Report of the auditor-general to the Gauteng Provincial Legislature and the council on Lesedi Local Municipality

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the Lesedi Local Municipality set out on pages x to x, which comprise the appropriation statement, statement of financial position as at 30 June 2023, the 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, the financial statements present fairly, in all material respects, the financial position of the Lesedi Local Municipality as at 30 June 2023, and its financial performance and cash flows for the year then ended in accordance with the South African Standards of Generally Recognised Accounting Practice (South African Standards of 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.

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

Emphasis of matters

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

Restatement of corresponding figures

7. As disclosed in note 43 to the financial statements, the corresponding figures for 30 June 2022 were restated as a result of errors in the financial statements of the municipality at, and for the year ended 30 June 2023.

Material uncertainties relating to contingent liabilities

8. With reference to note 48 to the financial statements, the municipality is the defendant in various claims disclosed as contingent liabilities. The municipality is opposing the claims, as it believes that the claims are not valid. The ultimate outcome of these matters could not be determined and no provision for any liability that may result was made in the financial statements.

Material impairment – trade debtors

9. As disclosed in note 6 to the financial statements, material losses of R1 464 995 916 (2021-22: R1 139 026 751) were incurred as a result of a write-off of irrecoverable consumer debtors.

Material losses – electricity

10. As disclosed in note 37 to the financial statements, material electricity losses of R48 507 880 (2021-22: R59 218 778) were incurred, which represents 22.48% (2021-22: 25.40%) of total electricity purchased. Technical losses amounted to R11 219 614 (2020-21: R12 122 142) and were due to the electricity that was lost on distribution from the source of generation through the transmission and distribution network to the final consumer. Non-technical losses amounted to R37 288 266 (2021-22: R47 096 636) and were due to negligence, tampering with meters and illegal connections.

Material losses – water

11. As disclosed in note 37 to the financial statements, material water losses of R31 758 730 (2021-22: R36 125 465) were incurred, which represents 33.12% (2021-22: 39.84%) of total water purchased. Technical losses amounted to R5 178 497 (2021-22: R4 896 886) and were due to physical loss through the water distribution network. Non-technical losses amounted to R26 580 233 (2021-22: R31 228 579) and were due to persistent leakages as a result of aging water supply infrastructure and illegal connections.

Other matter

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

Unaudited disclosure notes

13. In terms of section 125(2)(e) of the MFMA, the particulars of non-compliance with the MFMA should be disclosed 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

14. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the SA Standards of GRAP and the requirements of the MFMA and 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.

15. 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

16. 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.

17. 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

18. 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.

19. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2023 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 (KPA)	Page numbers	Purpose
Basic service delivery	XX	To improve access to sustainable basic services through proactive maintenance of infrastructure, and to ensure that basic services are progressively expanded in all communities through proper planning.

Key performance area (KPA)	Page numbers	Purpose

20. 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.

21. 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 reasons provided for any over - or underachievement of targets / measures taken to improve performance.

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

23. I did not raise any material findings on the reported performance information for the selected key performance area of the selected subject matter.

Other matter

24. I draw attention to the matter below.

Achievement of planned targets

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

Report on compliance with legislation

26. 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.

27. 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.

28. 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 for 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.

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

Annual financial statements

30. The 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 current assets and disclosure items identified by the auditors in the submitted financial statement were subsequently corrected, resulting in the financial statements receiving an unqualified audit opinion.

Procurement and contract management

31. Some of the goods and services of a transaction value above R200 000 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).

Expenditure management

32. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.

33. Reasonable steps were not taken to prevent irregular expenditure amounting to R6 496 305 as disclosed in note 53 to the annual financial statements, as required by section 62(1)(d) of the MFMA. The majority of the irregular expenditure was caused by non-compliance with supply chain management processes.

34. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R187 976 602, as disclosed in note 51 to the annual financial statements, in contravention of

section 62(1)(d) of the MFMA. The majority of the unauthorised expenditure was caused by inadequate budgeting processes.

35. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R14 161 447, as disclosed in note 52 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 on late payments.

Consequence management

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

Other information in the annual report

37. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and the selected key performance area presented in the annual performance report that has been specifically reported in this auditor's report.

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

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

40. 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

41. I considered internal control relevant to my audit of the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.

42. The matters reported below are limited to the significant internal control deficiencies that resulted in the findings on compliance with legislation included in this report.

43. The accounting officer did not always exercise adequate oversight responsibility regarding financial reporting and compliance with laws and regulations.

44. Senior management did not always ensure that adequate controls were in place over the preparation of accurate and complete financial reporting as well as compliance with laws and regulations. In addition, action plans were developed but were not regularly monitored to ensure adequate implementation.

Material irregularities

45. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit.

Material irregularities identified during the audit

46. The material irregularities identified are as follows:

Payment made to an incorrect beneficiary

47. The municipality made payments to an incorrect service provider between August 2021 and January 2022 due to ineffective processes for the approval and authorisation of payments as required by section 65(2)(a) of the MFMA.

48. The non-compliance is likely to result in a material financial loss of R2,1 million for the municipality if not recovered. The financial loss is disclosed in note 55 to the 2021-22 annual financial statements.

49. The accounting officer was notified of the material irregularity on 18 April 2023 and was invited to make a written submission on the actions that will be taken to address the matter.

