Report of the auditor-general to North West Provincial Legislature and the council on Madibeng Local Municipality

Report on the audit of the financial statements

Adverse opinion

1. I have audited the financial statements of Madibeng Local Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2023, the statement of financial performance, statement of changes in net assets, cash flow statement and the statement of comparison of budget and actual amounts for the year then ended, as well as the notes to the financial statements, including a summary of significant accounting policies.

2. In my opinion, because of the significance of the matters described in the basis for adverse opinion section of this auditor's report, the financial statements do not present fairly, in all material respects, the financial position of the Madibeng 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 adverse opinion

Prior year adjustments

3. The municipality did not correctly disclose all adjustments made relating to prior period errors in note 41 to the financial statements as required by GRAP 3, *Accounting policies, estimates and errors*. The nature and the amount of the correction for each financial statement item affected and the amount of the correction at the beginning of the earliest prior period were not disclosed for all adjustments made. I was unable to quantify the full extent of the omitted disclosures, as it was impracticable to do so. Furthermore, I was unable to obtain sufficient appropriate audit evidence for the prior year adjustments made, as the municipality did not have adequate controls in place to ensure that the supporting information for these adjustments were available. I was unable to confirm these adjustments by alternative means. In addition, I was unable to determine the resultant impact of these misstatements on the accumulated surplus of R5 034 912 073 (2022: R5 284 541 703), as presented in the statement of financial position and the statement of changes in net assets. Consequently, I was unable to determine whether any further adjustment was necessary to the prior year errors as disclosed in note 41 to the financial statements.

Unauthorised expenditure

4. I was unable to obtain sufficient appropriate audit evidence for the opening balance of unauthorised expenditure due to differences between the unauthorised expenditure register and the amounts disclosed in the financial statements. I was unable to confirm the unauthorised expenditure by alternative means. Consequently, I was unable to determine whether any adjustment relating to unauthorised expenditure of R4 613 743 418 (2022: R4 205 501 249), as disclosed in note 48 to the financial statements, was necessary.

Irregular expenditure

5. Section 125(2)(d)(i) of the MFMA requires the disclosure of irregular expenditure incurred. The municipality made payments of R42 163 588 in contravention of the supply chain management requirements, which were not included in irregular expenditure disclosed. As the municipality did not quantify the full extent of the irregular expenditure, it was impracticable to determine the resultant understatement of irregular expenditure as per note 50 to the financial statements. In addition, I was unable to obtain sufficient appropriate audit evidence for the opening balance of irregular expenditure due to the status of the accounting records. I was unable to confirm this irregular expenditure by alternative means. Consequently, I was unable to determine whether any further adjustment was necessary to irregular expenditure of R2 504 721 038 (2022: R2 766 445 401) disclosed in note 50 to the financial statements.

Payables from exchange transactions

6. I was unable to obtain sufficient appropriate audit evidence that trade payables, payments received in advanced – contract in process, unallocated deposits received and other creditors included in payables from exchange transactions had been properly accounted for, due to the status of the accounting records. I was unable to confirm these payables from exchange transactions by alternative means. Consequently, I was unable to determine whether any further adjustment was necessary to payables from exchange transactions of R1 453 414 342 (2022: R755 486 394) as disclosed in note 15 to the financial statements.

Service charges

7. The municipality did not measure revenue from service charges in accordance with GRAP 9, *Revenue from exchange transactions*. Service charges included R28 153 912 (2022: R26 385 611) for estimated billing. This billing was not based on actual consumption for a substantial period exceeding 12 months. The municipality did not have adequate internal controls in place to ensure that the revenue billed was based on recent actual meter readings, in compliance with the municipal by-laws. I was unable to determine the value of the misstatement on service charges of R867 323 786 (2022: R799 807 095) as disclosed in note 21 to the financial statements or the related consumer receivables, as well as on distribution losses, as it was impracticable to do so. This also had an impact on the deficit for the period and on the accumulated surplus.

