

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

Report on the audit of the consolidated and separate financial statements

Qualified opinion

1. I have audited the consolidated and separate financial statements of Rustenburg Local Municipality and its subsidiary set out on pages xx to xx, which comprise the consolidated and separate statement of financial position as at 30 June 2023, consolidated and separate 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 notes to the consolidated and separate financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects and possible effects of the matters described in the basis for qualified opinion section of this auditor's report, the consolidated and separate financial statements present fairly, in all material respects, the consolidated and separate financial position of the Rustenburg Local Municipality as at 30 June 2023, and their financial performance and cash flows for the year then ended in accordance with the South African Standards of Generally Recognised Accounting Practice (GRAP), the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act of 2022 (Dora).

Basis for qualified opinion

Property, plant and equipment

3. The municipality did not account for the work-in-progress (WIP) assets relating to internal services and bulk infrastructure, constructed as part of housing projects within its jurisdiction, as required by GRAP 17, *Property, plant and equipment*. I was unable to determine the full extent of the understatement of property, plant, and equipment, as it was impracticable to do so.
4. I was unable to obtain sufficient appropriate audit evidence that the bulk water assets of the Rustenburg Water Service Trust for the current and previous year had been correctly valued as the municipal entity did not revalue, neither review the residual values and useful lives of these assets at each reporting date as required by GRAP 17, *Property, plant and equipment*. The trust also did not align its accounting policy to that of the parent to ensure uniform accounting policies within the group, as required by GRAP 35, *Consolidated financial statements*. Consequently, I was unable to determine the full extent of the misstatement on the bulk water assets with the carrying amount of R525 514 000 (2022: R552 856 000) as disclosed in note 4 of the separate and consolidated financial statements, as it was impracticable to do so. Furthermore, there was a resultant impact on the surplus for the period and the accumulated surplus.

Payables from exchange transactions

5. I was unable to obtain sufficient appropriate audit evidence for unallocated deposits included in payables from exchange transactions, due to the state of the underlying records and lack of information to support these amounts. I was unable to confirm these unallocated deposits by alternative means. Consequently, I was unable to determine whether any adjustments to unallocated deposits of R31 776 000 (2022: R91 054 000) included in payables from exchange as disclosed in note 22 to the consolidated and separate financial statements was necessary.

Consumer debtors

6. The allowance for impairment of consumer debtors was not done in accordance with the impairment methodology, resulting in the allowance for impairment included in consumer debtors and impairment loss as disclosed in note 35, being understated by R82 702 587. In addition, I was unable to obtain sufficient appropriate audit evidence that indigent debtors and consumer deposits included in consumer debtors had been properly accounted for, due to the status of the accounting records. I was unable to confirm these consumer debtors by alternative means. Consequently, I was unable to determine whether any adjustments to consumer debtors of R213 942 000 and R195 569 000, as disclosed in note 15 to the consolidated and separate financial statements were necessary.
7. The municipality did not accurately account for consumer debtors amounting to R6 424 468 000 and R6 406 095 000 as disclosed in note 15 to the consolidated and separate financial statements in accordance with GRAP 104, *Financial instruments*. Further, the municipality incorrectly included its own accounts under consumer debtors due to inadequate internal controls in place to ensure that they exclude their own accounts from revenue and receivables. Consequently, consumer debtors were overstated by R94 812 441, accumulated surplus overstated by R82 521 138, revenue from exchange transactions overstated by R7 833 857 and interest received overstated by R4 457 447.

Revenue from exchange transactions

8. The municipality did not accurately account for revenue from service charges in accordance with GRAP 9, *Revenue from exchange transactions*. Differences were identified between the billed water and the recalculation performed. The municipality also did not have adequate systems to estimate the billing of water, which resulted in differences between the estimated consumption billed and the recalculation performed. Consequently, the sale of water and service charges relating to water were overstated by R267 277 294. Furthermore, revenue from electricity charges and related consumer debtors were understated by R61 448 297 (2022: R98 107 278) and R61 448 297 (2022: R78 044 278) respectively due to lack of internal controls to ensure that all revenue from electricity billed is recorded. There was a resultant impact on the surplus for the period and the accumulated surplus. In addition, I was unable to obtain sufficient appropriate audit evidence for revenue from exchange transactions due to the state of the underlying records and lack of information supporting these amounts. I was unable to confirm these revenue from exchange transactions by alternative means. Consequently, I was unable to confirm whether any further adjustments were necessary to service charges of R4 395 411 000 and R4 317 654 000 (2022: R4 094 168 000 and

R4 018 522 000) as disclosed in note 25 to the consolidated and separate financial statements.

