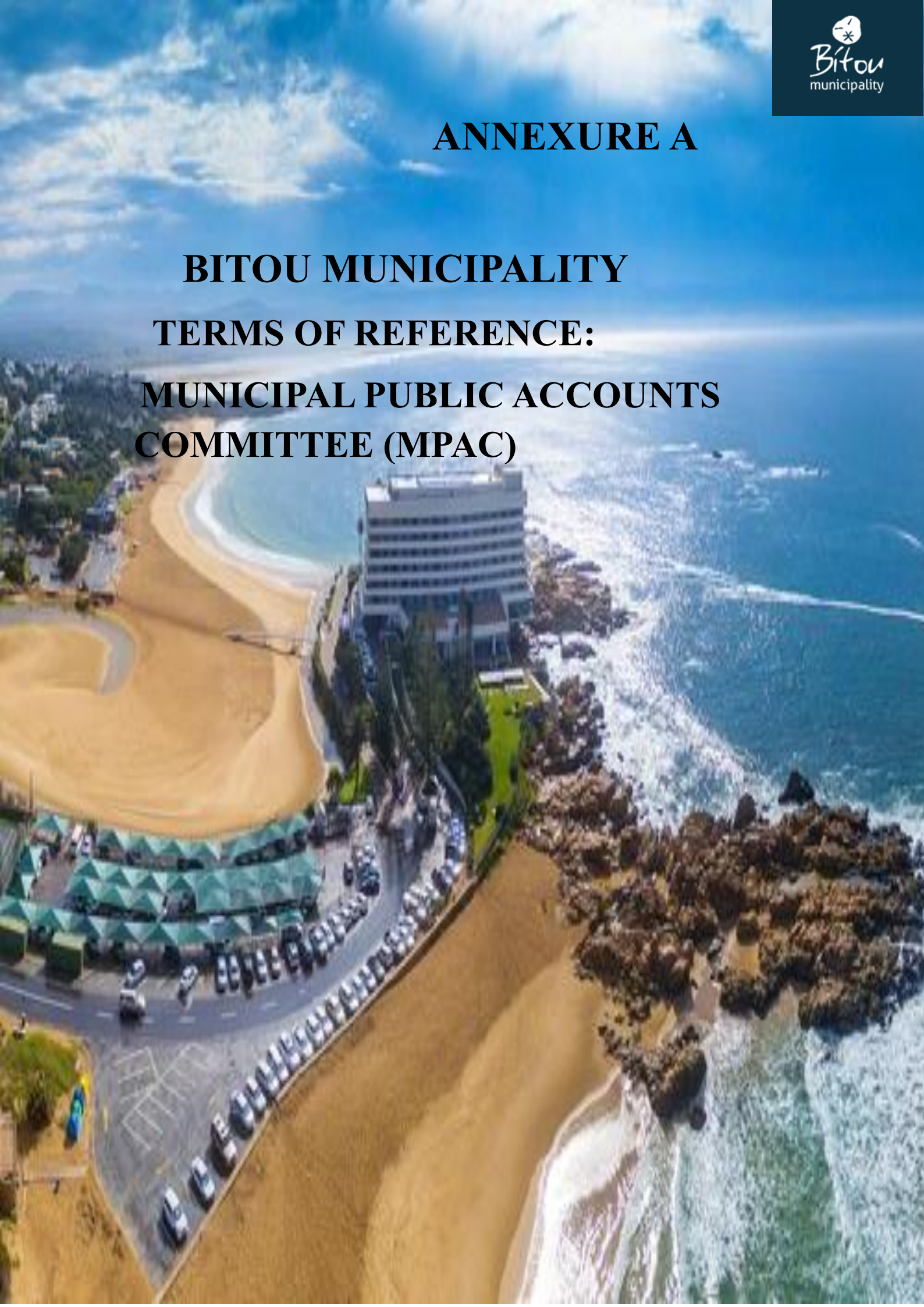
ANNEXURE A

BITOU MUNICIPALITY

TERMS OF REFERENCE:

MUNICIPAL PUBLIC ACCOUNTS COMMITTEE (MPAC)



1. Introduction

In accordance with the provisions of section 79A (1) of the Municipal Structures Amendment Act 2021, a municipal council must establish a committee called the Municipal Public Accounts Committee as an Oversight Committee of Council. Furthermore, Section 79A (3) and 79A (4) of the Municipal Structures Amendment Act 2021, provides the framework and guidelines within which such committees of council shall operate.