Receivables from non-exchange transactions

8. I was unable to obtain sufficient appropriate audit evidence that sundry debtors included in receivables from non-exchange transactions had been properly accounted for, due to the status of the accounting records. I was unable to confirm the sundry debtors by alternative means. In addition, the municipality did not correctly calculate the provision for impairment of receivables in accordance with GRAP 104, *Financial instruments,* resulting in the allowance for impairment included in receivables from non-exchange transactions and debt impairment included on note 35 being understated by R18 444 976 (2022: R6 322 962). Consequently, I was unable to determine whether any further adjustments were necessary to receivables from non-exchange transactions of R583 727 667 (2022: R649 377 704) as disclosed in note 6 to the financial statements, as well as the related debt impairment of R118 316 810 (2022: R181 794 375) as disclosed in note 35 to the financial statements.

Cash flow statement

9. The municipality did not prepare a cash flow statement in accordance with GRAP 2, *Cash flow statements* as the municipality incorrectly calculated the net cash flows from operating activities and the net cash flows from investing activities in the current and prior year. I was unable to determine the full extent of these misstatements, as it was impracticable to do so. Consequently, I was unable to determine whether any adjustment was necessary to net cash flows from operating activities of R323 101 689 (2022: R359 178 748) as presented in the cash flow statement and disclosed in note 40 and net cash flows from investing activities of R344 422 923 (2022: R280 259 789) to the financial statements.

Other receivables

10. I was unable to obtain sufficient appropriate audit evidence that other receivables had been properly accounted for, due to the status of the accounting records. I was unable to confirm these other receivables by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to other receivables of R54 231 800 (2022: R56 594 150) as disclosed in note 5 to the financial statements.

Commitments

11. The municipality did not account for commitments in terms of GRAP 17, *Property, plant and equipment,* as the municipality did not accurately disclose the value of commitments on capital assets in progress. Consequently, commitments as disclosed in note 42 to the financial statement was understated by R50 974 648 (2022:R15 499 759).

Accounting by principals and agents

12. The municipality did not disclose the accounting by principals and agents in accordance with GRAP 109, *Accounting by principals and agents,* as not all disclosures and amounts were included on note 54 to the financial statements. I have not included the omitted information in this auditor's report, as it was impracticable to do so.

Context for opinion

13. 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.

14. 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.

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

Emphasis of matters

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

Fruitless and wasteful expenditure

17. As disclosed in note 49 to the financial statements, fruitless and wasteful expenditure of R60 365 013 was incurred in the current year and fruitless and wasteful expenditure of R121 186 376 from prior years have not yet been dealt with in accordance with section 32 of the MFMA.

Material losses

18. As disclosed in note 36 to the financial statements, the municipality incurred electricity losses of R372 342 836 (2022: R163 816 094).

Other matter

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

Unaudited disclosure notes

20. In terms of section 125(2)(e) of the MFMA, the municipality is required to disclose particulars of non-compliance with the MFMA. This disclosure requirement did not form part of the audit of the financial statements and, accordingly, I do not express an opinion thereon.

Responsibilities of the accounting officer for the financial statements

21. 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.

22. 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

23. 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.

24. 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

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

26. I selected the following key performance area 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	Page numbers	Purpose
KPA 2: basic service delivery and infrastructure	XX	To improve basic service delivery

27. I was engaged to evaluate 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. An annual performance report prepared using these criteria provides useful and reliable information and insights to users of the report on the municipality's planning and delivery on its mandate and planned objectives. My objective was to perform procedures for the purpose of reporting material findings only and not to express an assurance opinion or conclusion.

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

KPA 2: basic service delivery and infrastructure

Various indicators

29. I could not determine if the reported achievements were correct, as adequate supporting evidence was not provided for auditing. Consequently, the achievements might be more or less than those reported and were not a credible base for determining if the targets had been achieved.

Performance indicator	Target	Reported achievement
KPI 8: percentage of planned maintenance performed	40%	40%
KPI 11: percentage of unsurfaced road graded	50%	15.95%

KPI 12: percentage of surfaced municipal road lanes that have been resurfaced and resealed	40%	24%
KPI 19: percentage of callouts responded to within 24 hours (sanitation/wastewater)	95%	95%
KPI 20: percentage of callouts responded to within 24 hours (water)	95%	95%

KPI 18: percentage of reported pothole complaints resolved within standard municipal response time

30. An achievement of 100% was reported against a target of 100%. However, the audit evidence showed the actual achievement to be only 14%. Consequently, the achievement against the target was lower than reported.

