

**THE SIGNIFICANCE OF AUDITOR GENERAL IN THE CONTROL OF
PUBLIC FUNDS IN LOCAL GOVERNMENT WITH SPECIFIC
REFERENCE TO MOPANI DISTRICT MUNICIPALITY**

BY

MAAKE MAPULA REGINAH

STUDENT NUMBER: 17014425

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SCHOOL OF MANAGEMENT SCIENCES
UNIVERSITY OF VENDA**

**SUPERVISOR PROF NW NKUNA
CO-SUPERVISOR: DR E MAHOLE**

DECLARATION OF ORIGINALITY

UNIVERSITY OF VENDA

I, Maake Mapula Reginah, declare that the mini-desertation titled: `The significance of Auditor General in the control of public funds in local government with specific reference to Mopani District Municipality`, hereby submitted by me, has not previously been submitted for a degree at this or any other institution, and that this is my own work in design and execution and that all reference material contained herein have been duky acknowledged.

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Maake M. R (17014425)

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Date

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My name may be alone on the front cover of this research document, but I am by no means the sole contributor. There are people behind this piece of work who deserve to be both acknowledged and thanked.

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ABSTRACT

The aim of the study investigates the significance of Auditor General in the control of public funds in local government with specific reference to Mopani District Municipality in order to make recommendations that can assist in improving the control of public funds. The research identifies and assesses weaknesses in how Mopani District Municipality has been controlling its public funds by analyzing the Auditor General reports for the past three financial years and its implications to service delivery. The research further assesses the role played by Auditor General in influencing the internal financial control of the municipality and in auditing the performance of the municipality since in other municipalities money is paid to contractors for services not rendered. The study provides academic input into public administration, specifically in the area of improving service delivery performance, control and financial performance management in municipalities. The study could contribute to the establishment of effective ways of monitoring the control of public funds by municipalities.

Key Words: Basic municipal services, Governance, Councillor, Department of Cooperative Governance and Traditional Affairs (COGTA), Executive Mayor, Participant-observation, Ward committees, Ward, Participant, Service Delivery and Budget Implementation Plan, Public participation, Performance, Municipal council or Council, Monitoring, Limpopo province, Informal settlement, Integrated Development Plan (IDP)

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LIST OF ACRONYMS AND ABBREVIATIONS

| | |
|---------|--|
| ANC | African National Congress |
| AGSA | Auditor-General of South Africa |
| MDM | Mopani District Municipality |
| COGTA | Department of Co-Operative Governance and Traditional Affairs |
| DA | Democratic Alliance |
| DPLG | Department of Provincial and Local Government |
| DPSA | Department of Public Service and Administration |
| IDP(s) | Integrated Development Plan(s) / Planning |
| IDASA | Institute for a Democratic South Africa |
| KPI(s) | key performance indicator(s) |
| MEC | Member of the Executive Council |
| MPAC(s) | Municipal Public Accounts Committee(s) |
| MFMA | Local Government: Municipal Finance Management Act, 56 of 2003 |
| PFMA | Public Finance Management Act, 1 of 1999 |
| RSA | Republic of South Africa |

CHAPTER 1

1.1 INTRODUCTION AND BACKGROUND OF THE STUDY

The South African government emphasizes efficient and effective service delivery for sustainable development and the wellbeing of its citizens – individuals, families and communities. In its effort to promote a sustainable municipal service, the focus of the South African government has increasingly shifted to critical issue confronting communities today (Sirovha, 2018:9). The South African National Department of Co-Operative Governance and Traditional Affairs (COGTA) is pursuing ways to achieve value-for-money service delivery in all municipalities and to be accountable to the citizens for its stewardship. The goal of the South African public service today is to provide services to all South Africans efficiently, effectively and economically (Naidoo, 2004:19).

The goal of any government should be to improve the lives of all the people in the country. It does so by providing services to the community (Sirovha, 2018: 11). As communities grow and become more sophisticated, their need for more and improved services increases (Naidoo, 2004:19). The public service was created to deliver these services, because citizens are unable to satisfy all their own needs, or to perform the activities required for public administration. This implies that the outcomes of public administration are aimed at service delivery. The purpose of public administration is therefore to improve the general welfare of the people (Thornhill, 2014:152). However, it has become increasingly difficult to meet the needs of the people, so other stakeholders need to become actively involved in assisting municipalities.

In recent years, the demands made by South African communities for service delivery from municipalities have escalated (Thornhill, 2014:152). Local government has often been in the news, sometimes for long periods, particularly in areas where communities have made forceful requests for improved services (Pretorius & Schurink, 2007:19). Communities have complained about and demanded services such as water, sanitation and electricity – in some areas, residents have even claimed houses from municipalities. A study about the root causes of these protests was warranted; one such study was executed by Ababio, Vyas-Doorgapersad and Mzini (2008:164).

Legislation and various guidelines have already been established to achieve the goal of efficient, effective and economical service provision for all citizens, but there are still gaps in the system that need to be addressed, as has become manifest from the continued service delivery protests. The control of public funds needs to be monitored by all relevant stakeholders to ensure that the services are delivered in an economic way.

According to the Constitution of the Republic of South Africa, 1996 South Africa's government structure consists of three spheres which are distinct, but interrelated and interdependent – the national, provincial and local government spheres. However, South African society does not necessarily distinguish clearly between these three spheres of government (Naidoo, 2003:126). Unfortunately, according to Chandu (2004:89), the public tends to regard any challenge in one sphere of government as a weakness of the South African public service.

According to Du Toit, Knipe, Van Niekerk, Van der Waldt and Doyle (2002:82), the first sphere is the national government, which is responsible for the country. The national government is responsible for policy formulation and for developing national standards, rules and regulations. Examples of services delivered by the national government include protective services, educational services, a range of health services and defence services.

The second sphere consists of the nine provincial governments, each responsible for the delivery of services to their communities. Although the South African Parliament is the supreme legislative body, each of the provinces may elect its own provincial council and has been assigned powers and functions (Naidoo, 2004:4). The exclusive functional areas of provincial governments include ambulance services, the building and maintenance of provincial roads, provincial planning, veterinary services and library services, in terms of Schedule 5A of the Constitution of the Republic of South Africa, 1996 (RSA, 1996a).

Municipalities are the constituent units of the local sphere of government. They are involved in local issues, such as the building and maintenance of municipal roads and the provision of basic services (water, sanitation and electricity) to residents. Thornhill (2008:492) regards local government as the first point of contact between an individual and a government institution; hence, local government can be referred to as the

government that is closest to the people and that is responsible for delivering basic services to local communities. These services include providing water services, supplying electricity and removing refuse and other waste.

1.2 RATIONALE FOR THE RESEARCH

Service delivery in Limpopo province's municipalities is an important requirement for individuals, families, communities and a prerequisite for sustainable development. Improvement of services is urgently needed, as several service delivery protests in the province have shown, especially in the areas around Moshakga, Mzinoni and Mokwakwaila within Greater Letaba local municipality in the Mopani District Municipality (MDM).

To achieve the national goal of provision of sustainable, efficient, effective and economical municipal service, all relevant stakeholders need to monitor the usage of public funds by various municipalities. Most of the developmental backlogs in the Limpopo province are in the rural areas, which are inhabited by disadvantaged communities. Communities embark on service delivery protests when they think that the money of the municipality is not managed in line with the legislation. Reports of the Auditor General convince the community that the municipal funds are being managed satisfactorily hence the importance of improving the internal controls in line with the recommendations by the report of the Auditor General in the municipality.

1.3 AIM OF THE RESEARCH

The aim of the study is to investigate the significance of Auditor General in the control of public funds in local government with specific reference to Mopani District Municipality in order to make recommendations that can assist in improving the control of public funds. The research identifies and assesses weaknesses in how Mopani District Municipality has been controlling its public funds by analyzing the Auditor General reports for the past three financial years and its implications for service delivery. The research further assesses the role played by the Auditor General in influencing the internal financial control of the municipality and in auditing the performance of the municipality because in other municipalities money is paid to contractors for services not rendered.

1.4 PROBLEM STATEMENT

The Limpopo province faces an enormous challenge when it comes to ensuring that municipalities provide efficient and effective services to their citizens, who are a heterogeneous cultural mix, comprised of the Northern Sotho, Venda and Sgangaan speaking people. The Limpopo municipalities are not providing basic services to their communities at the pace that is needed in South Africa (Naidoo, 2004:35). The legislative provisions in the Constitution are not enough – most rural communities do not have enough knowledge and information about the options and the implications that they can use to participate meaningfully in local government affairs (Brynard, 1996:42), because these communities were underdeveloped and under-served in the apartheid era.

To improve service delivery performance, it is essential that the Auditor General South Africa adopts an appropriate and effective framework of communicating the findings directly to the municipal council in the presence of residents in order to improve service delivery. In this regard, the importance of community participation during the audit process ought to be considered. In proposing effective way of controlling public funds for the Mopani District municipality, it is important to explore the attributes of different approaches. The research therefore ascertains whether the significance of Auditor General in auditing the usage of the public funds that are generated by government to provide goods and services is assisting in improving the control of public funds by South African municipalities with reference Mopani District municipality.

1.5 RESEARCH OBJECTIVES

Researchers and practitioners face the dynamic challenge of finding adequate solutions for the fact that municipalities in the Mopani district are not able to prove conclusively what they have achieved in a particular financial year, or over the medium-term expenditure framework. They can only show what they have accomplished through annual reports. They need to report back to local communities on whether the input and output measures used were able to achieve the desired outcomes in order to determine the impact they had on communities.

The objectives of this study are the following:

- to identify challenges faced by Mopani District Municipality when it comes to the control of public funds;
- to investigate the role played by the Auditor General in the control of public funds;
- to determine whether refining monitoring and control of public funds could improve effective and efficient provision of service delivery by municipalities, with specific reference to Mopani District Municipality
- To profer recommendations on how the system can be improved

1.6 RESEARCH QUESTION

A research question addresses the possible answers a study should find answers to. The research question is a logical statement that progrsses from what is known or believed to be true to that which is unknown, and requires validation. The following research questions guided this research process:

- The primary question in this research is: What is the role of the Auditor General South Africa (AGSA) in the control of public funds in local government?
- What are the challenges faced by Mopani District Municipality when it comes to the control of public funds?
- What can be done to improve the system?

