Report of the Auditor-General to the Eastern Cape Provincial Legislature and the Council on the OR Tambo District Municipality

Report on the audit of the consolidated and separate financial statements

Qualified opinion

1. I have audited the consolidated and separate financial statements of the OR Tambo District Municipality, set out on pages … to …, which comprise the consolidated and separate statement of financial position as at 30 June 2022, the consolidated and separate statement of financial performance, consolidated and separate statement of changes in net assets, consolidated and separate cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as notes to the consolidated and separate financial statements, including a summary of significant accounting policies.

2. In my opinion, except for the effects and possible effects of the matters described in the basis for qualified opinion section of this auditor's report, the consolidated and separate financial statements present fairly, in all material respects, the consolidated and separate financial position of the OR Tambo District Municipality as at 30 June 2022, and consolidated and separate financial performance, consolidated and separate statement of changes in net assets, consolidated and separate cash flow statement and statement of comparison of budget and actual amounts, for the year ended, in accordance with the South African Standards of Generally Recognised Accounting Practise (SA Standards of GRAP) and the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 9 of 2021 (Dora).

Basis for qualified opinion

Plant, property and equipment

3. The municipality did not recognise all items of property, plant and equipment in accordance with GRAP 17, Property, plant and equipment. Some infrastructure work in progress (WIP) was incorrectly recognised as completed infrastructure assets and some of the completed infrastructure assets were incorrectly recognised as infrastructure WIP. Consequently, infrastructure WIP disclosed in note 8 to the consolidated and separate financial statements was understated and infrastructure assets were overstated. I could not determine the full extent of these misstatements on the infrastructure assets and infrastructure WIP stated at R4,8 billion (2020-21: R5 billion) and R2,3 billion (2020-21: R1,9 billion) respectively as it was impractical to do so. In addition, this resulted in the overstatement of the depreciation expense and we could not determine its impact on the infrastructure deprecation stated at R215 million in note 8 to the consolidated and separate financial statements, as it was impractical to do so.

Capital commitments

4. The municipality recorded some of its capital commitments at incorrect amounts for the year under review. This was due to inadequate systems and processes within municipality to

ensure that capital commitments were correctly recorded. Consequently, capital commitments as disclosed at R842,8 million (2020-21: R1,2 billion) in note 45 to the consolidated and separate financial statements were overstated. It was however, impractical to determine the full extent of the misstatement.

Fruitless and wasteful expenditure

5. I was unable to obtain sufficient appropriate audit evidence for the restatement of the corresponding figure for fruitless and wasteful expenditure. As disclosed in note 54 to the consolidated and separate financial statements, the restatement was made to rectify a previous year misstatement, but the restatement could not be substantiated by supporting audit evidence. I was unable to confirm the restatement by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to the fruitless and wasteful expenditure corresponding figure stated at R50,8 million in the consolidated and separate financial statements. This has an impact on the closing balance of fruitless and wasteful expenditure for the current year which is stated at R56,3 million.

Prepayments

6. During the 2021 financial year, the municipality did not have an adequate system in place to account for prepayments made, as a result the municipality did not record all of its prepayments and some prepayments were recorded at incorrect amounts. I was unable to confirm the prepayments by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to the corresponding figure of prepayments stated at R64,6 million in the consolidated and separate financial statement.

Employee related costs

7. During the 2021 financial year, the municipality incorrectly paid the covid-19 danger allowance to its employees who worked during the national lockdown using an un-approved rate. This led to an overstatement of employee related costs by R42 million in the consolidated and separate financial statements. Management did not correct the matters giving rise to this overstatement. I could not determine the full extent of this misstatement on the corresponding figure of employee related costs at R805,6 million as it was impractical to do so.

Context for the opinion

8. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general’s responsibilities for the audit of the financial statements section of my report.

9. I am independent of the municipality in accordance with the International Ethics Standards Board for Accountants’ International code of ethics for professional accountants (including International Independence Standards) (IESBA code) as well as other ethical requirements that are relevant to my audit in South Africa. I have fulfilled my other ethical responsibilities in accordance with these requirements and the IESBA code.

10. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Emphasis of matters

11. I draw attention to the matters below. My opinion is not modified in respect of these matters.

Restatement of corresponding figures

12. As disclosed in note 47 to the consolidated and separate financial statements, the corresponding figures for 30 June 2021 were restated as a result of errors in the consolidated and separate financial statements of the municipality at, and for the year ended, 30 June 2022.

Unspent conditional grants and receipts

13. As disclosed in note 16 to the consolidated and sepatate financial statement, the municipality has unspent conditional grants and receipts of R188,4 million (2020/21: R191,7 million).

