



AUDITOR-GENERAL
SOUTH AFRICA

AUDITOR'S REPORT

uPhongolo Local Municipality

2023-24

Date: 30 November 2024

Report of the auditor-general to the KwaZulu-Natal Provincial Legislature and the council of uPhongolo Local Municipality

Report on the audit of the financial statements

Opinion

1. I have audited the financial statements of the uPhongolo Local Municipality set out on pages xx to xx, which comprise statement of financial position as at 30 June 2024, 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 uPhongolo Local Municipality as at 30 June 2024 and its financial performance and cash flows for the year then ended in accordance with South African Standards of Generally Recognised Accounting Practice (SA Standards of 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 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 matter

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

Material impairment – Receivables from exchange and statutory receivables from non-exchange transactions

7. As disclosed in note 3 to the financial statements, receivables from exchange transactions were impaired by a total of R140,21 million (2022-23: R129,76 million) as the recoverability of these debts was doubtful.
8. As disclosed in note 4 to the financial statements, statutory receivables from non-exchange transactions were impaired by a total of R161,81 million (2022-23: R147,38 million) as recoverability of these debts was doubtful.

Electricity losses

9. As disclosed in note 31 of the financial statements, electricity distribution losses of 28% (2022-23: 21%) amounting to R12,31 million (2022-23: R7,69 million) were incurred during the year under review. These losses are due to technical losses and illegal connections.

Restatement of corresponding figures

10. As disclosed in note 47 to the financial statements, the corresponding figures for 30 June 2023 were restated as a result of errors in the financial statements of the municipality at, and for the year ended, 30 June 2024.

Other matter

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

Unaudited disclosure notes

12. 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

13. 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 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.
14. 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

15. 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.
16. 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

17. 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.
18. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2024 for auditing. I selected a key performance area that measures the municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Key performance area	Page numbers	Purpose
KPA 2: Basic service delivery and infrastructure	[XX]-[XX]	Provide access to comprehensive basic services and infrastructure

19. 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.
20. 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 reasons provided for any over- or underachievement of targets and measures taken to improve performance

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

22. I did not identify any material findings on the reported performance information for the selected key performance area.

Other matter

23. I draw attention to the matters below.

Achievement of planned targets

24. The annual performance report includes information on reported achievements against planned targets and provides explanations for over- or under achievements and measures taken to improve performance.

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

KPA 2: Basic service delivery and infrastructure

<i>Targets achieved: 36%</i> <i>Budget spent: 72%</i>		
Key indicators not achieved	Planned target	Reported achievement
Org 15: Number of new consumer units with access to electricity (Eskom area)	359	0
Org 16: Number of existing Households with access to electricity	26965	26717
Org 17: Percentage of Households with access to electricity	79% – 80%	78.1%
Org 18: Number of Households with access to refuse removal at least once per week	4550	4447
Org 22: Number of multipurpose centres constructed and completed	1	98%
Org 23: % of completion of Nkunzana Sport fields	70%	30%
Org 26: Number of Sport fields completed	1	89%

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 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:

Expenditure management

30. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
31. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R90,76 million, 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 overspending of the budget relating to non-cash items.
32. Reasonable steps were not taken to prevent irregular expenditure amounting to R220 545 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 the municipal supply chain management regulations.

Annual financial statements

33. The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 122(1) of the MFMA. Material misstatements of receivables, property plant and equipment, construction contract revenue and expenditure, segment information, disclosures and the cash flow statement identified by the auditors in the submitted financial statements were subsequently corrected resulting in the financial statements receiving an unqualified audit opinion.

Utilisation of conditional grants

34. Performance in respect of programmes funded by the Department of Mineral Resources and Energy was 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).

Consequence management

35. Some of the 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

36. 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 priorities presented in the annual performance report that have been specifically reported on in this auditor's report.
37. 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.

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

40. 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.
41. The matters reported below are limited to the significant internal control deficiencies that resulted in the material findings on compliance with legislation included in this report.
42. The accounting officer did not exercise adequate oversight responsibility regarding compliance with legislation relating to expenditure management.
43. Senior management did not implement adequate review and monitoring controls to support credible and reliable financial reporting.

Material irregularities

44. 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

Overpayment to a contractor for Emkhiwaneni sports field project

45. The municipality did not comply with Section 65(2)(a) of the MFMA which requires that the accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure

control, including procedures for the approval, authorisation, withdrawal, and payment of funds.

46. The contractor on the Emkhiwaneni Sport Field in ward 9 was overpaid by an amount of R4,51 million. This overpayment is included in the construction costs incurred to 30 June 2022. The reported stage of completion of the project did not agree with costs incurred until 17 August 2021, as work that had been paid for, at that point in time, had either not commenced or was not complete. The payment for work that had not yet been performed by the contractor was assessed as amounting to R4,51 million.
47. The accounting officer was notified of the material irregularity on 15 February 2023 and invited to make a written submission on actions taken or to be taken to address the matter.
48. The following actions have been taken in addressing the matter:
 - Senior officials were subjected to an internal disciplinary process, initiated on 14 December 2021, with the municipal manager and chief financial officer resigning before the process could be completed, on 23 March 2022.
 - The matter was reported to the South African Police Services and the civil proceedings for recovery for the expenditure from the parties involved in the irregular transactions highlighted are in progress with a final demand being issued to the contractor on 19 June 2024.
49. I will follow up on the implementation of the actions during my next audit.

