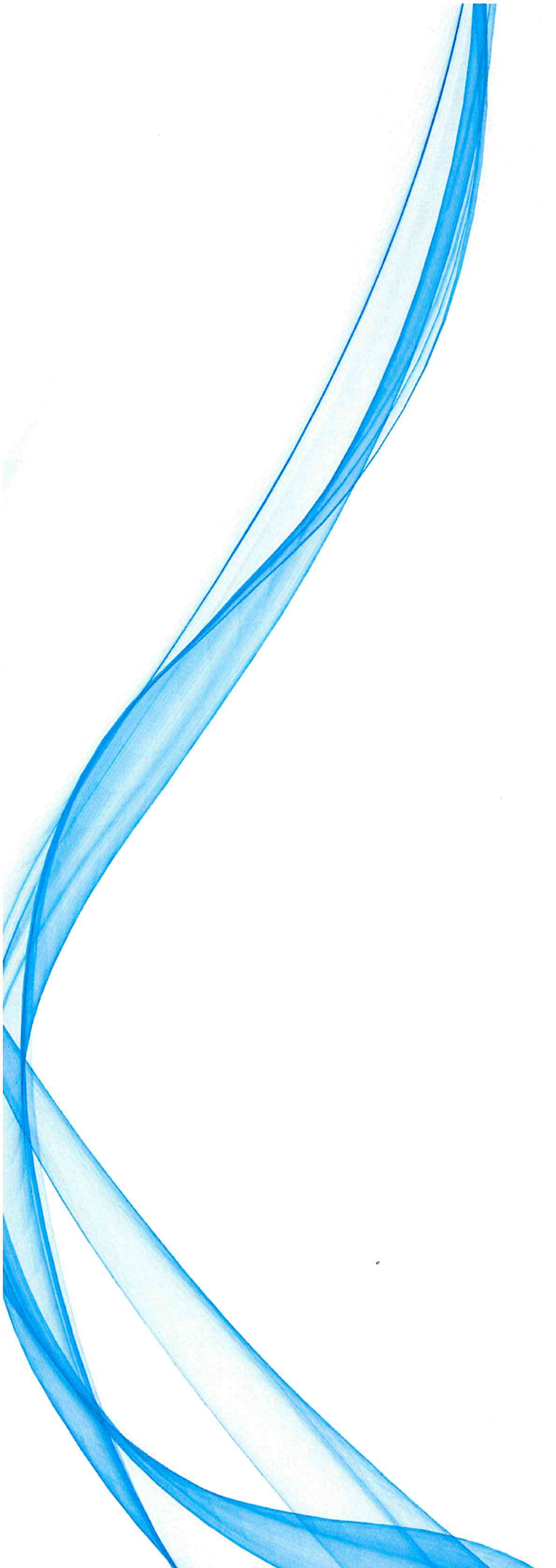




NTABANKULU LOCAL MUNICIPALITY

Audit Report

For the year ended 30 June 2023



**AUDITOR - GENERAL
SOUTH AFRICA**

Auditing to build public confidence

Report of the auditor-general to the Eastern Cape Provincial Legislature and the Council of Ntabankulu Local Municipality

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the Ntabankulu Local Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2023, statement of financial performance, statement of changes in net assets, 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, the financial statements present fairly, in all material respects, the financial position of the Ntabankulu Local Municipality as at 30 June 2023 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 2022 (Dora).

Basis for 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 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.

Emphasis of matter

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

Restatement of corresponding figures

6. As disclosed in note 46 to the financial statements, the corresponding figures for 30 June 2022 were restated as a result of an error in the financial statements of the municipality at, and for the year ended, 30 June 2023.

Contribution allowance for impairment – receivables

7. As disclosed in note 29 to the financial statements, contribution allowance for impairment of R7,6 million was incurred as a result of a significant number of debtors not paying the accounts.

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 financial statements and, accordingly, I do not express an opinion on it.

Responsibilities of the accounting officer for the financial statements

10. The accounting officer is responsible for the preparation and fair presentation of the 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 financial statements that are free from material misstatement, whether due to fraud or error.
11. 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

12. 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.
13. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this 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 development priorities presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
15. I selected the following development priority presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected a development priority that measures the municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Development priority	Page numbers	Purpose
Basic services and infrastructure	XX	Enhances oversight on service delivery

16. I evaluated the reported performance information for the selected development priorities 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
 - 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
 - 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 selected development priority.

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 over- or under achievements / measures taken to improve performance.

Material misstatements

22. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for KPA 1: Basic services delivery and infrastructure. Management subsequently corrected all the misstatements, and I did not include any material findings in this report.

Report on compliance with legislation
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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 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

27. 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 revenue and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

Expenditure management

28. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R0,4 million, as disclosed in note 42 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 interests charged by South African Municipal Workers Union (Samwu) National Provident Fund on arrear contributions that were paid to Municipal Employees Pension Fund (MEPF) instead of being paid over to Samwu National Provident Fund.
29. Reasonable steps were not taken to prevent irregular expenditure amounting to R24,2 million as disclosed in note 43 to the annual financial statements, as required by section 62(1) (d) of the MFMA. The majority of the irregular expenditure was caused by contravention of supply chain management regulations.

Procurement and contract management

30. The preference point system was not applied to some of the procurement of goods and services as required by section 2(1)(a) of the Preferential Procurement Policy Framework Act.
31. 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.
32. Persons in the service of the municipality who had a private or business interest in contracts awarded by the municipality failed to disclose such interest, in contravention of SCM Regulation 46(2)(e) / the code of conduct for councillors issued in terms of the Municipal Systems Act/ the code of conduct for staff members issued in terms of the Municipal Systems Act.