Consumer deposits

9. The municipality did not accurately account for consumer deposits amounting to R64 069 000 as disclosed in note 24 in accordance with GRAP 104, *Financial instruments*. Differences were identified between the consumer deposit recorded and recalculations performed on business accounts. The municipality also did not have adequate systems to perform this calculation, which resulted in consumer deposits and consumer debtors as disclosed in both notes 24 and 15 to the consolidated and separate financial statements, being understated by R81 663 523. Additionally, there was a resultant impact on the surplus for the period and the accumulated surplus.

General expenses

10. The municipality did not account for all its expenditure incurred in the current year in accordance with GRAP 1, *Presentation of financial statements*. The municipality also did not have adequate internal controls in place to ensure the completeness of general expenditure, which resulted in general expenses as disclosed in note 39, being understated by R105 915 538 and trade payables as disclosed in note 22 to the consolidated and separate financial statements, being understated by R105 915 538. Additionally, there was a resultant impact on the surplus for the period and the accumulated surplus.

Contracted services

11. The municipality did not accurately account for contracted services amounting to R373 054 000 as disclosed in note 38 in accordance with GRAP 1, *Presentation of financial statements*. This is due to the municipality failing to correctly account for the expenditure relating to the Rustenburg Rapid Transport Operator Compensation and other contracted services in terms of the service level agreements. This resulted in contracted services as disclosed in note 38 being understated by R137 169 317 and trade payables as disclosed in note 22 to the consolidated and separate financial statements being understated by R172 379 259. Additionally, there was a resultant impact on the surplus for the period and the accumulated surplus.

Irregular expenditure

12. Section 125(2)(d)(i) of the MFMA requires the disclosure of irregular expenditure incurred. The municipality made payments of R60 369 653, and the Trust made payments in the current and previous financial years in contravention of the supply chain management (SCM) requirements which were not included in irregular expenditure disclosed. As the municipality and the municipal entity did not quantify the full extent of the irregular expenditure, it was impracticable to determine the resultant understatement of irregular expenditure as per note 55 to the consolidated and separate financial statements.
13. Furthermore, I was unable to obtain sufficient appropriate audit evidence for the opening balance of irregular expenditure disclosed because the municipality did not maintain a detailed register of irregular expenditure. I was unable to confirm the opening balance by alternative means. Consequently, I was unable to determine whether any adjustments were

necessary to irregular expenditure of R6 279 632 000 (2022: 5 900 377 000) and R6 279 727 000 (2022: R5 900 377 000) as disclosed in note 55 to the financial statements.

Context for opinion

14. 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 consolidated and separate financial statements section of my report.
15. I am independent of the group 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.
16. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Material uncertainty relating to going concern

17. I draw attention to the matter below. My opinion is not modified in respect of this matter.
18. As disclosed in note 51 to the consolidated and separate financial statements, the group's current liabilities exceed current assets. The ability to collect outstanding debtors is low as the allowance for impairment relating to gross debtors is more than 90%. On average the municipality takes longer than the prescribed 30-day period to pay creditors. These conditions, together with other matters as set forth in note 51, indicate that a material uncertainty exists that may cast significant doubt on the group's ability to continue as a going concern.

Emphasis of matters

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

Unauthorised and fruitless and wasteful expenditure

20. As disclosed in note 53 to the consolidated and separate financial statements, unauthorised expenditure of R48 039 000 was incurred in the current year, and the unauthorised expenditure of R173 625 000 in respect of prior years has not yet been dealt with in accordance with section 32 of the MFMA.
21. As disclosed in note 54 to the consolidated and separate financial statements, fruitless and wasteful expenditure of R2 549 000 was incurred in the current year, and fruitless and wasteful expenditure of R35 587 000 from prior years has not yet been dealt with in accordance with section 32 of the MFMA.