1.7 DEFINITION OF KEY CONCEPTS WITHIN THIS CONTEXT

Basic municipal services: According to the Local Government: Municipal Finance Management Act, 56 of 2003, basic municipal service means a municipal service that is necessary to ensure an acceptable and reasonable quality of life (RSA, 2003a). If this service is not provided, it would endanger public health or safety, or the environment. In this study, the discussion of basic municipal services has been limited to water, sanitation, electricity and waste management.

Governance: Governance comprises the way rules, norms, values and actions are structured, sustained, regulated and where people are held accountable (Lawn, 2003). In governments, degree of formality depends on the internal rules of a given internal structure and organization as well as external influences of stakeholders (Lawn, 2003). Governance can take many forms which are influenced by different motives and could have a different result (Choudhury & Ahmed, 2002). This study contextualises governance as the way power is exercised in the management of a country's economic and social resources for development.

Councillor: The Municipal Systems Act (RSA, 2000b) uses this term to mean a member of a municipal council. In this study a councillor is referred to as a member of Mopani District Municipality council.

Department of Co-operative Governance and Traditional Affairs (COGTA): This refers to the current Department of Co-operative Governance and Traditional Affairs (COGTA). This department was previously called the Department of Provincial and Local Government (DPLG).

Executive Mayor: This term refers to the councillor elected as the executive mayor of a municipality in terms of section 55 of the Local Government: Municipal Structures Act, 117 of 1998 (RSA, 1998c). In this study it refers to the Executive Mayor of Mopani District Municipality.

Evaluation: In this study, the term is used to refer to systematic and objective assessment of an ongoing or completed project, programme or policy. This includes its design, implementation and results (NEPF, 2011:3). The aim of evaluation is to determine the relevance and fulfilment of objectives, the development of efficiency, effectiveness, impact, and sustainability. An evaluation should provide information that is credible and useful, enabling the incorporation of lessons learned into the decision-making process of both recipients and donors. The National Evaluation Policy Framework (2011:3) defines evaluation as the “systematic collection and objective analysis of evidence on public policies, programmes, projects, functions and organisations to assess issues such as relevance, performance [effectiveness and efficiency] and value for money and recommend ways forward”. Both definitions give context, since one of this study’s objectives is appraising the sphere of local government and metropolitan municipalities in terms of the effective and efficient delivery of basic services.

Integrated Development Plan (IDP): According to section 25 of the Municipal Systems Act, an IDP is a plan used by municipalities in South Africa to plan future development in their areas (RSA, 2000b). In this study reference is made to the IDP of Mopani District Municipality.

Informal settlement: An informal settlement is a group of non-permanent structures built on land that is not formally registered as residential property (Housing Development Agency, 2012:14). For the purposes of this study, this definition is used to define informal settlements in general.

Limpopo province: This is one of the nine provinces in South Africa and is the focus of this study.

Monitoring: The National Evaluation Policy Framework (2011:4) defines ‘monitoring’ as “the continuous and systematic collection, recording and reporting of information in order to track progress towards the achievement of the objectives of an intervention, and identify the need for corrective action”. In this study monitoring is more referred to tracking of the performance of Mopanini District Municipality.

Municipal council or council: This term means the council of a municipality referred to in section 18 of the Municipal Structures Act (RSA, 1998c). Section 157 of the South African Constitution, which deals with the composition and election of municipal councils, states that a municipal council consists of members elected in accordance with subsections (2), (3), (4) and (5) of section 157 of the Constitution (RSA, 1996a).

Performance: According to the definition provided by Business Dictionary.com (n.d.), performance means “the accomplishment of a given task measured against present known standards of accuracy, completeness, cost, and speed. In a contract, performance is deemed to be the fulfilment of an obligation”.

Public participation: Public participation is the involvement of communities and community organisations in the affairs of a municipality (RSA, 1998c).

Service Delivery and Budget Implementation Plan: In terms of the MFMA (RSA, 2003a), a Service Delivery and Budget Implementation Plan (sometimes called an SDBIP) is a detailed plan which is approved by the mayor of a municipality, in terms of section 53(1)(c)(ii) of the MFMA, for implementing a municipality’s delivery of municipal services and its annual budget. It must indicate

- (a) projections for each month of:
 - (i) revenue to be collected, by source; and
 - (ii) operational and capital expenditure, by vote;

- (b) service delivery targets and performance indicators for each quarter; and
- (c) any other matters that may be prescribed and includes any revisions of such plan by the mayor in terms of section 54(1)(c).

According to Roux (2005:3), several protests dubbed service delivery protests started in 2004 in Harrismith in the Free State province. After that, protests grew, and they currently occur in various areas in South Africa. These protest actions are really about the dissatisfaction of communities with the apparent lack of performance by municipalities in rendering basic services such as the provision of water and sanitation. These protests are driven by committees at a ward level existing in metropolitan and local municipalities. Section 73(2) of the Municipal Structures Act provides that each ward must have a ward committee, which must be made up of not more than ten members who represent a diversity of interests in the ward, and are equitably representative of women (RSA, 1998c).

Participant: This is a person from whom case study data are collected, usually through interviews; one or more participants play a role.

Ward: In the South African local government sphere, a ward means an electoral district within a municipality used in local politics. Part 1: General, 2 of the Municipal Systems Act (RSA, 1998c) defines a process to be used in the delimitation of wards. It is indicated by the Municipal Demarcation Board.

Ward committees: These are committees at a ward level existing in metropolitan and local municipalities. Section 73(2) of the Municipal Structures Act provides that each ward must have a ward committee, which must be made up of not more than ten members who represent a diversity of interests in the ward, and are equitably representative of women (RSA, 1998c)

may later be asked to review the draft case study report (Yin, 2014:240).

Participant-observation: This is the mode of data collection whereby a case study researcher becomes involved in the activities of the case being studied (Yin, 2014:240). In the case the researcher is a part-time councilor at Mopanin District Municipality.

1.8 SIGNIFICANCE OF THE STUDY

The study provides academic input into Public Administration, specifically in the area of improving financial control and financial performance management in municipalities. The study could contribute to a reduction in the number of service delivery protests if the recommendations suggested are put into practice nationally within the municipalities, and they are monitored effectively. The study could contribute to the establishment of effective ways of monitoring the control of public funds by municipalities.

The study contributes towards improving the control of public funds in the local sphere of government. Frequent service delivery protests show that South African municipalities are not currently succeeding in providing services to communities through the existing mechanisms, processes and procedures to enable local communities to participate in the affairs of the municipality, in line with Section 17(2) of the Municipal Systems Act (RSA, 2000b). If public funds could be controlled effectively, the ultimate beneficiaries are the people of South Africa whose lives would be improved.

1.9 OUTLINE OF THE STUDY

Chapter 1 introduces this exploratory study. Sections 151(1) and 152(2) of the Constitution describe the local sphere of government in South Africa, as codified (RSA, 1996a). The mandate of local government is clarified and outlined in the Municipal Structures Act (RSA, 1998c). Services that fall within the ambit of Mopani district municipality and its constituent municipalities are identified and elucidated, as identified under Part B of Schedule 5 (Provincial competence) of the Constitution. Its relevance to the current study is explained. Water, sanitation, electricity, waste collection and removal are identified as minimum basic services for the purposes of the study.

The chapter provides definitions of key concepts and a rationale for the research. It sets out a problem statement and presents the research objectives and question. It briefly explains the research methodology and an outline of the study. Chapter 1 indicates that data has been collected from relevant books, journals, official reports, conference proceedings, published articles, relevant government policy documents, speeches, newsletters and newspapers. Methodological, participant and

interdisciplinary triangulation are applied during data collection and analysis. To offset the potential disadvantages of using personal experience, the researcher adopted the role of participant observer.

Chapter 2 is devoted to the contextualization of Public Administration as a subject and public administration as an activity. It focuses on relevant historical events and Public Administration theories and their impact on management, and the foundations of public financial management. This chapter touches on theoretical constructs in Public Administration and creates an understanding of administrative theory and also shows the significance of different schools of administrative application and management.

The generic functions of public administration are discussed to highlight the relationship between politics and administration, with specific reference to policy-making. The chapter concludes with the functions of public administration (policy-making, financial administration, human resources management, organisation, methods and procedures, and control). Trends in Public Administration are analysed. The objective of the chapter is to locate the control of public funds in the discipline of Public Administration.

The aim of chapter 3 is to provide the research methodology. A qualitative method was adopted. Qualitative researchers generally rely on four basic types of data sources: interviews, observations, documents and audio-visual materials (Creswell, 1998:46). The researcher used three of these methods, namely observations, documents and audio-visual materials. Data were collected from relevant books, journals, official reports, conference proceedings, published articles, relevant government policy documents, speeches, newsletters and newspapers. Methodological, participant and interdisciplinary triangulation was applied during the data collection and analysis. To offset the risks of using her personal experience, the researcher adopted the role of participant observer.

The aim of chapter 4 is to provide a brief legal and policy framework of local government in South Africa. Secondly, it examines some fault lines in the design and functioning of the system of local government, focusing on the national institutional and policy framework. This discussion of the local government framework, as well as some of its major challenges, make a positive contribution to the search for avenues to improve the ways in which control is conducted. The progress made by South

African municipalities towards realising the vision of developmental local government is considered. About intergovernmental relations, the chapter also highlights the need for a clearer definition of local government mandates.

The areas of concern highlighted in this chapter are in the practice of municipal government, the functionality of current intergovernmental arrangements with regard to district municipalities, and the feasibility of the intergovernmental planning framework. However, before these areas of concern are traversed, a brief history and introduction into the main tenets of the local government framework are given.

Chapter 4 also concentrates on the role and functions of government, with specific reference to the local sphere of government. The role of government as a facilitator for administration in the public sector is highlighted. The origins of developmental administration are discussed, with specific reference to the administration of underdevelopment and the building of a theory of administrative development.

Chapter 5 depicts the Auditor-General as a state institution established in terms of section 181 of the *Constitution* (RSA, 1996a) to support and strengthen constitutional democracy in the Republic of South Africa. Chapter 5 also touches on Chapter 9 of the *Constitution* (RSA, 1996a) which has established, *inter alia*, the Public Protector, the South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality, the AGSA and the Electoral Commission. Section 181(2) of the *Constitution* provides that Chapter 9 institutions are independent, and subject only to the *Constitution* and the law.

