

MPAC REPORT:

1.Purpose

The purpose of the report is to present the MPAC Oversight on the 2020/2021 Merafong City Audited Annual Report to Council for consideration and adoption in terms of Section 129(1) of the MFMA

2.Background

Section 121 (1) of the MFMA Act 56 of 2003, stipulates that “every Municipality and every Municipal entity must for each financial year, prepare an Annual Report in accordance with its guidelines”

The purpose of this Audited Annual Report is to inter-alia:-

- A. Provide a record of all the activities of the Merafong City Municipal Local Council during the financial year, in this regard for 2020/2021 Financial year
- B. Provide a report on performance against the budget of the Merafong City Local Municipal Council for the Financial year under review, and
- C. Promote accountability to the local community for the decisions made throughout the year by the Municipality

3. ORGANISATIONAL IMPLICATIONS

None.

4. COMMUNICATION IMPLICATIONS

Following the adoption of the Annual Report of Merafong City Local Council, it should be submitted without delay to the Gauteng Treasury, the Department of Local government & Human Settlement, the Auditor General and also be posted into the website of Merafong City Local Council

5. CONSTITUTIONAL AND LEGAL IMPLICATIONS

In terms of the provision of Section 129 (1) of the MFMA Act of 2003, every municipality and every municipal entity should prepare and adopt the Annual Report.

Section 41 (1) (c) of the constitution of the Republic of South Africa states “All spheres of government and all organs of state within each sphere must “implement effective, transparent, accountable and coherent government for the Republic as a whole.

Municipal Public Account Committee (MPAC) has now completed its oversight role on the Annual Report of Merafong City Local Municipality and MPAC therefore tables the Annual Report to Council for consideration and adoption in terms of Section 129 (1) of the MFMA Act 56 of 2003

6. OTHER DEPARTMENTS / BODIES CONSULTED

None.

7. FINANCIAL IMPLICATIONS

Compliance with the MFMA and other related financial regulations.

8. AUDIT FINDINGS IN THE AUDITORS REPORT

(Basis for adverse of opinion)

8.1. Property plant and equipment

The AG found that there was over statement of work in progress and understatement of the completed asset by R209 034 079. This implies that the municipality failed to comply in terms of GRAP 17, Property, plant and equipment.

8.2. Consumer debtors

The AG found that the municipality did not maintain adequate records of other receivables from non-exchange receivables as at year-end which resulted in the overstatement of R82 268 586 of consumer debtors. This implies that the municipality did not comply in terms of GRAP 1, Consumer debtors

8.3. Trade payables

The AG found that the municipality did not maintain adequate records of outstanding payables for goods and services received but not yet paid at year-end in terms of GRAP 1, this resulted in the material understatement of trade payables by R24 332 409 as disclosed in note 20 of the financial statements.

8.4. Provisions in terms of GRAP 19

Provisions are overstated by R155 774 954 and Employee benefits understated by R155 774 954, which has an impact on the surplus for the year and non the accumulated surplus.

8.5. Prior period error

The restatement was made to rectify a previous year (2019/2020) which is cut and paste.

8.6. Net cash flow from operating activities as required by GRAP 2

The AG found that the municipality did not correctly prepare and disclose the net cash flows from operating activities which raise a grave concern to MPAC as to who was compiling and preparing the annual financial statements of the municipality.

8.7. Statement of comparison of budget and actual amounts as required by GRAP 24

The AG found that the cash flow statement portion of the statements of comparison of budget and the actual amounts and its accompanying note did not agree with the amounts in the cash flow statement. This also is raising a grave concern for MPAC as to who was compiling and preparing the annual financial statements of the municipality.

9. EMPHASIS OF MATTERS

9.1. Material uncertainty

The AG found that with reference to note 49 the municipality is the defendant in a number of law suits, the ultimate outcome of these matters could not be determined and no provision for any liability that may result was made in the financial statements. MPAC is advising council to resuscitate the Labor dispute resolution committee which is to be chaired by the Executive Mayor. This committee will minimize disputes and law suits.

9.2. Material losses- water

The AG found that as disclosed in note 64 to the financial statements, material water losses amounting to R54 215 995 were incurred, which represents 32.36% of the total water purchased. MPAC is concerned that year in year out water loss is escalating and that there are no efforts to mitigate that. MPAC is proposing that the Manager: Water and Sanitation should develop and present a water loss strategy and management to council and to consider the feasibility of installing the water demand taps in all public amenities/facilities. The municipality must have a bulk water meter reading.

9.3. Material losses- electricity

The AG found that as disclosed in note 64 to the financial statements, material electricity losses amounting to R102 114 633 were incurred, which represent 29.68% of total electricity purchased. The municipality must have a bulk electricity meter reading in informal settlements i.e. Kokosi Ext 6 & Ext 99

10. OTHER MATTER

(Unaudited discloser notes)

The AG found that in terms of section 125(2) (e) of the MFMA, the municipality is required to disclose particulars of non-compliance with the MFMA in the financial statements. This disclosure requirement did not form part of the audit of the financial statements. Section 71 monthly financial reports (MFMA) requires that the Accounting Officer through Section 80 Finance Committee, should submit monthly financial report to the Treasury. This disclosure requirement according to the AG, did not form part of the audit financial statements and accordingly as a results the AG did not express an opinion on it.