Unauthorised use of the Integrated National Electrification Grant

50. The municipality did not comply with section 65(2)(a) of the MFMA which requires that the accounting officer must take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorization, withdrawal, and payment of funds.
51. Two payments were made to a supplier on 31 August 2021 for two invoices submitted for payment totalling R3,34 million. The invoices related to non-existent projects in ward 4 and the cost of a voltage regulator that was charged for by the supplier but not delivered to the ward 8 project.
52. The accounting officer was notified of the material irregularity on 15 February 2023 and invited to make a written submission on actions taken or to be taken to address the matter.
53. The following actions have been taken in addressing the matter:
 - Senior officials were subjected to an internal disciplinary process, initiated on 14 December 2021, with the municipal manager and chief financial officer resigning before the process could be completed, on 23 March 2022.

- The matter was reported to the South African Police Services and civil proceedings for recovery for the expenditure from the parties involved in the irregular transactions were initiated by council on 14 December 2021.

54. The municipality subsequently negotiated a settlement agreement with the supplier, dated 11 September 2024, with the debt to be repaid to the municipality over a period of time. The first payment, in terms of this agreement, was made to the municipality on 30 September 2024.

55. The accounting officer has taken appropriate actions to address the material irregularity and the material irregularity is resolved.

Auditor - General

Pietermaritzburg

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

Financial statements

In addition to my responsibility for the audit of the 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	<p>Sections: 1, 11(1), 13(2), 14(1), 14(2)(a), 14(2)(b), 15, 24(2)(c)(iv), 28(1), 29(1), 29(2)(b), 32(2), 32(2)(a), 32(2)(a)(i), 32(2)(a)(ii),</p> <p>Sections: 32(2)(b), 32(6)(a), 32(7), 53(1)(c)(ii), 54(1)(c), 62(1)(d), 63(2)(a), 63(2)(c), 64(2)(b), 64(2)(c), 64(2)(e), 64(2)(f),</p> <p>Sections: 64(2)(g), 65(2)(a), 65(2)(b), 65(2)(e), 72(1)(a)(ii), 112(1)(j), 116(2)(b), 116(2)(c)(ii), 117, 122(1), 122(2), 126(1)(a),</p> <p>Sections: 126(1)(b), 127(2), 127(5)(a)(i), 127(5)(a)(ii), 129(1), 129(3), 133(1)(a), 133(1)(c)(i), 133(1)(c)(ii), 170, 171(4)(a), 171(4)(b)</p>
MFMA: Municipal Budget and Reporting Regulations, 2009	Regulations: 71(1)(a), 71(1)(a)(b), 71(2)(a), 71(2)(b), 71(2)(d), 72(a), 72(b), 72(c)
MFMA: Municipal Investment Regulations, 2005	Regulations: 3(1)(a), 3(3), 6, 7, 12(2), 12(3)
MFMA: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings, 2014	Regulations: 5(4), 6(8)(a), 6(8)(b), 10(1)
MFMA: Municipal Supply Chain Management Regulations, 2017	<p>Regulations: 5, 12(1)(c), 12(3), 13(b), 13(c), 16(a), 17(1)(a), 17(1)(b), 17(1)(c), 19(a), 21(b), 22(1)(b)(i), 22(2), 27(2)(a), 27(2)(e),</p> <p>Regulations: 28(1)(a)(i), 29(1)(a), 29(1)(b), 29(5)(a)(ii), 29(5)(b)(ii), 32, 36(1), 36(1)(a), 38(1)(c), 38(1)(d)(ii), 38(1)(e), 38(1)(g)(i),</p> <p>Regulations: 38(1)(g)(ii), 38(1)(g)(iii), 43, 44, 46(2)(e), 46(2)(f)</p>
Municipal Systems Act 32 of 2000	<p>Sections 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 29(3)(b), 34(a), 34(b),</p> <p>Sections 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 43(2), 56(a), 57(2)(a),</p> <p>Sections 57(4B), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1)</p>
Construction Industry Development Board Act 38 of 2000	Section: 18(1)
Construction Industry Development Board Regulations, 2004	Regulations: 17, 25(7A)
Division of Revenue Act	Sections: 11(6)(b), 12(5), 16(1); 16(3)

Legislation	Sections or regulations
Municipal Property Rates Act 6 of 2004	Section: 3(1)
Municipal Systems Act 32 of 2000	Sections: 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 34(a), 34(b), 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 43(2), Sections: 54A(1)(a), 56(1)(a), 57(2)(a), 57(6)(a), 66(1)(a), 66(1)(b), 67(1)(d), 74(1), 96(b)
MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations: 5(2), 5(3), 5(6), 8(4)
MSA: Municipal Planning and Performance Management Regulations, 2001	Regulations: 2(1)(e), 2(3)(a), 3(3), 3(4)(b), 7(1), 8, 9(1)(a), 10(a), 12(1), 15(1)(a)(i), 15(1)(a)(ii)
MSA: Municipal Performance Regulations for Municipal Managers and Managers Directly Accountable to Municipal Managers, 2006	Regulations: 2(3)(a), 4(4)(b), 8(1), 8(2), 8(3)
MSA: Regulations on Appointment and Conditions of Employment of Senior Managers, 2014	Regulations: 17(2), 36(1)(a)
MSA: Municipal Staff Regulations	Regulations: 7(1), 31
Prevention and Combating of Corrupt Activities Act 12 of 2004	Section: 34(1)
Preferential Procurement Policy Framework Act 5 of 2000	Sections: 2(1)(a), 2(1)(f)