

Auditor-General Opinion 2009/2010

**Auditor-General Opinion of
Financial Statements 2008/2009**

**AUDITOR'S REPORT OF THE AUDITOR-GENERAL TO THE KWAZULU-NATAL
PROVINCIAL LEGISLATURE AND THE COUNCIL ON THE ETHEKWINI MUNICIPALITY**

REPORT ON THE CONSOLIDATED FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying consolidated financial statements of the eThekweni Municipality, which comprise the consolidated and separate statement of financial position as at 30 June 2010, the consolidated and separate statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended and a summary of significant accounting policies and other explanatory information, as set out on pages 300 to 384.

Accounting officer's responsibility for the consolidated financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the Standards of Generally Recognised Accounting Practice (Standards of GRAP) and in the manner required by the Local Government: Municipal Finance Management Act of South Africa, 2003 (Act No. 56 of 2003) (MFMA) and the Division of Revenue Act of South Africa, 2009 (Act No. 12 of 2009) (DoRA). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error; selecting and applying appropriate accounting policies; and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa, 1996 (Act No. 108 of 1996), section 4 of the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and section 126(3) of the MFMA, my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether these financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

7. In my opinion, these financial statements present fairly, in all material respects, the consolidated and separate financial position of eThekweni Municipality as at 30 June 2010, and its consolidated and separate financial performance and its cash flows for the year then ended in accordance with Standards of GRAP and in the manner required by the MFMA and DoRA.

Emphasis of matters

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

Restatement of corresponding figures

9. As disclosed in note 39 to the financial statements, the corresponding figures for the year ended 30 June 2009 have been restated as a result of errors discovered during the year ended 30 June 2010.

Irregular expenditure

10. As disclosed in note 43 to the financial statements, irregular expenditure amounting to R532,576 million was incurred mainly as a result of awards to suppliers which was in contravention of the Municipal Supply Chain Management Regulations (GNR 868 of 30 May 2005) (Municipal SCM Regulations).

Material losses

11. As disclosed in note 50 to the financial statements, material losses relating to water, electricity and bad debts written off were incurred by the municipality during the year.

Additional matter

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

Unaudited supplementary schedules

13. The supplementary information set out on pages 385 to 394 does not form part of the financial statements and is presented as additional information. I have not audited these schedules and accordingly I do not express an opinion thereon.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

14. As required by the PAA and in terms of *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*, I include below my findings on the report on predetermined objectives, compliance with the following key laws and regulations, Local Government: Municipal Systems Act of South Africa, 2000 (Act, No. 32 of 2000) (MSA) and Municipal SCM Regulations (GNR 868 of 30 May 2005) and financial management (internal control).

Predetermined objectives

15. Material findings on the report on predetermined objectives, as set out on pages 213 to 230, are reported below:

Non-compliance with regulatory and reporting requirements

Municipal Systems Act

Inadequate content of the integrated development plan

16. The key performance indicators for the strategic goal of quality living environment: Plan 3 did not include the percentage of households with access to the basic level of water, sanitation, electricity, solid waste removal and households earning less than R1 100 per month with access to basic services as prescribed in terms of section 43 of the MSA.

Usefulness of information

17. The following criteria were used to assess the usefulness of the planned and reported performance:
- **Consistency:** Has the municipality reported on its performance with regard to its objectives, indicators and targets in its approved annual integrated development plan, i.e. are the objectives, indicators and targets consistent between planning and reporting documents?
 - **Relevance:** Is there a clear and logical link between the objectives, outcomes, outputs, indicators and performance targets?
 - **Measurability:** Are objectives made measurable by means of indicators and targets? Are indicators well defined and verifiable, and are targets specific, measurable, and time bound?

The following audit finding relates to the above criteria:

Changes to planned performance information not approved

18. The municipality excluded nine performance indicators approved on the scorecard for the strategic goal of quality living environment: Plan 3 from the annual performance report submitted for audit.