Various indicators

31. Measures were reported to improve the performance against the targets. I could not determine if the measures were correct, as adequate supporting evidence was not provided for auditing. Consequently, I could not determine whether the reported measure was reliable.

Performance indicator	**Measure**
KPI 11: percentage of unsurfaced road graded	Municipality to purchase fleet for unpaved road services
KPI 12: percentage of surfaced municipal road lanes which has been resurfaced and resealed	Consultants awaiting appointment of contractors
KPI 13: kilometres of new municipal road network	Process of appointing contractors should be done with speed
KPI 21: percentage of total water connections metered	Meter readings to be connected to generate revenue for the municipality
KPI 22: number of new sewer connections meeting minimum standards	Process of appointing contractors should be done with speed
KPI 23: number of new water connections meeting minimum standards	Process of appointing contractors should be done with speed

Other matters

32. I draw attention to the matters below.

Achievement of planned targets

33. The annual performance report includes information on reported achievements against planned targets and provides explanations for over- or underachievements and measures taken to improve performance. This information should be considered in the context of the material findings on the reported performance information.

34. The municipality plays a key role in delivering services to South Africans. 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.

Basic service delivery and infrastructure development

Targets achieved: 38%

Budget spent: 100%

Key service delivery indicator not achieved	Planned target	Reported achievement
KPI 6: number of dwellings provided with connections to the mains electricity supply by the municipality	500	0
KPI 11: percentage of unsurfaced road graded	50%	15,95%
KPI 12: percentage of surfaced municipal road lanes that have been resurfaced and resealed	40%	24%
KPI 13: kilometres of new municipal road network	12	0
KPI 14: number of public transport facilities maintained	38	0
KPI 15: percentage of public carrier permits processed	100%	0%
KPI 16: percentage of roads conditional assessment conducted for maintenance of asset registry	100%	0%
KPI 17: percentage of land survey required on ad hoc basic	100%	0%
KPI 21: percentage of total water connections metered	26%	0%
KPI 22: number of new sewer connections meeting minimum standards	150	0
KPI 23: number of new water connections meeting minimum standards	280	0

Material misstatements

35. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for KPA 2 – basic service delivery and infrastructure development. Management did not correct the misstatements and I reported material findings in this regard.

Report on compliance with legislation

36. 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.

37. 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.

38. 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.

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

Annual financial statements

40. 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, current assets, liabilities, revenue, expenditure and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected and the supporting records were provided subsequently, but the uncorrected material misstatements and supporting records that could not be provided resulted in the financial statements receiving an adverse audit opinion.

Strategic planning and performance management

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

Revenue management

42. An adequate management, accounting and information system, which accounts for revenue and debtors, was not in place, as required by section 64(2)(e) of the MFMA.

43. An effective system of internal control for revenue was not in place, as required by section 64(2)(f) of the MFMA.

Expenditure management

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

45. An adequate management, accounting and information system was not in place which recognised expenditure when it was incurred and accounted for creditors, as required by section 65(2)(b) of the MFMA.

46. Reasonable steps were not taken to prevent irregular expenditure, as required by section 62(1)(d) of the MFMA. The expenditure disclosed does not reflect the full extent of the irregular expenditure incurred, as indicated in the basis for qualification paragraph. The majority of the disclosed irregular expenditure was caused by the non-compliance with the supply chain regulations.

47. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R60 365 013, as disclosed in note 49 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 payable on bulk purchases.

48. Reasonable steps were not taken to prevent unauthorised expenditure, as required by section 62(1)(d) of the MFMA. The full extent of the unauthorised expenditure could not be quantified, as indicated in the basis for qualification paragraph. The majority of the disclosed unauthorised expenditure was caused by overspending of the budget on the infrastructure and technical services as well as public safety and fleet management votes.

Consequences management

49. Unauthorised, irregular, fruitless and wasteful expenditure incurred by the municipality was not investigated to determine if any person was liable for the expenditure, as required by section 32(2)(a) and (b) of the MFMA.