The Municipal Finance Management Act (MFMA) assigns specific oversight responsibilities to Council regarding the Annual Report and the preparation of an Oversight Report (MFMA Section 129). The establishment of a Municipal Public Accounts Committee (MPAC) for Council, would provide the appropriate mechanism in which Council will fulfil its oversight responsibilities.

Functions must be formally delegated to the MPAC in accordance with the provisions of section 59 of the Local Government: Municipal Systems Act, 2000 (hereinafter referred to as the Systems Act). The delegations must be included as part of the System of Delegations of the Municipality. It should be noted that about the delegations to the MPAC, the municipality should not allow for a review of the decisions of the MPAC by the Exco or Executive Mayor in accordance with section 59(3)(b) of the Systems Act, as the purpose of the MPAC is to do oversight of the executive. The delegations to the MPAC should specifically exclude the said powers to the executive of the municipality.

The requirement to report on the delegated authorities by the MPAC can be included as part of the quarterly report submitted to the council by the MPAC.

2. Authority and powers of MPAC

2.1 MPAC will assist council to effectively and efficiently exercise its functions and powers.

2.2 MPAC will function as a sub-committee of council.

2.3 MPAC will not perform any management functions or assume any management responsibilities including but not limited to planning, organising, leading, controlling.

2.4 MPAC make recommendations to Council, resulting from activities conducted by the committee in terms of its Terms of Reference.

3. Composition and Term

3.1 The Chairperson of the MPAC must be appointed by council in terms of Section 79(2)(c).

3.2 The MPAC will comprise solely of councillors appointed by resolution of a full council meeting.

3.3 There is no prescription on the number of members elected to serve on the MPAC committee. The municipality must determine the number of members that will be appointed, considering the number of councillors in the municipality and the fact that no office bearers/ executive councillors in the municipality may serve on the committee. It is ideal that the members be appointed for the term of the council, to ensure continuity across financial years. However, this is subject to the right of the council to remove committee members by way of council resolution.

3.4 One of the Performance and Audit Committee Members must attend all MPAC Meetings,

where Internal Audit reports are presented.

3.5 Section 160.8 of the constitution requires that the membership of the committee must be such that it allows parties and interests reflected within the Council to be fairly represented in the MPAC.

3.6 Councillors and members serving on MPAC will be appointed for a term which corresponds to the term of the sitting Council.

3.7 In accordance with section 79(2)(e) council may remove/replace a member of MPAC at any time.

3.8 The council must indicate whether it will allow the MPAC to co-opt advisory members, which are not councillors, but based on their expertise. This will be informed by the experience and capacity of members appointed to the MPAC. In the event where such co-option is allowed, the council must prescribe the number of members that may be co-opted, the expertise required, the manner of co-option as well as the payment of a stipend to such co-opted members.

4 Functions of MPAC

The primary functions of the Municipal Public Accounts Committee are as follows:

• Review the Auditor-General's reports and comments of the management committee and

the audit committee and make recommendations to the municipal council.

• Review internal audit reports together with comments from the management committee

and the audit committee and make recommendations to the municipal council.

• Initiate and develop the Oversight Report on Annual Reports contemplated in section 129

of the Municipal Finance Management Act (MFMA) in corporation with the IDP manager of the municipality.

• Deal with and make recommendations to the municipal Council on any matter referred to it by the municipal Council, Executive committee, a committee of council, a member of this committee, a Councillor and the Municipal Manager.

• On its own initiative, subject to the direction of the Municipal Council, investigate and report to the Municipal Council on any matter affecting the municipality; and

• Investigate instances of unauthorised, irregular, fruitless and wasteful expenditure and recommend the outcomes to Council but does not serve as any disciplinary committee.

