

Report of the auditor-general to Limpopo Provincial Legislature and the council on Ba-Phalaborwa Local Municipality

Report on the audit of the financial statements

Qualified opinion

1. I have audited the financial statements of the Ba-Phalaborwa Municipality set out on pages ... to ..., which comprise the statement of financial position as at 30 June 2023, 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 Ba-Phalaborwa Municipality as at 30 June 2023 and its financial performance and cash flows for the year then ended in accordance with the Standards of Generally Recognised Accounting Practices (Standards of GRAP) and the requirements of Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 5 of 2022 (DoRA).

Basis for qualified opinion

Payables from exchange transactions

3. I was unable to obtain sufficient appropriate audit evidence for the restatement of the corresponding amount for payables from exchange transactions, relating to the Mopani District Municipality (water and sanitation). As described in the reconciliation table in note 47, the restatement amounting to R18 593 682 was made to rectify a previous year misstatement, but the restatement could not be substantiated by supporting audit evidence. I was unable to confirm the restatement by alternative means. Consequently, I was unable to determine whether any adjustment was necessary to the payables from exchange transactions corresponding figure stated at R598 798 676 in Note 15 to the financial statements.

Value added tax (VAT) payable

4. The municipality is providing water and sanitation on behalf of Mopani District Municipality. This arrangement constitutes a principle-agent relationship. The municipality accounted for VAT relating to water and sanitation transactions not in accordance with the Value Added Tax Act 89 of 1991. I was unable to determine the impact on VAT payable, stated at R53 672 201 in note 16 to the financial statements, as it was impracticable to do so.

Context for opinion

5. 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.
6. 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.
7. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Other matter

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

Unaudited disclosure notes

9. In terms of section 125(2)(e) of the MFMA, the particulars of non-compliance with the MFMA should be disclosed in the financial statements. This disclosure requirements did not form part of the audit of the financial statements and, accordingly, I do not express an opinion on it.

Responsibilities of the accounting officer for the financial statements

10. The accounting officer is responsible for the preparation and fair presentation of the financial statements in accordance with the Standard of GRAP and the requirements of the MFMA and DoRA and for such internal control as the accounting officer determines is necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.
11. 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

12. 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.

13. A further description of my responsibilities for the audit of the financial statements is included in the annexure to this auditor's report.

Report on the audit of the annual performance report

14. 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.

15. I selected the following key performance area presented in the annual performance report for the year ended 30 June 2023 for auditing. I selected a key performance area that measures the municipality's performance on its primary mandated functions and that is of significant national, community or public interest.

Key performance area (KPA)	Page numbers	Purpose
KPA 2: Basic service delivery	[XX]	Provision of sustainable integrated infrastructure and service

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

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

18. The material finding on the reported performance information for the selected key performance area is as follows:

KPA 2 – Basic Service Delivery

Number of household with access to electricity in municipal licenced area (Phalaborwa Town) by 30/06/2023.

19. An achievement of 3 931 was reported against a target of 4 167. 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 underachievement on the target was more than reported.

Other matters

20. I draw attention to the matters below.

Achievement of planned targets

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

22. The municipality plays a key role in delivering services to South Africans. The table that follows provide information on the achievement of planned targets and lists the key service delivery indicators that were not achieved as reported in the annual performance report. The measures taken to improve performance are included in the annual performance report on pages XX to XX.

KPA 2: Basic service delivery

<i>Targets achieved: 75%</i> <i>Budget spent: 42%</i>		
Key service delivery indicator not achieved	Planned target	Reported achievement
Number of kilometres of gravel roads upgraded to tar by 30/06/2023 (Benfarm upgrading of street 1km)	1	0
Number of indigents households receiving free basic waste removal services by 30/06/23	907	334
Number of HH with access to electricity in municipal licenced area (Phalaborwa town) by 30/06/23	4167	3931

Material misstatements

23. I identified material misstatements in the annual performance report submitted for auditing. These material misstatements were in the reported performance information for KPA 3: basic service delivery. Management did not correct all of the misstatements and I reported a material finding in this regard.

Report on compliance with legislation

24. 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.
25. 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.
26. 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.
27. The material findings on compliance with the selected legislative requirements, presented per compliance theme, are as follows:

Annual financial statements

28. The financial statements submitted for auditing were not prepared in all material respects in accordance with the requirements of section 122(1) of the MFMA.

