

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

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the JB Marks Local Municipality set out on pages xx to xx, which comprise the statement of financial position as at 30 June 2024, statement of financial performance, statement of changes in net assets, cash flow statement and statement of comparison of budget and actual amounts for the year then ended, as well as notes to the financial statements, including a summary of significant accounting policies.
2. In my opinion, except for the effects and possible effects of the matters described in the basis for qualified opinion section of this auditor's report, the financial statements present fairly, in all material respects, the financial position of the JB Marks Local Municipality as at 30 June 2024, and its financial performance and cash flows for the year then ended in accordance with the South African 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 2023 (Dora).

Basis for qualified opinion

Service charges

3. The municipality did not measure revenue from the sale of electricity and water in accordance with GRAP 9, *Revenue from exchange transactions*. The revenue from the sale of electricity and water in the current and previous years was based on estimated consumption and not on actual consumption for a substantial period of time. The municipality did not have adequate internal controls in place to ensure that the revenue billed is based on the recent actual meter readings, in compliance with the municipal by-laws. I was unable to determine the full extent of the misstatement of the sale of electricity, sale of water and consumer debtors as it was impracticable to do so.

Repairs and maintenance

4. During 2023, the public entity did not correctly record repairs and maintenance transactions as required by GRAP 1, *Presentation of financial statements* due to the municipality not having an adequate system to record and allocate expenditure transactions that agree to the invoice in the correct account. Consequently, repair and maintenance as disclosed in note 37 is overstated by R52 027 540, and general expenditure as disclosed in note 36 by the same amount. My opinion on the current year's financial statements is modified because of the effect of this matter on the comparability of the expenditure for the current period and corresponding figures.

Property plant and equipment

5. During 2023, I was unable to obtain sufficient appropriate audit evidence for work in progress additions included in additions in property plant and equipment due to the accounting records not being submitted. I could not confirm these additions by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to the additions included property, plant and equipment stated at R149 633 786 in note 9 to the financial statements. My audit opinion on the financial statements for the period ended 30 June 2023 was modified accordingly. I was still unable to confirm this by alternate means. My opinion on the current period's financial statements is also modified because of the possible effect of this matter on the comparability of the current period's figures.

Context for opinion

6. 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.
7. 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.
8. 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

9. I draw attention to the matter below. My opinion is not modified in respect of this.
10. I draw attention to note 54 to the financial statements, which indicates that an operating deficit of R298 869 882 was incurred during the year ended 30 June 2024 and, as of that date the current liabilities exceeded current assets by R480 859 363. As stated in note 54, these events or conditions, along with other matters as set forth in note 54, indicate that a material uncertainty exists that may cast significant doubt on the municipality's ability to continue as a going concern.

Emphasis of matters

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

Material impairments – receivables from non-exchange transactions

12. As disclosed in note 5 to the financial statements, traffic fines have been significantly impaired. The allowance for impairment amounts to R585 332 721(2023: R579 256 662) which represents 98% (2023: 98%) of the receivables from non-exchange.

Material impairments – consumer debtors

13. As disclosed in note 6 to the financial statements, consumer debtors have been significantly impaired. The allowance for impairment amounts to R1 033 089 724 (2023: R896 247 782) which represents 83% (2023: 82%) of the total consumer debtor. In addition, as disclosed in note 6 to the financial statements, debt impairment of R136 841 942 (2023: R191 637 070) was incurred as a result of significant impairment of consumer debtors.

Distribution losses

14. As disclosed in note 38 to the financial statements, the municipality incurred distribution losses on electricity in excess of the norms of 21%.

Restatement of corresponding figures

15. As disclosed in note 50 to the financial statements, the corresponding figures for 30 June 2023 were restated as a result of errors in the financial statements of the municipality at, and for the year ended 30 June 2024.

Other matter

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

Unaudited disclosure notes

17. 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

18. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the GRAP and the requirements of the MFMA and the Dora and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

19. 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

20. 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.

21. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report. This description, which is located at page [XX], forms part of our auditor's report.

