

Report of the auditor-general to the North West Provincial Legislature and the council on Dr Ruth Segomotsi Mompati District Municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Dr Ruth Segomotsi Mompati district municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2024, statement of financial performance, statement of changes in net assets and cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as notes to the 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 financial statements present fairly, in all material respects, the financial position of the Dr Ruth Segomotsi Mompati district municipality as at 30 June 2024, and its financial performance and cash flows for the year then ended in accordance with the Standards of Generally Recognised Accounting Practice (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 for qualified opinion

Contracted services

3. I was unable to obtain sufficient appropriate audit evidence for contracted services relating to sewerage services, water tankers and bulk purchase related expenditure as disclosed under note 32 of the financial statements due to the status of the accounting records and lack of adequate evidence that the goods and services were actually received at the correct quantity and price. I was unable to confirm these contracted services by alternative means. Consequently, I was unable to determine whether any adjustment for the amount of R294 974 341 (2023: R247 651 221) included in contracted services, as disclosed in note 32 to the financial statements was necessary.

Unauthorised expenditure

4. I was unable to obtain sufficient appropriate audit evidence for unauthorised expenditure due to the status of the accounting records. I was unable to confirm the unauthorised expenditure by alternative means. Consequently, I was unable to determine whether any adjustment to unauthorised expenditure of R1404 160 358 (2023: R1 063 970 903) as disclosed in note 44 to the financial statements was necessary.

Irregular expenditure

5. Section 125 of the MFMA requires the disclosure of irregular expenditure incurred. The municipality made payments in contravention of supply chain management (SCM) requirements in the current and previous year, which were not included in irregular expenditure disclosed. As the municipality did not quantify the full extent of the irregular expenditure, it was impracticable to determine the resultant understatement of irregular expenditure of R2 165 967 141 disclosed in note 46 to the financial statements.

Context for opinion

6. 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 financial statements section of my report.
7. 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.
8. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Material uncertainty relating to going concern

9. I draw attention to the matter below. My opinion is not modified in respect of these matter.
10. I draw attention to note 42 to the financial statements, which indicates that current liabilities exceed the current assets by R814 865 008 and contingent liabilities, if ordered to settle, will result in R19 703 614 being paid. As stated in note 42, these events or conditions, along with the other matters as set forth in note 42, indicate that a material uncertainty exists that may cast significant doubt on the municipality's ability to continue as a going concern.

Emphasis of matters

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

Material losses

12. As disclosed in note 8 to the financial statements, the provision for impairment of other receivables amount to R22 827 713 (2023: R20 796 914) which is 88% (2021: 93%) of the total other receivables from non-exchange revenue due to significant impairment of receivables.

Restatement of corresponding figures

13. As disclosed in note 39 to the financial statements, the corresponding figures for 30 June 2023 were restated as a result of an error in the financial statements of the municipality at, and for the year ended, 30 June 2024.

Other matter

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

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. This disclosure requirement did not form part of the audit of the financial statements and accordingly I do not express an opinion thereon.

Responsibilities of the accounting officer for the financial statements

16. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the Standards of GRAP and the requirements of the MFMA and the DoRA and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

17. In preparing the 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 financial statements

18. My objectives are to obtain reasonable assurance about whether the 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 financial statements is included in the annexure to this auditor's report. This description, which is located at page XX, forms part of our auditor's report.

Report on the audit of the annual performance report

20. 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 areas presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.

21. I selected the following key performance areas presented in the annual performance report for the year ended 30 June 2024 for auditing. I selected key performance areas that measure the

municipality's performance on its primary mandated functions and that are of significant national, community or public interest.

| key performance areas | Page numbers | Purpose |
|--|--------------|---|
| Services delivery and infrastructure development | [XX] | To improve access to services and ensure that sustainable operations and maintenance of the existing water and sanitation infrastructure is achieved. |
| Community services and development | [XX] | To ensure that all citizens have a right to an environment that is not detrimental to human health, and it imposes a duty on the State to promulgate legislation and to implement policies aimed at ensuring that this right is upheld –Environmental health, Fire and Disaster Management and Solid Waste Management |

22. I evaluated the reported performance information for the selected key performance areas 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.