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

Strategic planning and performance management

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

Procurement and contract management

30. Awards were made to providers whose directors 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).
31. Persons in the service of the municipality who had a private or business interest in contracts awarded by the municipality failed to disclose such interest, in contravention of SCM Regulation 46(2)(e) and the code of conduct for staff members issued in terms of the Municipal Systems Act 32 of 2000 (MSA).

Human resource management

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

Other information in the annual report

33. 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 financial statements, the auditor's report and those selected key performance area presented in the annual performance report that have been specifically reported on in this auditor's report.
34. 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.
35. My responsibility is to read this other information and, in doing so, consider whether it is materially inconsistent with the financial statements and the selected key performance area presented in the annual performance report or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
36. 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

37. 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.

38. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the qualified opinion and the material findings on the annual performance report and the material findings on compliance with legislation included in this report.
39. Senior management did not adequately oversee the operations of the municipality, as the financial statements and annual performance report contained material misstatements not detected by the municipality's own system of internal control.
40. The municipality did not have sufficient monitoring controls to ensure the proper implementation of the overall processes of reporting on predetermined objectives.
41. Proper record keeping was not implemented to ensure that complete, relevant and accurate information was accessible and available to support financial and performance reporting.
42. Controls over daily and monthly processing, following up and reconciling of transactions were inadequate.
43. Internal controls for monitoring compliance with legislation were ineffective as it did not detect and prevent instances of non-compliance with legislation.
44. The municipality's reactive approach in addressing inadequate systems of internal control indicates that mitigating processes are not effective.

Material irregularities

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

Status of previously reported material irregularities

Water consumers not billed monthly for estimated consumptions

46. The municipality is a water service provider (WSP) and the Mopani District Municipality (district municipality) the water service authority (WSA), a water service provider contract exists between the municipality and district municipality, regulating the water service relationship. Clause 9.2 of the signed contract requires that "The WSP shall be responsible for ensuring that meter readings takes place on a monthly basis in the water services area. If for any reason, the WSP cannot gain access to the meters it shall make note of this and the reason thereof and make justifiable estimated consumption of water based on historical information available to the WSP".
47. Contrary to the above requirements, the municipality did not comply with the contractual agreement and MFMA legislation. The municipality did not bill customers for the water services rendered on a monthly basis as required, only charging customers based on actual readings as the billing system is not configured to bill estimated consumption. The municipality also did not make reasonable estimates on the accounts that were not billed. I identified a significant number of customers within the municipality whose water consumption was not billed on the

municipality's billing system for various periods throughout the 2020-21 financial year, ranging from one to 12 months. The municipality made an estimated consumption of water when actual readings were not taken, but for the 2020-21 financial year did not recognise the estimation on the billing system, nor provide the consumer with an account.

48. This resulted in non-compliance with section 64(2)(b) of the MFMA; that revenue due to the municipality is calculated on a monthly basis; resulted in a likely material financial loss, and further losses are likely to occur, as the municipality is continuing not billing and providing an account for estimated water consumption to a consumer.

49. The accounting officer was notified of the material irregularity (MI) on 9 November 2022 and invited to make a written submission on the actions taken and that will be taken to address the MI. The accounting officer responded on 6 December 2022 and the following actions have been taken to address the MI:

- Management performed investigations during March and April 2023 into the non-billing and an investigation report was submitted to council on 29 June 2023, pending council's approval.
- Some of the water meters problems were addressed emanating from the investigation, i.e. meters were repaired, replaced and for some customers, new water meters were installed. Meter readings are taken regularly.
- There is improvement in the billing system, since 31 March 2023, as the municipality will bill accounts once all the meter problems are resolved. The system was also configured to calculate the estimates, where meters could not be read.
- Some officials who contributed to the non-billing have been identified through the investigation and the investigating team is in process of identifying whether any other persons are responsible for the non-billing during the periods 2018 and 2019, in addition to the one's already identified.
- I will follow up on the investigations and additional corrective actions during my next audit.

Auditor-General.

Polokwane

1 December 2023



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

Annexure to the auditor's report

The annexure includes the following:

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

Auditor-general's responsibility for the audit

Professional judgement and professional scepticism

As part of an audit in accordance with the ISAs, I exercise professional judgement and maintain professional scepticism throughout my audit of the financial statements and the procedures performed on reported performance information for 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	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)

Legislation	Sections or regulations
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)