Report on the audit of the annual performance report

22. In accordance with the Public Audit Act 25 of 2004 (PAA) and the general notice issued in terms thereof, I must audit and report on the usefulness and reliability of the reported performance against predetermined objectives for the selected key performance area presented in the annual performance report. The accounting officer is responsible for the preparation of the annual performance report.

23. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2024 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	Page numbers	Purpose
Basic service and infrastructure development	[XX]	To eradicate backlogs in order to improve access to basic services and ensure proper operations and maintenance of infrastructure
Local economic development	[XX]	To create an environment that promotes the development of the economy and facilitates job creation

24. I evaluated the reported performance information for the selected key performance areas against the criteria developed from the performance management and reporting framework, as defined in the general notice. When an annual performance report is prepared using these criteria, it provides useful and reliable information and insights to users on the municipality's planning and delivery on its mandate and objectives.

25. I performed procedures to test whether:

- the indicators used for planning and reporting on performance can be linked directly to the municipality's mandate and the achievement of its planned objectives
- all the indicators relevant for measuring the municipality's performance against its primary mandated and prioritised functions and planned objectives are included

- the indicators are well defined to ensure that they are easy to understand and can be applied consistently, as well as verifiable so that I can confirm the methods and processes to be used for measuring achievements
- the targets can be linked directly to the achievement of the indicators and are specific, time bound and measurable to ensure that it is easy to understand what should be delivered and by when, the required level of performance as well as how performance will be evaluated
- the indicators and targets reported on in the annual performance report are the same as those committed to in the approved initial or revised planning documents
- the reported performance information is presented in the annual performance report in the prescribed manner and is comparable and understandable
- there is adequate supporting evidence for the achievements reported and for the measures taken to improve performance

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

27. I did not identify any material findings on the reported performance information for the key performance area Local economic development.

28. The material findings on the reported performance information for the selected key performance area Basic services and infrastructure development are as follows:

Basic Service and Infrastructure Development

% of households reticulated with bulk water supply in Boikhutso (phase 2) by June 2024

29. An achievement of 95.2% was reported against a target of 100%. However, the audit evidence did not support this achievement. I could not determine the actual achievement, but I estimated it to be materially less than reported. Consequently, it is likely that the achievement against the target was lower than reported.

Other matters

30. I draw attention to the matters below.

Achievement of planned targets

31. The annual performance report includes information on reported achievements against planned targets and provides measures taken to improve performance. This information should be considered in the context of the material findings on the reported performance information.

32. The tables that follow provide information on the achievement of planned targets and list the key service delivery indicators that were not achieved as reported in the annual performance report. The 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: 45% Budget spent 79%		
Key service delivery indicators not achieved	Planned target	Reported achievement
Number of KM Road Constructed in Ventersdorp and Boikhutsong by June 2024	3.7	2.6
Number of KM Road and Storm Water Constructed in JB Marks (Ikageng) by June 2024	6.2	5.6
Number of Households provided with sewer reticulation and top structure in Ext 13 (Ward 26) (Phase 2 & 3) by June 2024"	739	0
Number of Households provided with Water Reticulation in Ext 6 Ikageng (Erven 10569, 10857,10580,105858) by June 2024	180	0
Number of Households provided with Sewer Reticulation in Ext 6 Ikageng (Erven 10569,10857,10580,105858) by June 2024	180	0
% of construction of New Reservoir (25ml) in Ikageng by June 2024	60%	55%
% of Development of Cell 4 at Phelo Phepa Land Fill Site by June 2024	15%	1%
% of Two Sewer Pumps upgraded in Toevlug Pump Station by June 2024	100%	96.66%
% of High Mast Lights installation project in various sections in JB Marks LM Areas by June 2024	100%	58.00%
Number of households electrified in Tshing Ext 10 (Ward 31) by June 2024	1378	30
"% of Households reticulated with Bulk Water Supply in Boikhutso (Phase 2) by June 2024	100%	95.20%
Number of Households with access to basic level Water in the JB Mark LM areas by June 2024	60204	59258
Number of Households with access to basic level Sanitation in the JB Mark LM areas by June 2024	60204	59258
Number of Households with access to basic level Electricity in the JB Mark LM areas by June 2024	56761	55815

Number of Households with access to basic level Solid Waste Removal in the JB Mark LM areas by June 2024	54527	53581
Number of dangerous goods transportation vehicle inspections conducted in JB Marks LM by end June 2024	100	54
Number of Library programmes conducted in JB Marks LM Areas by June 2022	144	86

Local economic development

<i>Targets achieved: 75%</i>		
<i>Budget spent: 115%</i>		
Key service delivery indicators not achieved	Planned target	Reported achievement
Number of compliant business certificates completed within JB Marks LM areas by June 2024	40	7

Material misstatements

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

Report on compliance with legislation

34. 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.

