



OR TAMBO DISTRICT MUNICIPALITY (Cons.)

Audit Report

For the year ended 30 June 2024



**AUDITOR - GENERAL
SOUTH AFRICA**

Auditing to build public confidence

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 Annual financial statements

Opinion

1. I have audited the consolidated and separate financial statements of the OR Tambo District Municipality set out on pages xx to xx, which comprise the consolidated and separate statement of financial position as at 30 June 2024, consolidated and separate statement of financial performance, consolidated and separate statement of changes in net assets, consolidated and separate cash flow statement and consolidated and separate statement of comparison of budget and actual amounts for the year then ended, as well as consolidated and separate notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, 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 2024 and its consolidated and separate financial performance, consolidated and separate statement of changes in net assets and consolidated and separate cash flow statement and the consolidated and separate statement of comparison of budget and actual amounts, for the year ended, in accordance with the Standards of Generally Recognised Accounting Practise (GRAP) and the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 5 of 2023 (Dora).

Basis of Opinion

3. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the responsibilities of the auditor-general for the audit of the consolidated and separate financial statements section of my report.
4. 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.
5. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

Emphasis of matter

6. I draw attention to the matter below. My opinion is not modified in respect of this matter.

Impairment of receivables from exchange transactions

7. As disclosed in note 3 to the consolidated and separate financial statements, the municipality has made impairment allowances against receivables from exchange transactions totalling R736,15 million (2023: R622,14 million).

Other matter

8. I draw attention to the matter below. My opinion is not modified in respect of this matter.

Unaudited disclosure notes

9. 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 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

10. The accounting officer is responsible for the preparation and fair presentation of the consolidated and separate financial statements in accordance with the GRAP and the requirements of the 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.
11. 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.

Responsibilities of the auditor-general for the audit of the consolidated and separate financial statements

12. 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.
13. 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. This description, which is located at pages xx to xx, forms part of our auditor's report.

Report on the audit of the annual performance report

14. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for the selected key performance area presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
15. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2024 for auditing. I selected a key performance area that measures the municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Key performance area	Page numbers	Goals
Basic service delivery and infrastructure	XX	<ul style="list-style-type: none">To promote integrated sustainable community livelihoodTo provide conducive, adequate and accessible infrastructureTo provide water and sanitation to every community/village

16. I evaluated the reported performance information for the selected key performance area against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the municipality's planning and delivery on its mandate and objectives.
17. I performed procedures to test whether:
- the indicators used for planning and reporting on performance can be linked directly to the municipality's mandate and the achievement of its planned objectives.
 - all the indicators relevant for measuring the municipality's performance against its primary mandated and prioritised functions and planned objectives are included.
 - the indicators are well defined to ensure that they are easy to understand and can be applied consistently, as well as verifiable so that I can confirm the methods and processes - to be used for measuring achievements.
 - the targets can be linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated.
 - the indicators and targets reported on in the annual performance report are the same as those committed to in the approved initial or revised planning documents.
 - the reported performance information is presented in the annual performance report in the prescribed manner and is comparable and understandable.

- there is adequate supporting evidence for the achievements reported and for the measures taken to improve performance.

18. I performed the procedures for the purpose of reporting material findings only; and not to express an assurance opinion or conclusion.

19. I did not identify any material findings on the reported performance information for the basic service delivery and infrastructure.

Other matter

20. I draw attention to the matter below.

Achievement of planned targets

21. The annual performance report includes information on reported achievements against planned targets and provides explanations for measures taken to improve performance.

22. The table that follows provides information on the achievement of planned targets and lists the key service delivery indicators that were not achieved as reported in the annual performance report. The measures taken to improve performance are included in the annual performance report on pages xx to xx.

Basic Service Delivery and Infrastructure

<i>Targets achieved: 88%</i>		
<i>Budget spent: 108%</i>		
Key indicator not achieved	Planned target	Reported achievement
Number of water borne sanitation contracts completed	11	9
Number of houses built for emergency housing situations	450	341
Number of houses built for social relief	10	2

Report on compliance with legislation

23. In accordance with the PAA and the general notice issued in terms thereof, I must audit and report on compliance with applicable legislation relating to consolidated and separate financial matters, financial management and other related matters. The accounting officer is responsible for the municipality's compliance with legislation.

24. I performed procedures to test compliance with selected requirements in key legislation in accordance with the findings engagement methodology of the Auditor-General of South Africa (AGSA). This engagement is not an assurance engagement. Accordingly, I do not express an assurance opinion or conclusion.

25. Through an established AGSA process, I selected requirements in key legislation for compliance testing that are relevant to the financial and performance management of the municipality, clear to allow consistent measurement and evaluation, while also sufficiently detailed and readily available to report in an understandable manner. The selected legislative requirements are included in the annexure to this auditor's report.
26. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Annual financial statements and annual reports

27. The consolidated and separate financial statements submitted for auditing were not fully prepared in all material respects in accordance with the requirements of section 122(1) of the MFMA. Material misstatements of non-current assets, current assets, and disclosure items identified by the auditors in the submitted consolidated and separate financial statement were subsequently corrected, resulting in the consolidated and separate financial statements receiving an unqualified audit opinion.