Other information in the annual report

33. 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 development priority presented in the annual performance report that have been specifically reported on in this auditor's report.
34. 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.
35. 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 development priority presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
36. 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

37. 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.
38. Leadership has not institutionalised all the disciplines necessary to enable oversight and monitoring to promote efficiency and effectiveness in financial and performance management and compliance with legislation. Adequate and robust systems and processes were not in place to monitor compliance with applicable laws and regulations and to produce credible and accurate financial and performance reporting. Management did not respond to all the recommendations of the audit committee and internal audit, which impacted the effectiveness of these governance structures and resulted in the repeat audit findings being raised.

Material irregularities

39. 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.

Status of previously reported material irregularities

Interest charged by Samwu on contributions not paid over post court judgment

40. The municipality failed to pay over outstanding pension fund contributions from the MEPF to Samwu National Provident Fund within 30 days of a court ruling on 14 August 2018 ordering the municipality to pay over all outstanding contributions, including interest charged, in violation of section 65(2)(e) of the MFMA. Between the 2020-21 and 2021-22 financial years, the amount of R5,3 million in interest charges was paid by the municipality to the Samwu National Provident Fund, resulting in a material financial loss. The amount is included on notes 44 (2021-22) and 43 (2020-21) to the financial statements of the municipality.
41. I notified the accounting officer of the material irregularity on 21 January 2022 and invited her to make a written submission on the actions taken. The accounting officer referred the matter to the Financial Misconduct Board for investigation.
42. The Financial Misconduct Board recommended that legal steps be taken against the former official responsible for the financial loss and the interest portion be pursued from the MEPF. The council resolved on 28 April 2022, to adopt the recommendations of the board.
43. On 29 August 2022, the municipality sent an instruction letter to its attorneys to issue summons to the former officials responsible for the financial loss for the demand of the fruitless and wasteful expenditure amounts incurred as a result. The municipal attorneys also pursued MEPF for the additional interest incurred as a result of the court order.

44. On 5 September 2022, the Gauteng high court ruled in favour of the municipality and has ordered that MEPF pay over to the municipality interest amounting to R5,1 million and all return on investments earned on the contributions paid by the municipality from 1 September 2013 to 30 June 2020. The matter is now at pre-litigation stage.
45. The judgment was served to the MEPF on 10 October 2022 in terms of which the Municipality demanded payment of the amounts referred to in the judgment. The MEPF failed to honour the judgment and that resulted into the warrant of execution being issued.
46. On 12 July 2023 the municipality received the application papers from the MEPF in terms of which they sought to rescind or set aside the judgment that was granted in favour of the municipality. The municipality has opposed that application and all the necessary affidavits have been filed. The matter now awaits the allocation of a date of hearing.
47. A follow up-will be done in the next audit cycle to confirm that the monies lost have been recovered from the responsible parties.

Other reports

48. 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.
49. The Hawks are investigating the covid-19-related expenditure at the municipality. The proceedings of the investigation were not finalised at the date of this auditor's report.
50. The Hawks are investigating the awarding of contracts of two suppliers by the municipality. The proceedings of the investigation were not finalised at the date of this auditor's report.
51. The Hawks are investigating the case of the traffic officers that are involved in fraudulent activities in the municipal traffic offices. The proceedings of the investigation were not finalised at the date of this auditor's report.

52. The Hawks are investigating the human settlement funding received by the municipality. The proceedings of the investigation were not finalised at the date of this auditor's report.

Auditor-General

East London

12 December 2023



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 judgment and professional scepticism

As part of an audit in accordance with the ISAs, I exercise professional judgment and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for selected development priorities 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	Section 1 - Paragraph (a), (b) & (d) of the definition: irregular expenditure Section 1 - Definition: service delivery and budget implementation plan Sections 11(1), 13(2), 14(1), 14(2)(a), 14(2)(b), 15, 24(2)(c)(iv), 29(1), Sections 29(2)(b), 32(2), 32(2)(a), 32(2)(a)(i), 32(2)(a)(ii), 32(2)(b), 32(6)(a), Sections 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 62(1)(f)(i), 62(1)(f)(ii), Sections 62(1)(f)(iii), 63(1)(a), 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), 72(1)(a)(ii), 112(1)(j), Sections 116(2)(b), 116(2)(c)(ii), 117, 122(1), 122(2), 126(1)(a), 126(1)(b), Sections 127(2), 127(5)(a)(i), 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)
MFMA: Municipal Budget and Reporting Regulations, 2009	Regulation 71(1), 71(2), 72
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), 13(c)(i), 16(a), 17(1)(a), 17(1)(b), Regulations 17(1)(c), 19(a), 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), 29(5)(a)(ii), 29(5)(b)(ii), Regulations 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)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2), 5(3), 5(6), 8(4)
Annual Division of Revenue Act	Sections 11(6)(b), 12(5), 16(1); 16(3)
Construction Industry Development Board Act 38 of 2000	Section 18(1)
Construction Industry Development Board Regulations, 2004	Regulations 17, 25(7A)
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), Regulations 7(2), 7(3), 7(6), 7(8), 8(2), 8(5), 9(1), 10(1), 10(2), 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)
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section 34(1)

Legislation	Sections or regulations
Municipal Systems Act 32 of 2000	Sections 25(1), 26(a), 26(c), 26(h), 26(i), 27(1), 29(1)(b)(ii), 29(2)(a), Sections 29(2)(c), 34(a), 34(b), 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, Sections 43(2), 56(a), 57(2)(a), 57(4B), 57(6)(a), 66(1)(a), 66(1)(b), Sections 67(1)(d), 74(1), 93J(1), 96(b) Parent municipality with ME: Sections 93B(a), 93B(b) Parent municipality with shared control of ME: Sections 93C(a)(iv), 93C(a)(v)
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, 9(1)(a), 10(a), Regulations 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)