35. 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.

36. 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.

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

Annual financial statements and annual report

38. 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 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.

39. The council failed to adopt an oversight report containing the council's comments on the 2022-23 annual report, as required by section 129(1) of the MFMA.

Asset management

40. An investment policy was not adopted by the council, as required by section 13(2) of the MFMA and municipal investment regulation 3(1)(a).

Expenditure management

41. Reasonable steps were not taken to prevent irregular expenditure amounting to R374 233 233 as disclosed in note 56 to the annual financial statements, as required by section 62(1)(d) of the MFMA. The majority of the disclosed irregular expenditure was caused by awards made not following the competitive bidding process.

42. Reasonable steps were not taken to prevent fruitless and wasteful expenditure amounting to R33 474 210, as disclosed in note 46 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 late payments to major supplier Eskom.

43. Reasonable steps were not taken to prevent unauthorised expenditure amounting to R15 006 166 as disclosed in note 45 to the annual financial statements, in contravention of section 62(1)(d) of the MFMA. The unauthorised expenditure was caused by the overspending of the budget.

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

Procurement of contract management

45. Sufficient appropriate audit evidence could not be obtained that invitations for competitive bidding were advertised for a required minimum period of days, as required by SCM regulations 22(1) and 22(2). Similar non-compliance was also reported in the prior year.

46. Sufficient appropriate audit evidence could not be obtained that contracts were awarded to bidders based on points given for legislative requirements that were stipulated in the original invitation for bidding, as required by SCM regulations 21(b) and 28(1)(a(i) and Preferential Procurement Regulations. Similar non-compliance was also reported in the prior year

47. Sufficient appropriate audit evidence could not be obtained that contracts were awarded through a competitive bidding process that were adjudicated by the bid adjudication committee as required by SCM regulations 29(1) (a) and (b) and the Preferential Procurement Regulations. Similar non-compliance was also reported in the prior year.
48. Sufficient appropriate audit evidence could not be obtained that the accounting officer ratified the decision of bid adjudication committee of awarding contracts to bidders other than those recommended by the bid evaluation committee as required by SCM regulation 29(5)(b).
49. Sufficient appropriate audit evidence could not be obtained that councillors of the municipality participated in committees evaluating or approving tenders or attended meetings of committees evaluating or approving tenders, in contravention of section 117 of the MFMA.
50. The preference point system was not applied on some of the procurement of goods and services as required by section 2(1) (a) of the Preferential Procurement Policy Framework Act. Similar non-compliance was also reported in the prior year.
51. Some of the contracts were awarded to bidders based on preference points that were not allocated 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.
52. 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 Regulations 11 and/or 2022 Preferential Procurement Regulation 4(4) and 5(4). Similar non-compliance was also reported in the prior year.
53. Sufficient appropriate audit evidence could not be obtained that construction contracts were awarded to contractors that were registered with the Construction Industry Development Board (CIDB) and qualified for the contract in accordance with section 18(1) of the CIDB Act and CIDB regulations 17 and 25(7A). Similar non-compliance was also reported in the prior year
54. 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. Similar limitation was also reported in the prior year.
55. 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. Similar limitation was also reported in the prior year.
56. 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.
57. 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 MFMA 112(1) (j) and SCM Regulation 44. Similar awards were identified in the previous year and no effective steps were taken to prevent or combat the abuse of the SCM process, as required by SCM regulation 38(1).

Consequence management

58. 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.
59. Irregular expenditure and fruitless expenditure incurred by the municipality were not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA.

