (a day before and after collection of the cheque book). It was further revealed that the authentic cheque book was still sealed, even after the cheques have already bounced.

The case is still under Police investigation as it is alleged that other suspects are at large in RSA. The case number is RCI 70/02/17.

I. Recommendation

- i. *The Minister of Police must ensure that the investigations are completed within 30 days.*

3.5.1.6 MOHALE'S HOEK DISTRICT COUNCIL

(a) Non-accountability of plant and machinery

The Ministry acknowledged the findings of the Auditor General as reflected on pages 141 to 142. The records of yellow plants amounting to M 96,941,496 were not properly kept as the yellow plants were neither recorded nor accounted for in the financial statements for the year ended 31 March 2013; the invoices stated in the shipment and final destination of the assets stated to be Mohale's Hoek but there was no record of delivery notes and the transfer vouchers were missing as the machines were alleged to have been dispatched to other districts.

Two of the four excavators to the value of M2, 462, 400.00 allocated to Mohale's Hoek District Council could not be physically verified by the auditors in June 2015 and there was no explanation given to that effect.

The Committee felt that poor management of the records opens a gap for theft and mismanagement of the Government property and advised the Ministry to take heed of the Auditor General's recommendations.

I. Recommendation

- i. The Committee recommends that the Police must investigate the matter urgently and the Minister of Police to report back to Parliament within 30 days.*

(b) Doubtful payment of seat covers

Seat covers and car mats were purchased at the cost of M9,245.40 for two vehicles of the Council on March 2015. This was the inflated price by the then DCS Monyane because it was established that the same seat goods could be procured at the cost less than M2,000.00.

I. Recommendation

- i. The Committee recommends that Ms. Monyane must pay the M7, 245.40 within 30 days.*

(c) Instruction for payment of vehicle parts

The Committee strongly condemned the actions of the Director-General for Local Authorities Mrs. Libetso for trying to defraud the Government by forcing the DCS to process payments of M103,110.50 for non-existing parts bought from an unknown supplier.

I. Recommendation

- i. The Committee recommends that the Police investigate the matter and take legal action. The Minister of Police to report progress within 30 days.*

3.6. MINISTRY OF HEALTH

3.6.1 Undrawn External Assistance 2014/15 (pages 53-54)

The Ministry acknowledged that M114, 954,132 secured for Maternal and New-born Health Performance Based Financing was not drawn in the year under review. The Ministry failed to give a convincing answer to the delay. The Committee also established that the Ministry failed to recruit staff to drive the project and reports of implementation progress were not given to the sponsors as they claimed there was no capacity within the Ministry to drive the project.

The funds were spent in the next financial years after the Ministry engaged a Performance Purchasing Firm to lead the project.

The Committee was concerned about lack of urgency when it comes to health issues though the Country is losing mothers and their babies during delivery every year. The Committee also learned about discrepancies related to the payment of Village Health Workers (VHW) because the Ministry does not have their database.

(a) Recommendations

- i. The Committee recommends that Minister of Health should expedite the establishment of the database and payment of the VHWs, then report to Parliament within 60 days.*

3.6.2 Non-adherence to Standard Operating Procedures (SOP) for Drug Supply Chain Management.

The Committee learned with great shock of the dangers posed by officers in the health facilities who do not adhere to the SOP of keeping record of daily dispensing tally sheets for all drugs except for ARVs. Again, the safety of the drugs is highly compromised due to poor storage in health facilities and thus this deteriorates the quality and effectiveness of the drugs.

(a) Recommendations

- i. The Committee recommends that all health centres must be monitored and supervised accordingly.*
- ii. The Committee recommends that the Minister must ensure the formulation of policy on monitoring and supervision of health centres within 60 days.*

3.6.3 Recurrent Revenue (2013/14 pg 60)

The AG noted a recurring problem since 2012 whereby not all revenue collected was captured into IFMIS and this gives a picture of under-performance on budget execution

resulting in M6, 488,184.00 of uncaptured revenue collected as per the records. The Ministry responded that is due to non-reconciliation by Sub-accountancies in the districts and the problem still persists even though they have tried to solve it. However, it was not clear to the Committee what the Ministry did in order to try and solve this problem.

(a) Recommendation

- i. *The Committee recommends that the Minister should prepare an implementation plan to address the issue of non-reconciliation and report to the House within 30 days.*

3.6.4 Capital Expenditure

The Ministry expended only 35% of its capital budget and this is disheartening because this budget is meant for the development of Lesotho and its economy as well as improved service delivery. The Ministry has now resolved to establish a committee that will liaise with all project officers in order to facilitate service delivery.

(a) Recommendations

- i. *The Committee recommends that the Minister of Health report on the progress of the liaising Committee within 30 days.*

3.7 MINISTRY OF AGRICULTURE AND FOOD SECURITY

3.7.1 Subsidy Programme

The Government of Lesotho operated a subsidy Programme for the farmers in the year 2012/13 in order to promote agricultural growth in the Country, where farmers bought the inputs at subsidized prices. It was estimated that about M102, 087,784.60 was set aside by the Government for this purpose. However, it was revealed that only M6 million was collected as revenue from the sale of the inputs and 18 million was not accounted for due to poor record keeping and lack of reconciliation.

There were reported cases of theft of the seeds, manure and so forth (RCUI12/11/2010) and the investigations are still continuing. Unfortunately, the Ministry failed to disclose how much the Government has lost in this project.

(a) Recommendation

- i. *Investigations must be sped up so that the culprits should be brought before the law within 90 working days.*
- ii. *Those officers responsible for record keeping must face disciplinary actions within 30 days and appropriate actions be taken.*

3.7.2 Claims from Block Farming Farmers

The Committee learned that from 2007/08 some farmers such as Mr. Phoka Mokabo who were engaged to plough the fields earmarked for block farming were not paid full amounts. The Ministry informed the Committee that the Government set aside M50 million as collateral for the Basotho farmers who borrowed monies from the commercial banks and most of these farmers defaulted the banks. Thus, the Government paid on their behalf.

For the above reason, it appeared the Government lost a lot of money in this project because the Ministries of Finance and Agriculture failed to recover the loans from these farmers who failed to pay the banks.

(a) Recommendation

- i. The Committee recommends that the Minister of Agriculture must ensure that a proper database of these farmers must be developed within 60 days and recovery measures must be put in place within six months.*

3.8 MINISTRY OF TRADE AND INDUSTRY

3.8.1 Enhanced Integrated Framework Project 2014/15 page 112

The Ministry failed to produce the financial statements for the two years ended 31 December 2014 as the Auditor General also expressed this concern. The project was financed by the United Nations Office for Project Services (UNOPS) with a grant amounting to US \$974,000 and the Lesotho Government contribution of US \$88,100.

The Government lost M85,483.58 to mismanagement where ineligible persons benefitted from the project. It was discovered that four (4) cheque leaves were missing in the project cheque book with serial numbers 000006,000008,000009 and 000010 and the counterfoils were blank. There was no description of payments. The financial controller, Mr. Lethunya also processed payment of gratuities to Sekhobela Masupha (M134,797), Lipolelo Motloti (M49,639) and Liphapang Pitse (28,797) to the tune of M213, 233.00 without the approval of the Project Coordinator, Mr. Monts'i, which was in contravention of the MOU provisions.

(a) Recommendation

- i. The Committee recommends that within 60 days, the financial statements must be submitted to the Office of the Auditor General and recovery measures must be implemented within 60 days against those who benefitted from the project illegally.*

3.8.2 Revenue collection

For the year 2013/14, the Ministry recorded an over-collection of M3,614,107 and a shortfall of M2,037,325 in 2014/15. However, in 2015/16, the Ministry recorded an over-collection of M1,123,000. Though various reasons were given for these inconsistencies, but the root cause was established as corruption perpetrated by the officers issuing trade licenses.

There were cases whereby one receipt was used for two different companies. Itu Brothers paid a license fee of M300 using the receipt number D500439 on the 7th April 2014. The very same receipt number was issued for South Asia International Trade with a different amount (M150) and only M150 was recorded as revenue collected. The officer involved was Morobi Lomile.

Similar cases involved other companies such as Hill, Mountain Engineering, Mamo Jahane, Johanshen, Petro Construction, Bin Touch Organic etc. The officers involved among others included Mathato Moeketsi, Lomile Morobi and Relebohile Au. Of all the officers, Lomile appeared to have been involved in many transactions.

In her defence, Lomile denied knowing anything illegal that happened in respect of the weird issuance of licenses during odd hours. Rethabile Seleteng and Ts'ehla Letoto who were also alleged to have been using the Manager's rights to issue licenses also denied ever being involved in those transactions.

There were other cases of trading licenses that were issued outside the working hours. For example, the license for Liroki fashion was issued by Lekhetho M. at 8.46 p.m on the 17th September 2015; Lemphane Office Solutions was given a license on 11/07/15 at 2.55 a.m. by Lomile M; Mokone Construction and Plant Hire was issued a license on 11/07/15 at 2.01 a.m.; Godisi General Dealer was given a license on 27/06/15, Saturday, by Lomile and many other cases.

The Committee was told that in the years under review, the system was faulty; hence it was recording odd hours. The Committee was not convinced by this response.

The Committee was informed that all these cases were referred to DCEO but that was not true because the Committee established that no such cases were referred to the DCEO and no disciplinary action was taken against these officers.

The Committee also learned that the Nexus Forensic Audit Report containing these findings disappeared in the office of the then PS. Surprisingly, this was never reported to the Police.

(a) Recommendations

- i. Disciplinary actions must be instituted against all the officers involved in fraudulent transactions within 60 days and a progress report must be submitted to Parliament thereafter.*
- ii. The DCEO must launch investigations regarding these cases and report to the Parliament within 60 days.*
- iii. The OBFC must be closely monitored and internal controls must be strengthened and progress report must be submitted to Parliament within 21 days.*

3.9 MINISTRY OF WATER

3.9.1 Five Towns Water Supply Project

The Committee established a lot of discrepancies regarding the handling of this project. At the start, the project had aimed to supply water to Botha-Bothe, Leribe, Mafeteng, Mohale's Hoek and Quthing towns. According to the Chief Executive Officer (CEO), Mr. Manamolela, the towns were reduced to two due to insufficient funds. The project was left with Botha-Bothe and Leribe towns. However, Leribe was cut off due to unavailability of funds, but there was no motivational letter leading to its exclusion.

This brought up a lot of questions which the CEO failed to answer. The CEO was also suspected to have manipulated the award of contract to UNIK company. A consultant who had to evaluate the bidders, and to do preliminary and detailed designs did not shortlist UNIK company but had recommended Mango Tree company. The CEO later ordered for re-evaluation of the tenders. Two evaluation teams did not go ahead with the re-evaluation but recused themselves because the officers did not agree with the CEO to repeat the evaluation. Evaluation team number three recommended Mango Tree, M & D (Geo) and CMC (Geo).

However, it was found out that the CEO unilaterally short-listed the following companies: UNIK, Mango Tree and China Geo. It was questioned why UNIK was short-listed despite its previous work which the consultant rejected and labelled as 'bad'. DCEO has already launched a case of corruption (awarding a contract in a suspicious manner) against Mr. Manamolela (RCUI 03/07/2018).

(a) Recommendations

- i. The investigations regarding case RCUI 03/07/2018 must be completed within 60 days.*
- ii. Investigations regarding all the contracts awarded to UNIK must be launched by the DCEO within 72 days; meanwhile, UNIK participation in Government tenders*

must be put on hold. If UNIK is found guilty, its license to operate in Lesotho must be revoked.

3.9.2 Irregular employment procedures

The Committee learned that when the Ministry of Water was established in 2013, there were illegal employment practices. There were a lot of vacancies which were filled with people who were employed without following Public Service Act 2005.

