AUDITOR-GENERAL
SOUTH AFRICA

Office of the Municipal Manager
No.13 Ficus Street
Civic Centre
P.O.BOX.111
Marble Hall
0450

30 November 2022

Reference: 02824REG21-22

Dear Madam

Report of the Auditor-General on the financial statements, annual performance report, compliance with legislation and other legal and regulatory requirements of Ephraim Mogale Local Municipality for the year ended 30 June 2022

1. The above-mentioned report of the Auditor-General is submitted herewith in terms of section 21(1) of the Public Audit Act No. 25 of 2004 (PAA) read in conjunction with section 188 of the Constitution of the Republic of South Africa and section 126(3) of the Municipal Finance Management Act 56 of 2003 (MFMA).

2. We have not yet received the other information that will be included in the annual report with the audited financial statements and the annual performance report and have thus not been able to establish whether there are any inconsistencies between this information and the audited financial statements, the annual performance report or our audit report on compliance with legislation. You are requested to supply this information as soon as possible. Once this information is received it will be read and should any inconsistencies be identified these will be communicated to you and you will be requested to make the necessary corrections. Should the corrections not be made we will amend and reissue the audit report.

3. In terms of section 121(3) of the MFMA you are required to include the audit report in the municipality's annual report to be tabled.

4. Prior to printing or copying the annual report which will include the audit report you are required to do the following:

   - Submit the final printer's proof of the annual report to the relevant senior manager of the Auditor-General of South Africa for verification of the audit-related references in the audit report and for confirmation that the financial statements, annual performance report and other information are those documents that have been read and audited. Special care should be taken with the page references in your report, since an incorrect reference could have audit implications.

   - The signature *Auditor-General* in the handwriting of the auditor authorized to sign the audit report at the end of the hard copy of the audit report should be scanned in when preparing to print the report. This signature, as well as the place and date of signing and the Auditor-General of South Africa's logo, should appear at the end of the report, as in the hard copy that is provided to you. The official logo will be made available to you in electronic format.

5. Please notify the undersigned Senior Manager well in advance of the date on which the annual report containing this audit report will be tabled.
6. The confidentiality of information obtained in an engagement must be observed at all times. In terms of section 50 of the PAA and the International Code of Ethics for Professional Accountants of the International Ethics Standards Board for Accountants *(including International Independence Standards)*, the AGSA, or an audit firm appointed in terms of section 25 of the PAA, may not disclose or make available any information obtained during an audit, other than the final auditor's report, to any third party unless this is to a legislature or internal committee of a legislature or a court in a criminal matter and the disclosure has been approved by the auditee and the Auditor-General.
7. Until the steps described in paragraphs 2 and 4 of this document are completed and the annual report is tabled as required by section 127(2) of the MFMA, the audit report is not a final and public document and you are therefore requested to treat it as confidential.
8. Your cooperation to ensure that all these requirements are met would be much appreciated.

Kindly acknowledge receipt of this letter.

Yours sincerely

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Hlayisani Kubayi
Senior Audit Manager: Limpopo Business Unit

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Report of the auditor-general to the Limpopo Provincial Legislature and Council on Ephraim Mogale Local Municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Ephraim Mogale Local Municipality set out on pages x to x, which comprise the statement of financial position as at 30 June 2022, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget information with actual information 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 of the matter described in the basis for qualified opinion section of my report, the financial statements present fairly, in all material respects, the financial position of Ephraim Mogale Local Municipality as at 30 June 2022 and its financial performance and cash flows for the year then ended, in accordance with Standards of Generally Recognised Accounting Practice (Standards of GRAP) and the requirements of the Municipal Finance Management Act 56 of (MFMA) and the Division of Revenue Act 9 of 2021 (DoRA).

Basis for qualified opinion

Impairment of assets

3. The municipality did not assess at the end of the financial year whether there is any objective evidence that assets are impaired and did not create impairment of assets in the annual financial statements for the current year in note 47, in accordance with GRAP 21, *Impairment of non-cash generating assets*. Consequently, property, plant and equipment was overstated and impairment of assets was understated. There was an impact on the surplus for the period and on the accumulated surplus. Additionally, impairment assessments on some of the property, plant and equipment were not performed at each reporting date in accordance with GRAP 21. I was unable to determine the value of the misstatement on property, plant and equipment and impairment of assets as it was impracticable to do so.