Expenditure management

28. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
29. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R264,98 million as disclosed in note 54 to the consolidated and separate annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the unauthorised expenditure was caused by over expenditure on non-cash items.
30. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R3,69 million as disclosed in note 55 to the consolidated and separate annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the disclosed fruitless and wasteful expenditure was caused by interest and penalties on overdue accounts.

Asset management

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

Revenue management

32. Revenue due to the municipality was not calculated on a monthly basis, as required by section 64(2)(b) of the MFMA.

Procurement and Contract Management

33. The performance of some of the contractors or providers was not monitored on a monthly basis, as required by section 116(2)(b) of the MFMA. Similar non-compliance was also reported in the prior year.

Other information in the annual report

34. The accounting officer is responsible for the other information included in the annual report. The other information referred to does not include the consolidated and separate financial statements, the auditor's report and those selected key performance area presented in the annual performance report that have been specifically reported on in this auditor's report.
35. My opinion on the consolidated and separate financial statements, the report on the audit of the annual performance report and the report on compliance with legislation do not cover the other information included in the annual report and I do not express an audit opinion or any form of assurance conclusion on it.
36. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the financial statements and the selected key performance area presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
37. I did not receive the other information prior to the date of this auditor's 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

38. I considered internal control relevant to my audit of the consolidated and separate financial statements, annual performance report and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
39. The matters reported below are limited to the significant internal control deficiencies that resulted in the material findings on compliance with legislation included in this report.
40. Management did not perform adequate reviews of the schedules used to prepare the consolidated and separate annual financial statements to ensure that the disclosed amounts are supported by valid and accurate documents. Management as the first level of assurance providers, have not effectively discharged their duties and responsibilities regarding the validity, accuracy, and completeness of the consolidated and separate annual financial statements. This resulted in non-compliance with legislation.
41. Furthermore, management did not implement appropriate internal controls to prevent non-compliance with other key legislation.

Material irregularities

42. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities (MIs) identified during the audit and on the status of material irregularities as previously reported in the auditor's report.

Material irregularities in progress

43. I identified other material irregularities during the audit and notified the accounting officer of these, as required by material irregularity regulation 3(2). By the date of this auditor's report, I had not yet completed the process of evaluating the responses from the accounting officer. These material irregularities will be included in next year's auditor's report.

Status of previously reported material irregularities

Prepayments made to Amatola Water Board

44. 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 (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.

45. 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 has subsequently performed work for which the relevant evidence was audited. The last payment vouchers for the work done were received on 30 November 2022. Physical verifications were also performed during the audit for the year ended 30 June 2022.
- The implementing agent refunded the municipality an amount of R46 million on 30 June 2022 being the remaining balance of the pre-payments made.
- The municipality reported the matter to the Directorate for Priority Crime Investigation (the Hawks) in April 2021, these matters were still in progress at the time of this report.
- There was an investigation that was conducted and officials that were found liable were given notice of intent to suspend them. This investigation was challenged in the high court of South Africa court and the court took a decision on the 18 July 2023 to set aside this investigation and the outcomes of the investigation.

46. The accounting officer took the appropriate steps and the material irregularity is resolved.

Covid 19 danger allowances were paid using an incorrect rate

47. The municipality made overpayments of covid 19 danger allowance to its employees who worked during level 3 of the national lock down. 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.

48. 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.

49. Below are steps that the accounting officer has taken/ or is in the process of taking in resolving the matter:

- The final danger allowance payment was presented in the special Local Labour Forum (LLF) meeting as a MI and Unions noted the report on 12 September 2023. As part of the consultation, the report was tabled at a staff general meeting 24 June 2024.
- The municipal manager prepared a report for mayoral committee (Mayco) and council, for the recovery of fruitless and wasteful expenditure and for the purposes of investigation. The report was tabled to the Mayco and council on 22 May 2024.
- The report has been referred to court for review with the aim of reducing the risks of potential litigations on 11 September 2024.
- On 21 October 2024, the accounting officer wrote to all employees who benefited. Employees were advised to make payment arrangements with the accounting officer within 14 days of receipt. Additionally, a circular was issued to all employees outlining the process of recovery on 24 October 2024.
- The Municipal Disciplinary Board will investigate the matter and once findings are made; consequence management will ensue. The recommendations of the Municipal Disciplinary Board will be tabled to council; and the municipal manager will subsequently implement the resolutions.
- The LLF members will be trained on financial management matters to avoid the re-occurrence of this matter.

50. The progress on the material irregularity will be followed up during the next audit period.

Other reports

51. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties. 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.

52. The Special Investigating Unit (SIU) is 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.
- The construction of the Signal Hill Reservoir and the appointment of Amatola Water Board in 2019 and an alleged irregular payment made to Amatola in 2020.