4.2 Availability of resources for the MPAC

The municipal administration must ensure that adequate financial and human resources are made available to support the functions of the MPAC. As the MPAC is a formal committee of the Council, dedicated administrative as well as committee staff members must be made available to assist it in its functions. Formal agendas and minutes of meetings need to be prepared by committee staff under the guidance of the Chairperson. Administrative staff should also assist committee members, and the necessary infrastructure must be provided to the MPAC as well as all the finances required to fulfil its obligations.

4.3 Auditor-General's reports

The final Auditor-General's reports will be submitted to the MPAC for review, by the Chief Financial Officer, after it was submitted to the Management Committee as well as the

Performance- and Audit Committee.

The MPAC should consider the report and comments from Management and the Performance- and Audit Committee and make recommendations to the Council and if such.

report was not submitted by 31 March of each year, MPAC should report this to the Council.

4.4 Internal Audit reports

All internal audits reports, in terms of the approved Risk Based Internal Audit plan, will be submitted to MPAC by the Chief Audit Executive after Management and the Performance and Audit Committee fulfilled their responsibilities with it.

The reports submitted to MPAC must be reviewed together with the Management Committee and Performance- and Audit Committee's comments and the recommendations will be submitted to Council.

4.5 Oversight Report

Once the Annual Report is tabled at Council in January each year, MPAC has effectively two months in which to finalise its oversight report. Given there are several steps and many stakeholders, the review can be made more manageable if a committee process is established breaking it down into more easily managed parts as set out in paragraph hereunder.

MPAC is responsible for the detailed analysis and review of the Annual Report as set out in paragraph 9 hereunder and in corporation with the IDP manager draft the Oversight Report that must be forwarded to Council for consideration. MPAC must quarterly invite, receive, and review representations made by the public and seek inputs from other role-players where needed.

All meetings of MPAC, where the annual report is considered, must be open to the public and a reasonable time must be allowed for discussion of any written submissions received and for members of the community and organs of state to address the meetings. Representatives of the Performance- and Audit Committee and Auditor-General are invited to attend and to speak at any meetings held to discuss the annual report if requested. Timely notice of meetings should be given by administrative support to enable representations to be made. Making representations to MPAC should not necessarily preclude representations by the same individuals to the full Council as this promotes transparency in the process.

4.6 Unauthorised, Irregular and Fruitless and Wasteful Expenditure (UIFWE)

Responsibilities of the MPAC in terms of Unauthorised, Irregular and Fruitless and Wasteful Expenditure will include:

• Investigating instances of Unauthorised, Irregular and Fruitless and Wasteful Expenditure. (MPAC cannot condone possible UIFWE in advance as its mandate is expenditure occurred)

• Making recommendations, after an investigation, to Council as to whether an individual is liable for a particular Unauthorised, Irregular or Fruitless and Wasteful Expenditure and that

the case in terms of the MFMA must be referred to the Financial Misconduct Committee for further investigation and the subsequent processes. (An individual is innocent until guilty in a court of law or in a disciplinary process).

When suggesting the recovery of the UIFWE, the report to the Council must consider the value for money,

- regardless of how economically the items/services were acquired (lowest price): (yes or no)
- and if received, whether the goods or services were efficiently acquired according to the specifications (obtained the right SCM way); (Yes or No).
- and whether it was in terms of the approved budget (was it the right thing to do). (Yes or no).

The following elements must be examined when recommending to council whether the UIFWE should be written off:

- ❖ If MPAC determines that no losses were incurred or that any losses were not recoverable, it may suggest the UIFWE's right or that the value for money was received.
- ❖ If the matter was reported to the SAPS or not.
- ❖ Making recommendations for the implementation of measures to prevent future unauthorized, irregular, fruitless and wasteful expenditure if necessary.
- ❖ Reporting to Council on the effective functioning of processes and procedures/controls surrounding the prevention of unauthorized, irregular, fruitless and wasteful expenditure if necessary.

