

LEGAL COMPLIANCE REPORT 2009

MOTHEO DISTRICT MUNICIPALITY AND LOCAL MUNICIPALITIES

MOTHEO DISTRICT MUNICIPALITY

Non-compliance with applicable legislation

Municipal Finance Management Act, 2003 (Act No. 56 of 2003) (MFMA)

1. Contrary to the prescripts of section 18(2) of the MFMA, the municipality did not submit a realistic revenue budget for the year as R7 704 027 of the revenue that was budgeted did not materialise.
2. Contrary to the prescripts of section 53(1)(c)(iii) of the MFMA, no proof could be provided that the mayor took all reasonable steps to ensure that the annual performance agreements with employees were signed, as required by section 57(1)(b) of the Systems Act, because management could not provide me with any performance agreements relating to the 2007-08 financial year. I could therefore not determined whether all requirements of the MFMA and Systems Act were taken into consideration.
3. Contrary to the prescripts of section 65(2) of the MFMA, numerous instances were identified where suppliers were not paid within 30 days and no proof could be obtained of any measures implemented to track the submission and payment of invoices to ensure compliance with this section of the MFMA.

Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA)

1. Contrary to the prescripts in section 96 of the MSA, it was noted that the district municipality did not have a proper debt collection policy in place to ensure that all monies due to it were collected. From work done under the debtors' component, various instances were identified where debtors showed no movement during the year.
2. Contrary to the prescripts of section 40 of the MSA, it was impossible to obtain evidence that the municipality had established mechanisms to monitor and review its performance management system.
3. In terms of section 121(3)(c) of the MFMA, the annual report of a municipality must include the annual performance report of the municipality prepared by the municipality in terms of section 46 of the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000) (MSA).
4. The district municipality did not develop and implement mechanisms, systems and processes for auditing the results of performance measurement as part of its internal audit processes, as required in terms of section 45 of the MSA.
5. The key performance indicators set by the Municipality did not include all the general key performance indicators applicable to the municipality, as prescribed in terms of section 43(1) of the MSA.

NALEDI

Non-compliance with applicable legislation

Municipal Finance Management Act (MFMA)

1. Disposal of assets was not managed as prescribed by section 14 of the MFMA.
2. The budget file and documentation with evidence of the revision process could not be submitted and I was thus unable to confirm compliance with section 53 of the MFMA.
3. It was impossible to obtain evidence that management had developed a risk management policy and strategy for the municipality. Furthermore, it was noted that the latest risk assessment was performed in June 2005. As a result of the aforementioned, I am unable to confirm that the municipality effectively discharged its responsibilities in terms of section 62(1)(c)(i) of the MFMA.
4. Reconciliations for revenue were not performed as prescribed by section 64(2)(h) of the MFMA.
5. Contrary to the prescripts of section 65(2)(e) of the MFMA, numerous instances were identified where suppliers were not paid within 30 days and no proof could be obtained of any measures implemented to track the submission and payment of invoices to ensure compliance with this section of the MFMA.
6. The delegation of powers could not be submitted. Consequently, I could not confirm that the municipality had complied with the stipulations of section 82 of the MFMA.
7. Contrary to the prescripts of section 64(2)(g) of the MFMA, the municipality did not charge interest on arrear debtors accounts for a period of 11 months during the year under review.
8. The municipality's Service Delivery and Budget Implementation Plan (SDBIP) was not approved by the mayor within 28 days after the approval of the budget as required by section 53(1)(c) of the MFMA. The SDBIP was only approved on 25 July.

Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000) (MSA)

1. Contrary to sections 12 and 98 the municipality did not develop and adopt any by-laws
2. Service delivery agreements in respect of services outsourced through external mechanisms could not be submitted. Consequently, it could not be confirmed that the municipality had complied with the provisions of section 76(b) of the MSA.
3. The municipality has not reported performance against predetermined objectives, as required by section 46(1)(b) of the Municipal Systems Act (MSA),
4. The municipality has not established mechanisms to monitor and review its performance management system (PMS) according to section 40 of the MSA
5. Management could not provide any evidence that its PMS was adopted before or at the same time as the commencement by the municipality of the process of setting key performance indicators (KPIs) and targets in accordance with its integrated development plan (IDP) as stipulated by Regulation 8 of the Municipal Planning and Performance Management Regulations, 2001.

6. Management could not provide any evidence that the community was involved in the development, implementation and review of the PMS or that an appropriate forum was in place and that the community was involved in the setting of KPIs as required by section 42 of the MSA.
7. The municipality's IDP did not reflect the requirements as required by section 26.M of the MSA.
8. No input, output and outcome indicators were included in the IDP as prescribed by section 41(1)(a) of the MSA and regulation 9(1)(a) of the Municipal Planning and Performance Management Regulations, 2001.
9. The IDP review process plan for 2006-2011 was approved on 14 September 2006 It was, however, not performed within the prescribed time frame as stated in section 28(1) of the MSA as it was approved more than two years after the elections.
10. The municipality's IDP is incomplete as it does not include targets per objectives as prescribed by section 41 (1)(b) of the MSA.
11. Management was unable to provide any evidence that the copy of the IDP was sent to the MEC for local government in the province within 10 days after the adoption of the plan, as prescribed by section 32(1)(a) of the MSA.
12. No developmental priorities and objectives were included in the 2007-08 budget of the municipality, as required by regulation 6(a) of the Municipal Planning and Performance Management Regulations, 2001.
13. No performance audit committee was in place during the year under review as required by regulation 14(3)(a) of the Municipal Planning and Performance Management Regulations, 2001.