Revenue management

60. A credit control and debt collection policy was not adopted, as required by section 96(b) of the Municipal Systems Act (MSA) and section 62(1)(f)(iii) of the MFMA.
61. An effective system of internal control for revenue was not in place, as required by section 64(2)(f) of the MFMA.

Strategic planning and performance management

62. The performance management system and related controls were not maintained as it did not describe how the performance planning and measurement processes should be conducted as required by municipal planning and performance management regulation 7(1).
63. The SDBIP for the year under review did not include the monthly operational and capital expenditure by vote as required by section 1 of the MFMA.

Human resources management

64. Appropriate systems and procedures to monitor, measure and evaluate the performance of staff were not developed and adopted, as required by section 67(1)(d) of the MSA and regulation 31 of Municipal Staff Regulations.

Other information in the annual report

65. 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 areas presented in the annual performance report that have been specifically reported on in this auditor's report.
66. 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.
67. 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 areas presented in the annual performance report or my knowledge obtained in the audit or otherwise appears to be materially misstated.

68. I did not receive the other information prior to the date of this auditor's report. When I do receive and read this information, if I conclude that there is a material misstatement therein, I am required to communicate the matter to those charged with governance and request that the other information be corrected. If the other information is not corrected, I may have to retract this auditor's report and re-issue an amended report as appropriate. However, if it is corrected, this will not be necessary.

Internal control deficiencies

69. 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.
70. The matters reported below are limited to the significant internal control deficiencies that resulted in the qualified opinion, the material findings on the annual performance report and the material findings on compliance with legislation included in this report.
71. The leadership did not provide sufficient oversight regarding financial reporting and compliance with laws and regulations. There were inadequate reviews and a lack of monthly or bi-annual preparation of the financial statements to ensure that the transactions reported aligned with the supporting schedules, were backed by reliable information, and met all disclosure requirements as mandated by the GRAP standards. This was evidenced by material misstatements identified during the audit process, some of which were subsequently corrected, as well as repeated findings of non-compliance with laws and regulations.
72. Inadequate implementation of SCM procedures and policies by management to ensure fairness, competitiveness and transparency when procuring goods and services. This, together with a lack of monitoring of contracts resulted in non-compliance with SCM regulations and the incurrence of irregular expenditure.
73. The leadership did not adequately implement consequence management by ensuring that unauthorised, irregular, fruitless and wasteful expenditure was investigated and the responsible parties held accountable.
74. A permanent audit committee was not in place for a significant time during the financial year, leading to governance instability in the municipality. In addition, no reports issued by internal audit during the financial year under review.

Material irregularities

75. In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularities identified during the audit and on the status of material irregularities as previously reported in the auditor's report.

Status of previously reported material irregularities

Flood line canal – Project not adequately planned

76. The municipality awarded a contract in November 2016 for the construction of a flood line canal next to the N12 and Ikageng extension 11. The municipality did not adequately plan and budget for the project, as the contractor was appointed before funding was secured and the budget finalised, and although municipal infrastructure grant (MIG) funds were not confirmed for the 2017-18 and 2018-19 financial years. The municipality stopped the project in July 2017 due to insufficient funds, with no further construction activity for a period of almost three years between July 2017 and June 2020. During the period when the project had been effectively abandoned, the work which was done up to July 2017 had deteriorated to a state that required all of the work to be redone as from 2022 when construction was resumed. As a result, the resources of the municipality were not used effectively, efficiently and economically as required by section 65(1)(a) of the MFMA.

77. The accounting officer was notified of this material irregularity on 29 March 2022 and invited to make a written submission on the actions taken or to be taken to address the matter. The accounting officer agreed that it was a material irregularity (MI) and committed to investigate the matter. The investigation was expected to be completed by 31 July 2022. The investigation was not completed by the mentioned date.

78. The accounting officer has not taken appropriate action to address the MI as the committed actions were not implemented. As a result, I referred the material irregularity to the Special Investigation Unit (SIU) on 10 June 2023 for investigation as provided for in section 5(1A) of the PAA. The referral was accepted by the SIU on 4 October 2024 and the investigation is currently in progress.