Cases of nepotism were reported to the Committee. Officers brought their relatives to the ministry to be employed. For example, Mr. Tlhokomelo Makoloane brought her brother Karabelo Makoloane; Thabang Leroibaki brought Thabo Leroibaki and so forth. It was also alleged that the Minister's Private Secretary, and the PS made recommendations as to who should be employed while others were recommended by senior employees. Some of the employees were claimed to have been employed but their physical existence had never been seen by other employees. Their cheques were collected by their spouses. For example, it was alleged that Mr. Khothatso Nts'onyane's cheque was always collected by the wife. Malefane Masenkane, 'Makali Nts'onyane and Thebe Makotoko had spouses as employees of the Ministry of Water. Mrs. Mampoi Makhetha, the financial controller, was implicated in the payment of non-existing employees she hired secretly and employment of relatives.

A case involving Mampoi Makhetha and two others (Tlhokomelo and Karabelo Makoloane) was opened for improper employment procedures was opened. The case was heard in part in the Magistrate Court; therefore, it is pending in court. The case number is CR 0838/17.

Other cases involved workers who had two contracts. For instance, Mr. Daniel Motseki Mosase, husband to Ms. Hatane, had two contracts. It was such a lawless state that some officers were getting paid though they never reported to work.

(a) Recommendations

- i. The DCEO must speed up the investigations regarding case number CR 0838/17.*
- ii. Investigations must be launched regarding the alleged irregular and fraudulent employment practices within 90 days.*

3.9.3 Breach of Procurement rules

In 2016/17 the Ministry committed 90 million without authority to contract companies for water installation. It was alleged that the contractors started the work before signing the contracts. For instance, Sana Building Construction belonging to Thabiso Tau, the son of the then PS's brother was given a letter to start work on 15/08/2016 but signed the contract on 15/12/2016. He made a claim for payment on 19/12/2016. It was claimed that the procurement processes were breached in the engagement of companies in this project in that there was no tendering process at all. The PS, Mr. Khomoatsana Tau indicated that he

was not aware of the committed M90 million and blamed the financial controller, Mrs. Mampoi Makhetha, that she ill-advised the Ministry on the status of funds then.

The Committee does not absolve Mr. Tau from all the malpractices that were observed in this ministry on account that he was the head of the ministry who should know whatever happens in the ministry. Again, nepotism was also attributed to him where he urged the finance departments to pay Sana Building Construction, belonging to the son of his brother.

(a) Recommendation

- i. The DCEO must launch investigations in this matter within 60 days.*

3.10 MINISTRY OF POLICE AND PUBLIC SAFETY

3.10.1 Irregular transfer of funds page 158-163 (2013/14)

The findings of the Committee revealed that Independent Electoral Commission (IEC) allocated the Police M6,347,748 and M6,876,559 for 2011 and 2012 Local Government and General Elections respectively. The funds were transferred into the Senior Police Officers Mess Development Account held at Standard Lesotho Bank from its recurrent budget for the purpose of maintaining law and order, upkeep of police officers and wages for Police Assistants, food and airtime (Annex 8).

The funds were distributed to the districts by the Force Accountant, Supt. Tumisang Bereng (Then Inspector) who kept records in his diary. There were no clear financial statements regarding the use of the funds in the districts for the purpose of reconciliation and accountability though it was claimed that the reports were sent to the Strategic Management Support Services office that was controlled by SACP Shekoe Sebutsoe.

The Force Accountant drew huge sums of cash from the bank and distributed it to the districts and other places where funds were needed. There were a lot of discrepancies regarding the distribution of cash because no proper records were kept and proper accounting standards were not followed. The Force Accountant just kept a diary which recorded the names of the officers who were given cash to deliver to the districts. It was discovered that huge sums of money to the tune of M200, 000.00 were deposited into his bank account. His response before the Committee was that he owned a business, which conveniently collapsed immediately after elections. Misuse of these funds was also acknowledged to the Committee by SACP Sebutsoe.

All the districts failed to account convincingly due to the unavailability of supporting documents in some cases for the use of these funds and some individuals, including the Force Accountant, are being investigated by Directorate on Corruption and Economic Offences (DCEO) regarding the alleged misuse of these funds.

There was around M6,000,000 as untraceable amount that was claimed to have been returned to the Mess Development Account after both elections. The main problem is that there were already some funds in this account when the balance from the allocated amounts for elections were returned into it and no reconciliation was done to establish how much was deposited into this account. For example, IEC allocated them the amount of M6,876,559.00 for the 2012 General Elections, but an amount of money allocated to the districts was M7,800,669.50 resulting in an over-expenditure of M942,110.50. The Police explained that they used the balance for the 2011 elections to finance the additional costs.

For 2015 General Elections, IEC allocated the Police an amount of M8,242,482 for Police Assistants (PAs) wages, Airtime, food commodities and others. For these elections, there was an untraceable amount of M37,500 and M72,245.25 that was considered as unaccounted for due to the unavailability of the supporting documents for accommodation and meals for the Task team.

The Committee also observed that there were some police officers who were not paid their election duty allowances.

(a) Recommendations

- i. The DCEO must speed up the investigations and report to Parliament within 30 days.*
- ii. Reconciliation of IEC funds and others must be done on monthly basis and within six months after every election.*
- iii. Reconciliation of the Senior Police Officers Mess Development Account held at Standard Lesotho Bank must be done monthly.*
- iv. The DCEO must use the Money Laundering and proceeds of crime Act 2008 in relation to asset forfeiture.*

3.10.2 Misuse of Mess Development Account

Lesotho Mounted Police Service (LMPS) operates a Call Account in which M26, 169,520 was drawn from this account to the Mess Development Account for outstanding projects. Only M10,731,985.26 was spent on those projects and a balance of M832,934.21 was realised in the account. However, the AG pointed out that a difference of M14,604,600.53 was unaccounted for. The DPS responded that responsible officers failed to provide documentary evidence of how the funds were spent and no action had been taken. Also, the Ministry failed to account why expenses amounting to M343,016.49 incurred were not related to the purposes of the Mess Account.

There was also evidence that police officers were given loans to the tune of M735,309 from the Mess Development Account from 2011 to 2013 and as of May 2014, the loans were still outstanding.

3.10.3 Police Rewards and Fines Fund

It was revealed that records for the use of funds from this Fund were not maintained and most of the expenditure incurred included items that were not related to the purpose of this Fund. Again, most of the payments were made to the Commissioner of Police. Auditors revealed that in 2011/12, the Commissioner was paid M382,000.00 and in 2012/13, he was paid M493,062.00.

The Force Accountant brought forth evidence (records in the diary) (annex 5a) of the misuse and embezzlement of the funds by the Commissioner, Kizito Mhlakaza (now the retired Commissioner). Huge sums of money were given to the retired Commissioner from different accounts: Mess Development Account, Call Account and Police Rewards and Fines Account). It was also alleged that he spent money in the slots (gambling) and would always go for more whenever he needed cash. It was also alleged that he subjected the Force Accountant under abuse because he would ask the Force Accountant to open the Cash Box (Safe) at any time of the day or the night. SACP Sebutsoe also acknowledged knowing this situation. The evidence brought before the Committee shows that the retired Commissioner squandered about M514,000.00. However, the retired Commissioner refuted these allegations though he confirmed that he plays slots. He even acknowledged having taken the money but did not think it was not that much.

More evidence pointed out that the retired Commissioner used money (advance) from these accounts in situations whereby his per diem delayed to be released, but there was no evidence whether he returned the money when his per diem was released. The retired Commissioner claimed he returned the advances but he had no evidence.

All the evidence given shows that the retired Commissioner has misused and squandered funds from the accounts held by the Ministry.

(a) Recommendations

- i. The DCEO must complete cases RCUI 05/04/2015 and RCUI 35/09/2012 and report to Parliament within 90 days.*
- ii. The Minister of Police must ensure that all the Police Accounts for the period between April 2011 to March 2016 are reconciled and report back to Parliament within 90 days.*
- iii. The Committee recommends that the Minister of Finance should submit to Parliament Regulations meant to stop Public Officers who handle public funds and those in positions of power from gambling practices.*

3.10.4 Police Training College

Cases of payments made for goods not received/delivered and payments effected prior to delivery of goods were revealed to the Committee. The College lost about M483,413.59 of undelivered items from 2009 to 2012/13. Again, the College paid the suppliers in advance payments totaling M1, 228,055.90.

As proof of the above malpractices, on 02/08/2012, an order was issued for the purchase of six oxen to be used during the pass-out of the recruits. Again, on 05/08/2012, another order was issued for the purchase of six oxen for the same purpose. The anomaly comes here because during the pass-out, only six (6) oxen were used. However, the then Commissioner Mhlakaza, acknowledged to have signed for twelve (12) oxen. Different witnesses claimed that only six oxen were delivered except the then Supt. Ts'eliso Moerane (now Senior SACP), who was the head of the College. He insisted that they were delivered but failed to explain why 12 oxen were ordered for the pass-out of the recruits. The irony is that he claimed they were used to feed the recruits after pass-out, but the question is which recruits after the pass-out?

The other evidence led by Lance Sergeant. Mathebe Motseki was that the Commissioner ordered them to pay for the goods that were not fully delivered. This fact was not refuted by the retired Commissioner Mhlakaza. For example, he ordered them to pay for the police uniform that was not fully delivered in 2012.

(a) Recommendations

- i. The DCEO must speed up the following cases and report to Parliament within 90 days:
 - RCUI 04/10/2018
 - RCUI 06/10/2018
 - RCUI 07/10/2018
 - RCUI 08/10/2018
 - RCUI 09/10/2018
 - RCUI 10/10/2018
 - RCUI 11/10/2018

3.10.5 Irregular awarding of Tender for Police Uniform

The Committee discovered that a "selective tender" amounting to M3, 659, 400.00 was fraudulently awarded to Naleli Outdoor Printing and Cubana Shell. Naleli Outdoor Printing was not yet registered at the time of awarding and even its subsequent registration was

done on 01/01/2016, which was a public holiday. The dubious fact was that the process started as an open tender but was later changed to selective tendering, on account of security reasons as cited by DPS Police Ezekiel Senti. These companies delivered sub-standard uniform and low-quality t-shirts that did not meet the tender specifications.

The Committee saw samples of the mentioned t-shirts and indeed they were of poor quality but the prices were exorbitant (M200.00 per item). The Committee found out that DPS Police Ezekiel Senti was the one who influenced the procurement process. Surprisingly, the goods delivered were not returned upon the discovery that they did not meet the tender specifications. Moreover, about 600 pairs of uniform are still unused because of their small size, thus resulting to a loss to the Government.

(a) Recommendations

- i. The DCEO must complete the case RCU 04/12/2018 and report to Parliament within 60 days.*
- ii. The Committee recommends that if these companies are found to have indeed participated in fraudulent dealings, then they should not be allowed to participate in government tenders.*
- iii. The DCEO must use their Money Laundering and proceeds of crime Act 2008 with regard to asset forfeiture and recovery.*
- iv. All officers who were involved in this fraudulent activity must face legal action for having participated in this loss to the Government of Lesotho.*

3.11 MINISTRY OF HOME AFFAIRS

After consideration of issues relating to this Ministry, the Committee raised a concern that huge funds are spent on the King's birthdays without clear accountability. It was revealed that officers have used these occasions to enrich themselves and a lot of discrepancies are found in relation to the way procurement procedures are conducted.

3.11.1 The King's 50th Birthday Anniversary in 2013

According to the Celebrations Coordinator, Mr. Khahliso Soro (now deceased), the estimated budget for this celebration was M15,584,295, but failed to give the Committee the actual amount spent on this birthday. Upon investigations, the Committee discovered an over-expenditure of about M1,211,126.

A huge amount contributing to this over-expenditure was realised in the catering department. It was estimated that catering for the public only cost about M4,580,000.00. The Coordinator also indicated that the increase in catering costs occurred because there

was an addition of 29 catering companies to the previously estimated number by the Organising Committee resulting in an over-expenditure of M530,000.00. It should be noted that the figures provided by the Ministry could not be relied upon as they kept changing every time. The Coordinator also alleged that the then Minister, Hon. Morena Joang Molapo, had advised them not to pick the usual caterers in their database but to pick new caterers of whom were directly recommended by the Minister Joang Molapo.