11. RESPONSIBILITIES OF THE ACCOUNTING OFFICER FOR THE FINANCIAL STATEMENTS

The Accounting Officer is responsible for the preparation and fair presentation of the financial statements in accordance with the Standards of Generally Recognised Accounting Practice (GRAP) and the requirements of the Municipal Finance Management Act 56 of 2003 (MFMA) and the Division of Revenue Act 04 of 2020 (Dora) and for such internal controls 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.

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.

12.MPAC ATTENTION WAS DRAWN BY THE AG's FINDINGS ON THE FOLLOWING:

- (i) The annual financial statements were not submitted to the Auditor-General, for auditing, within two months after the end of the financial year, as required by section 126(1)(a) of the MFMA.
- (ii) 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, property plant and equipment, deprivation, impairment loss, payables from exchange transactions, consumer debtors, revenue from exchange transactions and commitments identified by the auditors in the submitted financial statements were not corrected, resulting in the financial statements receiving a disclaimer audit opinion.

- (iii) Some of the contracts were awarded to bidders based on points given for criteria that differed from those stipulated in the original invitation for bidding, in contravention of Municipal Supply Chain Management (SCM) regulations 21(b) and 28(1)(a)(i) and the preferential procurement regulations
- (iv) Some of the goods and services of a transaction value above R200 000 were procured without inviting competitive bids, as required by SCM regulation 19(a). deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM regulation 36(1)
- (v) Some of the bid documentation for procurement of commodities designated for local content and production, did not stipulated the minimum threshold for local production and content as required by the 2017 preferential procurement regulation 8(2).
- (vi) The performance of some of the contractors or provider was not monitored on a monthly basis, as required by section 1169(2)(b) of the MFMA. Similar non-compliance was also reported in the prior year.
- (vii) The contract performance and monitoring measures and methods were not sufficient to ensure effective contract management, as required by section 116(2)(c) of the MFMA. Similar non-compliance was also reported in the prior year.
- (viii) Reasonable steps were not taken to prevent irregular expenditure amounting to R33 893 638 as disclosed in note 58 to the annual financial statements, as required by- section 62(1)(d) of the MFMA. All of the irregular expenditure was caused by contravention of regulation 19(a), due to no competitive bidding processes for goods and services procured, non-compliance with regulation 32 and regulation 36(1) on procurement of goods and services under contracts secured by other organs of state and unjustified deviation from supply chain management regulations, respectively
- (ix) The system of internal control for assets was not effective, as required by section 63(2)(c) of the MFMA.
- (x) Irregular expenditure incurred by the municipality were not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA
- (xi) The accounting officer is responsible for the other information. The other information comprises the information included in the annual report. The other information does not include the financial statements, the auditor's report and the selected Strategic goal presented in the annual performance report that have been specifically reported in this auditor's report.
- (xii) My opinion on the financial statements and findings on the reported performance information and compliance with legislation do not cover the other information and I do not express an audit opinion or any form of assurance conclusion on it.
- (xiii) In connection with my audit, my responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements and the selected Strategic goal presented in the annual performance report, or my knowledge obtained in the audit, or otherwise appears to be materially misstated.
- (xiv) I considered internal control relevant to my audit to the financial statements, reported performance information and compliance with applicable legislation; however, my objective was not to express any form of assurance on it. The matters reported below are limited to the significant internal control deficiencies that resulted in the basis for the adverse opinion and the findings on compliance with legislation included in this report

- (xv) The accounting officer did not adequately exercise oversight responsibility of financial information and compliance monitoring with key legislation, resulting in material misstatements identified on the annual financial statements, and non-compliance with applicable legislation. Action plans were not adequately monitored regularly to ensure that the recommendations from prior year external and internal audit are implemented.
- (xvi) The review processes on financial statements preparation and compliance monitoring by senior management were not adequate, resulting in material misstatement on the financial statements and recurring findings on non-compliance with key legislation.
- (xvii) In accordance with the PAA and the Material Irregularity Regulations, I have a responsibility to report on material irregularity regulation 3(2). By the date of this auditor's report, the responses of the accounting officer were not yet due. These material irregularities will be included in the next year's auditors report.
- (xviii) I draw attention to the following engagements conducted by various parties which had, or could have, an impact on the matters reported in the municipality's financial statements, reported performance information, compliance with applicable legislation and other related matters. 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.
- (xix) There is an investigation on progress that is being conducted by an independent consultant. These investigations were initiated based on allegations of possible fraud and theft. These investigations were still in progress at the reporting date.