Chapter 5 focuses on the importance of Auditor General reports and how it is defined in the context of community participation, involvement and decision-making. This chapter concentrates on the constitutional objectives that specify the justification for auditing processes in a democratic government. The purpose of this chapter, which is descriptive in nature, is to highlight measures implemented by South Africa to ensure that auditing of municipalities becomes a reality. The chapter analyses alternative ways and means to improve the quality of municipal service in the Mopani district municipality. This research is driven by the participatory role that the community should play when Auditor General reports are communicated to communities and suggestions are made to overcome the service delivery challenges. This chapter

considers whether Auditor General reports can serve as effective mechanisms to promote efficient and effective service delivery.

Chapter 6 focuses on data presentation, analysis and interpretation. It starts by describing Mopani District Municipality and its municipal council. Section 18 of the *Municipal Structures Act* (RSA, 1998c) provides that municipalities must have municipal councils consisting of a few councillors determined by the Member of the Executive Committee (MEC) for local government in the province concerned by notice in the Provincial Gazette. A municipality has the power to designate councillors as determined by the MEC for local government as full-time councillors. An MEC's determination must be in accordance with a policy framework as may be determined by the Minister after consulting the MECs for local government of the province concerned.

Chapter 7 summarises the findings, interpretations of those findings, observation and recommendations. It concludes by mentioning what needs to be done to improve the control of public funds in municipalities.

CHAPTER 2: CONTEXTUALISING PUBLIC ADMINISTRATION

2.1 INTRODUCTION

Administration as an activity is as old as civilization (Thornhill & Cloete, 2014: 150). Public administration is a vehicle for expressing the values and preferences of citizens, communities, and society. Governments make policies to respond to the needs of the communities that they must serve, and then organise and enable their administration to give effect to those policies (Thornhill & Cloete, 2014: 150). The administration must ensure that processes to deliver services that satisfy the needs of society are followed. Like the other sciences, Public Administration should be regarded as a process and not as a product (Sirovha, 2018:122).

Public administration is thus the implementation of government policy, but Public Administration is also an academic discipline that studies this implementation and prepares public servants for working in the public service (Thornhill & Cloete, 2014: 150). Public administration has evolved over time, and today there is an increasing need for a value-focused public service approach, based on public administrative practices, to provide efficient and effective services to meet the changing needs of society.

The role and functions of public administration have a direct bearing on a country's ability to improve the control of public funds so that services reach the people for whom those services are intended (Sirovha, 2018:123). The conclusion gives a brief overview of why public administration is important in the development arena.

2.3 THEORETICAL CONSTRUCTS IN PUBLIC ADMINISTRATION

Public Administration as a discipline is associated with the public sector domain and the executive duties of government (Thornhill & Cloete, 2014: 151). However, the following background information is anticipated to introduce debates on the determination of the domain of Public Administration in a contemporary state such as South Africa, where the government and the private sector must co-operate to satisfy the complex needs of society (Thornhill & Cloete, 2014: 151).

It is often argued that officials must avoid having a political agenda of their own, in which politics is understood as power-seeking (Pauw, 1995:28). Officials may not do their work in such a way as to promote the political power of specific groups or individuals. However, practically speaking, in the South African context, the reality is that politics and administration cannot be separated, because public administration takes place in a political environment. Officials are expected to execute their administrative duties based on the resolutions of politicians, be it in Parliament (both National and Provincial) or in various municipalities (Pauw, 1995:28). It is thus important for Public Administration to take cognisance of politics, because the understanding of public administration in the South African context is determined by the understanding of the state and its functioning.

The activity of public administration lies in the execution of several generic administrative functions, including policy determination, organisation, financing, the provision and utilisation of personnel, determination of work procedures and methods and control (Cloete, 1998:85).

2.4 GENERIC ADMINISTRATIVE FUNCTIONS OF PUBLIC ADMINISTRATION

At the start of the 20th century, Henri Fayol identified five functions in the field of management, namely planning, organising, commanding, coordinating and controlling (Thornhill, 2012: 86). The functions of public administration in terms of its generic functions are policy-making, organising, financing, staffing, determining work methods and procedures, and controlling (Thornhill & Cloete, 2014: 150). In the South African context, this classification is regarded as a rational analytical model, which distinguishes the relationship between the functions (Hanekom, Rowland & Bain, 1992:21).

The work of public administration practitioners is done in the framework of specific work procedures and methods and controlling through monitoring and evaluation (Thornhill, 2012:87). The function through which public funds are obtained, spent and controlled is called financing. Government acquires funds by collecting taxes, charging levies, tariffs and fees, and from interest obtained from loans (Hanekom et al., 1992:22). As the custodian of the tax paid by people of the country, the government is responsible for the appropriation of funds to ensure effective service delivery for all.

The functions of public administration are interrelated and interdependent and one cannot function without the other (Thornhill, 2012:86). It also consists of the functional activities that each institution or department is designed to perform such as education, security, defence, energy and nursing. The auxiliary functions that play vital roles in the carrying out of generic administrative functions and functional activities include research, analysis and data collection, data-processing, record-keeping and costing (Hanekom & Thornhill, 1986:17).

Cloete's (1967:58) five functions of public administration, namely policy-making, financing, staffing, organising, determining work methods and procedures, and controlling, are discussed in the subsections below. They are important to the study because the Auditor General focuses on all of them when auditing municipalities.

2.4.1 Policy and policy-making

A policy refers to a "desired course of action and interaction which is to serve as a guideline in the allocation of resources necessary to realize societal goals and objectives, decided upon by the legislator and made known either in writing or verbally" (Thornhill & Hanekom, 1995:54).

Policy-making begins with public recognition that a problem exists. Next, the problem is defined, and policy demands are formulated; finally, a policy agenda follows with alternative proposals (Kanyane, 2004:141). Policies are drafted by officials of the department responsible for implementing the policy. The legislation process begins when the drafting of the Bill commences. The Bill is then submitted to Parliament. Thereafter the bill is considered by the relevant portfolio committee, adopted and finally submitted to the President to sign. The President signs the Bill, which is published in the Government Gazette and then becomes an Act. Once this happens, it means the policy has been officially adopted. Finally, the Act comes into operation. In municipalities, policies are adopted by the municipal council. Every year before auditing AGSA requests from the Accounting Officer all accounting and human resource policies which have been approved by the municipal council for that particular year

Policies and the laws emanating from policies are born out of the community's, society's or government's need to regulate the conduct of persons either within public

institutions or outside them, or both (Department of Public Service and Administration, 2003:39). Policy-making for South African local government and administration is directed by legislation passed by the country's parliament and provincial legislatures as informed by the Constitution (RSA, 1996a).

2.4.2 Financing

The administration of public organisations depends to a large extent on government revenue. Financing relates to budgeting for the costs of running an institution or unit, and to financial planning, accounting for income, expenditure and control. No institution can function without funds. The success of the policy programmes of public institutions also depends on the availability of sufficient funding (Peter & Pierre, 2003:393).

Transparent and accountable management of public finances is essential to organisational performance (Musgrave, 1959:4). Moreover, financial performance management is a prerequisite for organisational performance, and it determines the government's capacity to implement policy and manage public resources through its own institutions and systems. Sound financial performance is the foundation for effective, capable and accountable administration, enabling institutions to fulfil their responsibilities, such as delivering basic services to the poor.

For a government to render services to its citizens, it needs money to finance the deliver of services. The state uses public money and receives this money from members of society in the form of taxes, tariffs, levies, fees, fines and loans (Botes et al., 1998:314). Public money belongs to the community of citizens in a state, called "the people" (Pauw, Woods, Van der Linde, Fourie & Visser, 2002:6). The public management of finance includes resource mobilisation, the prioritisation of programmes and projects, the budgetary process, efficient management of resources and exercising control. The rising aspirations of the people increasingly place more demands on financial resources – the citizenry want value for money, measured in terms of economy, efficiency and effectiveness, making public financial management vital (Woodhouse, 1997:47)

In South Africa, section 45 of the Public Finance Management Act, 1 of 1992 ensures transparency, accountability and sound management of the revenue, expenditure, assets and liabilities of all governmental organisations (RSA, 1999). The PFMA emphasises the need for appropriate financial systems and procedures. It imposes a clear responsibility on accounting officers to ensure effective and efficient management, and to plan properly before spending or transferring funds. Section 45 of the PFMA stipulates that line managers are responsible for effective, efficient, economic, and transparent use of the financial resources within their areas of responsibility (RSA, 1999). They must, within their functional areas, take effective and appropriate steps to prevent any unauthorised expenditure, irregular expenditure, fruitless and wasteful expenditure. At the local level, the MFMA provides clear directions on management of finance by municipalities as public institutions (RSA, 2003a). The objective of the MFMA is to secure transparency, accountability, and sound financial management of the revenue, expenditure, assets and liabilities of local government institutions. The AGSA focuses on compliance with these pieces of legislation during the audit process.

2.4.3 Personnel provision and use

Human resource administration and management are multifaceted functions. They include the generic administrative functions of policy-making, financing, staffing, organisation, procedures and control, as well as social and labour issues (Van Dijk, 2003:41). Just as the government cannot function without money, it cannot function without human resources to carry out its work. Human resource management is about people and the administrative processes associated with them. It is about employee satisfaction and about motivation driven through the performance of the institution (Thornhill, 2012: 86).

Staffing is “the process of acquiring, deploying, and retaining a workforce of sufficient quantity and quality to create positive impacts on the organisation’s effectiveness. Staffing relates to the hiring and training of all personnel and maintaining favourable conditions in the organisation” (Barton & Chappell, 1985:247).

Acquisition comprises recruitment processes resulting in the employment of staff. It includes human resource planning to identify what an organisation requires in terms of the numbers of employees needed and their attributes (knowledge, skills and abilities) in order to meet job requirements effectively. It is the means to ensure that high quality personnel are provided, properly trained and guided (Roux, Brynard, Botes & Fourie, 1997:159). Municipal Managers are required to provide evidence on the selection and recruitment processes to AGSA during audit. Failure to provide requested information, all money spent on them as salaries is classified as irregular expenditure. All irregular expenditure must be investigated by the municipal council in line with section 32 of the Municipal Finance Management Act, 56 of 2003.