However, the Coordinator could not provide the list of those companies that were recommended by the Office of the Minister as he disappeared after lunch of the second day of the interviews. He never showed up before the PAC until the Committee learned about his death after few weeks. Hon. Molapo also confirmed that he advised the Celebrations Committee to give a chance to the new caterers and that the addition of 29 more caterers was a necessity considering the number of the people expected to attend the function. He indicated that the Celebrations Committee had underestimated the number of attendants to the function. However, he denied the allegation that he was involved in procurement activities, which is contradictory to what he actually did- he went to the level of being an influencer in the procurement process.

A number of anomalies were observed in relation to the way procurement was done. Almost all the services provided by the private sector were sourced through an “expression of interest” as it was indicated that there was no budget allocation for the celebration until the first week of July 2013. The big question therefore is why there was such a delay to allocate funds for a big occasion like that one. This prompted suspicion that the ordinary open tender process was deliberately avoided in order to give work to certain companies and individuals.

Peculiar cases regarding the use of funds were revealed to the Committee. For example, Ministry of Home Affairs hired the “Public Address System (PA System)” at the cost of M250,000 from the Republic of South Africa without following the open tender processes; one VIP toilet was hired at the cost of M14,000; and wines and champagnes for the VIPs cost M70,000, but the Coordinator failed to give their quantity. Moyeni Office Suppliers was paid M172,000.00 for providing attire for the National Celebrations Committee. The irony here is an office suppliers company providing clothes for the Committee (Annexure 1a).

The other thing that surprised the Committee was that the budget for entertainment was M290,000 but instead the Ministry paid M4, 076, 475 (Annexure 1b) to Nala Capital Advisors, which was even never awarded the contract by the Ministry in this celebration. Titi Thelejane, who claimed to be Coordinating the event, solely organised South African artists, without the knowledge of the National Celebrations Committee, which had organised to use only the local artists.

The Minister and the PS irregularly engaged Miss Titi Thelejane to carry out the functions of the Deputy Principal Secretary, but she was never given a contract. She worked for some

months without getting paid and she was actively involved in the preparation of this celebration. The letter she brought before the Committee was not authentic in material ways (Annex 1c).

It was also doubtful why Advance Business Promotions seems to have benefitted more than other companies as it was given several roles to play in the celebration. Below is a summary:

Activity	Amount
Provision of Glass Marque	M510,000.00 (Annexure 1d)
Promotion Cost	M245,475.00 (Annexure 1e)
Providing Musical Festival	M4,076,475.00 (Annexure 1f)
Royal Palace Decoration	M107,500.00 (Annexure 1g)
Provision of Decorative Lights	<u>M331,400.00 (Annexure 1g)</u>
TOTAL	M5,270,850.00

The Committee also learned about the cessation that Advance Business Promotion made to Nala Capital Advisors. There was a power of attorney that instructed the Ministry to direct all the payments due to Advance Business Promotion to be made to Nala Capital Advisors (Annexure 2a) and was duly approved by PS Finance. Prior to this approval, legal opinion was sought by the Procurement Unit regarding this matter (Annexure 2b) from the Chief Legal Officer Ms. Puleng Bangamthi of which she responded to by writing to PS Home Affairs (Annexure 2c). Instead of being answered by the PS, she was answered in writing by Minister Molapo (Annexure 2d), who saw nothing with involving himself in the procurement process. Later, the cessation was revoked (Annexure 2e).

(a) Recommendations

- i. Mr. Soro's death is dubious because it conveniently happened during the time he was supposed to give information to PAC. This does not look like a coincidence. Therefore, the Committee urges the Police to speed up the investigations and be reported to Parliament within 60 days.*
- ii. DCEO must speed up the investigation of case RCU 53/10/2013.*
- iii. All the embezzled funds for this occasion should be recovered by using the Money Laundering and proceeds of crime Act 2008.*
- iv. Investigations leading to action must be done by DCEO within 30 days against Minister Joang Molapo and the then PS Ranthomeng Matete for misuse of power by illegally engaging Ms. Titi Thelejane. Section 13 of the amendment of Prevention of Corruption and Economic Offence Act of 1999 should be applied.*

3.12 MINISTRY OF DEVELOPMENT PLANNING

3.12.1 Loan Bursary Fund (2015/16) page 119-123

(a) Non-preparation of the financial statements

The National Manpower Development Secretariat (NMDS) has not been preparing the financial statements for over years despite the requirement of Section 14(1) of the Loan Bursary Fund Regulations of 1978. Their last financial statements were for the year 2002. The Government of Lesotho gives NMDS about M690 million to assist Basotho children to further their studies, but the Secretariat has failed to produce reconciled financial statements for consolidation by the Accountant General.

The Ministry cited shortage of staff as a contributing factor for non-reconciliation of accounts and inability to prepare financial statements. Moreover, they blamed rotation of staff from the accounting cadre that they are always left with new staff who lack experience. However, the Committee did not agree with all these excuses because eleven (11) staff members could do reconciliation and prepare the financial statements.

The above situation was also substantiated by the Audit Inspection Report of Loan Bursary Fund for the Three Financial Years ended 31 March 2013. Among the findings, the Committee learned about non-maintenance of Cash Book; Improper maintenance of a Bank Register; non-preparation of Bank Reconciliation Statements; non-authorisation of the students list by the Council and the Minister; non-availability of Acceptance forms etc.

This was a shocking situation that shows that public funds are seriously exposed to fraud and misappropriation. The Committee observed that there exists carelessness at NMDS where there is no accountability and public funds are spent without any monitoring. The above anomalies have led to the following discrepancies.

(b) Overpayment of allowances to students from different Schools

NMDS issued several instruction letters to the banks for payment to students from different institutions. It was noted that seventy-four (74) students were paid more than twice in one month resulting into a total overpayment of M157,497.50 for the period under review.

From a sample of students allowances paid to NUL, it was discovered that five (5) students were holding more than one bank account through which allowances were paid. The investigations by PAC revealed that some officers connived and shared funds with students. Malenka Malefane, Sebolelo Moriana and Rethabile Mohlabi were among some officers involved in these practices. Their cases are still under investigations.

The case involving Rex vs. Malenka Malefane and others was opened (RCI 126/04/13) and sent to Director of Public Prosecutions (DPP) for directives. It is still under investigations as it is pending the statements of the sponsees of NMDS whose names were used.

NMDS instructed the bank to process advance payment totalling M6,340,708 to Lerotholi Polytechnic for two months living allowances and book fees. This amount included overpayment of twenty-three (23) students who were reflected twice in the Instruction Letter and that resulted into total overpayment of M178,919. Eighteen (18) students were paid the amount of M7,953 twice and five students were paid M6,953 twice.

I. Recommendations

- i. The police must speed up the investigations against the officers and the students and report to Parliament within 60 days.*

(c) Allowances paid to NUL Students beyond 2012/2013 Academic Year

NUL Academic year starts from August and ends in May the following year. Examination of copies of instruction letters revealed that NMDS had instructed Nedbank and FNB to pay allowances totalling M70, 680.00 to hundred and fourteen (114) students for the months of June and July 2013, which was beyond the academic year.

I. Recommendations

- i. The police should launch the investigations pertaining to this matter and report to Parliament after 60 days.*

(d) Lack of records for loan repayments

There were no records showing the movement of loans especially repayments by the graduates. It could not be established if the graduates were repaying loans in the absence of records.

The Government (Ministry of Finance and Development Planning) had a contract with Jamale Holdings for a period of five years beginning 06th June 2012 to 05th June 2017 to recover loans from defaulting students. The agreed target was to collect M5, 000 000.00 per month, which would result to a total collection of M300, 000,000.00 for the contract period. For a period of eighteen (18) months of the contract, it was established that Jamale holdings collected M27, 945,222.87 instead of M90, 000, 000.00 resulting to under collection of M62, 054,777.13. It appeared that they had not collected M5, 000, 000.00 as agreed but their monthly collections ranged from M139, 987.78 to M139, 987.78 to M2, 491,316.00.

Insufficient funds in the Revolving Fund due to under collection of repayments might lead to students not being sponsored. It is therefore imperative that collection measures are in place and monitored frequently.

It is of fundamental importance to treat the Fund on a revolving basis according to its establishment so that other students can benefit from it.

I. Recommendation

- i. *The DCEO must speed up the investigation of this case*

(e) Findings of the Internal Audit- August 2012 to April 2013

After realizing a lot of inconsistencies, irregularities and anomalies within the NMDS section, the Committee sought supplementary material from the internal auditors within the Ministry of Planning in order to prove that there is likelihood that there is collusion between NMDS, banks and the students; there is a possibility that the payees are not aware of the prevailing situations with their bank accounts and there is a higher possibility of illegitimate payees. Below are the findings of the internal report which were confirmed by the investigations of the Committee. The total amount misused according to the findings of the Internal Audit- August 2012 to April 2013 by NMDS is **M677,299.12**.

- One account number has been used to pay different students allowances fees scheduled to the National University of Lesotho and Lerotholi Polytechnic students. For example, account number 14555108601 paid seven different students in one month (Annex 3a)
- One person has been paid multiple payments at different dates in one month and in one account number (Annex 3b).
- Unusual payments made with unusual references with different amounts (Annex 3d)

The Ministry informed the Committee that the similar three of the staff members Ms. Sebolelo Moriana, Ms. Malenka Malefane and Rethabile Mohlabi connived with students to make multiple payments into the students accounts of which some of the deposited funds were syphoned back into their accounts.

The latter took an appeal to the tribunal of which her case has not been heard to date while the first two were dismissed from the Public Service. Their case was referred to the police for further investigation. Similarly, though there is a case number (RCI126/04/13), the case has not been taken to the courts of law.

I. Recommendations

- i. *Investigations must be completed regarding the above cases and progress must be reported to Parliament within 60 days.*
- ii. *recovery of these funds must be ensured using Money Laundering and proceeds of crime Act 2008.*
- iii. *A complete overhaul of the systems must be made that proper administrative structures are in place, there is computerisation of records etc and progress report must be submitted to Parliament within 90 days.*

3.13 MINISTRY OF LABOUR AND EMPLOYMENT

3.13.1 Issuance of Fraudulent Work Permits

The Committee learned about fraudulent practices whereby non-deserving persons were given work permits and officers solicited bribes from both foreigners and locals for them to be given work permits.

Ms. Nthoateng Russel and her accomplice, Mr. Mejaro facilitated the issuance of a fraudulent work permit to a South African company that was erecting billboards for two weeks in Lesotho. They acted upon a request from one officer from the Ministry of Energy, Mr. Liketso Ntho. Though Nthoateng denied pocketing M32,000.00 as bribe from this company, evidence showed that there was frequent communication between Ntho and Nthoateng and money exchanged hands during that time. Nthoateng also admitted having forged the signature of Mr. Koalepe in the process of facilitating the issuance of the permit.

This case was investigated by DCEO, to date it has not been finalized. Mr. Mejaro and Ms. Russel were also involved in another scandal whereby he accepted M2,000.00 as bribe from drama artists of which he gave Ms. Russel M1,200.00 to fast-track a reported case that was before the Ministry of Labour and Employment.

The Labour Commissioner, Ms. Mamohale Matsoso, was also implicated in the corrupt practices, and she was at some point mentioned in the social media and newspapers. The Commissioner of Labour, 'Mamohale Matsoso denied involvement in an alleged syndicate within the Ministry of Labour that is reportedly granting work permits to undeserving foreigners. She said she was aware that she had been named as one of the members of the alleged syndicate but the allegations were unfounded.

A foreigner by the name of Madowe (Nigerian) had overstayed in Lesotho and the Ministry of Mining had warned that his work permit should not be renewed, but he openly stated that he would pay a bribe and his permit would be renewed. He has stayed in Lesotho (Lets'eng Mine) for over fifteen years without transferring skills to any local employee or someone understudying him. It was alleged that the Labour Commissioner assisted him through her secretary, though the Labour Commissioner denied it.

It was also alleged that the Minister of Mining, Hon. Keketso Sello, wrote a letter facilitating exemption of foreign employee (Mr. Madowe) to work for more than five years in Lesotho as against the requirement of section 166 (3) of the Labour Code 1992 as amended in 2000. The Committee is concerned that a person who has failed to transfer skills for 15 years is being exempted for a further two years, citing transfer of skills after such a long time of staying in Lesotho without transferring skills. The big question is what kind of skill takes 20 years to transfer?