Conditional grants

50. Performance in respect of programmes funded by the water services infrastructure grant was not evaluated within two months after the end of the financial year, as required by section 12(5) of the Dora.

51. Performance in respect of programmes funded by the integrated national electrification programme (municipal) grant (INEP) was not evaluated within two months after the end of the financial year, as required by section 11(6)(b) of the Dora.

Human resources management

52. An approved staff establishment was not in place, as required by section 66(1)(a) of the MSA.

Procurement and contract management

53. Some of the goods and services with a transaction value of below R200 000 were procured without obtaining the required price quotations, in contravention of by SCM regulation 17(1)(a) and (c). Similar non-compliance was also reported in the prior year.

54. Some of the quotations were awarded to bidders who did not submit a declaration on whether they were employed by the state or connected to any person employed by the state, as required by SCM regulation 13(c). Similar non-compliance was also reported in the prior year.

55. Measures to combat the abuse of the SCM system were not implemented as per the requirements of SCM regulation 38(1), because some of the contracts were awarded to providers who, during the last five years, failed to perform satisfactorily on a previous contract with an organ of state.

56. Some of the contracts and quotations were awarded to bidders based on preference points that were not calculated in accordance with the requirements of section 2(1)(a) of the Preferential Procurement Policy Framework Act and its regulations. Similar non-compliance was also reported in the prior year.

57. Some of the contracts were awarded to bidders that did not score the highest points in the evaluation process, as required by section 2(1)(f) of Preferential Procurement Policy Framework Act and 2017 preferential procurement regulation 11 and 2022 preferential procurement regulations 4(4) and 5(4). Similar non-compliance was also reported in the prior year.

58. Sufficient appropriate audit evidence could not be obtained that tenders that failed to achieve the minimum qualifying score for functionality were disqualified as unacceptable tenders in accordance with 2017 preferential procurement regulation 5(6). Similar non-compliance was also reported in the prior year.

59. Some of the tenders that achieved the minimum qualifying score for functionality legislative requirement were not evaluated further in accordance with 2017 preferential procurement regulation 5(7). Similar non-compliance was also reported in the prior year.

60. Some of the invitations to tender for procurement of commodities designated for local content and production did not stipulate the minimum threshold for local production and content as required by the 2017 preferential procurement regulation 8(2).

61. Sufficient appropriate audit evidence could not be obtained that contracts were extended or modified with the approval of a properly delegated official, as required by SCM regulation 5. A similar limitation was also reported in the prior year.

62. Sufficient appropriate audit evidence could not be obtained that the performance of contractors or providers was monitored on a monthly basis, as required by section 116(2) of the MFMA. A similar limitation was also reported in the prior year.

63. Sufficient appropriate audit evidence could not be obtained that contract performance and monitoring measures were in place to ensure effective contract management, as required by section 116(2)(c)(ii) of the MFMA. A similar limitation was also reported in the prior year.

Other information in the annual report

64. The accounting officer is responsible for the other information included in the annual report. The other information referred to does not include the financial statements, the auditor's report and those selected key performance area presented in the annual performance report that have been specifically reported on in this auditor's report.

65. 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.

66. 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.

67. I did not receive the other information prior to the date of this auditor's report. After I receive and read this information, and if I conclude that there is a material misstatement, 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

68. 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.

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

70. The accounting officer did not adequately exercise its oversight responsibility regarding financial and performance reporting and compliance with legislation. The municipality did not have sufficient monitoring and reviewing controls to ensure that financial and performance reports submitted for auditing were accurate and complete, and that action plans developed were adequately and timeously implemented.

71. Management did not implement sound monitoring controls over proper record keeping, reconciliation of transactions and accurate processing of transactions that support reported financial information, performance on predetermined objectives and compliance with laws and regulations. Furthermore, action plans to address prior year audit findings were not fully implemented and monitored, as numerous instances of repeat audit findings were reported.

Material irregularities

72. 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.