Other matter paragraph

14. The following other matter paragraph will be included in our auditor's report to draw the users' attention to matters regarding the audit, the auditor's responsibilities and the auditor's report:

Unaudited disclosure notes

15. In terms of section 125(2)(e) of the MFMA, the municipality is required to disclose particulars of non-compliance with the MFMA in the consolidated and separate financial statements. This disclosure requirement did not form part of the audit of the consolidated and separate financial statements and, accordingly, I do not express an opinion on it.

Responsibilities of the Accounting Officer for the consolidated and separate financial statements

16. The accounting officer is responsible for the preparation and fair presentation of the consolidated and separate financial statements in accordance with the Generally Recognised Accounting Practice (South Africa) and the requirements of the Municipal Finance Management Act 56 of 2033 (MFMA), and for such internal control as the accounting officer determines is necessary to enable the preparation of consolidated and separate financial statements that are free from material misstatement, whether due to fraud or error.

17. In preparing the consolidated and separate financial statements, the accounting officer is responsible for assessing the municipality's ability to continue as a going concern, disclosing, as applicable, matters relating to going concern and using the going concern basis of accounting unless the appropriate governance structure either intends to liquidate the municipality or to cease operations, or has no realistic alternative but to do so.

Auditor-general's responsibilities for the audit of the financial statements

18. My objectives are to obtain reasonable assurance about whether the consolidated and separate financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes my opinion. Reasonable

assurance is a high level of assurance but is not a guarantee that an audit conducted in accordance with the ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

19. A further description of my responsibilities for the audit of the consolidated and separate financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

Introduction and scope

20. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected key performance area presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

21. My procedures address the usefulness and reliability of the reported performance information, which must be based on the municipality's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the municipality enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.

22. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected key performance area presented in the municipality's annual performance report for the year ended 30 June 2022:

Key performance area	Pages in the annual performance report
Key performance area 1: basic service delivery and infrastructure	x – x

23. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

24. The material findings on the usefulness and reliability of the performance information of the selected key performance area are as follows:

Key performance area 1; Basic service delivery and infrastructure

Indicator: Number of water projects completed

25. The method of calculation for measuring the planned indicator was not clearly defined and related systems and processes were not adequate to enable consistent measurement and reliable reporting of performance against the predetermined indicator definitions. As a result, limitations were placed on the scope of my work, and I was unable to audit the reliability of the achievement of 11 completed water projects and the reported target of 10 in the annual performance report.

Percentage compliance of drinking water quality

26. I was unable to obtain sufficient appropriate audit evidence to support the measures taken to improve performance against the target of 93%, which was reported in the annual performance report. This was due to limitations placed on the scope of my work. I was unable to confirm the reported measures taken by alternative means. Consequently, I was unable to determine whether any adjustments were required to the reported measures taken to improve performance.

Number of households with access to basic level of water services

27. I was unable to obtain sufficient appropriate audit evidence to support the measures taken to improve performance against a target of 1500, as reported in the annual performance report. This was due to limitations placed on the scope of my work. I was unable to confirm the reported measures taken by alternative means. In addition, I was unable to obtain sufficient appropriate audit evidence to support the actual achievement of 1 184 as reported in the annual performance report due to the lack of accurate and complete records. I was unable to confirm the reported achievements by alternative means. Consequently, I was unable to determine whether any further adjustments were required to these reported achievements.

Various indicators

28. The achievements below were reported in the annual performance report for the listed indicators. However, some supporting evidence provided materially differed from the reported achievement, while in other instances I was unable to obtain sufficient appropriate audit evidence. This was due to the lack of accurate and complete records. I was unable to confirm the reported achievements by alternative means. Consequently, I was unable to determine whether any further adjustments were required to these reported achievements.

Indicator description	Reported achievement
Number of households with access to basic level of sanitation services	1 289
Number of Ventilated Improved Pit (VIP) toilets provided	1 289
Purified mega litres of water carted and delivered to communities	30,7

Other matter

29. I draw attention to the matter below.

Achievement of planned targets

30. Refer to the annual performance report on pages … to … for information on the achievement of planned targets for the year and management’s explanations provided for the under achievement of targets. This information should be considered in the context of the material findings on the usefulness and reliability of the reported performance information in paragraphs 26 to 29 of this report.

Report on the audit of compliance with legislation

Introduction and scope

31. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the municipality’s compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

32. The material findings on compliance with specific matters in key legislation are as follows:

Annual financial statements

33. The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 122(1) of the MFMA. Material misstatements of current assets, liabilities, expenditure and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and/or the supporting records were provided subsequently, but the uncorrected material misstatements and/ or supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.