The Committee also interviewed Hon. Minister Keketso Sello on this matter. He indicated that Lets'eng Diamonds Pty Limited wrote to his office on 29 January 2018 requesting for the exemption of Mr. Madowe to work for more than five years in order to fill the position of the Mining Manager after efforts to find a skilled replacement had been unsuccessful. This followed the resignation of Mr. Wayne Louw. On 5 February 2018, the Minister wrote to them declining their request. On 1 March 2018, Lets'eng Diamonds wrote again to the Minister outlining their plan that they had identified a local person by the name of Mr. Khoetha Masehlela to understudy Mr. Alfred Madowe. That is, Mr. Madowe would be transferring skills to Mr. Khoetha Masehlela.

They also wrote again to the Minister's office on 12 April 2018 as a follow up to their request and also indicating that Mr. Madowe had been granted a two-year work permit on 15 January 2018 and it is expiring on the 15th January 2020; therefore, they requested the Minister's office to grant Mr. Madowe a Ministerial exemption equivalent to his work permit in line with Clause 9 (e) of the Mining Lease Agreement.

Considering this as a positive step from the Mining Company, Hon. Minister Sello wrote a letter of exemption on 16 May 2018 to the Chief Executive officer of Lets'eng Diamonds Pty Limited using the afore-mentioned Clause of the Agreement.

The Committee was not only shocked by these revelations, but also concluded that that section 166 (3) of the Labour Code had been violated by the Ministry of Labour and this Ministry has indirectly made the Minister of Mining an accomplice. The Committee also warned the Minister that Mining Lease Agreements must be in line with the provisions of the Principal Laws. The Mining Lease Agreement between the Government of Lesotho and Lets'eng Diamonds has a provision for a foreigner to work in Lesotho for five years, which is contradictory with the provisions of the Labour Code. The Minister was warned against being a rubber stamp because the Ministry of Labour had already granted Mr. Madowe the work permit illegally.

The Committee also discovered that many foreigners who have the same qualifications as Basotho or less than those held by the Basotho citizens are given work permits while they do jobs that are below the executive positions (Annexure 4a-d).

The Committee also discovered that many foreigners who have the same qualifications as Basotho or less than those held by the Basotho citizens are given work permits while they do jobs that are below the executive positions (Annexure 4a-d).

(a) Recommendations

- i. Investigations leading to action must be done by DCEO within 30 days against Labour Commissioner Mamohale Matsoso for illegally issuing Mr. Madowe permit to work in Lesotho for a period exceeding the one stipulated by the Law. This is misuse of power,*

therefore, Section 13 of the amendment of Prevention of Corruption and Economic Offence Act of 1999 should be applied.

- ii. The Committee recommends that the Ministry of Labour must compile the experts, specialist and expatriates registration statistics and verify them with Ministry of Labour, with authentic copies of qualifications. All permits issued fraudulently must be revoked within 30 days. The Minister of Labour and Employment must report back to Parliament within 45 days.*
- iii. The Committee has noted with concern the negligence of duty by the Commissioner of Labour. Therefore, the Committee recommends that Mrs. Matsoso be relieved from the position of the Commissioner of Labour with immediate effect and the Minister of Justice to report back to Parliament within 45 days.*

3.14. PRIME MINISTER'S OFFICE (Cabinet)

3.14.1 Poverty Reduction Programme (PReP) (2015/16) page 129-10

This project was formed with the objective of assisting communities to establish and effectively run poverty alleviating projects. The Government of Lesotho lost huge sums of money under this project because it is alleged that it was run solely and unilaterally by Mr. Lephats'oe. The Ministry was not willing to disclose information relating to this project, but pointed out that everything could be answered by Mr. Lephats'oe. The occupant of the PReP office after Mr. Lephats'oe also claimed that she had no records of the things that Mr. Lephats'oe did. The officers claimed that they had no knowledge of anything about this project and the whereabouts of Mr. Lephats'oe.

3.14.2 Tenancy Agreement

On 1st February 2008, Management of PReP entered into a five- year tenancy agreement with Seolo Investments that the Government would renovate the property to the value of M450.00 to make it suitable for the project and would not pay rent for 24 months. Thereafter, the Government would pay M5, 000 per month as rent for the remaining 36 months. Before the end of the first 24 months, the Landlord showed intention to increase rent from M5,000 to M22,000 per month of which the management of PreP did not object despite the stipulated amount in the lease contract and went ahead to pay this amount.

This prompted a lot of questions of which Mr. Lephats'oe was supposed to answer. However, as indicated above, officers of Cabinet failed to assist the Committee in any possible way about the whereabouts of Mr. Lephats'oe. Further, the Auditor also revealed that PreP continued to occupy the property even after the expiration of the tenancy agreement in January 2013, though a concern about the hiking rent price had been raised. Prep was still occupying the property in 2016 during the audit. At this time there were no

operations at PReP though rent was still being paid. This is clearly a serious fruitless expenditure that Cabinet has caused the Government.

3.14.3 Management of equipment and tools

A lot of the machines were not operational at the time of audit and proper care of these machines was not adhered to. There were incomplete popcorn-making machines, six dismantled stone-making machines and one incomplete machine were idle at PReP. One, stone cutting machine was kept at a private homestead at Ha-Thetsane and another one was found at Kolonyana without any security.

There are no proper records regarding the whereabouts of the missing machines, but upon investigation, the Committee was informed about the whereabouts of the other missing machines and below are the persons who are alleged to have kept the machines.

Mr. Sankoela (Six Machines)	Koalabata
Mr. Sello (Former MP) (1)	Mapoteng
Ms. Mamodidi(1)	Setibing
(Unknown)	Botha Bothe and Thaba-Bosiu
Mr. Mofolo	Kolonyama (Brought by Hon. Mokose)
(Unknown)	Mahobong
Hon. Ndlomose	Tele
Mr. Monahali	Moyeni
(Unknown)	Mt. Moorosi
Unknown (2)	Tsoelike

The Committee was informed that 67 machines were taken to different places under the custody of the above-mentioned persons and many more, but only 20 machines were able to be traced. Most of them were vandalized and very few were recovered.

(a) Recommendation

- i. *The DCEO must open a case against Mr. Lephats'oe and recovery of the lost funds must be ensured using Money Laundering and proceeds of crime Act 2008. The Minister must report to Parliament within 60 days of the progress.*

3.15 MINISTRY OF SMALL BUSINESSES, COOPERATIVES AND MARKETING

3.15.1 Doubtful payments to Ha Rona Catering (Annex 7)

The Committee discovered that Cabinet on 14 June 2018 approved payments of M3,692,192.32 and M21,600.00 plus interest at the rate of 10% per annum to Ha Rona Catering Pty (Ltd) as compensation for loss of business though the Ministry of Trade and Industry, Cooperatives and Marketing (MTICM) by then strongly argued that Ha Rona Catering did not deserve to be paid their payment claims because they refused to vacate the premises of Lesotho Cooperative College (LCC) where it was catering after the expiration of its contract. Rather, they provided the catering services without authorisation.

When Ha Rona Catering's annual contract expired on 31 October 2012, it was extended for a total of nine months, consisting of the first contract extension of five months, followed by a second contract extension of four months. Thereafter, there was a second annual contract from August 2013 to July 2014. At the end of the second contract, procurement procedures for a new supplier were not in place; thus, MTICM extended Ha Rona Catering contract for a further period of five months. After this, on 22 December 2014, MTICM wrote a letter to Ha Rona Catering requesting them to vacate the LCC premises by 1st January 2015.

By this time the tendering process for a new supplier had been made and the scores were as follows:

Ha Rona Catering	88.25%
Eat More Catering	87%
Rainbow Cater	79%
Star Catering	77.5%
3 GGG Catering	72.5

The above scores were based on quantitative criteria, excluding the qualitative criteria that involves physical inspection and both were mandatory components of the evaluation process. The evaluation team went for physical inspection and found that Ha Rona Catering did not have a qualified chef, health and safety officers to ensure compliance with health and safety standards. Therefore, in terms of qualitative evaluation, Eat More Catering complied more than Ha Rona Catering, and overall, it was ranked as the highest. However, information had already leaked to Ha Rona Catering that they were the winners after the quantitative score. Therefore, they opposed the decision to award Eat More Catering a contract and referred to the quantitative scores alone.

They were advised to lay their complaint with Public Procurement Advisory Division (PPAD). Instead of approaching PPAD in accordance with Public Procurement Regulations 2007, as advised, the Ministry was served with an urgent application from Ha Rona Catering from the

High Court that the Ministry be interdicted and restrained from signing a contract with Eat More Catering and they should declare Ha Rona Catering as the winner: CCA/0173/2014. The Ministry filed opposing papers with the High Court before the return date and Ha Rona Catering failed to file a reply to the stated facts. However, Ha Rona Catering approached a different court-the Magistrate Court to challenge the letter written by the Ministry to vacate the LCC premises. The Ministry responded to the Magistrate Court why Ha Rona could not be granted her plea to stay in the premises and continue feeding the students.

Whilst the main court case was still pending and stalled by Ha Rona Catering in the High Court, the Ministry engaged Eat More to feed the students for three months, but at the same time Ha Rona was cooking forcibly in January 2015. Ms. Masenate Moshoeshe Litjoho argued that she had already bought food assuming she would cook in January. The Ministry sought legal advice from the Attorney General, T. Makhetha, who pointed some flaws and advised the ministry to withdraw from the court battles. Surprisingly, the Ministry also alleged that the Attorney General's advice was premised on inadequate facts. He advised that the Ministry should withdraw from the matter and that the matter be rightly determined by the courts of law.

In December 2015, the High Court ordered that Ms. Malehlohonolo Mokhoema (Eat More Catering) should provide catering services from January 2016 to March and thereafter, Ha Rona Catering should feed the students from April 2016 to June 2016. The two companies provided such services per the order and were duly paid. However, in January 2016, Ha Rona Catering entered Civil Summons under CCT/0018/16 against the ministry and made a claim of M1,866,170.00 composed of:

- M1,003,200.00 for services rendered
- M601,920 for loss of business
- Interest at the rate of 18.5% per annum
- M160,512 being 10% collection commission
- Cost of suit
- Further and /or alternative relief

The surprising thing was that claims were made for services rendered during awkward periods such as in Easter, June, and December vacations. These are the periods when students were not at school. Every month was at charged at 31days and subsequently the number of students had decreased from 100 to 50 but the charge was still for hundred students. Furthermore, there was no court order showing that the Ministry owed Harona. This was a plain fraud because the tender dossier requirements stipulated that a payment would be on flat rate; meaning paying the services rendered. Furthermore, Ha Rona Catering made miscellaneous claims to the tune of M21,600.00.

The Committee expressed shock to realise that Cabinet has approved M3, 692,192.32 as compensation to Ha Rona Catering for loss of business yet there were cases pending in the court: (CCA/0173/2014) and (CCT/0018/16). The Committee believe that Cabinet was misled in this particular matter.

Hon. Minister of Small Businesses, Cooperatives and Marketing, Hon. Chalane Phori, was also interviewed in respect of the payment approved by the Cabinet. He indicated that he took the matter to the Informal Cabinet for advice with all the supporting documents that were given to him by the legal team of his Ministry and other officers. The Informal cabinet was satisfied with the evidence laid before it that Ha Rona Catering deserved to be paid, of which the matter was taken to the Formal Cabinet that was also convinced with the relevant documentation. He alleged that everybody, including the former PS under Minister Thabiso Lits'iba, had agreed that Ha Rona Catering was owed by the Ministry.

Hon. Phori also indicated that he asked the officers to calculate all the costs that were due to Ha Rona Catering. The costs amounted to slightly of M5,000,000 of which he negotiated with Ha Rona to cut some claims until they settled for M3, 692,192.32 as compensation to Ha Rona Catering for loss of business and other claims. The Committee asked the Hon. Minister if he was aware that claims of payments included holidays, weekends, 31 days for each month (for 12 months), double payments (three months endorsed by the Court had been duly paid), and incorrect number of students that were fed. The Minister responded that he was not aware as he had asked the officers to work out the figures/costs with Ha Rona Catering. The Minister was also asked if he was aware that the Cabinet decision was made while there were cases still pending in the High Court. He indicated that he was not aware because he was informed by the officers that the cases had been withdrawn by the Ministry from the Court.