Pollution of water resource not prevented: Ventersdorp Waste Water Treatment Works and pump stations

79. The municipality did not take reasonable measures at Ventersdorp Wastewater Treatment works and pump stations to prevent pollution or degradation of the environmental 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, and related pump stations have not functioned properly for more than three years, with overflows causing some serious pollution to the site and surroundings. This is due to vandalism of cables, stolen equipment, and depleted and decayed infrastructure. The untreated effluent that is discharged into the environment adjacent to the Ventersdorp WWTW and Tshing Extension 8 pump station flows into a stream and ultimately into the Elandskuil dam. At the Ventersdorp Town pump station (in Rosher Street) the effluent is discharged into the Schoonspruit which is next to the pump station. The Elandskuil dam also eventually flows into the Schoonspruit south of Ventersdorp. This contaminates the ground water in the surrounding areas which is also polluted due to overflows. The non-compliance is likely to cause substantial harm to the communities exposed to, and dependent on, the contaminated water resources.

80. The accounting officer was notified of the MI on 6 October 2022 and invited to make a written submission on the actions taken, and to be taken, to address the matter. The accounting officer responded by indicating that physical security is now stationed at the pump stations and camera

surveillance installed at the plant to prevent blockage overflows; flushing of the main lines at identified strategic points is being performed on a continuous basis; de-slugging of settling ponds at the plant is being done on a continuous basis; the unlined pit for inlet screens was closed at the WWTW; the palisade fencing at the plant has been fully repaired; and the province has been requested to assist the municipality with a jet machine to manage outflows.

81. A follow-up site visit to the wastewater works and related pump stations was performed in April 2023 and October 2023. It was confirmed that despite the appointment of physical security and flushing of the main lines, serious blockages and overflows within the sewer reticulation were still unresolved with very little wastewater reaching the pump station or the plant for treatment and disposal processes.
82. I referred the material irregularity to the Department of Water and Sanitation (DWS) on 27 February 2024 for investigation, as provided for in section 5(1A) of the PAA. The referral was accepted by the DWS on 15 April 2024 and the investigation is currently in progress.

Inadequate safeguarding of sport complexes

83. During a physical verification in 2020, it was noted that two sport complexes included in community assets as disclosed in the financial statements, had been severely vandalised. The fences around the stadiums were not maintained and on the day of initial verification of the Sarafina Sport complex, the gate was locked with no security guard present. No security guards were present at the Ventersdorp sport complex. The vandalism resulted in the municipality needing to impair these buildings as per GRAP 17 guidelines in the 2019-20 financial year.
84. The municipality therefore failed to take reasonable steps to safeguard these assets, as required by section 63(2)(c) of the MFMA. The non-compliance has resulted in a material financial loss of R4 985 404 that was included in the impairment of property, plant and equipment, as disclosed in note 30 to the previous year financial statements. The loss was calculated as the difference between the carrying values of the assets prior to the impairment and the value of the assets after impairment as per fixed asset register and disclosed in the financial statements.
85. The accounting officer was notified of this material irregularity on 23 March 2021. The accounting officer failed to respond to the material irregularity. Consequently, I recommended that the accounting officer should take the following actions to address the material irregularity by 10 May 2022:
- a. Reasonable steps should be taken to safeguard these municipal assets from any further losses. as required by section 63(1)(a) of the MFMA read with section 63(2)(c) of the MFMA.
 - b. The non-compliance should be investigated to determine whether any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
 - c. Disciplinary or, when appropriate, criminal proceedings should commence against any official who had allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA, and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.

- d. Appropriate action should be taken to recover the financial loss suffered through any applicable insurance policies that may be in place at the municipality. Alternatively, if the financial loss is not recovered in full, then any person(s) liable for the losses should be identified and appropriate action should commence to recover the remaining financial loss.
- e. If it appears that the municipality suffered the financial loss through criminal acts or possible criminal acts or omission, this should be reported to the South African Police Service, as required by section 32(6)(b) of the MFMA.

86. The accounting officer did not provide a written response with substantiating documentation on the implementation of the recommendations. Based on the lack of a written response, I concluded that the recommendations were not adequately implemented.