2.4.4 Organising

Organising is defined as the activities of functions involved in creating and maintaining organisational units, such as institutions (Thornhill, 2012:87). He explains that organising consists of classifying and grouping functions, and then allocating the group(s) of functions to institutions and workers in an orderly pattern so that everything the workers do will be aimed at achieving predetermined objectives.

Organising relates to “the establishment of the hierarchies of officials and offices. It contributes to the formal and informal components of organisations. Formal organisation relates to the official structure and relationships within the institution, for example, structures and processes established by legislation, prescription, laws and regulations that represent the institution” (Roux et al., 1997:58). An organisation’s rules, regulations, policies, code of conduct and structures provide for the formal relationships among employees, and between superiors and subordinates. Informal organisation is constituted by unofficial social relationships and structure, as shown in human and group behaviour in an organisation. The informal relationships develop from the natural desire of employees to socialise. Employees experience degrees of self-actualisation when they become part of the group (Roux et al., 1997:59).

In the case of a municipality, section 66 of the Municipal Systems Act, 2000 provides detailed information on staff establishments (RSA, 2000b). It provides that a municipal manager, within a policy framework determined by the municipal council and subject to any applicable legislation, must approve a staff establishment for the municipality;

provide a job description for each post on the staff establishment; and establish a process or mechanism to regularly evaluate the staff establishment and, if necessary review the staff establishment and the remuneration and conditions of service (RSA, 2000b).

2.4.5 Work methods and procedures

Methods and procedures relate to administrative practices that enable administrators to carry out their daily work. A coordinated and systematic work procedure is essential for the successful completion of any function at all levels of public institutions. Work procedure relates to the chronological arrangements of duties to accomplish set goals. In that regard, the work procedures in accordance with which public officials work have to be rationalised and recorded (Roux et al. 1997:184). Work methods and procedures are usually put in writing in the form of manuals or managerial policies and need to be revised regularly to ensure improving and control (Botes et al., 1998:332).

The functions that public officials perform are a combination of generic, functional and auxiliary functions, as set out in Table 2.1.

Table 2.1: Classification of functions performed by public officials

| Generic administrative functions | Managerial functions | Functional activities |
|----------------------------------|---------------------------|-------------------------|
| Policy-making | Planning | Creating organization |
| Organising | Assigning duties | Placing staff |
| Financing | Compiling budgets | Issuing cheques |
| Human resources | Leading | Discussions with staff |
| Work procedures | Determining procedures | Compiling flow diagrams |
| Control | Monitoring and evaluation | Checking |

Source: Adapted from Thornhill and Cloete (2014:151)

According to Adedeji (1974:127), public administration requires two kinds of public officials, namely administrative generalists and specialists. The administrative

generalists should understand the objective of government policy and be able to implement them. They should possess the management skills needed to plan, coordinate, direct and evaluate administrative operations. The administrative specialists, who should first be trained as administrative generalists, should receive further training in specialised fields related to administration such as management of finance, budgeting and planning (Adedeji, 1974:127).

Senior officials, including accounting officers, appointed in terms of sections 56 of the Municipal Systems Act, 2000 concentrate on executing generic administrative functions, while their subordinates (RSA, 2011) concentrate on the functional activities associated with their responsibilities. These senior officials are ultimately accountable for leading, directing, arranging and systematizing these three activities, in a manner that ensures that the government's political intentions are implemented.

2.4.6 Control

Control relates to ensuring that set objectives are attained in line with established plans and taking the steps necessary to ensure that any failure to achieve set objectives is rectified (Hanekom & Thornhill, 1983:179). Control means that there must be set aims, according to policy statements that outline future goals. Objectives can be outlined to realise the aim. Control measures include reporting on the outcome of set goals and auditing by AGSA to determine whether income and expenditure comply with legal requirements. The other generic administrative functions also serve as control measures (Roux et al., 1997:158).

The following chapter focuses on the methodology used during the research to analyse ways and means to improve the usage of public funds and the quality of basic services provided to the communities.

CHAPTER 3: RESEARCH METHODOLOGY

3.1 INTRODUCTION

Burns (1997:19) describes research as a systematic investigation in which data is collected, analysed and interpreted to understand or predict a phenomenon. Research is influenced by the researcher's theoretical framework. This theoretical framework is referred to as a paradigm, and it influences the way in which knowledge is studied and interpreted. Methodology refers to the rationale and philosophical assumptions that characterise a study, relative to the scientific method used, with a view to explaining the researcher's ontological and epistemological views (Patton, 1989:69). The chapter prodies the methodology used, methods of data gathering and conclusion

3.2 RESEARCH APPROACH

In this study, symbolic interactionism was the guiding theoretical perspective. The researcher proposed to develop a substantive tool by using grounded theory and following a modernist qualitative approach. A case study design was chosen. The study thus represents an observational case study (participant observation), supplemented by documents focusing on service delivery in the district municipality of Mopani. This is a singular-case study (only one district municipality will be studied) and includes a situation analysis (leadership qualities were researched with the aim of enhancing service delivery).

3.3 RESEARCH METHODOLOGY

In South Africa, district municipalities were established in terms of section 12 of the Municipal Structures Act (RSA, 1998c). The study was conducted in one district municipality located in South Africa's Limpopo province. The focus was the Mopani District Municipality (MDM) and its constituent local municipalities, because 338 385 of the total population of the Limpopo province live in the Mopani. It is argued that the findings at the Mopani would be representative of similar findings at other district municipalities in the province, because they have the same characteristics.

3.4 METHODS OF DATA GATHERING

A qualitative method was adopted. Qualitative researchers generally rely on four basic types of data sources: interviews, observations, documents and audio-visual materials (Creswell, 1998:46). The researcher used three of these methods, namely

observations, documents and audio-visual materials. Data were collected from relevant books, journals, official reports, conference proceedings, published articles, relevant government policy documents, speeches, newsletters and newspapers. Methodological, participant and interdisciplinary triangulation was applied during the data collection and analysis. To offset the risks of using her personal experience, the researcher adopted the role of participant observer. Based on the existing theories and historical research, a new model is developed to explain the phenomenon of the importance of Auditor General in the control of public funds.

This is a qualitative and descriptive study, based on a literature review using a deductive approach in the fields of public administration, public financial management, control and development administration. The research relied on the collection of qualitative data and case studies. A detailed account and analysis of cases is presented. Through deductive methodology, with a conceptual framework in mind, the gathering of data was systematized and meaningfully interpreted through analysis (Mouton & Marais, 1996:103). The research deals with the concept of improving the control of public funds which will in turn accelerate service delivery performance.

The research set out to ensure conceptual clarity and to reveal the conceptual implications of different viewpoints, in order to avoid abstract confusion and theoretical ambiguities. An appropriate research design was chosen to deal with the public administration environment and government finances, with special reference to service delivery performance. In terms of existing theories, the emphasis is on national best practices in service delivery performance, including financial management performance. Current Auditor General reports of Mopani District municipality are analysed. As a result of deductive theory construction, a set of postulates were formulated to enable the researcher to derive a comprehensive set of theoretical propositions which could be tested against empirical evidence.

A qualitative research methodology has been followed to analyse alternative ways and means to improve the control of public funds and quality of municipal service in the Mopani District municipality. The goal of auditing in government is founded on the principle of improving service delivery performance. The study identifies challenges about the control of public funds in municipalities. These challenges impede the provision of basic service delivery in municipalities, particularly in districts located in rural areas, such as the Mopani District municipality. The research also zooms into the

integrated development planning and the current status of service delivery in the Mopani District municipality. The study recommends ways that can improve the control of public funds in South Africa.

3.5 CONCLUSION

This chapter discussed the research methodology and explained the rationale for utilizing a mixed method approach in this research. The data collection and data analysis methods selected were discussed and elaborated in this chapter. The choice of the methodology used in this study was informed by the objectives and nature of the study.

The next chapter provides a discussion on the system of local government in South Africa in order to provides a better understanding of how municipalities function.

CHAPTER 4: SYSTEM OF LOCAL GOVERNMENT IN SOUTH AFRICA

4.1 INTRODUCTION

Since 2000, South Africa's municipalities have embarked on the extension of infrastructure and development, absorbing fundamental changes to their internal governance and management arrangements, financial management systems and intergovernmental responsibilities. A new local government system offers the potential to realise an acceptable level of service for all citizens, facilitated by a new generation of municipalities. However, various challenges remain.

Local government in South Africa is in a critical phase in 2019. On the one hand, local government has survived a fundamental restructuring phase, and has made great strides towards extending service delivery and development to marginalised communities. Local government has shifted from being an institution that was compliant, racist and illegitimate to an institution with democratically elected leaders, constitutional status and a developmental agenda. On the other hand, as expectations of local government service delivery have risen, it has become evident that the broader transformation of local government is incomplete. It still faces challenges that come with large, inclusive municipalities, new executive systems and the political appointment of senior officials.

The aim of this chapter is to provide a brief legal and policy framework of local government in South Africa. Secondly, it examines some fault lines in the design and functioning of the system of local government, focusing on the national institutional and policy framework. This discussion of the local government framework, as well as some of its major challenges, make a positive contribution to the search for avenues to improve the ways in which control is conducted. The progress made by South African municipalities towards realising the vision of developmental local government is considered. About intergovernmental relations, the chapter also highlights the need for a clearer definition of local government mandates.

The areas of concern highlighted in this chapter are located in the practice of municipal government, the functionality of current intergovernmental arrangements with regard to district municipalities, and the feasibility of the intergovernmental planning

framework. However, before these areas of concern are traversed, a brief history and introduction into the main tenets of the local government framework are given.

4.2 LOCAL GOVERNMENT IN SOUTH AFRICA

Since human beings started living in groups, they have not been able to provide for all their needs on their own (Thornhill, 2012:4). Currently, there are more than 200 states in the world, and each represents a unique society with its own physical and social characteristics, including a system of government with its own public institutions (Thornhill, 2012:4). Below, there is a description of the state known as the Republic of South Africa and its local government.