After being presented with a document/submission given to PAC by his Ministry (of which he did not have) that categorically opposed the payment made to Ha Rona Catering, Hon. Minister Phori surrendered. He indicated that it was clear that he had been misled by the officers and his Ministry was divided; there were those supporting Ha Rona Catering and those supporting Eat More Catering.

The Committee strongly maintain that payment made to Ha Rona Catering is unjustifiable as per the above-mentioned facts and the Cabinet was misled to approve this payment.

(a) Recommendations

- i. Investigations regarding the unjustifiable payment made to Ha Rona Catering and leading to action must be done by DCEO within 30 days against officers, Minister Chalane Phori and the then PS Lerata Pekane for misleading the Cabinet. Section 13 of the amendment of Prevention of Corruption and Economic Offence Act of 1999 should be applied.*

3.15.2 Recurrent Expenditure (2015/16 pg 99)

The Ministry of Small Business Development, Co-operative and Marketing was established in April 2015, evolving from the Ministry of Trade and Industry. For this Ministry, there was an underspending of 26% and the Ministry responded that it was due to the fact that the IFMIS system was not yet established and all their payments were still done through the Ministry of Trade. Surprisingly, the Ministry of Small Business managed to overspend by M2, 325, 568 in salaries in one month and no convincing response was given for this over expenditure.

3.15.3 Recurrent Revenue (pg 165)

The Ministry had budgeted to collect M903, 000.00 in revenue but the actual revenue was only M199, 000.00 (78% below target). Their response to the Committee was that revenue collected from the districts was not captured into the system, while the other revenue collected between April and September 2015 was wrongly captured under the Ministry of Trade. However, the DPS Ms. Rethabile Maluke responded before the Committee that the reason was the closing of Cooperatives College (Co-op College). This statement was very contradictory and confusing because Co-op College was closed down in December 2016 and the renovation started in 2017, so the closing of the College could not have any bearing on the under collection of revenue.

The Committee further discovered that the poor performance of the College was attributed to the poor management by the Commissioner of Co-operatives as the oversight authority. It appeared that the Commissioner (Mrs Maphamoli Lekoetje) was interfering in the everyday running of the Co-operatives, even after the Court had advised her to step back.

Over and above that, there was a forensic audit done in January 2017 that proved beyond doubt that Mrs. Lekoetje was not complying with the Laws of Lesotho and was mismanaging the Co-operatives. She even seconded three officers (Mr. David Mokoma, Mrs 'Mamokonyana Marai and Ms. 'Mataka Motanyane) of the Ministry to run the affairs of the Co-operatives Lesotho to an extent of making them signatories in the Co-operatives Association, which they were not members and this was clearly in contravention of the Cooperatives Act of 1999. Even in this case, Mrs. Lekoetje went to Court to stop publication of the Forensic audit report of which she was part of the panel that selected the forensic auditor. The clear motive here was the fact that the audit implicated her instead of Mr. Thabo Shale. Mrs. Lekoetje had initiated the forensic audit because she was claiming that Mr. Shale was embezzling the Associations funds.

One of the unlawful signatories by the name of Mr. David Mokoma still has a pending case in Ficksburg where he bought a stolen vehicle using the Co-operatives money. Mrs. 'Maeketsa Molefi , 'Mathapelo Mohale and 'Mamokonyana Marai further signed for funds from the Co-operatives accounts even after Mr. Shale had expelled them. These officers

even continued to illegally collect the Co-op College rent from tenants and paid by the proceeds of the Association as per Mrs. Lekoetje's directive. Her response before the Committee was that she considered them not expelled.

Moreover, the Committee established that the Ministry is not collecting revenue as expected because tenants at the Maseru Craft Centre have been owing the Government of Lesotho rent and the Ministry officials could not even respond to the question of how many months or how much was owed to the Government of Lesotho.

(a) Recommendations

- i. The Committee has noted the collapse of Co-operatives under the stewardship of Mrs. Lekoetje. It further noted the recurring embezzlement of funds within the Co-operatives movement under her custody and the long outstanding Court cases within the Ministry of small Business (Cooperatives Department). The Committee therefore, recommends that she be relinquished from Office of Commissioner with immediate effect and the Minister is to report back to Parliament within 60 days.*
- ii. The Committee recommends that DCEO must speed up its case RCUI 01/01/2019 and report back to Parliament within 90 days.*
- iii. All embezzled funds should be recovered from all officers involved within 92 days.*
- iv. The Committee recommends that the Courts speed up the case concerning publication of the forensic audit report of January 2017.*

3.16. MINISTRY OF JUSTICE AND CORRECTIONAL SERVICES

3.16.1 Breach of Financial regulations (2013/14) pages 115-116

The Ministry acknowledged the irregularities that led to the breach of Financial regulation 605 (1) of 1973, which stipulates that payments should not be made before they are due for purpose of utilizing an anticipated saving on a sub-head. The Committee discovered that the Ministry of Justice transferred the funds to the bank accounts held by the Ministry of Works for payment of contractors shown below even though the job was not completed.

Mr. Lerotholi (the then Director at Building Design Services at Ministry of Works) and Mr. Moshoeshe Phalatsa (Principal Quantity Surveyor) authorized the payments for an incomplete job totalling M2, 182,933.87 to Bafani Construction and M4, 550, 643.03 to Golden Stone International Engineering Corporation, in some instances even without the contractor's claims.

(a) Recommendations

- i. The DCEO must launch investigations and recovery of the lost funds must be ensured using Money Laundering and proceeds of crime Act 2008 and report to Parliament within 60 days.*
- ii. Should these companies be found to have been accomplices to these fraudulent activities, the Committee recommends that they should be disqualified from participating in Government tenders.*

3.16.2 Master of High Court: The Guardian Fund (2014/15) pages 157-160

3.16.2.1 Non-preparation of financial statements

The Office of the Master of High Court failed to produce the financial statements of the Guardian Fund to be submitted to the Accountant General totalling M31,058,191 for 2012/13; 2013/14 and 2014/15.

The Auditor General cited poor maintenance of the accounting records of which she had been flagging on several occasions but without success. The AG further stated that the Guardian Fund created an environment which does not support accountability, which exposes the public funds to theft and fraud as the Office of the Master of High has not monitored whether funds allocated had actually been used for intended purposes. The Master of the High Court, Mrs. Matiea and the Guardian, Mr. Moruri, failed to give convincing responses to this finding. They cited shortage of staff and lack of knowledge of the accounting procedures on the part of the accountants. They claimed the accountants were fresh from school (incompetent) and lacked substantial knowledge on how to prepare the financial statements.

3.16.2.2 Non- publication of unclaimed moneys

The AG revealed that the Guardian, Mr. Moruri, through the Office of the Master of High Court failed to publicise all claimable and unclaimed moneys outstanding in the books for more than five years, which is in contravention of Section 97 of the Administration of Estates of 1935.

A sample of unclaimed amounts to the tune of M958, 357.50 reflected in the accounting records of the two financial years 2013/14 and 2014/15 was not known to the public. The AG warned that this practice makes the moneys vulnerable to fraud and misappropriation as payments could be made to wrong beneficiaries. The Committee further noted that there was no reconciliation of beneficiary books to give a true picture of available funds. Similarly, the Master of High Court and the Guardian failed to give a convincing response to this finding as they again cited shortage of staff to carry out reconciliation.

3.16.2.3 Doubtful Payments (2014/15 pg 158)

The AG discovered that there were funds amounting to M1, 753,384 that were made under doubtful circumstances. That is, the release of the funds was approved by undesignated officers and also without approved minutes by the authorizing officer. This makes beneficiaries funds susceptible to embezzlement and misuse by the public officers. The then Assistant Master of the High Court, Ms. Vilakazi approved the minutes for payments totalling M249, 632.00 without the designated signatories.

3.16.2.4 Mismanagement of Cash

There were three reported cases to the Police and DCEO in relation to mismanagement of cash to the tune of M167, 601.76 from as far back as 2008. The AG had recommended that the Master of the High Court investigate these cases or refer them back to the Police or DCEO. A case was opened against Mr. Moruri (RCI 35/03/18). On 27/07/18, a request for information from Standard Lesotho Bank was made but there is still no response. The case is still under investigation.

Upon seeing the Master of the High Court on live broadcast, some of the beneficiaries of the Guardian Fund (Mpho Mapetla and others) came to give the Committee their side of the story regarding mismanagement of the Fund. The Committee was shocked to discover that Mr. Moruri could not even account on how he divided the estate worth over M500, 000.00 between the five children and the step-mother 'Mabahlakoana Mapetla, nor how much was left in the estate. No records nor a clear response were available from Mr. Moruri as to how much was invested as fixed deposit at the Lesotho Post Bank for these beneficiaries or how much each child received.

Upon dividing the estate, Mr. Moruri advised Mrs. Mapetla to deduct expenses that she had incurred while raising them. Some of the sites belonging to these beneficiaries in this Estate were sold without their knowledge, one of which was sold to the current PS of this same Ministry Mrs. Lebohlang Mochaba. Unfortunately the Committee could not get more enlightening responses from Master of the High Court and Mr. Moruri because they decided to interdict the Committee from questioning them further on the maladministration of the Guardian's Fund, which seemed to benefit some other people other than the entitled beneficiaries of the deceased parents/late estates.

The case was argued in the High Court before Judge Monaphathi in May 2018, but judgement was passed at the end of March 2019 whereby PAC was prohibited to question matters relating to the Guardian Fund. ***The Committee was shocked that this very same Fund was established through an Act of Parliament and is appropriated funds by the same Parliament to operate. However, Parliament is prohibited to scrutinise the work of this office regarding the estates due to the poor orphans who are always crying about the embezzlement of the moneys due to them.***

(a) Recommendations

- i. The Committee recommends that the Office of the Master of the High Court prepare the 2013/14; 2014/15 and 2015/16 financial statements and the Minister of Justice to report to Parliament within 30 days.*
- ii. The DCEO to speed up the cases RCUI 03/10/2017; RCUI 03/04/2015 and CRT/Msu/07/37/2015 concerning Moruri and Sethunya on suspicion of misappropriation of funds.*
- iii. The DCEO must launch investigations on the Mapetla late Estate and report back to Parliament within 30 days.*
- iv. The Office of the Master of the High Court must publicise the claimed and unclaimed monies and estates as per Section 97 of the Administration of Estates of 1935, within 21 days.*
- v. The Police and DCEO must launch lifestyle investigations against Ms. Matiea and Mr. Moruri. The DCEO must apply the asset forfeiture clause in the Money Laundering and Proceeds of Economic Crimes Act 2008.*
- vi. The Committee has noted with concern the negligence of duty by the Master of the High Court. Therefore, the Committee recommends that Ms. Matiea be relieved from the position of the Master of the High Court with immediate effect and the Minister of Justice to report back to Parliament within 45 days.*

3.17 MINISTRY OF FOREIGN AFFAIRS AND INTERNATIONAL RELATIONS

3.17.1 Durban Consulate

(a) Mismanagement of cash

The Durban Consul General, Ms. Lerato Ts'osane acknowledged depositing cash to the tune of M500, 000 into her personal bank account for running the Office. She argued that this was for convenience sake because obtaining signatures from Pretoria for the cheques was sometimes hectic. This was in violation of the Government financial regulations. The auditors were able to establish the use of only M75,555.67 from the Consul's personal account for the purchase of furniture from Mafeteng, salary of the Office Assistant and payments for a party of 27 people, but could not verify whether the remaining balance of M424,444.33 was ever used.

Ms. Ts'osane contended that she spent all the money for the operations of the office but could not prove to the Committee how that balance was spent citing reasons that she had no access to the documents as she was no longer in office.