Context for the opinion

4. I conducted my audit in accordance with the International Standards on Auditing (ISAs). My responsibilities under those standards are further described in the auditor-general's responsibilities for the audit of the financial statements section of my report.

5. 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.

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

Emphasis of matters

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

Restatement of corresponding figures

8. As disclosed in the note 49 to the annual financial statements, the corresponding figures for 30 June 2021 were restated as a result of errors in the financial statements for the municipality at, and for the year ended 30 June 2022.

An uncertainty relating to the future outcome of exceptional litigation

9. With reference to note 39 to the financial statements, the municipality is the defendant in various lawsuits. The municipality is opposing these claims. 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

10. As disclosed in note 30 to the financial statement, material impairments of R 15 769 358 (2021: R 13 458 309) were incurred as a result of irrecoverable debts.

Other matters

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 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.

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.

Auditor-general's responsibilities 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

Introduction and scope

17. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I have a responsibility to report on the usefulness and reliability of the reported performance information against predetermined objectives for selected key performance area presented in the annual performance report. I performed procedures to identify material findings but not to gather evidence to express assurance.

18. My procedures address the usefulness and reliability of the reported performance information, which must be based on the municipality's approved performance planning documents. I have not evaluated the completeness and appropriateness of the performance indicators included in the planning documents. My procedures do not examine whether the actions taken by the municipality enabled service delivery. My procedures do not extend to any disclosures or assertions relating to the extent of achievements in the current year or planned performance strategies and information in respect of future periods that may be included as part of the reported performance information. Accordingly, my findings do not extend to these matters.

19. I evaluated the usefulness and reliability of the reported performance information in accordance with the criteria developed from the performance management and reporting framework, as defined in the general notice, for the following selected key performance area presented in the municipality's annual performance report for the year ended 30 June 2022:

Key Performance Area	Pages in annual performance report
KPA 2: Basic Service Delivery and Infrastructure Development	x – x

20. I performed procedures to determine whether the reported performance information was properly presented and whether performance was consistent with the approved performance planning documents. I performed further procedures to determine whether the indicators and related targets were measurable and relevant, and assessed the reliability of the reported performance information to determine whether it was valid, accurate and complete.

21. The material findings on the usefulness and reliability of the performance information of the selected key performance area are as follows:

Key performance area 2: Basic Service Delivery and Infrastructure Development

Number of villages/ informal settlement with access to minimum level of basic waste collection by June 2022.

22. The achievement of 3 villages per week 156 villages annually (Elandskraal, Leewfontein in RDP) was reported against a target of 3 villages per week 156 villages annually (Elandskraal, Leewfontein in RDP), however, the supporting evidence provided materially differed from the reported achievement, while in other instances I was unable to obtain sufficient appropriate audit evidence. This was due to the lack of accurate and complete records. I was unable to further confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any further adjustments were required to the reported achievement.

Number of Refuse containers placed in villages/and farms for access to refuse removal (once a week removal)

23. I was unable to obtain sufficient appropriate audit evidence for the achievement of 5h/week for Number of Refuse containers placed in villages/and farms for access to refuse removal (once a week removal) reported against target of 5h/week reported in the annual performance report, due to lack of accurate and complete records. I was unable to confirm the reported achievement by alternative means. Consequently, I was unable to determine whether any adjustment were required to the reported achievement.

Other matters

24. I draw attention to the matters below.

Achievement of planned targets

25. Refer to the annual performance report on pages xx to xx for information on the achievement of planned targets for the year. This information should be considered in the context of the material findings on the usefulness and reliability of the reported performance information in paragraphs 22 to 23 of this report.

Adjustment of material misstatements

26. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information of KPA2 - Basic Service Delivery and Infrastructure Development. As management subsequently corrected

only some of the misstatements, I raised material findings on usefulness and reliability of the reported performance information. Those that were not corrected are reported above.

Report on the audit of compliance with legislation

Introduction and scope

27. In accordance with the PAA and the general notice issued in terms thereof, I have a responsibility to report material findings on the municipality's compliance with specific matters in key legislation. I performed procedures to identify findings but not to gather evidence to express assurance.

28. The material findings on compliance with specific matters in key legislation are as follows:

Annual financial statements and annual report

29. 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, expenditure and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and/or the supporting records were provided subsequently, but the uncorrected material misstatements resulted in the financial statements receiving a qualified audit opinion.