South African cities and towns are relatively young in comparison with those of Asia, Europe and North Africa. The development of local government in South Africa owes its origins to a number of factors. Such origins are found in the colonial history of the country, mainly from the Dutch and British influences. The Dutch occupied the Cape of Good Hope from 1652 to 1795, and again from 1803 to 1806 (Tsatsire, Tylor & Raga, 2009:130). Britain was the colonial power from 1806 to 1961. Both Holland and England left their mark on the local government system in South Africa (Craythorne, 1997:1).

The foundations for a system of local government with an elected council, comparable with the current city and town councils, were laid when the *Cape Municipal Ordinance No. 9 of 1836* was passed and took effect on 15 August 1836 (cited in Craythorne, 1997:2). This *Ordinance* provided for a board of commissioners for the various towns and they were elected by the property owners. Only persons who paid property taxes could be elected as commissioners. The tenure of office of the commissioners was three years and their functions were of a municipal nature. This included controlling basic services and the administration of property taxes. Property rates were levied on an annual basis by public assembly (Tsatsire *et al.*, 2009:130). The *Cape Municipal Ordinance* provided a framework within which municipal regulations were drawn up, catering for the diverse needs of municipalities. It provided scope for the local inhabitants to use their initiative in terms of public participation. Moreover, it had far-reaching implications, which extended beyond the borders of the Cape Colony. For example, it formed the basic paradigm for the *Natal Municipal Ordinance of 1847* (Cloete, 1998:11).

The *South Africa Act, 1909*, prescribed that the provincial councils were responsible for municipal authorities. It should be noted that this Act was an Act of the British Parliament as there was no South African Parliament at the time. South Africa was granted the status of an independent republic in terms of the *Republic of South Africa Constitution Act, 32 of 1961*. As provided in both the *South Africa Act, 1909*, and the *Republic of South Africa Constitution Act, 1961*, local government was delegated to the provinces. In each of the constitutions, there was a single-tier system of local government, consisting of units for urban areas. Any territory not included within these areas was under the direct control of one of the four provinces (the Transvaal, Orange Free State, Natal or Cape) or would have been designated as the territory of a rural local authority (Craythorne, 1997:2). There was no formula throughout the country for determining when a populated centre could be designated as a village, a city or town. The difference was primarily one of size, population and financial resources (Cloete, 1997:9).

The field of competence of the councils included essential utilities and services such as the provision of water and sewerage systems, rubbish removal, electricity, gas, streets, street lighting, traffic control, firefighting, ambulances, cemeteries, sports facilities, parks, clinics (sometimes hospitals), libraries, museums, city transport, licensing, abattoirs, pounds, markets, and other services which make urban dwelling possible, safe, profitable, satisfying and pleasant (Cloete, 1997:9). Education, justice and police matters are the responsibility of provincial administration and the central government, not of the local authorities. In addition to providing these services, local government units acted as agents of the central government in regard to particular aspects of public health and the control of the migration of unemployed rural workers into settled areas (Cloete, 1997:9).

4.2.1 Local government and the policy of separate development

The purpose of a municipality is to govern and represent the inhabitants of the municipal area to ensure the maintenance of good rule and governance, and to act generally for the convenience, safety and comfort of those inhabitants. This includes the discretion to allocate resources and to undertake development (Craythorne, 1997:11). Historically, local government revenue in urban South Africa was largely self-generated, mainly through property taxes and the delivery of basic public services

to residents and businesses. This particularly suited the White municipalities, which had small populations to serve and large concentrations of economic resources and property tax.

4.2.2 Local government in South Africa, 1993 to 1998

Before 1994, no single, uniform system of local government existed across the country. Each province had its own configuration of local government institutions. Local government as an institution of governance was subservient, racist and illegitimate (Cloete, 1994:14). The development of separate local authorities for separated racial groups, under the leading theme of own management for own areas, produced a scheme of exploitation on the basis of race. Without exception, the well-resourced and viable commercial centres with their strong revenue bases were reserved as White areas. The outlying and poor areas without meaningful formal economies were reserved for Black people. In the homeland areas, traditional authorities were tasked with performing local government functions (De Visser, 2009:8).

The focus of local government and its closeness to communities made it challenging to transform. It was easier to transform the provincial and national government, because they were more distant from communities, and dealt with inclusive but not specific issues. It was for this reason that the impact of the former government's policy of separate development was felt most significantly at the local sphere of government (as it is currently called). This is a possible reason why the current basic public service delivery and socio-economic challenges experienced by South African communities are experienced most by municipalities, which may be described as the coal-face of government. It was at the local level of government that the effects of the plethora of race laws separated local communities (Reddy, 1996:58).

The transition from apartheid to a democratic, non-racial, non-sexist South Africa was largely managed by the Multi-Party Negotiating Process. It soon became clear that local government was a vital component of change and that transitional arrangements were required in terms of the statutory and non-statutory composition of municipal councils (Craythorne, 2006:11). The principal negotiators were the government (or statutory body) and various non-statutory bodies, led by the ANC alliance and the

South African National Civic Organisation. This was the first step towards the establishment of a democratic local government system in South Africa.

In terms of the *Local Government Transition Act, 209 of 1993* (RSA, 1993), the entire ethos of local government had to change from a passive and unresponsive approach to a responsive, participatory and developmental approach. Hence, the Act referred to the local sphere of government as developmental local government. The adoption of the *Constitution of the Republic of South Africa, 1996* was a significant occasion, which entrenched the historic *Bill of Rights* (RSA, 1996a) and finally put an end to constitutional discrimination and the policy of separate development.

4.2.3 Local government in South Africa, 1998 to 2000

Local government is both the most complex and closest sphere of government to communities in South Africa. The new system of local government commenced with the establishment of the Municipal Demarcation Board in terms of the *Local Government: Municipal Demarcation Board Act, 27 of 1998*, in the middle of 2000 (RSA, 1998b). The first local government elections took place on 5 December 2000. In order to facilitate the transformation of local government, chapter 7 of the *Constitution* (RSA, 1996a) mandates national government to enact laws in order to facilitate the new municipal dispensation.

The *White Paper on Local Government, 1998* (RSA, 1998a) was a forerunner to two key pieces of legislation on local government, namely the *Municipal Structures Act* (RSA, 1998c) and the *Local Government: Municipal Systems Act, 2000* (RSA, 2000b). It became clear that local government could not deliver on its new mandate with the former structures and systems; hence, the need for the above two Acts (Reddy, 2006:13). The *Local Government: Municipal Demarcation Act, 27 of 1998* had already also set new boundaries, merging more than 800 non-racial transitional municipalities into 284 (today there are 257 across the whole country) (RSA, 1998b).

In terms of prescriptions contained in the *Constitution* and the *Local Government: Municipal Structures Act*, three categories of municipalities were created for South Africa:

- Category A metropolitan municipalities (initially six, now eight), which are found in highly populated metropolitan areas characterised by vigorous movement of people, goods and services;
- Category B local municipalities (initially 231, now 205), which are public sector institutions that share executive authority in areas that have a Category C municipality; and
- Category C municipalities (initially 47, now 44); in each category C municipality there are a number of smaller Category B local municipalities, for example, Bojanala Platinum, Ngaka Modiri Molema and Dr Ruth Segomotsi Mompati have five constituent local municipalities each, and Dr Kenneth Kaunda District Municipality has four constituent local municipalities.

4.2.4 Developmental local government since 2000

In terms of section B of the *White Paper on Local Government, 1998*, a new developmental local government was envisaged for South Africa (RSA, 1998a). It described the kind of leadership municipalities need to build with their communities, organisations, business and others who can contribute towards the development of their geographical areas of jurisdiction. It also described, *inter alia*, integrated development planning (IDP), which is a new approach to planning to assist municipalities to fulfil their developmental role.

Developmental local government should ensure that

- all communities have access to basic public services;
- all can participate in the decision-making processes and planning;
- the local economies grow;
- job opportunities increase; and
- local resources are controlled wisely to improve the quality of life for all, now and in the future.

Section B of the *White Paper on Local Government, 1998*, provides that developmental local government has four interrelated characteristics:

- (a) to maximise social development and local economic development;
- (b) to integrate and co-ordinate;
- (c) to lead and to learn; and

(d) to demonstrate development. (RSA, 1998a)

It is proposed that developmental local government is local government committed to working with all citizens and groups within the community to find sustainable ways to meet their social, economic and material needs and to improve the quality of life of local communities. In order to achieve this, municipal councillors will need, *inter alia*, political commitment and specialised skills pertaining to local government.

4.3 MOVING TOWARDS TRANSITIONAL LOCAL GOVERNMENT

4.3.1 Local government transformation

The *Interim Constitution of the Republic of South Africa, 1993*, paved the way for the first democratic elections in 1994 and for the formulation of a final *Constitution* by the Constitutional Assembly (Craythorne, 2006:11). It ushered in constitutional recognition for local government by recognising its autonomy and guaranteeing its revenue-generating powers, as well as a right to a share of nationally generated revenue. The final *Constitution* of 1996 then contained a definitive statement on local government, in the form of a progressive chapter in which local government is established as a sphere of government (RSA, 1996a). Section 152 of the *Constitution* posited local government as a critical development agent by listing the constitutional objects and developmental duties of local government (RSA, 1996a). These include democracy, sustainable service delivery, social and economic development, environmental protection, community participation, poverty alleviation and intergovernmental cooperation (Steytler, 2006:187).

Developmental local government is characterised by four features:

- it maximises economic growth and social development, as local government is instructed to exercise its powers and functions in such a way that it has a maximum impact on economic growth and the social development of communities;
- it integrates and coordinates the developmental activities of other state and non-state agents in the municipal area;
- it enhances democratic development and public participation by becoming the vehicle for citizens to work to achieve their vision of the kind of place in which they wish to live; and

- it continuously leads and learns, because municipalities must build social capital, stimulate the finding of local solutions for increased sustainability, and stimulate local political leadership.

On 5 December 2000, municipal councils were elected to this new system of local government. A new generation of municipalities thus commenced their journey towards realising the constitutional vision of developmental local government. Meanwhile, transformation work had continued with the adoption in 2000 of the *Local Government: Municipal Systems Act, 32 of 2000* (RSA, 2000b). This Act represents a detailed definition of developmental local government as espoused in the *White Paper on Local Government* (cited in De Visser, 2009:11). It engages the developmental vision of municipalities' working together with citizens, by establishing a framework that instructs municipalities to involve citizens in decision-making, especially through the regulation of a framework for participative development planning.