(b) Doubtful payments

The Consul General, Ms. Lerato Ts'osane, failed to convince the Committee why she claimed out of pocket expenses totalling M49, 654.57 in 2013/14 while there was a lot of cash deposited to her own bank account. That prompts suspicion that she used Government funds for personal use and then came back to claim more funds.

On the other hand, the Consul Attaché also claimed out of pocket expenses to the amount of M9, 347.00 and M14, 459.90 while travelling to Lesotho. However, the auditors could not find evidence that the trip took place. Again, the Consul Attaché lacked financial discipline when she claimed a payment of M6, 258.00 that was made to a supplier for the payment of air ticket in March 2014 though she was the one who authorized it.

In February 2014, the Consulate paid rent twice to the tune of M40, 415.28 as monthly rent. The second payment was never acknowledged by the landlord casting doubts whether that money was actually paid for rent. On 19 November 2013, the Durban Consulate processed a payment of M16, 131.00 to Digital Air Express for purchases of items and branding of A4 executive diaries at Standard Bank Kingsmead. The very same amount was paid on behalf of the Durban Consulate by the Johannesburg Consulate to the same supplier but in Braamfontein on 20 November 2013.

(c) Authenticity of payments

The Consulate frequently effected payments on the basis of quotations and invoices not signed by their suppliers as proof of ownership of responsibility. The authenticity of payments to the tune of M186, 059.25 could not be established. The Consul General insisted that they were signed but she had no supporting documents.

(d) Observation

For all the queries raised by the Auditor General regarding misuse and misappropriation of the Governments funds by the Consul General from page 117 to 130, Ms. Ts'osane opposed all those findings, but she had no supporting documents. She gave an excuse that she had no documents as she was no longer in office. It was a fruitless interview as she refuted every query and claimed that she did everything by the book.

I. Recommendations

- i. The Committee has noted with a grave concern that in a case between REX vs Lerato Ts'osane, the court judged in favour of Ms. Lerato Ts'osane on account of witnesses' failure to appear in court.*
- ii. The Committee has noted with concern the deployment of unqualified personnel to Foreign Missions, as a result the accountability of public funds is completely eroded. For example, in some Missions, the position of Third Secretary, which is meant for the*

accounting cadre personnel is filled with unqualified personnel or non-Accountants. Therefore, we recommend that the Ministry of Foreign Affairs must establish a Foreign Service Cadre and should be in line with Foreign Service Regulations. The Minister of Foreign Affairs must report back to Parliament within 60 days.

- iii. The Minister must report to Parliament on the performance of the Foreign Missions within 60 days. This report should also include their achievements or how Lesotho has benefited from their establishment to date and Missions' monitoring plans going forward.*

3.17.2 Johannesburg Consulate (2013/14) page 131

(a) Unauthorised International trips

Mr. Mokoai, Mr. Qooko and Mr. Sekamane undertook unauthorised international trips though the law requires that for international trips, staff serving in the embassies must obtain authority from the Principal Secretary prior to the trip. The cost of the trips was M61, 018.12. No clear response was given to the Committee by the CAO regarding this issue.

(b) Overpayment of Foreign Service Allowances (2013/14) pg 132 & (2015/16 pg 140)

The Committee discovered that Mr. Tumisang Mokoai drew an overpayment of the under-mentioned allowance to the tune of M64, 300.59 by intentionally paying it without converting to the local currency and at the rate of a married officer even though the spouse had not accompanied him to the Embassy while the other diplomatic staff members, Mr. Napo Raliengoane, Mr. Bonang Nts'onyana, Mr. Moshe Sesoane, Mr. Lebohang Moeketsi, Mr. Pitso Mokaeanane and Mr. Vuyani Tyhali also resulted in an overpayment of M105, 084.30 making it a total of M169, 384.83 loss to the Government of Lesotho due to overpaid Foreign Service Allowances. The Management was previously advised by the AG to recalculate the allowance and take appropriate measure to correct the overpaid allowance in May 2014 but nothing has been done to date. The Ministry promised the Committee that the necessary steps will be taken.

I. Recommendation

- i. All the officers who were overpaid should be surcharged and all the amounts owed the Government of Lesotho should be recovered. The Minister of Foreign Affairs must report back to Parliament within 45 days.*

(c) Missing Furniture and Equipment

A dining room suite, four laptops, two cameras and a set of encyclopaedia worth M70, 000.00 went missing at the Consul General Mokoai's house yet there was a 24 hours' security guard on the premises. What is even more surprising was that Mr. Mokoai acknowledged before the Committee that no report has been given to the PS Finance for

the loss as stipulated in the Finance Regulations. The AG had encouraged management in May 2014 to make investigations on the stolen property, hold the Security Company liable and also to report the loss to the Principal Secretary for Finance. The Committee was even more surprised to find that as at 04/07/2018, no case had been opened with South African Police Service nor any report made to the PS of the Ministry.

I. Recommendation

- i. *The Committee recommends that Mr. Mokoai be surcharged in order to recover this loss and further investigations must be launched regarding Mr. Mokoai's misuse of public funds and assets. The Minister must report to Parliament within 60 days.*

(d) Status of Government Property

The Government of Lesotho owns nineteen properties in Johannesburg under the management of a company called EBILOX (Pty) Ltd with regard to rent collection, maintenance and payment of levies and other municipal expenses. The company is paid a commission of 10% of income collected; however, there was no contract to verify the terms and conditions between the Government of Lesotho and EBILOX. The state of dilapidation of Indent House is very bad and could be confiscated anytime by the Johannesburg Metro. Surprisingly Indent House costs the Government of Lesotho M4,500.00 monthly for maintenance of lifts yet only the ground floor is occupied, and the tenants refused to tell the Ministry how much they are paying monthly as rent.

Moreover, maintenance of the same building costs the Government of Lesotho M92, 803.00 annually yet it is in a very bad state and could be closed down any time because it has been vandalized and poses a serious security risk. This came as a shock to the Committee especially because to date there is still no copy of the contract nor any measures taken to rectify the situation. The Committee came to the observation that these properties are poorly managed and a lot of revenue is lost monthly due to negligence by the officers of this Ministry.

(e) Revenue collected for the year 2014/15

The EBILOX rental revenue and disbursement statement showed a collection of M1, 281, 196.92 yet only M133, 323.68 was deposited as net revenue to the Government of Lesotho bank account. It is not clear what has happened to the M1, 147, 873.24 difference between the money collected and the one deposited into the bank. The AG therefore, had advised the management to encourage the accounts department to monitor EBILOX and ensure proper revenue accountability and reconciliation. It is saddening to the Committee to note that to date nothing has been done to try and ensure that the Government of Lesotho gets what is due to it through the Ministry.

I. Recommendation

- i. The Committee has noted with concern that EBILOX (Pty) Ltd is the one that is benefiting from the rentals of the property of Lesotho Government. The Ministry of Foreign Affairs must discontinue engaging EBILOX in managing the Lesotho Government properties and the Minister must report to Parliament progress regarding the engagement of a new Asset Manager.*

3.17.3 Pretoria Mission (2016 pg 131)

(a) Non reconciliation of bank accounts and Accountability of Visa Fees

The Mission operated two bank accounts, one for operations and the other for collection of revenue on sale of Visas. Both these bank accounts were not reconciled for five years from April 2011 to March 2016 thereby leaving M605, 700.00 collected from sale of Visas that was not recorded in the cash book, making it impossible to verify if it was indeed deposited into the bank.

Procedurally, the revenue collected from the sale of Visas should be remitted to the Department of Immigration in the Ministry of Home Affairs in Lesotho supported by pink copies of receipts used for transmission to Treasury for posting into IFMIS. This was not the case at the Mission, instead the money was used for the Missions operational activities without the approval of the Accountant-General. However, in June 2014, the Mission remitted only M320, 000 following a directive from the Accountant-General to transfer bank balances to the Consolidated Fund.

An audit carried out in March 2016 revealed a bank balance of M450, 824 but with no clear explanation on why the Mission is not remitting as expected. The AG then recommended that the Accountant-General collaborate with the management of the Mission in providing effective oversight of key controls in cash management including bank reconciliation processes, submission of monthly returns to Accountant-General and posting of revenue receipts into cash books in order to avoid risks of fraud and misappropriation of public funds. The Ministry responded before the Committee that nothing has been done on this matter to date.

I. Recommendation

- i. PS Foreign Affairs must ensure that the returns on revenue of Visas are remitted to the Ministry of Home Affairs and the Minister of Foreign Affairs and International Relations must report to Parliament within 14 days.*

(b) Medical Payments and claims

There was an abuse of medical aid benefits by the Diplomatic staff, their spouses, children and domestic staff to the tune of M2, 046, 481.00 from April 2013 to March 2016. There

were no bill statements, no Doctor's prescriptions nor any convincing explanations as to why payments were made to refund these transactions without proper attached documents. It was also not clear why Diplomats opted to incur medical expenses out of their own expenses and then claim from the Embassy and not the Medical Aid companies themselves.

The Committee was concerned about misuse of public funds by officers. This was a clear proof that the internal controls are weak and immediate action is needed to stop this abuse of the public purse.

I. Recommendation

- i. The Committee recommends that these officers must be surcharged, and all recovery measures must be applied. The Minister of Foreign Affairs and International Relations must report to Parliament the actions taken against these officers within 60 days.*

3.18 MINISTRY OF MINING

3.18.1 Lack of Consultation between the Ministry of Mining and other Ministries and Organizations (2013/14) pg 151-152

The Committee discovered that the Lesotho Labour Code of 1992 is being contravened when expatriates without rare skills are employed within the mining industry. This is because only expatriates with rare skills are eligible for work permits. The Committee is shocked that the National Employment Agency (NEA) has a poorly organized skills database. The OAG had recommended in 2014 that the Ministry of Mining verify experts, specialists and expatriates' registration statistics with Ministry of Labour but as at 20/08/2018 there was no such verification.

(a) Recommendation

- i. The Committee recommends that the Ministry of Mining must compile the experts, specialist and expatriates registration statistics and verify them with Ministry of Labour, with authentic copies of qualifications. The Minister of Mining must report back to Parliament within 14 days.*

3.18.2 Poor storage of diamonds by the Commissioner of Mines

The AG had noted that there were a lot of discrepancies in the issuance of prospecting licenses ranging from applications not meeting requirements but issued with licenses, there were no proper documentations of company registrations due to non-availability of proper documentation at the Ministry. The Committee then asked the Commissioner of Mines, Mr. Pheello Tjatja if he did keep proper records, of which he responded in affirmation. As a

result the Committee decided to go and inspect his records at the office. Upon arrival, the Committee was also shocked to discover that Mr. Tjatja, who is the custodian of all confiscated diamonds did not have proper records (stock list) nor knowledge of how many diamonds were in his custody.

Furthermore, he claimed to have 74 diamonds (last recorded in 2015) in his custody. However, more diamonds appeared after the Diamond squad Officers told the Committee that they had delivered some diamonds in 2018. Mr. Tjatja checked awkward places and some diamonds appeared to be stored in plastic bags, envelopes and drawers and his stock list then increased to 84. The most surprising thing was that Mr. Tjatja had sole access to the chub, and was in possession of all the three keys. Subsequently, the stock increased to 114 diamonds but there were no records to show how the difference came about.

Moreover, the Committee was therefore sceptical, especially when these discoveries were made shortly after diamonds were confiscated in Ladybrand in possession of officers from the Ministry of Mining. Mr. Tjatja failed to convince the Committee that those diamonds in Ladybrand were not from his custody. Lack of proper records and safe storage pose a serious risk of theft because he would not know even if the diamonds in his custody went missing. Worse still, the PS of the Ministry, Mr. Ntali Matete, was denied access to see the confiscated diamonds in the custody of Mr. Tjatja at the Ministerial premises. Mr. Tjatja told the PS that the custody of the diamonds is a 'no go area'.