34. The 2020/21 annual report was not made public after being tabled in council, as required by section 127(5)(a)(i) of the MFMA.

35. The local community was not invited to submit representations in connection with the 2020/21 annual report, as required by section 127(5)(a)(ii) of the MFMA.

36. The council failed to adopt an oversight report containing the council's comments on the 2020/21 annual report, as required by section 129(1) of the MFMA.

Procurement and contract management

37. Some of the goods and services with a transaction value of below R200 000 were procured without obtaining the required price quotations, in contravention of by SCM Regulation 17(1)(a) and (c).

38. The preference point system was not applied some of the procurement of goods and services above R30 000 as required by section 2(1)(a) of the Preferential Procurement Policy Framework Act.

39. Some of the invitation to tender for procurement of commodities designated for local content and production, did not stipulate the minimum threshold for local production and content as required by the 2017 Preferential Procurement Regulation 8(2). Similar non-compliance was also reported in the prior year.

40. Some of the contracts were awarded to bidders who did not submit a declaration on whether they are employed by the state or connected to any person employed by the state, as required by SCM regulation 13(c). Similar non-compliance was also reported in the prior year.

41. Sufficient appropriate audit evidence could not be obtained that the performance of contractors or providers was monitored on a monthly basis as required by section 116(2) of the MFMA. Similar limitation was also reported in the prior year.

42. Awards were made to providers who were in the service of other state institutions or whose directors / principal shareholders were in the service of other state institutions, in contravention of MFMA 112(1)(j) and SCM Regulation 44. Similar awards were identified in the previous year and no effective steps were taken to prevent or combat the abuse of the SCM process, as required by SCM Regulation 38(1).

Asset management

43. An effective system of internal control for assets was not in place, as required by section 63(2)(c) of the MFMA.

Strategic planning and performance management

44. The performance management system and related controls were not properly implemented or were inadequate as there was no evidence of adequate monitoring and review processes conducted as required by municipal planning and performance management regulation 7(1).

Expenditure management

45. Reasonable steps were not taken to prevent irregular expenditure amounting to R113,3 million as disclosed in note 55 to the consolidated and separate annual financial statements, as required by section 62(1)(d) of the MFMA.

46. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R5,4 million, as disclosed in note 54 to the consolidated and separate annual financial statements, in contravention of section 62(1)(d) of the MFMA.

47. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R31,9 million, as disclosed in note 53 to the consolidated and separate annual financial statements, in contravention of section 62(1)(d) of the MFMA.

Consequence management

48. Unauthorised expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(a) of the MFMA.

49. Irregular expenditure incurred by the municipality were not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

50. Fruitless and wasteful expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

HR management

51. We were unable to obtain sufficient appropriate audit evidence that appropriate systems and procedures to monitor, measure and evaluate performance of staff were developed and adopted, as required by section 67(1)(d) of the Municipal System Act (MSA).

52. The municipal manager and senior managers did not sign performance agreements within the prescribed period, as required by section 57(2)(a) of the MSA.

Conditional grants

53. Performance in respect of programmes funded by the municipal infrastructure grant (MIG), regional bulk infrastructure grant (RBIG), water services infrastructure grant (WSIG) was not evaluated within two months after the end of the financial year, as required by section 12(5) of the Dora.

Other information

54. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report, which includes the the audit committee's report. The other information does not include the financial statements, the auditor's report and those selected key performance areas presented in the annual performance report that have been specifically reported in this auditor's report.

55. My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion on it.

56. In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected key performance areas presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.

57. I did not receive the other information prior to the date of this report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this

auditor's report and re issue an amended report as appropriate. However, if it is corrected this will not be necessary

Internal control deficiencies

58. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion, the findings on the annual performance report and the findings on compliance with legislation included in this report

59. Leadership did not effectively implement all the necessary disciplines to enable effective oversight that promotes the achievement of credible reporting in the financial management, annual performance reporting and compliance with laws and regulations. In addition, leadership did not effectively monitor the implementation of corrective actions to address internal control deviations and compliance requirements.

60. The municipality developed an audit action plan to address the prior year findings, but this was not fully implemented, which resulted in repeat findings on the annual financial statements, annual performance report and compliance with relevant laws and regulations. Furthermore, management did not implement daily and monthly internal controls to ensure that the annual performance report is supported by valid supporting information.

Material irregularities

61. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit and on the status of the material irregularities reported in the previous year's auditor's report.