Material losses

22. As disclosed in note 15 to the consolidated and separate financial statements, consumer debtors have been significantly impaired. The allowance for impairment amounts to R6 210 526 000 (2022: R5 125 561 000) which represents 96,7% (2022: 94,8%) of the total receivables. In addition, as disclosed in note 35 to the consolidated and separate financial statements, debt impairment of R956 925 000 (2022: R549 907 000) was incurred as a result of significant impairment of receivables.
23. As disclosed in note 56 to the consolidated and separate financial statements, material water losses of R268 835 000 (2022: R196 238 000) were incurred as a result of water loss through the distribution process, which represents 51,57% (2022: 46,46%) of total water purchased.
24. As disclosed in note 56 to the consolidated and separate financial statements, material electricity losses of R298 448 000 (2022: R272 282 000) were incurred as a result of electricity loss through the distribution process, which represents 9,34% (2022: 9,14%) of total electricity purchased.

Restatement of corresponding figures

25. As disclosed in note 48 to the consolidated and separate financial statements, the corresponding figures for 30 June 2022 were restated as a result of errors in the consolidated and separate financial statements of the group at, and for the year ended 30 June 2023.

Other matter

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

Unaudited disclosure notes

27. 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 consolidated and separate financial statements

28. The accounting officer is responsible for the preparation and fair presentation of the consolidated and separate 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 consolidated and separate financial statements that are free from material misstatement, whether due to fraud or error.
29. In preparing the consolidated and separate 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 group or to cease operations, or has no realistic alternative but to do so.

Responsibilities of the auditor-general for the audit of the consolidated and separate financial statements

30. My objectives are to obtain reasonable assurance about whether the consolidated and separate 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 consolidated and separate financial statements.
31. A further description of my responsibilities for the audit of the consolidated and separate financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

32. 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 areas presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.
33. I selected the following development priorities presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected key performance areas that measure the municipality's performance on its primary mandated functions and that are of significant national, community or public interest.

Key performance areas (KPAs)	Page numbers	Purpose
KPA 4: Local economic development	[XX]	Drive a vibrant diversified economic growth and job creation
KPA 5: Basic service and infrastructure development	[XX]	Efficient provision of quality basic services and infrastructure within a well-planned spatial structure

34. I evaluated the reported performance information for the selected development priorities against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides users with useful and reliable information and insights on the municipality's planning and delivery on its mandate and objectives.
35. I performed procedures to test whether:
- the indicators used for planning and reporting on performance can be linked directly to the municipality's mandate and the achievement of its planned objectives

- the indicators are well defined to ensure that they are easy to understand and can be applied consistently, as well as verifiable so that I can confirm the methods and processes to be used for measuring achievements
 - the targets can be linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated
 - the indicators and targets reported on in the annual performance report are the same as those committed to in the approved initial or revised planning documents
 - the reported performance information is presented in the annual performance report in the prescribed manner
 - there is adequate supporting evidence for the achievements reported and for the measures taken to improve performance.
36. I performed the procedures only for the purpose of reporting material findings and not to express an assurance opinion or conclusion.
37. The material findings on the reported performance information for the selected key performance areas are as follows:

KPA 4: Local economic development

KPI 25: Number of work opportunities created through public employment programmes

38. An achievement of 2 502 was reported against a target of 1 500. I could not determine if the reported achievement was correct, as the processes established to consistently measure and report achievements were inadequate. Adequate supporting evidence was also not provided for auditing. Consequently, the reported achievement might be more or less than reported.

KPA 5: Basic services and infrastructure development

Various indicators

39. Based on audit evidence, the actual achievement for indicators did not agree to the achievements reported. Consequently, the reported achievement was overstated.