87. On 1 September 2022, I notified the accounting officer of the outcome of the assessment and issued a directive in terms of section 5A (3) of the PAA to determine the amount of the financial loss and recover such loss or make progress with the recovery of the loss from the responsible person by 1 December 2022.

88. In addition, I notified the accounting officer of the following remedial actions to address the material irregularity, which should be implemented by the same date:

- a. Reasonable steps must be taken to safeguard these assets of the municipality from any further losses, as required by section 63(1)(a) of the MFMA read with section 63(2)(c) of the MFMA.
- b. The non-compliance must be investigated to determine if any official might have committed an act of financial misconduct or an offence in terms of chapter 15 of the MFMA.
- c. Disciplinary proceedings should commence without undue delay against any official who had allegedly committed an act of financial misconduct or an offence, as required by section 62(1)(e) of the MFMA, and in the manner prescribed by the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- d. If a senior manager of the municipality had allegedly committed an act of financial misconduct, the accounting officer must report the allegation to the municipal council, the provincial treasury and the National Treasury, as required by regulation 3(1) of the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings.
- e. Appropriate action must be taken to recover the financial loss suffered through any applicable insurance policies which may be in place at the municipality; alternatively, if the financial loss cannot be recovered in part or in full through an insurance policy, any person(s) liable for the losses should be identified and appropriate action should commence to recover the remaining financial loss.
- f. If it appears that the municipality suffered the financial loss through criminal acts or possible omission, this must be reported to the South African Police service, as required by section 32(6)(b) of the MFMA.

89. A response was not received by the due date of 1 December 2022. On 27 January 2023, the accounting officer provided a written response with substantiating documentation, which was assessed to be incomplete.

90. The accounting officer was, therefore, requested to provide additional documentation to support the actions taken. The written responses and substantiating documents were received on 4 October 2023 and 7 November 2023.

91. Based on the representations made and the substantiating documents provided, the accounting officer was notified on 10 June 2024 that appropriate actions had been taken to address the material irregularity.

Other reports

92. 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 financial statements or my findings on the reported performance information or compliance with legislation.

93. The South African Police Service is conducting several investigations into the awarding of tenders and allegations of fraud and theft prompted by the accounting officer. These investigations are still ongoing at the date of this report.

Auditor General
Rustenburg

30 November 2024



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure to the auditor's report

The annexure includes the following:

- The auditor-general's responsibility for the audit
- The selected legislative requirements for compliance testing

Auditor-general's responsibility for the audit

Professional judgement and professional scepticism

As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for selected key performance area and on the municipality's compliance with selected requirements in key legislation.

Financial statements

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

- identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error; design and perform audit procedures responsive to those risks; and obtain audit evidence that is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations or the override of internal control
- obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the municipality's internal control
- evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made
- conclude on the appropriateness of the use of the going concern basis of accounting in the preparation of the financial statements. I also conclude, based on the audit evidence obtained, whether a material uncertainty exists relating to events or conditions that may cast significant doubt on the ability of the municipality to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in my auditor's report to the related disclosures in the financial statements about the material uncertainty or, if such disclosures are inadequate, to modify my opinion on the financial statements. My conclusions are based on the information available to me at the date of this auditor's report. However, future events or conditions may cause a municipality to cease operating as a going concern
- evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and determine whether the financial statements represent the underlying transactions and events in a manner that achieves fair presentation

Communication with those charged with governance

I communicate with the accounting officer regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that I identify during my audit.

I also provide the accounting officer with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters that may reasonably be thought to bear on my independence and, where applicable, actions taken to eliminate threats or safeguards applied.