23. 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

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

25. The material findings on the reported performance information for the selected key performance areas are as follows:

Service delivery and infrastructure development

The percentage of households with access to basic level of water

26. In terms of the MSA, the municipality is responsible for provision of water. However, an indicator to measure performance on this responsibility was omitted from the approved planning documents. The reason for the omission was because they have not completed water infrastructure projects. Consequently, the achievement of this legislative mandate was not planned or accounted for, which is likely to result in it not being delivered and undermines transparency and accountability for delivery on mandate.

Number of jobs created through capital projects and registered with EPWP by 30 June 2024

27. An achievement of 732 was reported against a target of 500. I could not determine if the reported achievement was correct, as adequate supporting evidence was not provided for auditing. Consequently, the achievement might be more or less than reported and was not reliable for determining if the target had been achieved.

Community service and development

Number of Fire Prevention Inspections at Local Business Conducted by 30 June 2024

28. An achievement of 106 was reported against a target of 100 but the audit evidence showed the actual achievement to be 116. The achievement against the target was better than reported.

Other matters

29. I draw attention to the matters below.

Material misstatements

30. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for service delivery and infrastructure development and community service and development. Management did correct not all of the misstatements and I reported material findings in this regard.

Report on compliance with legislation

31. 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 financial matters, financial management and other related matters. The accounting officer is responsible for the municipality's compliance with legislation.

32. 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.

33. 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.
34. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Expenditure management

35. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
36. Reasonable steps were not taken to prevent irregular expenditure, as required by section 62(1)(d) of the MFMA. The full extent of the irregular expenditure could not be quantified as indicated in the basis for qualification paragraph. The majority of the disclosed irregular expenditure was caused by non-compliance with SCM laws and regulations.
37. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R462 596, as disclosed in note 45 to the 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 charged on outstanding accounts not paid on time
38. Reasonable steps were not taken to prevent unauthorised expenditure, as required by section 62(1)(d) of the MFMA. The full extent of the unauthorised expenditure could not be quantified as indicated in the basis for qualification paragraph. The majority of the disclosed unauthorised expenditure was caused by overspending of a vote.

Annual financial statements

39. 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 non-current assets, liabilities, expenditure and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided subsequently, but the uncorrected material misstatements and supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.
40. The council failed to adopt an oversight report containing the council's comments on the 2022/23 annual report, as required by section 129(1) of the MFMA.
41. The oversight report was not adopted by the council for the 2022/23 annual report, therefore it was not made public, as required by section 129(3) of the MFMA.

Strategic planning and performance management

42. No KPIs were set in respect of the provision of basic water and sanitation services, as required by section 43(2) of the MSA and municipal planning and performance management regulation 10(a).
43. The performance management system and related controls were inadequate as it did not describe how the performance planning, monitoring and review processes should be conducted and organised and managed, as required by municipal planning and performance management regulation 7(1).

Consequence management

44. Unauthorized 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.
45. Irregular and 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.

Utilisation of conditional grants

46. Performance in respect of programmes funded by the Municipal Infrastructure Grant and Water Services Infrastructure Grant, were not evaluated within two months after the end of the financial year, as required by section 12(5) of the Division of Revenue Act (Act 5 of 2023).

Asset Management

47. An adequate management, accounting and information system which accounts for assets was not in place, as required by section 63(2)(a) of the MFMA.
48. An effective system of internal control for assets (including an asset register) was not in place, as required by section 63(2)(c) of the MFMA.

HR Management

49. Appropriate systems and procedures to monitor, measure and evaluate performance of staff were not developed and adopted, as required by section 67(1)(d) of the MSA and regulation 31 of Municipal Staff Regulations.

Procurement and contract management

50. Sufficient appropriate audit evidence could not be obtained that all contracts were awarded in accordance with the legislative requirements as three tenders were not provided for audit.
51. Some of the goods and services within the prescribed transaction value for competitive bids were procured without inviting competitive bids, as required by SCM Regulation 19(a). Deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM Regulation 36(1). Similar non-compliance was also reported in the prior year.