50. The accounting officer has taken the following actions to address the material irregularity:

- A service provider was appointed in April 2022 to conduct an investigation, which was finalised in October 2022.
- Three employees were recommended for disciplinary process based on the outcome of the investigation report.
- Two of the three employees entered into a plea agreement with the municipality in January 2023 and sanctions agreed upon range from final written warnings, forfeiture of 10 % basic salary and any notch, annual and increment increase for a period of six and 12 months respectively. In addition, employees attended accountability and ethical training in February 2023.
- Employees were moved to other positions within the municipality.
- The two employees will qualify for annual and notch increases in July 2024 and January 2025 respectively.

- The third employee was suspended in May 2022. Suspension was extended in August 2022 which was to remain valid until finalisation of the disciplinary process against the employee.

- In June 2023, the chairperson ruled that the third employee was not guilty of charges brought against him.

- A new standard operating procedures was developed for changing banking details to prevent a recurrence. Changes in banking details will be approved by the chief financial officer or delegated official on the financial management system.

- A third person who is not employed by the municipality was found to have sent a fraudulent request to the municipality for payments to be made to an account that does not belong to any of the service providers of the municipality.

- A criminal case was opened with the South African Police Service in October 2022. The accused pleaded guilty in February 2023 and was sentenced to six years imprisonment wholly suspended for five years on condition that he is not convicted of committing the same offence. In light of the sentence imposed on the party not employed by the municipality, the accounting officer requested and obtained copies of court and transcripts in June 2023 and is awaiting a police docket of the matter. These would be analysed to determine if the accounting officer can apply to reopen the criminal case.

- Inconsistencies identified in the oral evidence given by the third employee were shared with the investigation officer for possible reopening of the case.

- Ongoing investigation and possible reopening of the criminal case will determine appropriate steps for the recovery of the financial loss suffered by the municipality.

- In June 2023, the chairperson ruled that the third employee was not guilty of charges brought against him. The accounting officer filed papers with the Labour Court in October 2023 to appeal the ruling of the chairperson against the third employee.

- Due to the irregularities identified in sharing of the outcome of the disciplinary hearing with all affected parties, the accounting officer has initiated a digital forensic investigation to determine circumstances that led to the leaking of the chairperson's verdict.

51. I will follow up on the implementation of commitments during my next audit.

Payments made to incorrect bank accounts

52. The municipality made transfers to bank accounts that do not belong to the municipality in August 2021 and September 2021 due to an ineffective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds as required by section 65(2)(a) of the MFMA.

53. The non-compliance is likely to result in a material financial loss of R7 million for the municipality if not recovered. The financial loss is disclosed in note 55 to the 2021-22 annual financial statements

54. The accounting officer was notified of the material irregularity on 19 May 2023 and invited to make a written submission on the actions taken or that would be taken to address the matter.

55. The accounting officer has taken the following actions to address the material irregularity:

- The municipality recouped a partial refund of R4,5 million from the bank in August 2022.
- A criminal case was opened in September 2021 with the South African Police Service and is still ongoing.
- The bank account to which payments were made has been closed.
- Commitment to engage the banking ombudsman to recover the remaining financial loss; however, due to established processes that must be followed, the accounting officer issued a letter of demand in October 2023 and gave the bank 14 business days to make good the remaining financial loss suffered.
- An investigation finalised in January 2022 by an external service provider concluded that mails sent to the bank requesting transfer of funds were fraudulent. As a result, no one at the municipality could be held accountable for mails sent to the bank requesting a transfer of funds.
- A process of amending the standard operating procedure was initiated to ensure that transfer requests sent to banks are authorised by the accounting officer and can only be processed by banks after confirmation with the accounting officer. The process is expected to be finalised by November 2023.

56. I will follow up on the implementation of commitments during my next audit.

Auditor-General

Johannesburg

30 November 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 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 (KPA's) 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 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), Sections 32(6)(a), 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 62(1)(f)(i), Sections 62(1)(f)(ii), 62(1)(f)(iii), 63(1)(a), 63(2)(a), 63(2)(c), 64(2)(b), Sections 64(2)(c), 64(2)(e), 64(2)(f), 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), Sections 72(1)(a)(ii), 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), Sections 122(2), 126(1)(a), 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), Sections 129(1), 129(3), 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, Sections 171(4)(a), 171(4)(b)
MFMA: Municipal Budget and Reporting Regulations, 2009	Regulations 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), Regulations 17(1)(b), 17(1)(c), 19(a), 21(b), 22(1)(b)(i), 22(2), 27(2)(a), Regulations 27(2)(e), 28(1)(a)(i), 28(1)(a)(ii),

Legislation	Sections or regulations
	29(1)(a), 29(1)(b), Regulations 29(5)(a)(ii), 29(5)(b)(ii), 32, 36(1), 36(1)(a), 38(1)(c), Regulations 38(1)(d)(ii), 38(1)(e), 38(1)(g)(i), 38(1)(g)(ii), 38(1)(g)(iii), 43, Regulations 44, 46(2)(e), 46(2)(f)
MSA: Municipal Planning and performance Management Regulations, 2001	Regulations 2(1)(e), 2(3)(a), 3(3), 3(4)(b), 3(6)(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)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2), 5(3), 5(6), 8(4)
Annual Division of Revenue Act	Section 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	Regulations 17, 25(7A)
Municipal Property Rates Act 6 of 2004	Section 3(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), Regulations 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)
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section 34(1)