Indicator	Target	Reported achievement	Actual achievement
KPI 31: Number of electrical projects (high mast lights) implemented by 30 June 2023.	3	2	0
KPI 39: Percentage of compliance with the required attendance time for structural firefighting incidents by 30 June 2023	98%	98%	68%

Various indicators

40. The indicators were included in the approved service delivery and budget implementation plan and integrated development plan but were not clearly defined during planning processes. It was also not determined how the related targets would be measured and what evidence would be needed to support the achievements. Consequently, the information might be less useful for measuring performance.

Indicator	Target	Reported achievement
KPI 29: Percentage of drinking water samples complying to SANS241 by June 2023	98%	98%
KPI 34: Number of recognised informal settlements with a waste service by 30 June 2023	16	26
KPI 35: Percentage of formal households with a weekly solid waste removal service by 30 June 2023	80%	100%

KPI 37: Number of vehicles operating through the bus operating company by 30 June 2023

41. I could not determine whether the achievement of 35 branded taxis and five buses reported against a target of 35 branded taxis and 10 buses was correct, as there were no processes to consistently measure and report on achievements against planned indicators. I could not determine if the measure to improve performance was correct, as adequate supporting evidence was not provided for auditing. Consequently, the reported achievement might be more or less than reported and was not reliable for determining if the target had been achieved.

KPI 32: Appointment of service provider for sewer in Lethabong by 30 June 2023

42. There was no link between the indicator and target of KPI 32: Appointment of service provider for sewer in Lethabong by 30 June 2023 and the achievement of planned objectives and strategic goals, as it did not measure actual service delivery. The indicator and target measured the appointment of service providers for sewer projects instead of delivery of sewer services. In addition, I could not determine if the measure to improve performance was correct, as adequate supporting evidence was not provided for auditing.

KPI 38: Kilometres of new municipal road lanes built by 30 June 2023

43. I could not determine if the reasons for the differences between the reported achievements and the planned targets were correct, as adequate supporting evidence was not provided for auditing. Consequently, I could not confirm the reliability of the reasons for the reported underachievement/overachievement.

Indicator	Target	Reported achievement
KPI 38: Kilometres of new municipal road lanes built by 30 June 2023	30 km	10 050,41 m

Other matter

44. I draw attention to the following:

Achievement of planned targets

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

Material misstatements

46. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for KPA 4: Local economic development and KPA 5: Basic service delivery and infrastructure development. Management did not correct all of the misstatements and I reported material findings in this regard.

Report on compliance with legislation

47. 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.
48. 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.
49. Through an established AGSA process, I selected requirements in key legislation for compliance testing that are relevant to the financial and performance management of the municipality, clear to allow for consistent measurement and evaluation, while also sufficiently detailed and readily available to report in an understandable manner. The selected legislative requirements are included in the annexure to this auditor's report.
50. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Annual financial statements, performance and annual reports

51. The consolidated and separate financial statements submitted for auditing were not prepared in all material respects in accordance with the prescribed financial reporting framework as required by section 122(1) of the MFMA. Material misstatements of non-current assets and disclosure items identified by the auditors in the submitted financial statements were subsequently corrected, but the uncorrected material misstatements and supporting records that could not be provided resulted in the financial statements receiving a qualified audit opinion.

Expenditure management

52. Money owed by the municipality was not always paid within 30 days, as required by section 65(2)(e) of the MFMA.
53. Reasonable steps were not taken to prevent irregular expenditure, as required by section 62(1)(d) of the MFMA. The full extent of the irregular expenditure could not be quantified, as indicated in the basis for qualification paragraph. The majority of the disclosed irregular expenditure was caused by awarding contracts without following normal procurement processes.
54. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R2 549 000, as disclosed in note 54 to the consolidated and separate 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 and penalties.
55. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R48 039 000, as disclosed in note 53 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The majority of the unauthorised expenditure was caused by non-cash related expenditure.

Consequence management

56. Unauthorised expenditure incurred by the municipality was not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(a) of the MFMA.
57. Irregular 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.
58. 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.

Procurement and contract management

59. Some invitations for competitive bidding were not advertised for a required minimum period of days, in contravention of SCM regulation 22(1) and 22(2).
60. Some 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 the performance of contractors or providers was monitored on a monthly basis, as required by section 116(2)(b) of the MFMA. A similar limitation was reported in the prior year.
62. 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 reported in the prior year.