5. MPAC Work programme

5.1 MPAC must develop its work programme annually before the start of a financial year.

5.2 Such programmes must be linked to the cycle of Council and conclude with the evaluation of the Annual Report and the recommendations to Council when adopting the Oversight Report on the Annual Report.

6. Attendance of meetings

6.1 The meetings of MPAC must be included in the Annual Calendar of Council and the notice requirements should be similar to those of other committees of Council taking into consideration the time frames in the Municipal Financial Management Act for preparation and adoption of the Oversight Report on the Annual Report.

6.2 The notice of meetings shall be given electronically within reasonable time prior to the meeting.

6.3 Agendas and relevant documents shall be received within reasonable time prior to meeting for preparation purposes

6.4 Section 160 (7) of the Constitution provides that a Municipal Council must conduct its business in an open manner, and may close its sittings, or those of its committees, only when it is reasonable to do so having regard to the nature of the business being transacted. As a principle, the meetings of the MPAC should be open to the public and the rules and procedures of the committee should specify in which instances the meeting can be closed to the public.

7. Reporting responsibility

7.1 In accordance with the provisions of section 79(a)(4) of the Municipal Structures Amendment Act 2021, The MPAC reports directly to the municipal council and the chairperson of the MPAC must consult directly with the speaker on the inclusion of reports of the MPAC in the council agenda. As the MAPC is a committee of the council, its reports are submitted directly to the council without being submitted to the Exco or Mayoral Committee. The chairperson of the MPAC consults directly with the speaker on the inclusion of its report in the council agenda, and the committee staff ensures that the documentation is included in the agenda of the council meeting.

7.2 A report in terms of the Auditor General and Internal Audit Reports presented to MPAC, must be submitted to the Speaker within one month after each MPAC meeting.

7.3 In accordance with the provisions of section 129(1) of the Municipal Finance Management Act 2003, the Council of a municipality must consider the Annual Report of the municipality and by no later than two months from the date on which the Annual Report was tabled in the council, adopt an Oversight report containing the MPACs recommendations/comments on the Annual Report, which must include a statement whether the council:

• Has approved the Annual Report with or without reservations.

• Has rejected the Annual Report; or

• Has referred the Annual Report back for revision of those components that can be

revised

7.4 All MPAC meetings must be minuted, MPAC Coordinator will be responsible for the compilation and distribution of the MPAC Agendas with minutes of previous meeting.

8. Delegations to the MPAC

The following responsibilities are to be delegated to the MPAC in terms of the provisions of section 59 of the Systems Act:

1. The authority to interrogate the following documents and to make recommendations to the municipal council in accordance with the terms of reference of the committee:

1.1. Unforeseen and unavoidable expenditure.

1.2. Unauthorised, Irregular or Fruitless and Wasteful Expenditure.

1.3. SDBIP.

1.4. Monthly budget statements.

1.5 Mid-year budget and performance assessment.

1.6 Mid-year budget and performance assessment of municipal entities.

1.7 Disclosures concerning Councillors, Directors and officials.

1.8 Annual financial statements.

1.9 Annual Report

1.10 Issues raised by the A-G in the Audit Reports.

1.11 The appointment of the Audit Committee.

1.12 Disciplinary steps instituted in terms of the MFMA.

1.13 The review of the IDP post elections.

1.14 The annual review of the IDP.

1.15 Performance management plan.

1.16 The draft annual budget with reference to the approved IDP; and

1.17 Declaration of interest forms submitted by councillors.

2 The authority to consider all presentations made by the community on the annual report and the authority to have interviews with members of the community to obtain input on the annual report, as 15 well as the authority to prepare the draft oversight report over the annual report.

3. The authority to instruct any member of the executive or the municipal manager to attend the meeting of the MPAC to address matters specified by the MPAC and to provide the MPAC with copies of documents to be dealt with by the committee in terms of its Terms of Reference.

4. The authority to obtain legal, technical, and other specialised assistance required to exercise its functions and duties within the budget approved for the committee and subject to the supply chain management policy where applicable.