Status of previously reported material irregularities

Full and proper records not kept (2019-20) – significant distribution losses, revenue and accounts receivables, cash and cash equivalents, expenditure and accounts payable

73. Reasonable steps were not taken in the 2019-20 financial year to ensure that full and proper records were kept of significant distribution losses, revenue and accounts receivable, cash and cash equivalents and expenditure and accounts payable, as required by section 62(1)(b) of the MFMA. The non-compliance contributed to a disclaimed audit opinion, as I could not obtain sufficient appropriate audit evidence to support the amounts and disclosures in the financial statements.

74. The lack of full and proper records is likely to result in substantial harm to the municipality, as the municipality may not be able to continue its operations, i.e. it may not be able to demonstrate that it can ensure access to basic services in a financially sustainable manner. This is likely to have a negative impact on the municipality's ability to discharge its service delivery mandate.

75. The accounting officer was notified of the material irregularity (MI) on 8 June 2021. The accounting officer has not taken the appropriate action committed to in his written submission in response to the notification. I had recommended that the accounting officer should take the following actions to address the MI by 4 May 2022.

- The non-compliance with section 62(1)(b) of the MFMA should be investigated to determine the reasons and circumstances that led to the non-compliance for taking appropriate corrective actions and to address control weaknesses.
- Based on the reasons and circumstances, appropriate action should be taken to develop and commence with the implementation of an action plan to address poor record keeping so that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards, as required by section 62(1)(b) of the MFMA. A plan should include anticipated timeframes and address the following key areas as a minimum:

  a. Complete records of distribution losses relating to water and electricity

  b. Billing information and reconciliations to support revenue from service charges

  c. Reconciliations of the bank accounts

  d. Clearing of suspense accounts

  e. Complete records of all procurement processes

  f. Payment vouchers, creditor statements and creditor reconciliations for purchases. The expenditure incurred should be supported by sufficient evidence that goods and services paid for were received.

76. I had further recommended that the accounting officer should take appropriate action to develop and commence with the implementation of an action plan to address the financial problems of the municipality, as required by section 135(1) and 135(3)(a) of the MFMA, by 4 August 2022. The accounting officer was supposed to describe the anticipated timeframe and milestones to be achieved and include, as a minimum, strategies to:

    a. increase the collection of revenue

b. efficiently manage the available resources of the municipality

c. enter into payment agreements with major suppliers.

77. The above timeframes for the implementation of the recommendations were running concurrently.

78. The accounting officer submitted a written response to and supporting evidence for the implementation of the recommendations on 12 August 2021 and 3 August 2022. Based on my assessment of the written response and supporting evidence submitted, I concluded that the recommendations had not been adequately implemented.

79. On 10 August 2023, I notified the accounting officer of the following remedial actions to address the MI, which should be implemented by within six months from the date of the notification, with a progress report after three months:

- The non-compliance with section 62(1)(b) of the MFMA must be investigated to determine the reasons and circumstances that led to the non-compliance for the purpose of taking appropriate corrective actions and to address control weaknesses.
- Based on the reasons and circumstances, appropriate action must be taken to develop and commence with the implementation of an action plan to address poor record keeping so that full and proper records of the financial affairs of the auditee are kept in accordance with any prescribed norms and standards, as required by section 62(1)(b) of the MFMA. The plan must include anticipated timeframes and address the following key areas as a minimum:

  a. Complete records of distribution losses relating to water and electricity

  b. Billing information and reconciliations to support revenue from service charges

  c. Reconciliations of the bank accounts

  d. Clearing of suspense accounts

  e. Complete records of all procurement processes

  f. Payment vouchers, creditor statements and creditor reconciliations for purchases. The expenditure incurred should be supported by sufficient evidence that goods and services paid for were received.

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

  a. increase the collection of revenue

  b. efficiently manage the available resources of the municipality

  c. enter into payment arrangements with major suppliers.

- A progress report on the implementation of the remedial action was received on 7 November 2023. Whilst the audit outcome moved from a disclaimer opinion to an adverse opinion, I am in the process of assessing the progress made with the implementation of the actions to address the remedial action.

- I will follow up on the implementation of remedial actions during my next audit.