63. 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(1)(j) of the MFMA and SCM regulation 44.

Revenue management

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

Strategic planning and performance management

65. No KPIs were set in respect of the provision of basic water services, as required by section 43(2) of the Municipal Systems Act (MSA) and municipal planning and performance management regulation 10(a).
66. The performance management system and related controls were inadequate as they did not enable useful and reliable performance measurement and reporting, as required by municipal planning and performance management regulation 7(1).

Other information in the annual report

67. The accounting officer is responsible for the other information included in the annual report, which includes the audit committee's report. The other information referred to does not include the consolidated and separate financial statements, the auditor's report and those selected key performance areas presented in the annual performance report that have been specifically reported on in this auditor's report.
68. My opinion on the consolidated and separate financial statements, and findings on the reported performance information and 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.
69. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the consolidated and separate financial statements and the selected key performance areas presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
70. 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

71. I considered internal control relevant to my audit of the consolidated and separate financial statements, annual performance report and compliance with applicable legislation; however, my objective was not to express any form of assurance on it.
- Leadership and management were slow to respond to internal and external audit findings and did not implement consequence management for poor performance and non-compliance with legislation. This resulted in material misstatements in the consolidated and separate financial statements, reported performance information, as well as compliance with legislation.
 - There was lack of controls over daily, monthly processing and reconciliation of transactions. In addition, management did not implement effective controls to ensure that all information in the consolidated and separate financial statements and reported performance information were reliable prior to submission to external auditors.

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 material irregularities as previously reported in the auditor's report.

Material irregularities identified during the audit

73. The material irregularities identified are as follows:

Payment made in excess of the re-measured final account upon termination of first contractor on the RRT project

74. The accounting officer did not diligently review the amounts certified on the payment certificates submitted prior to making payments, resulting in overpayments to the contractor, contrary to section 65(2)(a) of the MFMA. The accounting officer therefore did not take all reasonable steps to ensure that the contractor was only paid for goods and/ or services that were actually delivered on this project. This contravention resulted in a surplus amount of R8 101 284,66 paid to the first contractor who was appointed in relation to phases 1A and 1C of the Rustenburg Rapid Transport (RRT) project.
75. The non-compliance is likely to result in a material financial loss for the municipality if the overpayments are not recovered.
76. The accounting officer was notified of this material irregularity on 12 April 2023 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 National Treasury is in the process of conducting a forensic investigation into the appointment of service providers and sub-contractors for the implementation of the RRT Project.

77. National Treasury completed the investigation, and the final investigation report was tabled in Council on 28 November 2023. The accounting officer plans to take appropriate steps based on the outcome of this investigation. I will follow up on the investigation and the implementation of the planned actions during my next audit.

Payment made in excess of re-measured final account upon termination of second contractor on the RRT project

78. The accounting officer did not diligently review the amounts certified on the payment certificates submitted to them prior to making payments, resulting in overpayments to the second contractor, contrary to section 65(2)(a) of the MFMA. The accounting officer therefore did not take all reasonable steps to ensure that the contractor was only paid for goods and/or services that were actually delivered on this project. This contravention resulted in a surplus amount of R25 118 381,85 paid to the second contractor who was appointed in relation to phases 1A and 1C of the Rustenburg Rapid Transport (RRT) project.
79. The non-compliance is likely to result in a material financial loss for the municipality if the overpayments are not recovered.
80. The accounting officer was notified on 12 April 2023 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 National Treasury is in the process of conducting a forensic investigation into the appointment of service providers and sub-contractors for the implementation of the RRT Project.
81. National Treasury completed the investigation and the final investigation report was tabled in Council on 28 November 2023. The accounting officer plans to take appropriate steps based on the outcome of this investigation. I will follow up on the investigation and the implementation of the planned actions during my next audit.