9. Approval, Amendment, Modification or Variation

These Terms of Reference must be reviewed at a minimum annually or as warranted. Amendments to the Terms of Reference are subject to approval by council and will apply from date of approval. The approved Terms of Reference must be published on the Bitou's website, to promote awareness to all stakeholders.

MPAC ANNUAL WORK PLAN

DATE	ACTIVITY
July	Financial Year begins
Aug/ Sept	• MPAC is required to confirm that Annual Financial Statements and Annual Report for the previous financial year is submitted to the Auditor General. (MFMA Sec46 &Municipal Systema Act Sec 126)
October / November	• Review/ Confirm implementation of the Annual Action Plan/ Audit Action Plan. • 1st Quarter progress report and budget implementation report. • Prepare Oversight programme on Annual Report (MFMA Sec 166 & Municipal Systems Act Sec 56)
November/ Dec	• Consider Monthly budget report. (Sec 71(1) of MFMA) • Check 1st Quarter progress report (Sec 52 & 166 of MFMA) • Review IDP (scorecards, KPIs, budgets) Sec 34 Municipal Systems Act. • Monthly Budget Statement (Sec 71 of MPAC Guide)
Nov/ Dec/ Jan	• Confirm progress of Oversight programme on Annual Report. • Verify tabling of AR to Council by Mayor. (Sec121 & 127 of MFMA) • Council Publicize AR and invite community input. (Sec 129 & 130 of MFMA) • Obtain feedback from Audit Committee on implementation of Annual Action Plan / Audit Action. • Review the 2nd Quarter performance report of the MM and Section 56 Managers. (Sec 52of MFMA & Sec 41 of the Municipal System Act) • Review 1st draft of the Oversight Report on the Annual Report. (Sec 130(2) of the MFMA)
January/ February	❖ Review Oversight progress. (Sec 129(2) of the MFMA)

	❖ Conduct Public hearings on the Annual Report (Sec 131(1) of the MFMA) ❖ Consider Public inputs on the Annual Report (129 – 130 of the MFMA & Sec 21A of the System Act). ❖ Compile draft Oversight Report on the Annual Report (129(2b) of the MFMA) ❖ Review 1st draft of the Oversight Report on the Annual Report of the prior year. (Sec 130(2) of the MFMA. ❖ Present Oversight Report on the Annual Report to Council. (Sec 130(1) and 2 of the MFMA. ❖ Monthly budget statement. (Sec 71 of the MFMA)
March	• Review 3rd Quarter Performance Report of MM &Sec 56 Manager. (Sec 52 of the MFMA and Sec 41of Systems Act) • Verify submission of Minutes of Annual Report to NT, PT, AG, COGTA and MM. (Sec 52 and Sec 66 of MFMA Sec 14(2)of Procurement Management Regulations) • Verify adoption of Oversight Report with comments on Annual Report. (Sec 129(3) of the MFMA) • Verify publication of the Oversight Report by MM. (Sec 129(3) of the MFMA)
April	• Verify Council adoption of the IDP and Budget for new year. (Sec 24 of the MFMA) • Verify submission of the approved IDP and Budget to the MEC for Local Government, NT, PT, AG and Legislature. (Sec 25of Systems Act) • Verify Public notification that IDP & Budget for new year are adopted and available for public consideration. (Sec 21 of the Systems Act)
May	❖ Verify that the IDP/ Budget/ Annual Report and other required documents are published on the Municipal Website. (Sec 21 A of the Systems Act and Sec 75 of MFMA).

June	❖ Verify that SDBIP has been submitted to Mayor within 14 days of Budget & IDP adoption. (Sec 53 of the MFMA) ❖ Verify that the draft performance agreements have been submitted to Mayor within 14 days of Budget & IDP adoption. (Sec 53 of MFMA)
Monthly/ Quarterly	❖ Meetings as required. ❖ Investigations and follow up of addressing Unauthorized, Irregular, Fruitless and Wasteful Expenditure and Consequence Management.