Municipal Structures Act, 1998 (Act No. 117 of 1998)

1. Minutes of the council meetings could not be submitted. Consequently, it could not be confirmed that the municipal council had met at least quarterly as required by section 37(c) of the Municipal Structures Act.
3. In terms of section 121(3)(c) of the MFMA, the annual report of a municipality must include the annual performance report of the municipality prepared by the municipality in terms of section 46 of the MSA.
5. Management could not provide any evidence that the community was involved in the development, implementation and review of the municipality's performance management system, as required by section 42 of the MSA

MANGAUNG

Non-compliance with applicable legislation

Municipal Finance Management Act (MFMA)

1. Section 17(3)(b) of the MFMA was not complied with as measurable performance objectives for revenue from each source and for each vote in the budget taking into account the municipality's integrated development plan, were not compiled and presented with the annual budget.
2. The municipality did not adhere to sections 22(b), 24(3) and 28(7) as the adjustment budget for 2007-08 was not submitted to National Treasury.
3. Section 52(d) of the MFMA was not complied with as not all quarterly reports were tabled and the reports which were tabled were not tabled timeously.
4. Section 85(2) of the MFMA was not complied with as not all monies received were deposited in the main bank account of Centlec. Some of the monies received from Centlec customers are currently being deposited into MLM's bank account and subsequently accounted for by Centlec through an inter-company loan account

Local Government: Municipal Systems Act, Act No. 32 of 2000 (MSA)

1. In terms of sections 3 and 4 of schedule 1: *Code of Conduct for Councillors* to the MSA, read with rules 13(7) and (8) of the Standing Rules and Orders Local Government Regulations, published on 1 December 2000, a councillor must pay a fine of 10% of his/her monthly salary if he/she is absent from a council or committee meeting without applying for leave of absence. Notwithstanding the fact that a number of councillors failed to adhere to these rules in at least 90 instances (2007: 64 instances) during the year under review, appropriate sanctions were not imposed on the relevant councillors
2. According to section 63 of the MSA, a political structure, political office bearer councillor or staff member of a municipality to whom a delegating authority had been delegated or sub-delegated a power or duty must report to the delegating authority at such intervals as the delegating authority may require on decisions taken in terms of that delegated or sub-delegated power. Monthly reports on the delegated powers for the period January to June 2008 could not be obtained for audit purposes.
3. Twelve councillors (2007: 15 councillors) failed to declare some of their business interests as required by section 7 of Schedule 1: *Code of Conduct for Councillors* of the MSA
4. In terms of section 121(3)(c) of the MFMA, the annual report of a municipality must include the annual performance report of The municipality prepared by the municipality in terms of section 46 of the MSA

MANTSOPA

Non-compliance with applicable legislation

Municipal Finance Management Act, 2003 (Act No. 56 of 2003)

1. In terms of section 21 of the MFMA, the mayor of the municipality must at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines. Although a time schedule was submitted for auditing, the minutes concerned could not be submitted.
2. In terms of section 11(4) of the MFMA, the accounting officer must within 30 days after the end of each quarter table in the municipal council a consolidated report of all

withdrawals made during that quarter, and submit a copy of the report to the relevant provincial treasury and the Auditor-General. Contrary to the above, a copy of the report was not submitted to the Auditor-General.

3. Economic utilisation of feedlot: In terms of a council resolution, farming activities of the municipality were stopped and the land advertised to be rented out. Although the cattle were sold on an auction on 9 May 2008, it was noted that the feedlot which should have been rented out was still not advertised for rental. Contrary to section 62 of the MFMA no income was being generated from a capital investment of R8 300 950.
4. Contrary to section 125(2)(e) of the MFMA, the municipality did not disclose particulars of non-compliance with the MFMA in the notes to the annual financial statements.

Local Government: Municipal Systems Act, Act No. 32 of 2000 (MSA)

1. In terms of section 121(3)(c) of the MFMA, the annual report of a municipality must include the annual performance report of the municipality prepared by the municipality in terms of section 46 of the Local Government: Municipal Systems Act, 2000 (Act No.32 of 2000) (MSA)
2. The municipality did not develop and implement mechanisms, systems and processes for auditing the results of performance measurement as part of its internal audit processes, as required in terms of section 45 of MSA
3. Contrary to section 46 of the MSA, a comparison of the performance of the municipality with targets set and performance in the previous financial year, as well as measures taken to improve performance, was not disclosed in the annual performance report.



CL Hohne

5 May 2009