Pollution of water resources not prevented – Mothotlung wastewater treatment plant

80. The municipality did not take reasonable measures at the Mothotlung Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring, as required by section 28(1) of the National Environmental Management Act and section 19(1) of the National Water Act. The wastewater treatment works was demolished, vandalised and some of the infrastructure stolen, rendering it not operational for years, while infrastructure lines to and from the plant were also depleted, vandalised and stolen, causing regular sewerage overflows. This resulted in untreated effluent being discharged into the adjacent environment, including the groundwater, the Kgowa spring and its extended watercourse. The community is also directly impacted with raw sewerage overflows accumulating directly in gardens, houses and streets of the adjacent Mothotlung and Thetele settlements. The contaminated water sources are used by a number of settlements and communities in the Mothotlung area and along the extended watercourse. The non-compliance is likely to cause substantial harm to the communities exposed to and dependent on the contaminated water resources.

81. The accounting officer was notified of the MI on 25 May 2022 and invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer, however, did not respond to provide any planned actions to address the MI. Based on a follow-up visit in July 2022, it was confirmed that no action has been taken at the wastewater treatment works, with it still being flooded, and no treatment of wastewater taking place before it is discharged into the environment and water sources adjacent to the plant.

82. The accounting officer has not taken sufficient action to minimise and rectify the pollution or degradation of the environment. Therefore, I concluded that the accounting officer was not taking appropriate action to address the MI.

83. I referred the MI to the Department of Water and Sanitation (DWS) on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and the investigation is currently in progress.

Pollution of water resources not prevented – Letlhabile wastewater treatment plant

84. The municipality did not take reasonable measures at the Letlhabile Wastewater Treatment Works to prevent pollution or degradation of the environment and water resources from occurring, continuing or recurring, as required by section 28(1) of the National Environmental Management Act and section 19(1) of the National Water Act. The wastewater treatment works has not been operational with full ponds overflowing for a number of years already. This resulted in untreated effluent being discharged into the adjacent environment, including the groundwater and the Rakwasi Ramokgatla spring, which is used by the communities in the areas like the Letlabile and Maboloka settlements. This contaminates a network of streams and rivers in the surrounding area that ultimately flows into the Tolwane River, which is used for consumption, farming and agricultural purposes by the communities of the towns and the farmers along the extended water network. The non-compliance is likely to cause substantial harm to the communities exposed to and dependent on the contaminated water resources.

85. The accounting officer was notified of the MI on 25 May 2022 and invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer however did not respond to provide any planned actions to address the MI. Based on a follow-up visit in July 2022, it was confirmed that no action has been taken at the wastewater treatment works, with it being flooded and no treatment of wastewater taking place before it is discharged into the environment and water sources adjacent to the plant.

86. The accounting officer has not taken sufficient action to minimise and rectify the pollution or degradation of the environment. Therefore, I concluded that the accounting officer was not taking appropriate action to address the MI.

87. I referred the MI to the DWS on 30 June 2023 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 5 July 2023 and the investigation is currently in progress.

Investment in a mutual bank

88. The municipality made investments totalling R60 000 000 with a mutual bank in 2018, contrary to municipal investment regulation 6(c), which states that a municipality or municipal entity must invest funds with banks registered in terms of the Banks Act 94 of 1990. The Mutual Bank's Act 124 of 1993, and not the Banks Act, as required govern the mutual bank.

89. During the financial period ending 2018-19, the investment balance of R31 504 247 was impaired and the investment not reported on in the financial statements for the period ending 30 June 2020, but disclosed in note 10 to the 2019-20 financial statements that the full balance of the investment was impaired, as there were no expected future cash flows from the mutual bank. A claim was submitted to the liquidator of the mutual bank and the non-compliance is likely to result in a material financial loss for the municipality, as the extent of the loss cannot be determined prior to the final distribution calculation by the liquidator.