Rustenburg Rapid Transport (RRT) project not monitored

82. The municipality did not monitor on a monthly basis the performance of contractors under the RRT contract, contrary to section 116(2)(b) of the MFMA. This included contractual timelines not adhered to and several project delays noted. The inadequate monitoring of contractors also resulted that the desired quality of the infrastructure was not achieved as structural flaws which resulted in even more delays and subsequent deterioration of incomplete construction work.
83. As a result, this has caused harm to the primary mandated function of the municipality in being unable to provide the integrated public transport network services, as was intended with this national priority transport project, to the extended community of Rustenburg for the past seven years (per planned dates for first phases of the project being operational).
84. The non-compliance of section 116(2)(b) of the MFMA has therefore resulted in substantial harm to the public sector institution and is expected to continue causing harm to the public sector institutions until the completion of the RRT project.

85. The accounting officer was notified of this material irregularity on 12 September 2023 and due to change in accounting officer the notification was re-issued on 6 October 2023. The accounting officer was invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer indicated that National Treasury is in the process of conducting a forensic investigation into the appointment of service providers and sub-contractors for the implementation of the RRT Project.
86. National Treasury completed the investigation, and the final investigation report was tabled in Council on 28 November 2023. The accounting officer plans to take appropriate steps based on the outcome of this investigation. I will follow up on the investigation and the implementation of the planned actions during my next audit.

Status of previously reported material irregularities

Fleet management services procured not part of the original tender

87. The municipality entered into a contract for the provision of automated fleet and fuel management solutions during June 2018 as their fleet was in a state of disrepair and most of the vehicles reached its economical lifespan. On 20 July 2018, a "price negotiation" meeting was held between the appointed service provider and the municipality. During this meeting, the original scope of the work was extended, and new services were added to the scope of services that was not part of the original tender process.
88. SCM regulation 19(a) provides that a supply chain management policy must specify that goods or services above a transaction value of R200 000 (VAT included) and long-term contracts may be procured by the municipality only through a competitive bidding process, subject to regulation 11(2). However, the scope of work was extended beyond the limits of SCM regulations 19(a) during the price negotiation and items that was not part of the competitive bidding process, were included at higher than market related price. The before mentioned resulted in a material financial loss for the Rustenburg Local Municipality.
89. The accounting officer was notified of this material irregularity on 22 November 2021 and was invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer stated in his response of 8 December 2021 that he completed the internal investigation process in line with MFMA section 32 and subsequently disciplinary steps have been taken against the chair of the bid evaluation committee and the deputy chief financial officer. The above-mentioned officials were dismissed or resigned including the accounting officer responsible for concluding the contract. The contract with the service provider was terminated during August 2019 based upon a high court order, to prevent further financial loss. During August 2019, the accounting officer referred the matters to the Directorate for Priority Crime Investigation (Hawks.) The investigation and the criminal process is still on going, despite frequent follow-ups by the accounting officer. It is not practicable to determine when the investigation and criminal process be finalised due to the complex legal nature of the transaction.
90. Upon the conclusion of the Hawks' investigation, the accounting officer intends to initiate legal proceedings against the individuals accountable for the incurred losses and pursue legal restitution to recover the misappropriated funds. In November 2023, I followed up on the progress made by the Hawks in their investigation and noted that the investigation is still in

progress. I will follow up on the investigation and the implementation of the planned actions during my next audit.

Payments made for fleet management service items above market value

91. The municipality entered into a contract for the provision of automated fleet and fuel management solutions during June 2018 as their fleet was in a state of disrepair and most of the vehicles reached its economical lifespan. On 20 July 2018, a “price negotiation” meeting was held between appointed service provider and the municipality. Several items were included in the original tender and were procured at prices above market values.
92. MFMA section 62(1)(a) states that the accounting officer of a municipality is responsible for managing the financial administration of the municipality and must for this purpose take all reasonable steps to ensure that the resources of the municipality are used effectively, efficiently and economically. The municipality did not ensure that the resources of the municipality were used effectively, efficiently and economically procured during the price negotiations as goods and services were procured at above market related values. Therefore the municipality did not obtain value for money for the payments made. The non-compliance with MFMA section 62(1)(a) is therefore likely to result in a material financial loss for the municipality as the prices paid for the items that formed part of the original tender process was higher than the market price.
93. The accounting officer was notified of this material irregularity on 8 December 2021 and was invited to make a written submission on the actions that will be taken to address the matter. A response from the accounting officer was received on 11 January 2022. The accounting officer indicated that he completed the investigation process in line with MFMA section 32 and subsequently disciplinary steps have been taken against the chair of the bid evaluation committee and the deputy chief financial officer. The above-mentioned officials were dismissed or they resigned, including the accounting officer responsible for concluding the contract. The contract with the service provider was terminated during August 2019 based upon a high court order, to prevent further financial loss. The investigation and the criminal process is still on going, despite regular follow-ups by the accounting officer. It is not practicable to determine when the investigation and criminal process be finalised due to the complex legal nature of the transaction.
94. Upon the conclusion of the Hawks' investigation, the accounting officer intends to initiate legal proceedings against the individuals accountable for the incurred losses and pursue legal restitution to recover the misappropriated funds. In November 2023, I followed up on the progress made by the Hawks in their investigation and noted that the investigation is still in progress. I will follow up on the investigation and the implementation of the planned actions during my next audit.