(a) Recommendations

- i. The Committee recommends that the Ministry must prepare a clear and updated reconciliation of diamond stock, together with the Police Diamond Squad and a report must be submitted to Parliament by the Minister of Mining within 21 days.*
- ii. The Minister of Mining must investigate and report to Parliament within 21 days why the stocklist was last reconciled in 2015. The report must include why the diamonds are carelessly kept at the Ministerial premises and why there are discrepancies between the stocklist and the actual diamonds in hand.*
- iii. Hon. Minister Keketso Sello must give a detailed report, with descriptions of the diamonds that he took for exhibition to Parliament within 21 days. The report must include details of where and when the exhibition took place.*
- iv. Hon. Minister Keketso Sello must report to Parliament what measures he has taken regarding the diamonds confiscated in Ladybrand in possession of his Private Secretary within 21 days.*
- v. The PS Mining must report to Parliament within 21 days on what measures he has taken against Mr. Tjatja for negligence of duties in safekeeping of diamonds.*

3.18.3 Lack of follow-up on exported diamond

The commissioner of mines maintains a record of diamonds exported. However, the AG noted with concern that the Commissioner of Mines did not make a follow-up on exported diamonds worth USD 16,832,159 (M235, 650, 226.00). The report given to the Committee was that the Government Representatives only become part of the export process in the initial stages when the diamonds are being evaluated. The Committee also discovered that the Government Representatives do not monitor the whole process of mining constantly. For example, they are available for only 8 hours yet mining operates the whole 24 hours.

Once the said diamonds have been exported, the Mining Companies are the only ones involved, even the Marketing Company involved is engaged by the very same Mining Companies. What is even more surprising is the fact that the Mining Companies would instead incur the cost in respect of the Minister, the Principal Secretary and the Commissioner of Mines to go to Belgium (Antwerp) where the diamonds are being sold just to appreciate the process. The Government Representatives have never been invited to these trips nor when these diamonds are being auctioned.

3.18.4 Non-payment and underpayment of royalties

Royalties amounting to M27, 472, 971.48 were not paid in 2009. The Ministry responded that no clear and proper follow up system on payments is in place. The Commissioner of Mines is the one who makes a follow up and he or she is the only person who knows whether Mining Companies have paid or not. The Committee was surprised to discover that there is no proper reconciliation between the office of the Commissioner and the department of finance regarding the payments of royalties.

The Committee further discovered that the Mining Companies pay royalties in the following manner:

1.	Kao (Storm Mountain Diamonds).....	6%
2.	Lets'eng	8%
3.	Liqhobong.....	4%
4.	Mothae.....	5%
5.	Kolo (Rescon).....	4%
6.	Pae-lea-Itlhatsoa (Gemstone).....	5%
7.	Lemphane.....	10%

Even though the Mines and Minerals Act 2005, stipulates that royalties should be charged at 10%, the Ministry has been collecting between 4%-8% between 2009-2012 with an

underpayment of M119, 544, 694.00. This underpayment of royalties has resulted in more than M239, 089, 388.00 loss of revenue for the Government of Lesotho to date.

The Committee interviewed the mining companies that the Government of Lesotho has shares in them and below are the findings:

(a) Liqhobong Mining Development Company (Proprietary) Limited ('LMDC').

The Committee demanded an explanation why this company had not been paying the dividends due to the Government of Lesotho since they started mining diamonds in Lesotho. The Chief Financial Officer, Mr. Grant Ferriman, indicated that they secured the mining lease in 2014 and they had been engaged in prospecting mining since then till December 2016. Within this period, there was no income realised as there was no sale of diamonds. They started steady production from 2017 to the middle of the year of which they realised a deficit of 12 million. They went for a loan from their parent company, Firestone, to finance the deficit. This was shocking to the Committee because it was hard to understand why they called it a loan when they received funding from the majority shareholder. They claimed they had collected a revenue of about M365 million from the sale of 310, 000 carats of diamonds while their operating costs amounted to approximately M377 million.

In their second year of operation (July 2017-June 2018), they accumulated slightly above M805 million from the sale of 831,000 carats of diamonds of which their operating costs amounted to roughly M830 million resulting in a shortfall of about 25 million. This was another shock to the Committee that it seemed the more they were making money, the more their operating costs shot up exponentially. It was stated that the increase was brought by maintenance of which they failed to convincingly explain what kind of maintenance consumed such huge amount. Similarly, they went for another loan from the parent company, Firestone, to finance the deficit.

The most shocking revelation made by the Chief Accounting Officer was that the company hopes to pay the dividends from the year 2027.

From this meeting, the Committee made the following findings:

- The company had been doing prospecting mining for over four years, but claimed to have received no revenue as there was no sale of diamonds. The question is why prospecting for such a long time if it was genuinely not economically viable?
- LMDC was receiving funding from the parent company and majority shareholder, Firestone, in the name of loans after claiming to be running huge losses consecutively. Therefore, the Committee wondered if these were real loans or some form of hidden transfer pricing practice was taking place. Moreover, the company holds an offshore bank account with Barclays Bank in the United Kingdom that keeps revenue from the sale of

diamonds, but only a small portion of funds is kept in a local bank account operated by Liqhobong Mining Development Company (Proprietary) Limited ('LMDC').

- The mine is paying only 4% of the royalties to the Government of Lesotho according to the mining lease agreement instead of the 10% required by law (Mining Act, 2005). The mine is not prepared to pay 10% of the royalties, but they could settle for 8% in the year 2023.
- The mine has not been paying corporate tax to the Government of Lesotho and they hope to pay it in the year 2025.
- A representative from the Government of Lesotho is only present when diamonds are weighed before leaving the Country. There is no Lesotho representation at the evaluation of the diamonds, at the post-cleaning stage where new measurements are taken and at the Marketing Centre in Belgium. This prompts suspicion that Lesotho diamonds are deliberately substituted/ swapped in order to give false information in respect of the real prices/ money fetched by these diamonds. Transfer pricing is also suspected here at the market place where it is suspected that Lesotho diamonds are bought by parent companies at their own rates and sell them at higher prices.

b) Storm Mountain Diamonds (KAO)

The Mine at Kao is operated by Storm Mountain Diamonds (SMD), registered in the United States of America, and funded by Namakwa Diamonds, which is the Majority shareholder at 75%, registered in Bermuda, North America. The Director of SMD and CEO of Namakwa Diamonds, Mr. Robert Cowley, told the Committee that Namakwa Diamonds came to Lesotho in 2009 after the liquidation of Kao Mine (Pty) Ltd and financed the operations through a M1billion loan by the same majority shareholder Namakwa at the interest rate of 11.75%. This loan has hence contributed greatly to the non-payment of dividends and Corporate Income Tax and underpayment of royalties to the government of Lesotho since 2009 to date.

The prospecting process started in 2009 to 2012 with about 6 diamond carats per 100 ton. When the mine became fully functional in 2013, production increased to 250,000 carats per 100 ton per year which produced 45 times more diamonds than the initial mine. This resulted in M610, 000, 000.00 in revenue. Namakwa claimed to have made production and profits as stated in the table below, but nonetheless decided not to declare dividends;

Year	Diamond (carats)	Revenue (million M)	Costs (million M)	Profits (million M)	Interest Paid (million M)
2014	208, 000	886	580	69.5	
2015	224, 784	925,3	616	(197)	137

2016	118,397	608	454	(230)	191
2017	167,751	783,6	517	136,5	216
2018	169,706	869,4	583	(174,8)	202

Mr. Robert cited infrastructure development and high risks in terms of insolvency as reasons for the company not to be declaring dividends. This was surprising to the Committee as SMD claimed more losses even after infrastructure development and more borrowing to finance those losses. Even more shocking was the discovery that SMD is paying only 6% in royalties whereas the Mining Act of 2005 states that the rate of royalties is 10%. Unfortunately, the same Act gives the Minister sole powers to negotiate, in the name of public interest, with the mining companies and can give a reduced rate.

SMD has now negotiated 8% for the year 2019 and promised to at least start declaring dividend by 2021. All these peculiar agreements are contained in the mining leases. The Committee failed to understand how all these negotiations be in the public interest considering that the same company is not declaring dividends, the expectation is that at least one source of revenue like royalties would be collected especially when the Government is already losing revenue in terms of dividends and Corporate Income Tax.

The Committee also discovered that the SMD mining lease has already been renewed as at 26/02/2019, which is long before its expiry date in October 2019. SMD acknowledged inviting the Commissioner, the PS and the Minister on several occasions to Belgium at their expense. Their reason being to make them appreciate the diamond processes after it has been exported.

The Committee highlighted during the proceedings that the legal frameworks in this Ministry has to be amended urgently. The Ministry acknowledged that and revealed before the Committee that they are in the process of auditing all the mines in Lesotho, because it is clear even to them that Lesotho is losing out while investors enjoy the benefits of this Country's minerals.

I. Recommendations

- i. Notably, Lemphane is the only Mining Company that pays the stipulated percentage for royalties (10%). The Committee, therefore, recommends that all Mining Companies must adhere to the Mines and Minerals Act of 2005.*
- ii. However, section 60 (1) of The Mines and Minerals Act of 2005, gives the Minister the sole discretion to reduce the percentage rate of royalties in contradiction with section 59 (2) of the same Act that requires 10%. The Committee therefore, recommends that the Act be amended with the view to delete section 60 (1).*

- iii. *The Committee has noted with concern that the Ministry of Mining is a spectator in the Mining Industry, while the Mining Companies do as they please. Hence, it recommends that Minister Mining must establish a Monitoring plan and report on this plan within 30 days before Parliament.*
- iv. *The Government of Lesotho does not have proper monitoring mechanisms, therefore, the Committee recommends that the Ministry of Mining must implement a 24-hour/7days monitoring system from production until the last stage after the diamond has been sold.*
- v. *The Committee has noted with concern, a very low shareholding of the Government of Lesotho in the Mining Sector. Therefore, the Committee recommends that the Government of Lesotho have to mobilise the resources in order acquire substantial equity to have control over our natural resources. The Minister of Finance must report back to Parliament within six (6) months.*

3.19 INDEPENDENT ELECTORAL COMMISSION

3.19.1 Non-Preparation of Financial Statements (2013/14 pg 145)

The AG noted that the Commission has failed to prepare financial statements as per Section 72(7) of the National Assembly Electoral Act of 2011. A sum of M466, 728, 973.00 was allocated to the Commission from 2010/11 to 2013/14 but no financial statements have been prepared to show how the money was expended. This compromises accountability of public funds especially during the election period. The Committee established that Political Parties and the Ministry of Police have contributed to the non-preparation of Financial Statements by not accounting for the funds given to them by the Commission regarding Elections.

The outstanding accountability reports from the Political Parties date as far back as 2012 National Assembly Elections. No clear reasons were given by the Political Parties on the contravention of the National Assembly Electoral Act of 2011, which stipulates that reports should have been submitted to IEC within six (6) months after elections. The Committee gave them until the 18th March 2019 for all reports to be completed and submitted to IEC and the Committee. However, the Political Parties have unaccounted total amounting to M760, 673. 24 to date.

(a) Recommendations

- i. *The Committee has noted with concern poor reporting and accountability of public funds allocated to Political Parties by IEC. Therefore, the Committee recommends that IEC must not allocate any funds to any Political Parties with outstanding or unaccounted balances.*

3.19.2 Loss of Cash (2014/15 pg 146)

Standard Lesotho Bank received a fraudulent letter of instruction in July 2013 to transfer M4, 430, 268.67 as payment for computers to an account whose owners did not exist. Upon realizing this, the management of IEC tried to stop the payment but M526, 031.51 was already withdrawn by the help of the officer in the Bank. The IEC officers involved were named as Ms. 'Malisema Makhasane (resigned), Mr. Leluma Posholi (resigned) and Ms. 'Mammoelo Lesia (suspended). The loss was not yet reported to the PS for Finance by the end of the 2014 financial year, which is a contravention of Financial Regulations 2001 (1) & (2). This case RCU/341/08/2013 has since been opened with the DCEO. IEC Chief Legal Officer last inquired in September 2018 and the case was still being investigated.

A disciplinary hearing was held for Ms. 'Mammoelo Lesia and a decision to surcharge 60% from her terminal benefits was reached. However, Ministry of Finance queried the 60% surcharge because it was argued that the basis was not clear.