In 2003, the institutional and developmental chapters of local government transformation were complemented by financial legislation. The *MFMA* established a framework for local government finance, dealing with financial management and accounting, revenue, expenditure and debt management, the responsibilities of accounting officers and mayors, and financial supervision by national and provincial governments (RSA, 2003a).

4.3.2 Evaluation of local government

Since 2000, through the leaders of municipalities, basic service delivery has indeed been extended to marginalised groups, through the indigent policy. Access to water supply increased from 59% of total households in 1994, to 91.2% of households by June 2016. Access to sanitation increased from 48% to 60.6% over the same period. In 1994, 30% of houses in South Africa had access to electricity, but by 2016 this figure had increased to 91.1%. From 1994 to 2006, a total of 4.3 million houses were delivered. By 2016, housing backlog was 2.3 million growing at 178 000 units per year (Statistics SA, 2016:79)

However, the incompleteness and challenges of local government transformation are evident from the intense social protests during 2018 and 2019, which continue in places. Protests indicate dissatisfaction with service delivery, real and perceived

instances of corruption, and a lack of developmental impact by municipalities (Atkinson, 2007:58). Moreover, although municipal political leaders in South Africa are democratically elected under a national electoral system, voter turnout over the last three local government elections averaged only 48% (IEC, 2006; Human Sciences Research Council, 2006:3). Negative sentiments contribute to a lower turnout for local than for national and provincial elections – these relate mainly to a lack of interest and trust in local government (Good Governance Learning Network, 2008:34).

National government establishes an institutional framework for local government that is largely uniform across the nine provinces. According to sections 155(6) and (7) of the *Constitution*, national and provincial governments must monitor the performance of municipalities to ensure that they discharge their developmental and service delivery responsibilities (RSA, 1996a). National and provincial governments must support municipalities. Finally, provincial governments have the right to intervene in a municipality that does not or cannot fulfil an executive obligation, in terms of section 139 of the *Constitution* (RSA, 1996a).

Section 41 of the Constitution instructs organs of state in the three spheres of government to cooperate with one another in a relationship of equality (RSA, 1996a). This constitutional instruction to cooperate is particularly relevant in the South African context, where the constitutional division of functions between the three spheres is not clearly defined. There are many areas of overlap between national, provincial and local functions. For example, when the *Constitution* makes national and provincial governments responsible for public transport and municipalities for municipal public transport, it is clear that the uncertain boundaries between municipal and provincial functions require intensive cooperation between the two spheres to avoid and address role confusion (Sirovha, 2018: 139).

A key requirement for cooperation is integrated development planning. An important premise of South Africa's planning framework is that the municipality coordinates the planning of development and service delivery by all three spheres of government in its municipal area. Another manifestation of the inclusion of local government into the broader cooperative venture is that local government is a partner in intergovernmental relations: through organised local government structures, it is represented on most relevant intergovernmental structures and institutions in terms section 31 of the *Intergovernmental Relations Framework Act, 13 of 2005* (RSA, 2005c).

4.3.3 The task of the new system

As mentioned earlier, the transformation of local government systems introduced new systems of executive leaders in municipalities. These new systems have drastically changed the profile of a municipality and the desired relationship between its political and administrative components. Before 2000, the average municipality was governed by a council with a weak, collective executive structure. The council was chaired by a mayor whose task was largely ceremonial. The municipal administration functioned under a town clerk who initiated and compiled much of the council agenda (Olowu & Wunsch, 2004:89). This fitted the context of the municipality as a largely administrative, rather than policy-making authority.

The new generation of municipalities is governed by a council; there is a strong executive authority, in many cases concentrated in an executive mayor. Sections 36 and 37 of the *Municipal Structures Act* (RSA, 1998c) state that the council meeting is chaired by an elected speaker and the administration is headed by a municipal manager, who is also the accounting officer.

The contemporary legal framework requires municipalities to extend their activities beyond administering national and provincial laws. Municipalities must adopt policies and by-laws, actively engage municipal communities, plan strategically and partner with external institutions. This requires strong political and administrative leadership (De Visser, 2009:15). A critical difference from the system that prevailed before 2000 relates to the role of the municipal executive. The former Management Committee was expected to initiate policy, oversee the administration and take regular executive and administrative decisions.

The framework has resulted in a legally secure system of municipal administration. The *Municipal Systems Act* (RSA, 2000b) and the *MFMA* (RSA, 2003a) lay down a framework for the municipal administration based on modern public management principles. Concepts such as strategic planning, performance measurement, accounting principles and transparency are contained in the legal framework. Community participation in municipal affairs has been firmly placed on the municipal agenda by the adoption of a framework that instructs municipalities to involve communities in decision-making in terms of chapter 4 of the *Municipal Systems Act* (RSA, 2000b).

Section 37 of the *Municipal Structures Act* (RSA, 1998c) provides that the municipal speaker is responsible for chairing council meetings and enforcing the Code of Conduct for Councillors. However, additional powers may be delegated to the speaker. It is common practice for the council to delegate to the speaker responsibilities related to community participation and councillor support. However, both these functional areas can result in political involvement.

The engagement of municipal office-bearers with the municipal community is an activity where the political leaders or office-bearers are involved. At times, speakers do not limit themselves to organising and guarding the quality of community engagement. The power to decide who is entitled to undergo training, conference visits and other types of councillor support often represents political leverage. According to its *Annual Report, 2014/15*, in the case of Mopani District Municipality, for example, training and deployment of councillors to various conferences is decided by the Office of the Speaker (MDM, 2016: 116).

The role of the most senior municipal official, the municipal manager, has changed significantly. Since 2000, the municipal council has the authority to appoint the municipal manager and those managers that report directly to him/her in terms of section 56 of the *Municipal Systems Act* (RSA, 2000b). This configuration was designed to produce a senior management team in the municipality that understands, and operates in sync with its political principals in the municipal executive. This objective is supported, but there appear to be a number of important side-effects. Firstly, political instability in a municipal council has an effect on senior management, because quorums are not present at council meetings and this means that resolutions are not taken or delayed.

A change in local political leadership, shifts in a ruling coalition, or even a reform within a ruling party, often results in the dismissal of the municipal manager and sometimes even to the dismissal of managers reporting to the municipal manager.

4.4 LEGISLATIVE AND POLICY FRAMEWORK FOR PUBLIC FINANCIAL MANAGEMENT IN SOUTH AFRICA

Political office bearers have continuously called for public participation in public affairs since a democratic government was introduced in South Africa in 1994. Their calls have been accompanied by the promulgation of legislation which encourages public financial management in governance. In line with this, the constitution-making process in South Africa after 1994 was the most comprehensive public participation exercise the country has experienced. It is regarded as the benchmark for all future public participation initiatives and sets an example regarding what can be achieved through wide-ranging public consultation and encouraging public participation. The overwhelming success of public participation in this process also made it an international point of reference. Section 227 of the Constitution provides that local government is entitled to an equitable share of revenue raised nationally to enable it to provide basic services and perform the functions allocated to it. It further indicates that local government may receive other allocations from national government revenue, either conditionally or unconditionally.

To regulate public financial management, the South African government has created new policies and legislation and put mechanisms in place to create an enabling environment for meaningful participation. According to Van der Walddt (2007:40), legislation can be regarded as a collection of rules devised and enforced by a government that has authority over the diverse members of the public. Legislation ensures that government bodies adhere to the spirit and stipulations of particular legislation in designing and executing policy programmes. One of the requirements of the new South African system of local government was to promote democracy in the local government sphere (Thornhill, 2008, cited in De Villiers, 2008:71). It is therefore understandable that in post-apartheid South Africa, public financial management is provided for and highlighted in a range of enabling legislation, policies and guidelines that make provision for the extension of the control of funds in municipalities.

The next section deals with legislation that enhances public financial management. In this chapter the emphasis is on legislation and policies relating to the control of public financial management. Although several legislative and policy instruments provide for public financial management in the local government sphere, three legal instruments

are significant: the *Constitution* (RSA, 1996a), the *Local Government: Municipal Structures Act* (RSA, 1998c), and the *Local Government: Municipal Systems Act, 32 of 2000* (RSA, 2000b). The requirements of these two municipal Acts (RSA, 1998b, 2000b) are the most important concerning public financial management in municipalities (Buccus, Hemson, Hicks & Piper, 2007:9).

4.4.1 Key legislation

As a result, this section will focus on the following major Acts, regulations and policies relevant to public financial management in South Africa:

- *The Constitution of the Republic of South Africa, 1996* – Sections 151(1)(e), 152 and 195(e) (RSA, 1996a);
- the *White Paper on Local Government, 1998* (RSA, 1998a);
- the *Local government: Municipal Structures Act, 117 of 1998* – section 72 (RSA, 1998c);
- the *Local government: Municipal Systems Act, 32 of 2000* – sections 16, 17, 18 and 42 (RSA, 2000b);
- the *Local government: Municipal Finance Management Act, 56 of 2003* – section 121 (RSA, 2003);
- the *Local government: Municipal Property Rates Act, 6 of 2004* – sections 14, 22, 50, 51, 53 and 54 (RSA, 2004b);

The laws and other official documents mentioned above are directed towards regulating financial management in municipalities. This implies that financial management is at the core of effective and efficient functioning of the local sphere of government and effective and efficient delivery of minimum basic services. From this, it can also be deduced that the efficient usage of public finance is central to municipal governance (Maepa, 2014:183).

4.4.2 The Constitution

One of the objectives of a constitution in any state is to protect the civil rights of the public and to ensure that government authority is not abused. Thus, one of the primary objectives of the *Constitution* (RSA, 1996a) is to protect the individual against possible

abuse by the state. The relationship of power between the government and the public is therefore determined and arranged by the *Constitution* (Gildenhuys & Knipe, 2000:6).