Strategic planning and performance management

30. The performance management system and related controls were inadequate as it did not describe how the performance monitoring and reporting processes should be conducted, organised and managed as required by municipal planning and performance management regulation 7(1).

Procurement and contract management

31. Awards were made to providers who were in the service of other state institutions or whose directors/ principal shareholders were in the service of other state institutions, in contravention of section 112(j) of the MFMA and supply chain management (SCM) regulation 44. Similar awards were identified in the previous year and no effective steps were taken to prevent or combat the abuse of the SCM process, as required by SCM regulation 38(1).

32. Some of the contracts were awarded to bidders based on functionality criteria that differed from those stipulated in the original invitation for bidding, in contravention of 2017 Preferential Procurement Regulation 5(1) and 5(3). Irregular expenditure amounting to R 14 071 386 was incurred on these contracts.

33. 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.

Expenditure management

34. Reasonable steps were not taken to prevent irregular expenditure amounting to R 51 551 930 as disclosed in note 45 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 the 2017 Preferential Procurement Regulation.

35. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R 3 862 764, as disclosed in note 44 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 payment made on items not verified on site and items on the specification. Fruitless and wasteful expenditure amounting to R 3 672 714 was incurred on Mashemong Road Infrastructure Project.

Assets management

36. 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...

Consequence management

37. 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.

38. 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.

Human Resource management

39. 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 Municipal System Act 32 of 2000 (MSA).

Other information

40. The accounting officer is responsible for the other information. The other information comprises the information included in the annual report, which includes the audit committee's report. The other information does not include the financial statements, the auditor's report and those selected key performance area presented in the annual performance report that have been specifically reported in this auditor's report.

41. 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.

42. 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.

43. 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

44. 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. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion, the findings on the annual performance report and the findings on compliance with legislation included in this report.

45. The accounting officer did not adequately review the annual financial statements and the annual performance reports with the assistance and support of the governance structures prior to their submission for audit, as a number of material misstatements were identified.

46. Daily and monthly internal controls measures in place are not adequate to identify, prevent and correct all the errors and misstatements in the financial statements to ensure compliance with the relevant laws and regulations applicable to the municipality for reporting.

47. The municipality developed an action plan to address internal and external audit findings, however monitoring of this action plan did not sufficiently and adequately mitigate the risk of misstatements in the annual financial statements and annual performance report

48. Management did not adequately reviewed and monitored compliance with laws and regulations, resulting in material non-compliance.

Material irregularities

49. 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 the material irregularities reported in the previous year's auditor's report.

Material irregularities identified during the audit

50. The material irregularities identified are as follows:

Material irregularity: Overpayment of suppliers

51. The municipality appointed a service provider after an open tender process to construct the Mamphokgo Sports Complex. The commencement date was 7 September 2017 with an anticipated completion date of 14 December 2018, at a contract amount of R17 093 783. The monthly reports reported various delays and challenges by the contractor to meet deadlines. There was a variation to the contract to the value of R6 773 224. The new contract value amounted to R23 867 008, and the new completion date was set for 26 May 2019. However, the delays on site continued and the contract with the service provider was cancelled on 17 June 2020.

52. Another service provider was appointed on 28 October 2020 with approved extensions of time until 28 May 2021 for contract value amounting to R1 477 707, the project was still incomplete as of 30 June 2021.

53. The municipality paid the full cost as per the bill of quantity (BOQ), for the installation of the high mast lighting whereas the work was not completed and also paid the full cost for combi courts where incorrect furniture was installed. Furthermore the municipality made overpayment due to items not verified on site and payments made in excess of work done.

54. This is non-compliance with Section 65(2) (a) of the MFMA and has resulted in an estimated material financial loss for the municipality amounting to R2 790 030 due to approved payments made to the service providers for incomplete work, payment made in excess of work done and payment for work which could not be verified on site at the sports complex.

55. The accounting officer was notified of the material irregularity on 5 October 2022. The accounting officer responded on 1 November 2022 and the following action was taken to resolve the material irregularity:

- The Director: Infrastructure projects was placed on pre-cautionary suspension with full pay on 26 July 2022.

- The municipality appointed an independent external investigator on 4 August 2022 to conduct investigations into allegations of misconduct against the Director: Infrastructure Project and the investigation was concluded on 9 September 2022 and revealed serious allegations of improper conduct against the director: Infrastructure projects

- The municipal council took a resolution that due to the serious nature of misconduct allegedly committed by the director infrastructure, disciplinary proceedings be instituted against the director and, disciplinary hearing against the director is planned to take place on 5 December 2022.