Compliance with legislation – selected legislative requirements

The selected legislative requirements are as follows:

Legislation	Sections or regulations
Municipal Finance Management Act 56 of 2003 (MFMA)	Section 1 (a), (b) & (d) of the definition: irregular expenditure Section 1 Definition of SDBIP Sections 11(1); 13(2); 14(1); 14(2)(a); 14(2)(b); 15 Sections 24(2)(c)(iv); 29(1); 29(2)(b); 32(2) Sections 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) Sections 62(1)(d); 62(1)(f)(i); 62(1)(f)(ii); 62(1)(f)(iii) Sections 63(2)(a); 63(2)(c); 64(2)(b); 64(2)(c); 64(2)(e) Sections 64(2)(f); 64(2)(g); 65(2)(a); 65(2)(b); 65(2)(e) Sections 72(1)(a)(ii); 95(a); 112(1)(iii); 112(1)(j) Sections 116(2)(b); 116(2)(c)(ii); 117; 122(1); 122(2) Sections 126(1)(a); 126(1)(b); 127(2); 127(5)(a)(i) Sections 127(5)(a)(ii); 129(1); 129(3); 133(1)(a) Sections 133(1)(c)(i); 133(1)(c)(ii); 170; 171(4)(a); 171(4)(b)
LG: MFMA: Municipal budget and reporting regulations, 2009	Regulations 71(1); 71(2); 72
LG: MFMA: Municipal investment regulations, 2005	Regulations 3(1)(a); 3(3); 6; 7; 12(2); 12(3)
LG: MFMA: Municipal regulations on financial misconduct procedures and criminal proceedings, 2014	Regulations 5(4); 6(8)(a); 6(8)(b); 10(1)
LG: MFMA: Municipal supply chain management (SCM) regulations, 2017	Regulations 5; 12(1)(b); 12(1)(c); 12(3); 13(b); 13(c); 13(c)(i) Regulations 16(a); 17(1)(a); 17(1)(b); 17(1)(c); 19(a) Regulations 21(b); 22(1)(b)(i); 22(2); 27(2)(a); 27(2)(e) Regulations 28(1)(a)(i); 28(1)(a)(ii); 29(1) (a) and (b) Regulations 29(5)(a)(ii); 29(5)(b)(ii); 32; 36(1) Regulations 38(1) (c); 38(1)(d)(ii); 38(1)(e); 38(1)(g)(i) Regulations 38(1)(g)(ii); 38(1)(g)(iii) Regulations 43; 44; 46(2)(e); 46(2)(f)
Municipal Systems Act 32 of 2000 (MSA)	Sections 25(1); 26(a); 26(c); 26(i); 26(h); Sections 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) Sections 56(a); 57(2)(a); 57(4B); 57(6)(a) Sections 66(1)(a); 66(1)(b); 67(1)(d); 74(1) Sections 93B(a); 93B(b); 93C(a)(iv); 93C(a)(v); 96(b)
LG: MSA: Municipal planning and performance management regulations, 2001	Regulations 2(1)(e); 2(3)(a); 3(3); 3(4)(b); 3(5)(a); 7(1); 8 Regulations 9(1)(a); 10(a); 12(1); 15(1)(a)(i); 15(1)(a)(ii)
LG: 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)
LG: MSA: Regulations on appointment and conditions of employment of senior managers, 2014	Regulations 17(2); 36(1)(a)

Legislation	Sections or regulations
LG: MSA: Disciplinary Regulations for Senior Managers, 2011	Regulations 5(2); 5(3); 5(6); 8(4)
Annual Division of Revenue Act (Dora)	Sections 11(6)(b); 12(5); 16(1); 16(3)
Construction Industry Development Board Act 38 of 2000 (CIDB)	Section 18(1)
CIDB regulations	Regulations 17; 25(7A)
Municipal Property Rates Act 6 of 2004 (MPRA)	Section 3(1)
Preferential Procurement Policy Framework Act 5 of 2000 (PPPFA)	Sections 2(1)(a); 2(1)(f)
Preferential Procurement Regulations (PPR), 2017	Regulations 5(1); 5(3); 5(6); 5(7) Regulations 6(1); 6(2); 6(3); 6(5); 6(6); 6(8) Regulations 7(1); 7(2); 7(3); 7(5); 7(6); 7(8) Regulations 8(2); 8(5); 9(1); 10(1); 10(2); 11(1)
Preferential Procurement Regulations (PPR), 2022	Regulations 3(1) Regulations 4(1); 4(2); 4(3); 4(4) Regulations 5(1); 5(2); 5(3); 5(4)
Prevention and Combating of Corrupt Activities Act 12 of 2004 (PRECCA)	Section 34(1)