53. The SIU is investigating the matters included in proclamation 172 of 2024 by the President, gazetted (No. 51056) on the 20 August 2024. The matters under investigation include allegations of serious maladministration for the following contracts:

- The construction of the Signal Hill Reservoir and the appointment of Amatola Water Board in 2019 and an alleged irregular payment made to Amatola in 2020.
- The construction of the Mqanduli Bulk Water Scheme and the appointment of the contractor and an alleged irregular payment made to the contractor in 2019.
- The supply and installation of a pump at Mhlontlo Cluster 1 and the appointment of the contractor and an alleged irregular payment made to the service providers in 2019.
- The electrification of the Mthatha Dam and Highbury, and the construction of the Thornbill Clear Water Pump Station, and the alleged irregularities regarding payment of Amatola for these projects in 2018 and 2019.

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

Auditor-General

East London

11 December 2024



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure to the auditor's report

The annexure includes the following:

- The auditor-general's responsibility for the audit
- The selected legislative requirements for compliance testing

Auditor-general's responsibility for the audit

Professional judgement and professional scepticism

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 area and on the municipality's compliance with selected requirements in key legislation.

Financial statements

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.
- conclude on the appropriateness of the 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 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 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 financial information of the entities or business activities within the group to express an opinion on the consolidated 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

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.

I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence and 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.

Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Municipal Finance Management Act 56 of 2003	Sections: 1, 11(1), 13(2), 14(1), 14(2)(a), 14(2)(b), 15, 24(2)(c)(iv), 28(1), 29(1), 29(2)(b), 32(2), 32(2)(a), 32(2)(a)(i), 32(2)(a)(ii), Sections: 32(2)(b), 32(6)(a), 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 63(2)(a), 63(2)(c), 64(2)(b), 64(2)(c), 64(2)(e), 64(2)(f), Sections: 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), 72(1)(a)(ii), 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), 122(2), 126(1)(a), Sections: 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), 129(1), 129(3), 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, 171(4)(a), 171(4)(b)
MFMA: Municipal budget and reporting regulations, 2009	Regulations: 71(1)(a), 71(1)(a)(b), 71(2)(a), 71(2)(b), 71(2)(d), 72(a), 72(b), 72(c)
MFMA: Municipal Investment Regulations, 2005	Regulations: 3(1)(a), 3(3), 6, 7, 12(2), 12(3)
MFMA: Municipal Regulations on financial Misconduct Procedures and Criminal Proceedings, 2014	Regulations: 5(4), 6(8)(a), 6(8)(b), 10(1)
MFMA: Municipal Supply Chain Management Regulations, 2017	Regulations: 5, 12(1)(c), 12(3), 13(b), 13(c), 16(a), 17(1)(a), 17(1)(b), 17(1)(c), 19(a), 21(b), 22(1)(b)(i), 22(2), 27(2)(a), 27(2)(e), Regulations: 28(1)(a)(i), 29(1)(a), 29(1)(b), 29(5)(a)(ii), 29(5)(b)(ii), 32, 36(1), 36(1)(a), 38(1)(c), 38(1)(d)(ii), 38(1)(e), 38(1)(g)(i), Regulations: 38(1)(g)(ii), 38(1)(g)(iii), 43, 44, 46(2)(e), 46(2)(f)
Construction Industry Development Board Act 38 of 2000	Section: 18(1)
Construction Industry Development Board Regulations, 2004	Regulations: 17, 25(7A)
Division of Revenue Act	Sections: 11(6)(b), 12(5), 16(1); 16(3)
Municipal Systems Act 32 of 2000	Sections: 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 34(a), 34(b), 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 43(2), Sections: 54A(1)(a), 56(1)(a), 57(2)(a), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 96(b) Sections: 93B(a), 93B(b)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations: 5(2), 5(3), 5(6), 8(4)
MSA: Municipal Planning and Performance Management Regulations, 2001	Regulations: 2(1)(e), 2(3)(a), 3(3), 3(4)(b), 7(1), 8, 9(1)(a), 10(a), 12(1), 15(1)(a)(i), 15(1)(a)(ii)
MSA: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006	Regulations: 2(3)(a), 4(4)(b), 8(1), 8(2), 8(3)
MSA: Regulations on Appointment and Conditions of Employment of Senior Managers, 2014	Regulations: 17(2), 36(1)(a)

Legislation	Sections or regulations
MSA: Municipal Staff Regulations	Regulations: 7(1),31
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section: 34(1)
Preferential Procurement Policy Framework Act 5 of 2000	Sections: 2(1)(a), 2(1)(f)
Preferential Procurement Regulations, 2017	Regulations: 4(1), 4(2), 5(1), 5(3), 5(6), 5(7), 6(1), 6(2), 6(3), 6(6), 6(8), 7(1), 7(2), 7(3), 7(6), 7(8), 8(2), 8(5), 9(1), 10(1), 10(2), Regulations: 11(1), 11(2)
Preferential Procurement Regulations, 2022	Regulations: 4(1), 4(2), 4(3), 4(4), 5(1), 5(2), 5(3), 5(4)