56. The accounting officer plans to take appropriate steps based on the outcome of this disciplinary proceedings.

- Compliance committee was appointed on the 28 of August 2022 with approved terms of reference to ensure compliance with laws, regulations and policies of the municipality.

- A legal firm was appointed on 4 August 2022 from the panel of attorneys and is in the process of recovering funds from the service providers.

- Management will conduct verification and confirmation of quantities to ensure correctness of claims from the service providers to prevent similar incidents.

- The performance management unit (PMU) will also be taken for the General Condition of Contract refresher course in the 2022-23 financial year which is planned around January 2023.

57. I will follow up on the implementation of the planned actions during my next audit.

Status of previously reported material irregularities

Prohibited Investment with a Mutual Bank not registered in terms of the Bank Act.

58. The municipality made an investment with Venda Building Society Mutual Bank (VBS) on 6 September 2017 to the value of R80 000 000. At the time of placing VBS under curatorship on 11 March 2018, the municipality had investments amounting to R87 320 000. The municipality made an impairment assessment and fully impaired the investment during the year ended 30 June 2019.

59. The Ephraim Mogale Local Municipality received letter from the curator of VBS Bank on 11 March 2018 informing them that VBS Bank is under curatorship and that all deposits with VBS Mutual Bank are frozen until such time the bank is in position to repay these deposits.VBS was subsequently liquidated after the North Gauteng High Court issued the final order to liquidate the bank on 13 November 2018.

60. In terms the Municipal Investment Regulations 6, a municipality may only invest deposits with bank registered in terms of the Bank Act 94 of 1990. The municipality did not comply with Municipal Investment Regulations as VBS is not registered in terms of the Bank Act.

61. This non-compliance is likely to result in a financial loss of R87 320 000 for the municipality if the amount invested is not recovered in full from the estate of VBS.

62. 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 and the AO responded to the notification on the 04th February 2022 On the 11 October 2022, a follow up letter was submitted to the accounting officer to make formal response regarding progress on actions taken to address the material irregularity and the accounting officer responded on the progress made to date on the 12 October 2022:

    - Council suspended both the accounting officer and the chief financial officer in October and December 2018 without pay for period not more than three months. Disciplinary steps were taken against accounting officer and the chief financial officer and both their services were supposed to be terminated through a settlement agreements entered into on 6 October 2020 and 12 October 2020 respectively. However, the council took a resolution to make submissions to set aside the settlement agreements at the Labour Court for both the accounting officer and the chief financial officer on the 4 December 2020 and the case it's still in progress at Master of High Court as of audit report date.

- Subsequently, they both rendered their resignation letters which were accepted by the council

- Municipal Public Accounts Committee (MPAC) and law firms were appointed by municipal council to perform an investigation for both Accounting officer and the Chief Financial Officer during 2018-19 financial year and their reports were adopted by council.

- The accounting officer also reported that the matter it's before the Master of the High Court on the 17 October 2022 and summons were issued to the accounting officer and the chief financial officer on 4 December 2020 for the recovery of funds and formal claims were lodged with curator of VBS for the process of recovery of the monies.

- The municipality lodged a claim with the curator as a creditor on 6 November 2019 in the Polokwane High Court.

- The municipality received an amount of R6 112 400 from VBS curators on 4 February 2022. No further recoveries have been made since.

63. I will follow up on the material irregularity during my next audit.

Other reports

64. In addition to the investigations relating to material irregularities, I draw attention to the following engagements by various parties that have or could have an impact on the municipality's financial statements, reported performance information and compliance with applicable legislation and other related matters. These reports noted do not form part of the opinion on the financial statements or findings on the reported performance information or compliance with legislation.

65. The Public Protector performed an investigation into allegations of maladministration in the municipality relating to the appointment within the Internal Audit Division dated 30 June 2021. Council adopted the report subject to judicial review, which was still in progress at the audit report date.

Auditor General

Polokwane

30 November 2022

AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure – Auditor-general's responsibility for the audit

1. 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 respect to the selected subject matters.

Financial statements

2. 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 by constitutes the accounting officer.
- Conclude on the appropriateness of the accounting officer 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 Ephraim Mogale Local 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

3. 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.

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