13. RECOMMENDATIONS

1. That MPAC having fully considered the annual report of the municipality and presentation thereon
 - Council take cognizance of the MPAC oversight report and will further deliberate on the matters that were raised out by the AG based on the **(bases of adverse of opinion)** as highlighted by the AG report, herein referred to as follows 8.1 until to 12
2. That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies
3. That the AG findings, state that the Accounting Officer failed to carry out his fiduciary duties as stated in note 49 of the Annexure 'A', consequence management must be applied
4. MPAC found that under AG's note number 30 (Strategic goal no.1: Provision of basic services) that the municipality is violating its constitutional obligations in terms of section 152(1)(b) of the RSA Constitution of 1996.
5. That Council must ensure that the relevant department (Legal & Secretariat) execute all MPAC recommendations without delay and exception.
6. That copies of the Oversight report be submitted without delay to the Gauteng MEC for Local Government & Human Settlement, Provincial Treasury, the Auditor General

and such other institutions in terms of the provisions of section 127(5)(b) of the MFMA

7. That copies of the Oversight report be made accessible to the public in terms of section 127(5)(a)(1) of the MFMA
8. That the Infrastructure Department, in particular electricity, be put under scrutiny and monitoring with regard to poor performance on service delivery in order to comply with section 152(1)(b) of the RSA Constitution of 1996.
9. That the Executive Mayor acts swiftly to do away with acting positions and to appoint permanent staff as this impacts negatively in the performance of the municipality according to the MSA section 54A-(2A) (a)
10. MPAC cannot recommend the write-off of the unauthorized, irregular or fruitless and wasteful expenditure as we are still conducting further investigations.

ANNEXURE “A”

ISSUES RAISED BY AG	RECOMMENDATIONS BY MPAC:	RESPONSIBLE OFFICIALS :	COMMENTS:
<p>The Annual Financial Statements were not submitted to the Auditor-General, for auditing, within two months after the end of the Financial Year, as required by section 126(1)(a) of the MFMA.</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies</p>	<p>1. Acting MM 2. Acting CFO</p>	
<p>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, property plant and equipment, deprivation, impairment loss, payables from exchange transactions, consumer debtors, revenue from exchange transactions and commitments identified by the auditors in the submitted financial statements were not corrected, resulting in the financial statements receiving a disclaimer audit opinion.</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies</p>	<p>1. Municipal Manager 2. CFO 3. PMU Manager 4. Manager Budget and Treasury 5. Senior Accountant Assets</p>	
<p>Some of the contracts were awarded to bidders based on points given for criteria that differed from those stipulated in the original invitation for bidding, in contravention of Municipal Supply Chain Management (SCM) regulations 21(b) and 28(1)(a)(i) and the preferential procurement regulations</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies</p>	<p>1. SCM Manager 2. All Departments</p>	

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<p>Some of the goods and services of a transaction value above R200 000 were procured without inviting competitive bids, as required by SCM regulation 19(a). deviations were approved by the accounting officer even though it was not impractical to invite competitive bids, in contravention of SCM regulation 36(1).</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies.</p>	<p>1. SCM Manager 2. All Departments</p>	
<p>Some of the bid documentation for procurement of commodities designated for local content and production, did not stipulated the minimum threshold for local production and content as required by the 2017 preferential procurement regulation 8(2).</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies.</p>	<p>1. SCM Manager 2. All Departments</p>	
<p>The performance of some of the contractors or provider was not monitored on a monthly basis, as required by section 1169(2)(b) of the MFMA. Similar non-compliance was also reported in the prior year.</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies.</p>	<p>1. SCM Manager 2. All Departments</p>	
<p>The contract performance and monitoring measures and methods were not sufficient to ensure effective contract management, as required by section 116(2)(c) of the MFMA. Similar non-</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies</p>	<p>1. SCM Manager 2. All Departments</p>	

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<p>Reasonable steps were not taken to prevent irregular expenditure amounting to R33 893 638 as disclosed in note 58 to the annual financial statements, as required by- section 62(1)(d) of the MFMA. All of the irregular expenditure was caused by contravention of regulation 19(a), due to no competitive bidding processes for goods and services procured, non-compliance with regulation 32 and regulation 36(1) on procurement of goods and services under contracts secured by other organs of state and unjustified deviation from supply chain management regulations, respectively</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies</p>	<p>1. SCM Manager 2. Manager Budget & Treasury</p>	
<p>The system of internal control for assets was not effective, as required by section 63(2)(c) of the MFMA.</p>	<p>MPAC cannot recommend the write-off of the unauthorized, irregular or fruitless and wasteful expenditure as we are still conducting further investigations.</p>	<p>1. Manager: Budget and Treasury Delegated Officials: 1. Senior Accountant Assets 2. Assets Officials</p>	
<p>Irregular expenditure incurred by the municipality were not investigated to determine if any person is liable for the expenditure, as required by section 32(2)(b) of the MFMA</p>	<p>That the Executive Mayor to liaise with Gauteng COGTA for assistance to investigate any gross violation of the Municipal Finance Management Act and related financial management regulations including Supply Chain Policies</p>	<p>1. SCM Manager 2. All Departments</p>	