(a) Recommendations

- i. The DCEO must speed up its investigations on case RCU/341/08/2013 and report back to Parliament within 30 days.*
- ii. The Assets forfeiture clause must apply (Money Laundering and Proceeds of Crime Act 2008). The Minister must report to Parliament the progress within 30 days.*

3.19.3 Unclean Elector's Register

This register has been regarded as unclean in the Budget Framework and Commonwealth Report due to accidental removal of existing electors from database, old and invalid constituencies in old voter's cards and about 70% of the voters with poor fingerprint and photos. This hindered verification process using biometric technology. The AG had advised the management to budget for this exercise and treat it as urgent in order to minimize risk of irregularities that might cause political instability in the country and political conflict between political leaders. The Committee has been informed that there is a budget for this exercise but the major challenge that remained was the removal of the deceased persons from the database.

(a) Recommendation

- i. The Committee has noted with concern the unclean Electors' register which poses a threat of election irregularities. Therefore, it recommends a complete overhaul of electors register database. This process must be completed within six (6) months. However, Director of Elections must report progress to Parliament within 60 days.*

3.19.4 Irregular awarding of contracts 2015/16 (2016 pg 153)

The Committee discovered that the Commission has been contravening the Procurement Regulations by awarding contracts and seeking waivers to award one company by the name of Lithotech work since 2011 to 2016 for a total of 21 contracts worth M39, 203, 671.19. A new company named Face Technologies has since tendered and is supplying the Commission with the same goods at prices 45% cheaper in 2016 than Lithotech in 2014. No clear response was given to the Committee why the former Acting Director Mr. Mokhochane and the IT department signed such a contract with Lithotech.

(a) Recommendation

- i. The Committee has noted with concern embezzlement of public funds through fraudulent procurement procedures which compromises the principle of value for money. Therefore, the Committee recommends that DCEO opens an investigation and report back to Parliament within 60 days.*

3.19.5 Other findings/loss of firearms

IEC had bought eight pistols in 1998 for the Commissioners (3), Director of Elections and his Deputy, Operations Inspector and his Deputy. Surprisingly, Deputy Director of Elections, Mr. Mphasa Mokhochane and the Operations Inspector, Mr. Kotsoana Motsie could not agree on the number of pistols bought. Mr. Mokhochane mentioned eight while Mr. Motsie argued that they were seven. Unfortunately, there was no file on the purchase of this pistols at the IEC offices. The Committee asked if the pistols were still available and verifiable, of which Mr. Motsie replied in affirmation. The Committee then adjourned in order to go and inspect the pistols which Mr. Motsie had told the Committee that they are safely stored in the strong room at the warehouse.

Upon arrival at IEC headquarters, Mr. Motsie was nowhere to be found. His superiors reported that he had gone home to collect his office keys, which was surprising because he was from the office when he came to appear before the Committee that morning. He arrived about 20 minutes later with two pistols and ten rounds of magazine in his possession, of which he informed the Police Officers that accompanied the Committee that he had just collected them from home. The Committee was surprised to find that the pistol with the magazine was registered in Mr. Mokhochane's names and had since been returned to the custody of Mr. Motsie in 1999 when Mr. Mokhochane bought his personal one, though there was no documentation to proof the return. Mr. Motsie could not convince the Committee that it is lawful for him to carry a loaded gun that did not belong to him.

Even more surprising was the discovery by the Committee that the other five pistols were stored in the drawers in Mr. Motsie's office and they did not have magazines. His response was that he stored the magazines separately from the pistols for safety. He also claimed that the pistols were in his office for purposes of license renewals and this information was

misleading the Committee because the pistols were last renewed in 2000. There were no proper records of the magazines that were in Mr. Motsie's custody, yet each pistol had 50 bullets upon purchase.

The Committee then went to the warehouse at the Industrial area where Mr. Motsie had claimed to have kept the magazines in the strong room. The Committee was surprised to find that there was neither a strong room at the warehouse nor magazines for the five pistols and Mr. Motsie could not show the Committee where the strong room in which he kept the pistols and their magazines is.

The Committee has since handed Mr. Motsie to the Police and the case with DCEO R/N 18/04/2019 has been opened and is still being investigated.

(a) Recommendations

- i. The Committee recommends that the Police must speed up their investigations on case (R/N 18/04/2019) and the Minister of Police must report progress to Parliament within 30 days.*
- ii. IEC must institute disciplinary action against Mr. Motsie and should ensure recovery of the lost Government property. The Minister of Law must report to Parliament within 45 days.*

4. Summary of Funds Lost to Corruption and under collection of moneys due to the Government - M1,479,049,462.60.

The Public Accounts Committee wishes to bring to the attention of this Honourable House and the whole nation the lost funds due to corruption and laxity to collect revenue by some line ministries and departments and reiterate the gravity of poor internal controls across board. It should be borne in mind that the above figure is the minimum. It is the amount discovered by the Committee only on the areas where it was able to touch. Most of the funds are lost to corruption as evidence contained in this report show a significant number of criminal and fraudulent cases by the public officers.

Another significant loss pertains to the taxes, royalties and dividends that the Government of Lesotho is supposed to collect from the mining companies, parastatals and other state-owned enterprises. In short, Lesotho can do better if the line ministries could adhere to their mandates and strive to meet their target revenue. The internal controls and sanctions must be tightened across board because officers intentionally override the controls and expose the public funds to misappropriation, theft and misuse.

5. CONCLUSION

The Committee has the honour to present this report to the House for consideration and adoption so that appropriate measures could be taken against the offenders, perpetrators and culprits. The Committee has done extensive interviews, trying to get opinions and explanations from everybody concerned. In the process, the Committee made a lot of incidental findings, resulting from the interrogations based on the queries highlighted in the Auditor General's reports. In order to avoid bulky and cumbersome work, the Committee had to prioritize the findings to populate the report and the focus was mainly based on the criminal cases, non-compliance of statutes and under-performance.

The Auditor General has been flagging almost the same issues for a decade now, but little or no action has been done to redress the situation. For example, the AG's opinion on the Consolidated Financial Statements of the Government of Lesotho has been *adverse* for a long time due to almost the same issues such as lack of reconciliation, misstatement of figures, omissions of revenues, and non-compliance of statutes. At the same time, the AG has been recommending surcharges and other sanctions against offenders, but it seems there is no political will to implement the recommendations of the AG. The Committee also wishes to reiterate that the Government has lost control of the public purse for a long time and it is high time that compliance of statutes and recovery measures were applied to those who misappropriated and embezzled public funds.

5.0 GENERAL RECOMMENDATIONS

- The Committee has noted with concern the instability, inefficiency and the impunity within government institutions that must uphold democracy and rule of law; public safety; accountability and transparency. Appointment and placement of heads of IEC, DCEO, LMPS, LDF, LCS, NSS, Chief Justice, Attorney-General, DPP, President of the Appeal Court and heads of Parastatal offices must be done by Parliamentary Committees to avoid unwarranted removal of those heads by the political heads of government when they do not pursue their interests. Their terms of office must not be renewable. The Minister of Law and Public Safety must bring a Bill to Parliament within 90 days.
- The Committee has noted with concern lack of accountability, nepotism, corruption and very poor service delivery due to political appointment of Chief Accounting Officers without considering merits. Therefore, the Committee recommends that positions of Chief Accounting Officers must be made on merits. The Minister of Public Service must bring a bill to address this issue to Parliament within 90 days.
- The Committee has noted with concern the erosion of public funds to corruption and a gap created by the absence of the law that addresses recovery. The Minister of Justice must ensure enactment of Laws that address asset forfeiture, recovery,

restoration of victim and lifestyle audit within 60 days. Moreover, we recommend centralised integrated investigative office. LRA, DCEO and LMPS must also be strengthened with adequate resources e.g. building of Digital forensic Unit.

- The Committee has noted with concern lack of capacity of the Law Enforcement Agencies in terms of investigating commercial crimes, therefore, the Committee recommends that LMPS and DCEO must send investigating officers to the International Law Enforcement Academies.
- The Committee has noted that the uncontrollable (sky rocketing) wage bill is exacerbated by unauthorised employment by line ministries outside the authorized establishment lists. Therefore, the Committee recommends that recruitment must be centrally based in the Ministry of Public Service and Public Service Commission for all officers as stipulated in the law, except for eight (8) Minister's staff. The Minister of Public Service must present the establishment list of all public service to Parliament within 30 days.
- The Committee has noted with concern 'adverse opinion' issued by the Auditor General since 2010 on the Consolidated Financial Statements of the Government of Lesotho. The Committee recommends that the Deputy Prime Minister as the Chair of Budget Committee must coordinate all Ministers, prepare a workplan such that no adverse opinion by the Auditor-General recurs in the next financial years. Such a comprehensive plan must be presented to Parliament within ninety (90) days.
- The Committee has noted with concern poor internal control systems within the ministries. The Committee therefore recommends that the Minister of Finance must prepare clear, summarised report on timelines given to each Ministry to conduct internal audits and report to Parliament within 30 days.
- The Committee has noted with concern poor collection of revenue by Government Ministries. Therefore, the Committee recommends that the Lesotho Revenue Authority must collect all non-tax revenue on behalf of Government. The Minister of Finance must report to Parliament the workplan within 60 days to facilitate the enactment of a law endorsing LRA to collect all non-tax revenue.
- The Committee has noted with concern, a very low shareholding of the Government of Lesotho in the Mining Sector. Therefore, the Committee recommends that the Government of Lesotho have to mobilise the resources in order acquire substantial equity to have control over our natural resources. The Minister of Finance in consultation with the Minister of Mining must report back to Parliament within six (6) months.
- The Committee noted with concern erosion of public funds through fraudulent procurement practices. The Committee, therefore, recommends an establishment of

independent Bureau of Procurement as a regulatory body. The Committee further recommends establishment of electronic procurement system (e- procurement) within a period of three (3) years. However, the Minister of Finance must report progress to Parliament every 90 days.

- The Committee noted with concern a very slow execution of justice in Lesotho when dealing with Commercial Crimes. The Committee, therefore, recommends the establishment of a special Court assigned for these cases within a period not exceeding two (2) years.
- The Committee has noted with concern transfer of Police officers who are investigating cases of illicit financial flows. Therefore, the Committee recommends establishment of a team of Police Officers to be assigned to Public Accounts Committee. The Committee further recommends that officers who were transferred while investigating Commercial Crimes be returned with immediate effect. The Minister of Police to report to Parliament within 30 days.
- The Committee has noted with concern a backlog of cases in the Courts of Law due to the various delays and challenges brought by lawyers, investigators, prosecutors, judges etc. that create backlogs of cases. The Committee, therefore, recommends that the Minister of Justice and Correctional Service must ensure urgent reform of the judicial system within the period of eighteen (18) months and report progress to Parliament every 60 days.
- The Committee has noted with a concern that certain companies have been accomplices in defrauding the Government with certain Government officers. Therefore, a forensic investigation must be made regarding companies that were awarded tenders and contracts fraudulently and if found guilty, such companies must be suspended from competing in Government tenders for two (2) years. The Office of the Auditor General must complete this exercise with six (6) months.
- The Committee has noted with concern poor management and record keeping of Government assets in and outside the Country. The Committee recommends that a report of an inventory of all government assets must be compiled and presented to Parliament within 90 days by relevant Ministries.
- The Committee has noted with concern that funds allocated for programmes and projects sponsored by GOL or Sponsors are diverted to international travel fares because there is no law protecting projects funds and there is no independent body that monitors the progress of the Government projects. Therefore, the Committee recommends that an act must be enacted to protect programmes and projects funds and an independent body to monitor the progress of the projects must be

established by the Ministers of Finance and Development Planning. A report of the action taken must be given to Parliament within 30 days.

LIST OF MEMBERS OF THE COMMITTEE

HON. SELIBE MOCHOBOROANE (CHAIRPERSON)

HON. LIKOPO MAHASE

HON. PALO LETEETEE

HON. TEBOHO SEKATA

HON. NYAPANE KAYA

HON. 'MATS'EPO RAMAKOAE

HON. VINCENT MALEBO

HON. THABO SOPHONEA

HON. SAM TS'UINYANE RAPAPA

HON. THUSO LITJOBO