52. Construction contracts were awarded to contractors that did not qualify for the contract in accordance with CIDB Regulations 17 and 25(7A). This non-compliance was identified in the procurement processes for the rural sanitation programme.
53. Sufficient appropriate audit evidence could not be obtained that some of the contracts were extended or modified with the approval of a properly delegated official as required by SCM Regulation 5. Similar non-compliance was also reported in the prior year.
54. The performance of 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.
55. The contract performance and monitoring measures were not in place to ensure effective contract management, as required by section 116(2)(c)(ii) of the MFMA.

Other information in the annual report

56. The accounting officer is responsible for the other information included in the annual report. The other information referred to 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 on in this auditor's report.
57. My opinion on the 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.
58. 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 areas presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
59. 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

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

62. Leadership did not adequately exercise oversight responsibility regarding financial and performance reporting and compliance with legislation. The municipality did not have sufficient monitoring and reviewing controls to ensure that financial and performance reports submitted for audit were accurate and complete, and that action plans developed were adequately and timeously implemented. Furthermore, effective human resource management processes were not implemented to ensure that adequate and sufficiently skilled resources were in place, especially in the finance department, and that the performance of all employees was monitored.
63. Management did not take effective steps and implement measures to ensure that appropriate evidence is obtained to confirm occurrence of expenditure relating to bulk purchase and water tankering expenditure. Furthermore, there is an overreliance on the work of consultants without an adequate transfer of skills to ensure that municipal officials appointed in specific positions perform their functions within those positions.
64. The effectiveness of the audit committee and internal audit as assurance providers was compromised as management did not adequately address internal audit findings and did not always implement recommendations by the audit committee.

Material irregularities

65. 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 material irregularities as previously reported in the auditor's report.

Material irregularities identified during the audit.

Material irregularities in progress

66. I identified a material irregularity during the audit and notified the accounting officer, as required by material irregularity regulation 3(2). By the date of this auditor's report, the response of the accounting officer was not yet due. This material irregularity will be included in next year's auditor's report.

Status of previously reported material irregularities

Full and proper records not kept (2019-20) Infrastructure assets, provision of retail water services and material uncertainty relating to going concern

67. Reasonable steps were not taken in the 2019-20 financial year to ensure that full and proper records were kept of infrastructure assets, provision of retail water and material uncertainty relating to going concern, as required by section 62(1)(b) of the MFMA. The non-compliance contributed to a disclaimed audit opinion as I could not obtain sufficient appropriate audit evidence to support the amounts and disclosures in the financial statements. The lack of full and proper records is likely to result in substantial harm to the municipality as it contributed to the material uncertainty regarding its ability to continue operations. This, in turn, is likely to have a negative impact on the municipality's ability to discharge its service delivery mandate.
68. The accounting officer was notified of the material irregularity on 7 June 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. The

accounting officer provided inadequate actions to resolve the material irregularity. I recommend that the accounting officer should take the following actions to address the material irregularity, which should be implemented by 30 April 2022:

69. Based on the reasons and circumstance, appropriate action should be taken to develop and commence with the implementation of an action plan to address poor record keeping so that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards, as required by section 62(1)(b) of the MFMA. The plan should include anticipated timeframes and address the following key areas as a minimum:

- Complete asset register of all of the municipality's infrastructure assets, including work-in-progress;
- Billing information and reconciliations to support revenue from service charges;
- Payment vouchers, creditor statements and creditor reconciliations for purchases. The expenditure incurred should be supported by sufficient evidence that goods and services paid for were received; and
- Formalise agreements with local municipalities for the provisioning of basic water services.

70. I further recommended that the accounting officer should take appropriate action to develop and commence with the implementation of an action plan to address the financial problems of the municipality, as required by section 135(1) and 135(3)(a) of the MFMA, by 31 July 2022. The plan should describe the anticipated timeframe and milestones to be achieved and include as a minimum, strategies to:

- increase the collection of revenue;
- optimise costs in respect of bulk purchases.
- efficiently manage the available resources of the municipality;
- enter into payment arrangements with major suppliers; and
- repair and maintain infrastructure assets.

71. I considered the written response and substantiating documentation provided on 29 April 2022 as well as the supplementary responses and substantiating documentation received between 14 May 2022 and 29 July 2022, and concluded that the recommendations were not adequately implemented at the stipulated time and appropriate actions were not taken to address the material irregularity.