Compliance with laws and regulations

Municipal Supply Chain Management Regulations

Expenditure was incurred in contravention of or not in accordance with applicable legislation resulting in irregular expenditure

19. Various awards were given to persons who are in the service of the state and employees of the municipality contrary to Municipal SCM Regulation 44.
20. Contrary to Municipal SCM Regulation 5(2), various awards above R10 million was not approved by the accounting officer.
21. Various awards exceeding R200 000 were made without going through a competitive bidding process as required by Municipal SCM Regulation 19.

22. Consultancy services exceeding R200 000 were procured without going through a competitive bidding process in contravention of Municipal SCM Regulation 35(2).
23. Contrary to Municipal SCM Regulation 17(1)(c), a number of goods and services of a transaction value between R10 000 and R200 000 were procured without inviting at least three written price quotations and the deviation was not approved by the delegated authority.

Supply Chain Management legislative requirements were not implemented or not adhered to not resulting in irregular expenditure

24. Contracts were amended and extended without the reasons for the proposed amendments being tabled in Council and the local community being given reasonable notice of the intention to amend the contract and having been invited to submit representations as required by section 116(3) of the MFMA.

Municipal Systems Act

25. Not all councillors' and directors' declarations of financial interest as required by schedule 1, section 7 of the MSA were available.

Internal control

26. I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives as well as compliance with the MFMA, MSA and Municipal SCM Regulations, but not for the purpose of expressing an opinion on the effectiveness of internal control.
27. The matters reported below are limited to the significant deficiencies regarding the findings on the report on predetermined objectives and the findings on compliance with laws and regulations.

Leadership

28. Documented policies and procedures to guide the operations of the entities to comply with laws and regulations and reporting requirements on predetermined objectives were inadequate and not always adhered to.

Financial and performance management

29. The Municipality and its entities have not implemented an effective internal monitoring system and processes to ensure adherence with all Municipal SCM Regulations.

Governance

30. The risk assessments were not used to identify deficiencies in internal controls.

OTHER REPORTS**Investigations in progress**

31. Twenty-five investigations of a general nature relating to alleged procurement fraud and irregularities and a special investigation into alleged irregularities in the Housing Department.

Investigations completed during the financial year

32. Three investigations. Two cases related to procurement irregularities amounting to R98,688 million and resulted in one dismissal and one warning being issued. The other case related to fraudulent payment of salaries to a ghost employee of an employment agency in excess of R200 000. The agency's service was terminated and the case reported to the SAPS. In addition, a forensic investigation relating to irregular expenditure at Durban Marine Theme Park (Pty) Ltd resulted in disciplinary action taken against eight staff members and one dismissal. Criminal charges have been laid.

Auditor-General

Pretoria

15 December 2010



AUDITOR - GENERAL
SOUTH AFRICA

Auditing to build public confidence

**AUDITOR'S REPORT OF THE AUDITOR-GENERAL TO THE KWAZULU-NATAL
PROVINCIAL LEGISLATURE AND THE COUNCIL OF ETHEKWINI MUNICIPALITY ON THE
DURBAN MARINE THEME PARK (PTY) LTD**

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the Durban Marine Theme Park (Pty) Ltd, which comprise the statement of financial position as at 30 June 2010, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, a summary of significant accounting policies and other explanatory information, and the directors' report, as set out on pages 420 to 449.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and in the manner required by the Local Government: Municipal Finance Management Act of South Africa, 2003 (Act No. 56 of 2003) (MFMA) and the Companies Act of South Africa, 2008 (Act No. 71 of 2008). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa, 1996 (Act No. 108 of 1996), section 4 of the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and section 126(3) of the MFMA, my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

7. In my opinion, the financial statements present fairly, in all material respects, the financial position of the Durban Marine Theme Park (Pty) Ltd as at 30 June 2010 and its financial performance and its cash flows for the year then ended, in accordance with SA Standards of GRAP and in the manner required by the MFMA and the Companies Act of South Africa.

Emphasis of matters

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

Restatement of corresponding figures

9. As disclosed in note 18 to the financial statements, the corresponding figures for the year ended 30 June 2009 have been restated as a result of errors discovered during the year ended 30 June 2010.