Material irregularities identified during the audit

Covid 19 danger allowance was paid using an incorrect rate

62. The municipality made overpayments of the covid 19 danger allowance to its employees who worked during the level 5, 4 and 3 of the national lock down, by using an incorrect or an unapproved rate. This resulted in non-compliance with section 65(2)(a) of the MFMA, which requires that the municipality should have and maintain an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds. The non-compliance with the legislation resulted in a material financial loss.

63. The accounting officer was notified of the material irregularity on 7 April 2022 and invited to make written submission on the actions taken or to be taken to address the matter. The actions taken and planned are as follows:

   - The accounting officer (AO) referred this matter to the municipality disciplinary board investigating matters of financial misconducts

- The committee has met and scheduled its work for the current year and it is prioritising this matter. To date it has been established that a total of 510 employees have been paid a total amount of R48 108 229,70 and this was communicated to the committee.

- The AO developed a danger allowance policy that was approved by the council.

- The disciplinary board has been requested to provide quarterly updates to the council.

64. On conclusion of the investigation by the municipality disciplinary board, the accounting officer is planning to take the appropriate actions against those who should be held accountable of the transgression and or loss of public funds if any and the recovery of the overpayments made.

65. I will follow-up on the investigation and the implementation of the planned actions during my next audit.

Status of previously reported material irregularities

Prepayments made to an implementing agent for water projects

66. The municipality made payments to its implementing agent for water projects, for goods and services not yet received. This resulted in non-compliance with section 65(2)(a) of the Municipal Finance Management Act 56 of 2003 (MFMA), which requires that the municipality should have and maintain an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds. The non-compliance with legislation resulted in a likely material financial loss because the amount could still be recovered from the implementing agent.

67. The accounting officer was notified of the material irregularity on 7 April 2021 and invited to make written submission on the actions taken or to be taken to address the matter. The actions taken and planned are as follows:

    - The implementing agent had subsequently performed some work for which the relevant evidence was audited during the current audit

    - The implementing agent had refunded the municipality an amount of R46 million on 30 June 2022.

    - The municipality had reported the matter to the Directorate for Priority Crime Investigation (DPCI), the matter was still in progress at the time of this report.

68. On conclusion of the investigation by the DPCI, the accounting officer is planning to take appropriate steps against the identified responsible officials. I will follow up on the implementation of the planned actions during my next audit.

Other reports

69. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties which had, or could have, an impact on

the matters reported in the municipality's financial statements, reported performance information, compliance with applicable legislation and other related matters. These reports did not form part of my opinion on the financial statements or my findings on the reported performance information or compliance with legislation.

70. The Special Investigating Unit (SIU) was investigating the matters included below as contained in the proclamation (R80 of 2022) by the President, gazetted (GG 47107) on 29 July 2022, in respect of the municipality:

- The procurement of, or contracting for goods, works or services by or on behalf of the municipality and payments made in respect thereof in a manner that was not fair, competitive, transparent, equitable or cost-effective; or contrary to applicable legislation, manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or manuals, policies, procedures, prescripts, instructions or practices of, or applicable to the municipality.

- Any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality in relation to the provision of strategic, technical and operational support services to the strategic programmes and management office of the municipality in terms of tender number ORTDM – SCMU33-17/18.

- Any unlawful or improper conduct by officials or employees of the municipality, applicable service providers of the municipality; or any other person or entity, in relation to the allegations set out in the proclamation.

71. These investigations were still in progress at the date of signing this report.

East London

15 December 2022

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure – Auditor-general's responsibility for the audit

1. As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the consolidated and separate financial statements and the procedures performed on reported performance information for selected key performance areas and on the municipality's compliance with respect to the selected subject matters.

Financial statements

2. In addition to my responsibility for the audit of the consolidated and separate financial statements as described in this auditor's report, I also:

   - identify and assess the risks of material misstatement of the consolidated and separate financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
   - obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the municipality's internal control
   - evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the accounting officer
   - Conclude on the appropriateness of the accounting officer's use of the going concern basis of accounting in the preparation of the consolidated and separate financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the OR Tambo District Municipality to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the consolidated and separate financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the consolidated and separate financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a municipality to cease operating as a going concern
   - evaluate the overall presentation, structure and content of the consolidated and separate financial statements, including the disclosures, and determine whether the consolidated and separate financial statements represent the underlying transactions and events in a manner that achieves fair presentation
   - obtain sufficient appropriate audit evidence regarding the consolidated and separate financial information of the entities or business activities within the group to express an opinion on the consolidated and separate financial statements. I am responsible for the direction, supervision and performance of the group audit. I remain solely responsible for my audit opinion.

Communication with those charged with governance

3. I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

4. I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.