90. The accounting officer was notified on 24 March 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. The following actions have been taken to resolve the MI:

- The municipality successfully lodged a claim against the estate of the mutual bank on 7 March 2019 in the Polokwane High Court. The claim and the process to recover the deposit from the estate of the mutual bank were still in progress. To date the municipality received an amount of R2 121 566 from the appointed curator.
- The accounting officer opened a case with the SAPS in 2018 (Case no: CAS 47/9/2018). The investigation was still in progress at reporting date. The DCPI indicated during April 2023 that it would consider referring amounts that are not recovered through the liquidation process to the Asset Forfeiture Unit for further recovery.
- The accounting officer initiated disciplinary processes in the 2017-18 financial year against some of the officials who were involved in making the investment. Some of the officials were on suspension in the prior year. The investigation concluded on 13 August 2021 that the officials charged were in junior positions and was not in the position to make such a significant investment decision, and the matter was dismissed and charges cleared.

- The municipality has reviewed its cash and investment policy in the 2021 financial year, and the chief financial officer and municipal manager are delegated to approve all the investment requests based on the quotations from the registered banks.

91. The MI was resolved.

Electricity account not paid within 30 days

92. The accounting officer did not take all reasonable steps to ensure that payments for bulk electricity purchases were made within 30 days of receiving the relevant invoice or statement, contrary to section 65(2)(e) of the MFMA. This contravention resulted in a material financial loss for the municipality due to interest of R3 482 853 levied on the outstanding balance 30 June 2021. During the 2021-22 and 2022-23 financial years, the municipality incurred a further interest of R12 978 131 and R56 878 714, respectively. The fruitless and wasteful expenditure was disclosed in note 49 of the 2023 financial statements.

93. The accounting officer was notified on 19 April 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. The following actions have been taken to address the MI:

    - The electricity account was up to date and there was no outstanding balance as at 30 June 2021. The municipality was no longer incurring interest on this account. However, during the year under review, the municipality has defaulted on paying the account within 30 days, resulting in the account being in arrears for more than 90 days.
    - Developed and implemented a financial plan to address cash flow challenges at the municipality that will assist in paying creditors on time.
    - No action was taken to recover the financial loss, due to the municipality being in financial distress and the interest needed to be paid. Nonetheless, the fruitless and wasteful registers had been tabled in the council during the 2021 financial year and referred to the municipal public accounts committee (MPAC) for investigation to determine what caused the delays in making payment to the supplier and which officials should be held liable of the loss. The MPAC has not yet investigated if any official should be held liable for the loss.

94. This matter will not be pursued further as an MI and is therefore closed since the implementation of the financial plan will be tracked as part of the MI issued relating to full and proper records not kept.

Bulk water account not paid within 30 days

95. The accounting officer did not take all reasonable steps to ensure that payments for bulk water purchases were made within 30 days of receiving the relevant invoice or statement, contrary to section 65(2)(e) of the MFMA. This resulted in a judgement by the court on 7 May 2019 that the municipality had to settle their account with the DWS of R57 982 229, which includes interest of R12 049 290. The judgement required the municipality to pay an amount of R1 500 000 monthly towards the outstanding amount. However, the municipality did not adhere to the judgement and did not pay some of the monthly instalments. The municipality incurred additional interest of R1 920 845 for the year under review, which was disclosed as fruitless and wasteful expenditure in note 49 of the 2023 financial statements.

96. The accounting officer was notified of the MI on 11 October 2021 and invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer indicated that the municipality was unable to settle creditors within 30 days due to cash flow concerns. Although a payment arrangement was entered into with the department, this was only honoured by the municipality when cash was available to pay.

97. A settlement agreement was entered into, which was made as a result of a court order dated 5 May 2019. The accounting officer is taking appropriate action through implementing the financial plan and, to date, they have been paying in line with the settlement agreement.

98. This matter will not be pursued further as an MI and is therefore closed since the implementation of the financial plan will be tracked as part of the MI issued relating to full and proper records not being kept.

Auditor General

Rustenburg

01 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 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 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	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), 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)
Municipal Systems Act 32 of 2000	Sections 25(1), 26(a), 26(c), 26(h), 26(i), 29(1)(b)(ii), 29(3)(b), 34(a), 34(b), Sections 38(a), 41(1)(a), 41(1)(b), 41(1)(c)(ii), 42, 43(2), 56(a), 57(2)(a), Sections 57(4B), 57(6)(a), 66(1)(a), 66(1)(b), 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(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)