Irregular expenditure

10. As disclosed in note 31 to the financial statements, irregular expenditure amounting to R3,156 million was incurred, as a result of contracts awarded to suppliers in contravention of the Municipal Supply Chain Management Regulations (GNR 868 of 30 May 2005) (SCM Regulations).

Additional matter

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

Unaudited supplementary schedules

12. The supplementary information set out on pages 450 to 457 does not form part of the financial statements and is presented as additional information. I have not audited these schedules and accordingly I do not express an opinion thereon.

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

13. As required by the PAA and in terms of *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*, I include below my findings on the report on predetermined objectives, compliance with the following key laws and regulations, MFMA, Local Government: Municipal Systems Act of South Africa, 2000 (Act No. 32 of 2000) (MSA), Companies Act of South Africa and financial management (internal control).

Predetermined objectives

14. There were no material findings on the report on predetermined objectives, as set out on pages 405 to 410.

Compliance with laws and regulations

Municipal Finance Management Act

Municipal Supply Chain Management Regulations

Expenditure was incurred in contravention of, or not in accordance with, applicable legislation, resulting in irregular expenditure

15. Contrary to SCM Regulation 44, rewards were given to persons who were in the service of the state.
16. Goods and services with a transaction value between R10 000 and R200 000 were procured without inviting at least three written price quotations and without the deviation being approved by the chief financial officer as required by SCM Regulation 17(1)(c).

Supply chain management legislative requirements were not implemented or not adhered to not resulting in irregular expenditure

17. Contrary to SCM Regulation 18(a), procurement of goods and services with a value in excess of R30 000 were not advertised for at least seven days.

Internal control

18. I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives as well as compliance with the MFMA and SCM Regulations, but not for the purpose of expressing an opinion on the effectiveness of internal control.
19. The matters reported below are limited to the significant deficiencies regarding the findings on compliance with laws and regulations.

Leadership

20. Documented policies and procedures to guide the operations of the entity to comply with laws and regulations were inadequate and not always adhered to.

Financial and performance management

21. The SCM division did not implement an effective internal monitoring system and processes to ensure that all SCM Regulations were adhered to.

Governance

22. The risk assessment was not used to identify deficiencies in internal controls.

OTHER REPORTS

Investigations completed during the financial year

23. An investigation into irregularities relating to procurement was finalised during the year. This resulted in sanctions of written warnings and one official being found guilty and dismissed.

Auditor-General

Pietermaritzburg

30 November 2010



AUDITOR-GENERAL
SOUTH AFRICA

Auditing to build public confidence

**AUDITOR'S REPORT OF THE AUDITOR-GENERAL TO THE KWAZULU-NATAL
PROVINCIAL LEGISLATURE AND THE COUNCIL OF ETHEKWINI MUNICIPALITY ON THE
ICC DURBAN (PTY) LTD**

REPORT ON THE FINANCIAL STATEMENTS

Introduction

1. I have audited the accompanying financial statements of the ICC Durban (Pty) Ltd, which comprise the statement of financial position as at 30 June 2010, and the statement of financial performance, statement of changes in net assets and cash flow statement for the year then ended, a summary of significant accounting policies and other explanatory information, and the directors' report, as set out on pages 502 to 526.

Accounting officer's responsibility for the financial statements

2. The accounting officer is responsible for the preparation and fair presentation of these financial statements in accordance with the South African Standards of Generally Recognised Accounting Practice (SA Standards of GRAP) and in the manner required by the Local Government: Municipal Finance Management Act of South Africa, 2003 (Act No. 56 of 2003) (MFMA) and the Companies Act of South Africa, 2008 (Act No. 71 of 2008). This responsibility includes: designing, implementing and maintaining internal control relevant to the preparation and fair presentation of financial statements that are free from material misstatement, whether due to fraud or error, selecting and applying appropriate accounting policies and making accounting estimates that are reasonable in the circumstances.