Chapter 3 of the *Constitution* (RSA, 1996a) advocates recognition of local government as the sphere of government closest to the people, and one through which citizen involvement should be cultivated. Furthermore, Chapter 7 espouses the ideals of local government, one of which is to nurture public participation in the process leading towards the approval of budget and its control and prescribes the involvement of citizens in local government in matters affecting their lives. It prescribes the establishment of municipalities, and mandates all three categories of municipalities (A, B and C) to provide democratic and accountable government for local communities. Section 152 of the *Constitution* (RSA, 1996a) provides that local government needs to

- (a) to provide democratic and accountable government for local communities;
- (b) to ensure the provision of services to communities in a sustainable manner;
- (c) to promote social and economic development;
- (d) to promote a safe and healthy environment; and
- (e) to encourage the involvement of communities and community organisations in matters of local government.

In addition, section 195(1)(e) in Chapter 10, which contains the values of public administration, prescribes that in the delivery of public services, “people’s needs must be responded to, and the public must be encouraged to participate in decision-making processes”. Furthermore, section 195(1)(g) provides that transparency must be fostered by providing the public with timely, accessible and accurate information.

4.4.3 White Paper on Local Government, 1998

About democratising development, the *White Paper on Local Government, 1998*, prescribes that municipal councils should promote the involvement of citizens and groups in the design and delivery of municipal programmes (RSA, 1998a). It can therefore be argued that developmental local government hinges on public financial management in terms of the *White Paper* (RSA, 1998a:53). Municipalities require active participation by citizens at all levels as voters to ensure maximum democratic

accountability of the elected political leaders for the policies they are empowered to promote. Citizens should express their views and needs through different stakeholder associations, including their views before, during and after the policy budget approval process, in order to ensure that budget reflect their preferences as far as possible, especially given that consumers and end-users expect value-for-money and affordable services.

It can be deduced from the above that participation on the development of budgets takes place on four levels, namely, as voters, as citizens, as consumers and as organized partners in service delivery. Van Rooyen (2003:133) states that to achieve some of the above-mentioned ideals of managing public finance, the *White Paper on Local Government, 1998* requires extended public participation processes and structures by municipalities. The *White Paper* proposes

- the establishment of forums of organised formations especially in the fields of visioning and on issue-specific policies;
- structured stakeholder participation in council committees, especially *ad hoc* issue-related committees;
- participatory action research with specific focus groups for in-depth information on specific issues; and
- the formation of associations especially for people marginalized in areas (Draai & Taylor, 2009:115).

The *White Paper on Local Government, 1998* does not have the authority of law. However, it is the approved policy of government. Public financial management structures such as municipal public account committees (MPACs) could not be established on the strength of the *White Paper on Local Government, 1998* alone. As a result, legislation had to be promulgated to give effect to the approved policy. In this regard, section 20(3)(b)(ii) of the *Municipal Structures Act* (RSA, 1998c) and section 5(1)(f) of the *Municipal Systems Act* (RSA, 2000b) impose specific duties on municipalities to disseminate information to their respective communities.

4.4.4 Local Government: Municipal Structures Act, 117 of 1998

Municipalities are expected to create conditions for public participation and build the capacity of local communities to participate in the affairs of the municipality, and to

allocate funds to this effect annually. Section 16 of the *Municipal Systems Act* provides that municipalities must develop a culture of municipal governance that complements formal representative government with a system of participatory governance (RSA, 2000b), and must encourage and create conditions for local communities to participate in the municipality's affairs. This includes engaging with the IDP, the performance management system, performance, the budget, and strategic decisions relating to services (RSA, 2000b).

Section 79 of the Municipal Structures Act, 1998 provides that a municipal council may establish one or more committees necessary for the effective and efficient performance of any of its functions or the exercise of any of its powers. The following committees have been established by municipal councils in South Africa to assist with playing oversight role when it comes to financial management by municipalities.

4.4.4.1 Municipal Public Accounts Committee (MPAC)

Department of Cooperative Governance and Traditional Affairs (COGTA) together with the National Treasury issued guidelines on the establishment of the Municipal Public Accounts Committee (MPAC). In terms of these guidelines, each municipality was expected to establish its own MPAC by 30 November 2011. The purpose of the guidelines was to assist municipalities in establishing MPACs in terms of the provisions of the *Municipal Structures Act* (RSA, 1998c) and the *MFMA* (RSA, 2003a) to serve as an oversight committee to exercise oversight over all executive obligations of the council. The MPACs assist the council to hold the executive and municipal administration to account, and to ensure efficient and effective use of municipal resources.

All constituent local municipalities of the MDM established MPACs in their municipalities in terms of the guidelines. MPACs have contributed to the council's and public awareness of the financial and performance issues of the municipality and its entities, as shown by the improved audit opinions indicated. Since the establishment of the municipalities in 2000, accountability in local government has become more rigorous, because of the MPACs. The MPAC considers and evaluates the content of the annual report and makes recommendations to the council when adopting an oversight report on the annual report in order to assist with the conclusion of matters that may not have been finalized. The MPAC makes sure that information relating to

past recommendations made on the annual report is reviewed. The MPAC also examines the financial statements and audit reports of the municipality and municipal entities.

The MPAC considers if there has been any improvement from previous statements, reports and evaluates the extent to which the audit committee's and the AGSA's recommendations have been implemented. The MPAC promotes good governance, transparency and accountability on the use of municipal resources. The committee recommends to council any investigation that needs to be done by the municipality in its area of responsibility. The MPAC performs any other functions assigned to it through a resolution of council within its area of responsibility. The MPAC performs its functions of oversight on annual reports in terms of section 129 of the *MFMA* (RSA, 2003a).

Section 129(1) of the *MFMA* (RSA, 2003a) provides that the council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality's sole or shared control. Then, by no later than two months from the date on which the original annual report was tabled in the council, in terms of section 127, the council must adopt an oversight report containing the council's comments on the annual report. This must include a statement on whether the council has approved the annual report with or without reservations, has rejected the annual report, or has referred the annual report back for revision of those components that should be revised.

According to section 129(2) of the *MFMA* (RSA, 2003a), the accounting officer must attend council and council committee meetings where the annual report is discussed in order to respond to questions concerning the report. He or she must submit copies of the minutes of those meetings to the AGSA, the relevant provincial treasury and the provincial department responsible for local government in the province. In accordance with section 21A of the *Municipal Systems Act* (RSA, 2000b), the accounting officer must make public an oversight report within seven days of its adoption.

The meetings of a municipal council at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken must be open to the public and any organs of state, in terms of section 130(1) of the *MFMA* (RSA, 2003a). A reasonable time must be allowed for the discussion of any written submissions

received from the local community or organs of state on the annual report; and members of the local community or any organs of state must be allowed to address the council. Representatives of the AGSA are entitled to attend, and to speak at any council meeting. Ward committees and residents in the MDM regularly attend council meetings in which both the annual and oversight reports are tabled (MDM, 2014b:74).

The annual report consists of four main components, each of which has an important function in promoting governance and accountability. The main components are the following:

- the annual performance report as required by section 46 of the Municipal Systems Act, 2000.
- annual financial statements submitted to the Auditor-General;
- the Auditor-General's audit report on the financial statements in terms of section 126(3) of the Municipal Finance Management Act, 2003; and
- the Auditor-General's audit report on performance in terms of section 45(b) of the Municipal Systems Act, 2000.

The purpose of the annual report is to

- provide a record of the activities of the municipality;
- provide a report on performance in service delivery and against the budget;
- provide information that supports the revenue and expenditure decisions made; and
- to promote accountability to the local community for decisions made.

4.4.4.2 Audit Committee

Each municipality is expected to establish audit committee in terms of section 79 of the Municipal Structures Act, 1998. Section 166 (1)(2) of the Municipal Finance Management Act, 2003 provides that each municipality must have an audit committee. An audit committee is an independent advisory body which must advise the municipal council, the political office bearers, the accounting officer and the management staff of the municipality, on matters relating to internal financial control and internal audits; risk management; accounting policies; the adequacy, reliability and accuracy of

financial reporting and information; performance management; effective governance; compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; performance evaluation; and any other issues referred to it by the municipality.

Section 166 (2)(b) of the Municipal Finance Management Act, 2003 adds that audit committee must also review the annual financial statements to provide the council of the municipality with an authoritative and credible view of the financial position of the municipality, its efficiency and effectiveness and its overall level of compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; respond to the council on any issues raised by the Auditor General in the audit report; carry out such investigations into the financial affairs of the municipality and perform such other functions as may be prescribed.

In performing its functions, an audit committee has access to the financial records and other relevant information of the municipality; and must liaise with the internal audit unit of the municipality; and the person designated by the Auditor General to audit the financial statements of the municipality. The internal audit of the municipality is established in terms of section 165 of the Municipal Finance Management Act, 2003. It states that each municipality must have an internal audit unit which must prepare a risk-based audit plan and internal audit program for each financial year; advise the accounting officer and report to the audit committee on the implementation of the internal audit plan and matters relating to internal audit; internal controls; accounting procedures and practices; risk and risk management; loss control; and compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; and perform such other duties as may be assigned to it by the accounting officer.

4.4.5 Local Government: Municipal Systems Act, 32 of 2000

Section 55 of the *Municipal Systems Act* (RSA, 2000b) pronounces on the mechanisms, processes and procedures for the management of public funds. The Act provides that as head of administration the municipal manager of a municipality is, subject to the policy directions of the municipal council, responsible for the formation and development of an economical, efficient and accountable administration equipped

to carry out the task of implementing the municipality's integrated development plan in accordance with Chapter 5 of the MSA, 2000; and operating in accordance with the municipality's performance management system in accordance with Chapter 6.

In terms of section 38 of the *Municipal Systems Act*, a municipality must establish a performance management system that is commensurate with its resources; best suited to its circumstances; and in line with the priorities, objectives, indicators and targets contained in its integrated development plan; promote a culture of performance management among its political structures, political office bearers and councillors and its administration; and administer its affairs in an economical, effective, efficient and accountable manner.

4.4.6 Promotion of Access to Information Act, 2 of 2000

The *Promotion of Access to Information Act, 2 of 2000* (RSA, 2000c) was promulgated to give effect to section 32 of the *Constitution* (RSA, 1996a), which relates to the right of citizens to access any information held by the state. The Act fosters a culture of transparency and accountability in public institutions. A secondary purpose of the Act is to promote a society in which the public has access to information in order to empower them to exercise and protect their rights.