72. On 7 August 2023, I notified the accounting officer of the following remedial actions to address the MI, which should be implemented by within six months from the date of the notification with a progress report after three months:

73. The non-compliance with section 62(1)(b) of the Municipal Finance Management Act, 56 of 2003 (MFMA) must be investigated further to determine the reasons and circumstances that led to the non-compliance for the purpose of taking appropriate corrective actions and to address control weaknesses.

74. Based on the reasons and circumstances, appropriate action must be taken to continue with the development and implementation of an action plan to address poor record keeping so that full and proper records of the financial affairs of the auditee are kept in accordance with any prescribed norms and standards, as required by section 62(1)(b) of the MFMA. The plan must include anticipated timeframes and address the following key areas as a minimum:
75. Complete asset register of all of the municipality's infrastructure assets, including work-in-progress;
- Payment vouchers, creditor statements and creditor reconciliations for purchases. The expenditure incurred should be supported by sufficient evidence that goods and services paid for were received; and
 - Formalise agreements with local municipalities for the provisioning of basic water services.
76. I further recommended that the accounting officer must continue with the development and implementation of an action plan to address the financial problems of the auditee, as required by section 135(1) and 135(3)(a) of the MFMA. The plan must describe the anticipated timeframe and milestones to be achieved and include as a minimum strategies to:
- increase the collection of revenue;
 - optimise costs in respect of bulk purchases;
 - efficiently manage the available resources of the municipality;
 - enter into payment arrangements with major suppliers; and
 - repair and maintain infrastructure assets.
77. A progress report on the implementation of the remedial action was received on 6 November 2023. The following actions have been taken to resolve the material irregularity:
78. The Accounting Officer (AO) conducted an inquiry to determine the reasons and circumstances leading to the non-compliance. The inquiry identified the primary root cause as the poorly managed relocation of municipal offices, which was characterized by insufficient planning, disorganization, and communication breakdowns. This relocation hindered the retrieval of critical financial records, resulting in the municipality's inability to maintain effective financial management. Additional issues included mismanagement of the audit process, such as the absence of a centralized system for information collation, untimely reconciliation of RFIs and COMAFs, failure to utilize electronic backups, and a lack of a proper document management system.
- a. The inquiry provided several recommendations, including developing digital systems, implementing an action plan, and appointing qualified staff, while also outlining corrective actions already undertaken by the AO.
 - b. The AO also developed a detailed audit action plan based on the root causes identified in the inquiry. The plan highlights specific actions required to address the material irregularities, with updates on progress and completion timelines.

79. Furthermore, the AO submitted a financial recovery plan (FRP), progress reports, and the infrastructure maintenance budget for the 2023–2024 financial year to address ongoing financial challenges and ensure effective resource management.

80. This material irregularity is, therefore, resolved.

Functionality incorrectly calculated for VAT recovery services

81. The municipality awarded a tender for VAT recovery services in July 2020. One bidder was incorrectly evaluated on functionality criteria and was unfairly disqualified and had the bid been correctly evaluated would have been the successful bidder. This was in contravention of regulation 5(7) of the 2017 preferential procurement regulations that requires all tenders which achieved the minimum qualifying score for functionality be regarded as acceptable tenders and evaluated further in terms of the preference points. Furthermore, the Mafikeng High Court on 19 May 2021, ruled that the decision to disqualify the bid was constitutionally invalid, reviewed and set aside. Although the municipality appealed the decision on 21 April 2022 the Supreme Court of Appeal has dismissed the application with costs.

82. The non-compliance is likely to result in a material financial loss for the Dr Ruth Segomotsi Mompati District Municipality as the commission fee percentage calculated on the total VAT refund paid to the supplier that was awarded the tender was significantly higher than that of the bid that was unfairly disqualified. The difference between the commission fee paid for the period 1 July 2020 to 17 March 2022 when the contract was cancelled and the commission fee by the disqualified bidder was R3 791 715.

83. The accounting officer was notified of the material irregularity on 8 December 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. Despite further engagement, the accounting officer provided inadequate actions to resolve the material irregularity in the updated response received on 15 February 2022 as specific commitments and dates were still not included with respect to the recovery of financial loss and there was no dates of progress on the disciplinary processes.