Auditor-General's responsibility

3. As required by section 188 of the Constitution of South Africa, 1996 (Act No. 108 of 1996), section 4 of the Public Audit Act of South Africa, 2004 (Act No. 25 of 2004) (PAA) and section 126(3) of the MFMA, my responsibility is to express an opinion on these financial statements based on my audit.
4. I conducted my audit in accordance with International Standards on Auditing and *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*. Those standards require that I comply with ethical requirements and plan and perform the audit to obtain reasonable assurance about whether the financial statements are free from material misstatement.
5. An audit involves performing procedures to obtain audit evidence about the amounts and disclosures in the financial statements. The procedures selected depend on the auditor's judgement, including the assessment of the risks of material misstatement of the financial statements, whether due to fraud or error. In making those risk assessments, the auditor considers internal control relevant to the entity's preparation and fair presentation of the financial statements 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 entity's internal control. An audit also includes evaluating the appropriateness of accounting policies used and the reasonableness of accounting estimates made by management, as well as evaluating the overall presentation of the financial statements.
6. I believe that the audit evidence I have obtained is sufficient and appropriate to provide a basis for my audit opinion.

Opinion

7. In my opinion, the financial statements present fairly, in all material respects, the financial position of the ICC Durban (Pty) Ltd as at 30 June 2010 and its financial performance and its cash flows for the year then ended, in accordance with SA Standards of GRAP and in the manner required by the MFMA and the Companies Act of South Africa.

Emphasis of matters

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

Restatement of corresponding figures

9. As disclosed in note 18 to the financial statements, the corresponding figures for the year ended 30 June 2009 have been restated as a result of errors discovered during the year ended 30 June 2010.

Irregular expenditure

10. As disclosed in note 19 to the financial statements, irregular expenditure amounting to R19,121 million was incurred, as a result of contracts awarded to suppliers that contravened the Municipal Supply Chain Management Regulations (GNR 868 of 30 May 2005) (SCM Regulations).

Additional matter

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

REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

12. As required by the PAA and in terms of *General Notice 1570 of 2009* issued in *Government Gazette 32758 of 27 November 2009*, I include below my findings on the report on predetermined objectives, compliance with the following key laws and regulations, MFMA, Local Government: Municipal Systems Act of South Africa, 2000 (Act No. 32 of 2000) (MSA), SCM Regulations and Companies Act of South Africa and financial management (internal control).

Predetermined objectives

13. There were no material findings on the report on predetermined objectives, as set out on pages 479 to 480.

Compliance with laws and regulations**Municipal Finance Management Act****Municipal Supply Chain Management Regulations****Expenditure was incurred in contravention of, or not in accordance with, applicable legislation, resulting in irregular expenditure**

14. Contrary to SCM Regulation 17(1)(c), goods and services with a transaction value between R10 000 and R200 000 were procured without inviting at least three written price quotations and without the deviation being approved by the chief financial officer.
15. Awards were given to suppliers without a valid tax clearance certificate as required by SCM Regulation 43(1).

16. The preference point system was not applied in the procurement of all goods and services above R30 000 as required by the preferential procurement regulations (GN R725 of 10 August 2001).

Supply chain management legislative requirements were not implemented or not adhered to not resulting in irregular expenditure

17. Contrary to SCM Regulation 18(a), procurement of goods and services with a value in excess of R30 000 was not advertised for at least seven days.

Municipal Systems Act

18. The directors of the entity did not declare their interests as required by section 93L and schedule 1, section 7 of the MSA.

Internal control

19. I considered internal control relevant to my audit of the financial statements and the report on predetermined objectives as well as compliance with the MFMA and SCM Regulations, but not for the purpose of expressing an opinion on the effectiveness of internal control.
20. The matters reported below are limited to the significant deficiencies regarding the findings on compliance with laws and regulations.

Leadership

21. Documented policies and procedures to guide the operations of the entity to comply with laws and regulations were inadequate and not always adhered to.

Financial and performance management

22. The SCM division did not implement an effective internal monitoring system and processes to ensure that all SCM regulations were adhered to.

Governance

23. The risk assessment was not used to identify deficiencies in internal controls.

Auditor-General

Pietermaritzburg

30 November 2010



AUDITOR - GENERAL
SOUTH AFRICA

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