Penalties paid as a result of late submission of VAT returns

95. The municipality incurred penalties as a result of late submission of the November 2019 VAT return, in contravention of section 28(1)(a) of the VAT Act. The non-compliance with section 28(1)(a) of the VAT Act has resulted in a material financial loss for the Rustenburg Local Municipality of R2 298 252 by 30 June 2020. The penalties paid are included in the fruitless

and wasteful expenditure register of the municipality and in the fruitless and wasteful expenditure disclosed in note 54 to the financial statements.

96. The accounting officer was notified of this material irregularity on 16 March 2021 and was invited to make a written submission on the actions taken and that will be taken to address the matter. The accounting officer has completed the investigation process in line with MFMA section 32 as per the unauthorised, irregular, fruitless and wasteful expenditure reduction plan and identified the responsible person, together with the applicable consequence.
97. The accounting officer investigated the fruitless and wasteful expenditure and concluded that the loss should be written off. The accounting officer further took appropriate action as he maintained preventative internal controls and no similar transgression have occurred.
98. The material irregularity has been resolved

Other reports

99. In addition to the investigations relating to material irregularities, I draw attention to the following engagements conducted by various parties. These reports did not form part of my opinion on the consolidated and separate financial statements or my findings on the reported performance information or compliance with legislation.
100. The Hawks were investigating various cases of corruption and fraud relating to contracts awarded during the 2017-18 and 2018-19 financial years. Those cases that were concluded were referred to the Director of Public Prosecutions (DPP) while the remainder of the investigations were still in progress at the date of the report.
101. The Hawks were investigating various cases relating to fraud and procurement irregularities which occurred during 2015-16 and 2017-18. Three of the cases were referred to the DPP for prosecution and one case was still under investigation.
102. Three matters relating to alleged procurement irregularities were referred to the Hawks for investigation, and the matter was also referred to the DPP.
103. An allegation of fraud that occurred in the 2016-17 financial year was referred to the DPCI for investigation. This investigation was concluded and referred to the DPP for prosecution.
104. An allegation of fraud committed by officials of the municipality that occurred in 2014 was referred to the Hawks for investigation. Criminal proceedings were underway.

105. An independent firm was appointed to perform a forensic audit on various SCM regulation 32 appointments by the municipality during 2016-17. The forensic investigations were still in progress. The outcome of the investigation will indicate how the matter will proceed.

Auditor General

Rustenburg

14 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 consolidated and separate financial statements and the procedures performed on reported performance information for selected key performance areas and on the municipality's compliance with selected requirements in key legislation.

Financial statements

In addition to my responsibility for the audit of the consolidated and separate financial statements as described in this auditor's report, I also:

- identify and assess the risks of material misstatement of the consolidated and separate 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 consolidated and separate 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 and its subsidiaries 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 consolidated and separate financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the consolidated and separate 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 consolidated and separate financial statements, including the disclosures, and determine whether the consolidated

and separate financial statements represent the underlying transactions and events in a manner that achieves fair presentation.

- obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the group to express an opinion on the consolidated financial statements. I am responsible for the direction, supervision and performance of the group audit. I remain solely responsible for my audit opinion.

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)