84. As the accounting officer failed to implement appropriate actions, I recommended that the accounting officer should take the following actions to address the material irregularity, which should be implemented by 2 March 2023:

- The financial loss should be quantified.
- All entities and/or person(s) liable for the losses should be identified and appropriate action should commence to recover the financial loss. The recovery process should not be unduly delayed.
- The non-compliance should be further investigated to determine if any other officials might have committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.
- Disciplinary proceedings should commence without undue delay, against all officials who have allegedly committed an act of financial misconduct or an offence, as required by section

62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the Provincial Treasury and the National Treasury as required by Regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this should be reported to the South African Police Service (Saps), as required by section 32(6)(b) of the MFMA.

85. I considered the written response and substantiating documentation provided on 9 March 2023 as well as the supplementary response and substantiating documentation received on 8 June 2023, and concluded that the recommendations were not adequately implemented.

86. On 14 July 2023, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A(3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person within 4 months.

87. In addition, I notified the accounting officer of the following remedial actions to address the material irregularity, which should be implemented by the same date:

88. The financial loss must be reliably quantified.

89. All entities and/or person(s) liable for the losses must be identified and appropriate action must commence to recover the financial loss. The recovery process must not be unduly delayed.

- Disciplinary proceedings should commence without undue delay, against all officials who have allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- If a senior manager of the municipality has allegedly committed an act of financial misconduct, the officer must report the allegation to the Municipal Council, the Provincial Treasury and the accounting National Treasury as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

90. If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this must be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.

91. Accounting officer submitted a response on 6 November 2023. The following actions have been taken to resolve the material irregularity:

92. Disciplinary Process Against Responsible Employees

- a. The AO clarified that two employees identified in the investigation were scribes and not involved in decision-making, and therefore, no charges were brought against them. Similarly,

one employee, who was not a member of the Bid Evaluation Committee (BEC) but a presenter of an unrelated item, was also not charged. The employment contract of one member of the Bid Adjudication Committee (BAC) was terminated by Council on 11 July 2022.

93. Charges against another employee were withdrawn after it was established that the employee had only presented items unrelated to the identified non-compliance. Of the remaining five employees, four refused to acknowledge receipt of their charge sheets and disciplinary hearing notices. The AO is currently in the process of re-serving these notices and has indicated that hearings will proceed in absentia if the employees fail to attend. As of 20 August 2024, the disciplinary hearing reached a significant milestone. The chairperson found the employees guilty of misconduct, citing gross negligence in their handling of a tender process that led to financial and reputational harm to the Municipality. Despite multiple opportunities, the employees failed to submit any defence or counterarguments. Submissions on the sanction were due by 23 August 2024, after which the final ruling on penalties will be made, with or without additional input from the parties involved.

94. Quantification and Recovery of Financial Loss

a. The AO appointed a legal team to pursue the recovery of financial losses amounting to R3 774 932,87. Summons were served on the service provider on 4 October 2023 in the Gauteng Local Division of the High Court. The service provider subsequently filed exception notices on 5 December 2023 and 23 February 2024 in response to the municipality's claim.

95. The AO instructed the legal team to proceed with setting the matter down for a hearing, maintaining that the defence presented by the service provider lacks merit. Efforts remain focused on holding the service provider accountable for the recovery of the identified amount.

96. This material irregularity is, therefore, resolved; however, I will monitor the outcome of the financial loss recovery from the service provider during my next audit.

Auditor General
Rustenburg

30 November 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 financial statements and the procedures performed on reported performance information for selected key performance areas and on the municipality's compliance with selected requirements in key legislation.

Financial statements

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

- identify and assess the risks of material misstatement of the 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 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 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 financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

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 (MFMA) | Section 1 (a), (b) & (d) of the definition: irregular expenditure Section 1 Definition of SDBIP Sections 11(1); 13(2); 14(1); 14(2)(a); 14(2)(b); 15 Sections 24(2)(c)(iv); 29(1); 29(2)(b); 32(2) Sections 32(2)(a); 32(2)(a)(i); 32(2)(a)(ii); 32(2)(b) Sections 32(6)(a); 32(7); 53(1)(c)(ii); 54(1)(c) Sections 62(1)(d); 62(1)(f)(i); 62(1)(f)(ii); 62(1)(f)(iii) Sections 63(2)(a); 63(2)(c); 64(2)(b); 64(2)(c); 64(2)(e) Sections 64(2)(f); 64(2)(g); 65(2)(a); 65(2)(b); 65(2)(e) Sections 72(1)(a)(ii); 95(a); 112(l)(iii); 112(1)(j) Sections 116(2)(b); 116(2)(c)(ii); 117; 122(1); 122(2) Sections 126(1)(a); 126(1)(b); 127(2); 127(5)(a)(i) Sections 127(5)(a)(ii); 129(1); 129(3); 133(1)(a) Sections 133(1)(c)(i); 133(1)(c)(ii); 170; 171(4)(a); 171(4)(b) |
| LG: MFMA: Municipal budget and reporting regulations, 2009 | Regulations 71(1); 71(2); 72 |
| LG: MFMA: Municipal investment regulations, 2005 | Regulations 3(1)(a); 3(3); 6; 7; 12(2); 12(3) |
| LG: MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014 | Regulations 5(4); 6(8)(a); 6(8)(b); 10(1) |
| LG: MFMA: Municipal supply chain management (SCM) regulations, 2017 | Regulations 5; 12(1)(b); 12(1)(c); 12(3); 13(b); 13(c); 13(c)(i) Regulations 16(a); 17(1)(a); 17(1)(b); 17(1)(c); 19(a) Regulations 21(b); 22(1)(b)(i); 22(2); 27(2)(a); 27(2)(e) Regulations 28(1)(a)(i); 28(1)(a)(ii); 29(1) (a) and (b) Regulations 29(5)(a)(ii); 29(5)(b)(ii); 32; 36(1) Regulations 38(1) (c); 38(1)(d)(ii); 38(1)(e); 38(1)(g)(i) Regulations 38(1)(g)(ii); 38(1)(g)(iii) Regulations 43; 44; 46(2)(e); 46(2)(f) |
| Municipal Systems Act 32 of 2000 (MSA) | Sections 25(1); 26(a); 26(c); 26(i); 26(h); 27(1) Sections 29(1)(b)(ii); 29(2)(a); 29(2)(c); 34(a); 34(b); Sections 38(a); 41(1)(a); 41(1)(b); 41(1)(c)(ii); 42; 43(2) Sections 56(a); 57(2)(a); 57(4B); 57(6)(a) Sections 66(1)(a); 66(1)(b); 67(1)(d); |
| Municipal Systems Act 32 of 2000(MSA) schedule 1 Code of conduct for councillors | Sections 5(2); 7(1); 7(2) |
| Municipal Systems Act 32 of 2000(MSA) schedule 1 Code of conduct for municipal staff members | Section 5(1); 5A(1); 5A(2) |
| LG: MSA: Municipal planning and performance management regulations, 2001 | Regulations 2(1)(e); 2(3)(a); 3(3); 3(4)(b); 3(5)(a); 7(1); 8 Regulations 10(a); 15(1)(a)(i); 15(1)(a)(ii) |

| Legislation | Sections or regulations |
|---|---|
| LG: 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) |
| LG: MSA: Regulations on appointment and conditions of employment of senior managers, 2014 | Regulations 17(2); 36(1)(a) |
| LG: MSA: Disciplinary Regulations for Senior Managers, 2011 | Regulations 5(2); 5(3); 5(6); 8(4) |
| Annual Division of Revenue Act (DoRA) | Sections 11(6)(b); 12(5); 16(1); 16(3) |
| Construction Industry Development Board Act 38 of 2000 (CIDB) | Section 18(1) |
| CIDB regulations | Regulations 17; 25(7A) |
| Municipal Property Rates Act 6 of 2004 (MPRA) | Section 3(1) |
| Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA) | Sections 2(1)(a); 2(1)(f) |
| Preferential Procurement regulations (PPR), 2017 | Regulations 6(1); 6(8) Regulations 7(1); 7(8) Regulations 10(1); 10(2); 11(1) |
| Preferential Procurement regulations (PPR), 2022 | Regulations 4(1); 4(4) Regulations 5(1); 5(4) |
| Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA) | Section 34(1) |