4.5 CONCLUSION

In this chapter selected aspects relating to the transformation of local government in South Africa were traced from 1652 up to the present. The chapter also reviewed contemporary local government in South Africa, and the transition from a racial to a non-racial dispensation, heralding the start of a transformation era. The new developmental mandate assigned to municipalities has also been highlighted.

The former system of government was also largely characterised by a lack of transparency, accountability and access to information, which were considered privileges, and not rights. During the past 19 years, municipalities have embarked on the extension of infrastructure and development, whilst absorbing changes to their internal governing administration and management arrangements, including financial management systems and intergovernmental responsibilities. It cannot be assumed that communities will automatically reap benefits from a developmental system of local

government without the better control of financial management by municipalities. Capacity constraints in critical areas of municipal governance and administration are hampering service delivery.

The accounts, financial statements, financial management and performance information of all municipalities are audited by the AGSA who issues an opinion on how the public finances have been controlled. The following chapter provides a detailed information about AGSA which is a state institution established in terms of section 181 of the *Constitution* (RSA, 1996a) to support and strengthen constitutional democracy in the Republic of South Africa.

CHAPTER 5: AUDITOR GENERAL IN SOUTH AFRICA

5.1 AN OVERVIEW: LEGISLATIVE FRAMEWORK OF THE AUDITOR- GENERAL

SOUTH AFRICA (AGSA)

The Auditor-General is a state institution established in terms of section 181 of the *Constitution* (RSA, 1996a) to support and strengthen constitutional democracy in the Republic of South Africa. Chapter 9 of the *Constitution* (RSA, 1996a) establishes, *inter alia*, the Public Protector, the South African Human Rights Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Commission for Gender Equality, the AGSA and the Electoral Commission. Section 181(2) of the *Constitution* provides that Chapter 9 institutions are independent, and subject only to the *Constitution* and the law.

The chapter provides the role and functions of the AGSA in the control of public funds, offers and explains various audit opinions issued and their implications.

5.2 THE ROLE AND FUNCTIONS OF AGSA IN THE CONTROL OF PUBLIC FUNDS

Section 188 of the *Constitution* (RSA, 1996a) provides that the Auditor-General of South Africa (AGSA) must audit and report on the accounts, financial statements, financial management and performance information of all national and provincial state departments and administrations; all municipalities and any other institution or accounting entity required by national or provincial legislation to be audited. The AGSA submits reports to any legislature that has a direct interest in the audit, and to any other authority prescribed. The AGSA has a constitutional mandate. As the Supreme Audit Institution (SAI) of South Africa, its purpose is to strengthen the country's democracy by enabling oversight and accountability and governance in the public sector through auditing, to build public confidence.

AGSA must be impartial and must exercise their powers and perform their functions without fear, favour or prejudice. Section 181 of the *Constitution* stipulates that other organs of state, through legislative and other measures, must assist and protect these institutions to ensure the independence, impartiality, dignity and effectiveness of these institutions. No person or organ of state may interfere with the functioning of these institutions. These institutions are accountable to the National Assembly, and must

report on their activities and the performance of their functions to the National Assembly at least once a year.

The powers and the functions of the AGSA are set out in detail in section 20 of the *Public Audit Act, 25 of 2004* (RSA, 2004d). The *Constitution* (RSA, 1996a) provides that the AGSA must audit and report on the accounts, financial statements and financial management of all national and provincial state departments and administrations, all municipalities; and any other institution or accounting entity required by national or provincial legislation to be audited by the AGSA. The AGSA must submit audit reports to any legislature that has a direct interest in the audit and to any other authority prescribed by national legislation. All reports must be made public.

Section 20 of the *Public Audit Act* (RSA, 2004d) provides that an audit report must reflect such opinions and statements as may be required by any legislation applicable to the auditee. The audit report must reflect at least an opinion or conclusion on whether the annual financial statements of the auditee fairly represent, in all material respects, the financial position at a specific date and the results of its operations and cash flow for the period which ended on that date, in accordance with the applicable financial framework and legislation. It must also reflect the auditee's compliance with any applicable legislation relating to financial matters, financial management and other related matters; and the reported information relating to the performance of the auditee against predetermined objectives.

In addition, the AGSA may report on whether the auditee's resources were procured economically and used efficiently and effectively. Based upon this background information, the public has an interest in the AGSA's report. The public is also interested in checking the AGSA's report on the performance management system (PMS) of municipalities. Communities are equally interested in scrutinizing whether the set targets and key performance indicators were achieved and if municipalities monitored and reviewed the performance based on those indicators during the financial year under review. The AGSA expresses an audit opinion after the auditing process. The opinion can be unqualified, qualified, adverse or a disclaimer, as discussed below.

5.2.1 Adverse opinion

An adverse opinion is a professional opinion made by an auditor indicating that a municipality's annual financial statements are misrepresented, misstated, and do not accurately reflect its financial performance. An adverse opinion is a warning for investors and can have major negative effects. Auditors give a warning if the financial statements are significantly different from generally accepted accounting principles (GAAP). The AGSA expresses an adverse opinion when the auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are both material and pervasive to the financial statements.

5.2.2 Disclaimer of opinion

A disclaimer of opinion is issued when the limitation of scope is imposed by the municipality and the auditor is unable to obtain sufficient appropriate evidence on which to base the opinion, and when the auditor concludes that the possible effects

on the financial statements of undetected misstatements, if any, could be both material and pervasive. The auditor must also disclaim an opinion when, in extremely rare circumstances involving multiple uncertainties, he or she concludes that, although he or she has obtained sufficient appropriate audit evidence regarding each of the individual uncertainties, it is impossible to form an opinion on financial statements due to the potential interaction of the uncertainties and their possible cumulative effect on the financial statements (ISA 705:703). In the case of the BPDM, two of its local municipalities received a disclaimer during the period while the research was done. The MDM as a whole also received two disclaimed opinions, as reflected in Table 6.32.

5.2.3 Qualified opinion

AGSA expresses a qualified opinion when the auditor, having obtained sufficient appropriate audit evidence, concludes that misstatements, individually or in the aggregate, are material, but not pervasive, to the financial statements. The AGSA also expresses a qualified opinion when he is unable to obtain sufficient appropriate audit evidence on which to base the opinion but concludes that the possible effects on the

financial statements of undetected misstatement, if any, could be material, but are not pervasive (ISA 705:703).

5.2.4 Unqualified opinion

The AGSA expresses an unqualified opinion if, after obtaining sufficient appropriate audit evidence, he or she concludes that the financial statements present fairly, in all material respects, the financial position of the municipality, its financial performance and cash flows for the year then ended, in accordance with the South African Standards of Generally Reliable Accounting Practice (GRAP) and the requirements of the *MFMA* (RSA, 2003a) and the Division of Revenue Act (DoRA) (ISA 705:703).

5.2.5 Dealing with Auditor-General's reports

Section 131 of the *MFMA* (RSA, 2003a) compels a municipality to address any issues raised by the AGSA in an audit report. The mayor of a municipality must ensure compliance by the municipality with regard to issues raised by the AGSA. The MEC for local government in the province must assess all annual financial statements of municipalities in the province, the audit reports on such statements and any responses of municipalities to such audit reports. The MEC must determine whether municipalities have adequately addressed any issues raised by the AGSA in audit reports; and reports to the provincial legislature if there is any omission by a municipality to address those issues adequately within 60 days.

The accounting officer of a municipality must submit the annual report to the provincial legislature within seven days after the municipal council has adopted the relevant oversight report in terms of section 129(1) of the *MFMA* (RSA, 2003a). The annual report must be submitted by the municipal manager within seven months after it has been tabled in council to the provincial legislature, according to sections 127(3) and 129(1) of the *MFMA* (RSA, 2003a).

The MEC for local government in a province must monitor whether municipalities in the province comply with the submission of annual reports to the legislature. A provincial legislature may deal with the documents referred to it in terms of the *MFMA* (RSA, 2003a). If the accounting officer of a municipality or municipal entity fails to submit financial statements to the AGSA, in accordance with sections 126(1) or (2), or

if the mayor fails to table the annual report of the municipality or a municipal entity in the council in accordance with section 127(2) of the *MFMA* (RSA, 2003a), the mayor must promptly table in the council a written explanation for the failure, inform the speaker of the council, the National Treasury and the MEC for local government and the MEC for finance in the province of such failure.

The provincial executive may intervene in a municipality in terms of section 139 of the *Constitution*. The National Treasury may take appropriate steps against the municipality in terms of section 5(2)(e) of the *Constitution*. The provincial treasury may also take appropriate steps against the municipality in terms of section 5(4)(d) of the *Constitution*. The MDM and its constituent local municipalities have, for the last five financial years, submitted the annual and oversight reports to the Limpopo provincial legislature consistently in accordance with the legal requirements.

5.3 CONCLUSION

The chapter has provided that the AGSA must submit to Parliament and the provincial legislatures, no later than 31 October of each year, the names of any municipalities or municipal entities that have failed to submit their financial statements to the AGSA in terms of section 126 of the *MFMA* (RSA, 2003a). The AGSA also submits at quarterly intervals thereafter, the names of any municipalities or municipal entities whose financial statements are still outstanding at the end of each interval. The Cabinet member responsible for local government must, as part of the report referred to in section 48 of the *Municipal Systems Act* (RSA, 2000b) report annually to Parliament on actions taken by MECs for local government to address issues raised by the AGSA in audit reports on financial statements of municipalities and municipal entities.

The following chapter focuses on the data presentation, analysis and interpretation. It depicts the demographic profile, municipal council, roles, functions and powers of the Mopani District Municipality. It also focuses on the powers and functions and support provided by Mopani District Municipality in the constituent local municipalities. This is done because Mopani District Municipality is a water services authority.

CHAPTER 6: DATA PRESENTATION, ANALYSIS AND INTERPRETATION

6.1 INTRODUCTION

Mopani District Municipality is one of the five district municipalities of Limpopo Province. The other four district municipalities are Capricorn, Vhembe, Waterberg and Sekhukhune. Mopani District Municipality is situated in the North eastern part of Limpopo Province. It is comprised of five local Municipalities which are Greater Letaba, Greater Tzaneen, Ba-Phalaborwa, Maruleng and Greater Giyani. Mopani District Municipality is tourist destination of choice because Kruger National Park is part of Ba-Phalaborwa and Greater Giyani Municipalities. Kruger National Park borders South Africa with Mozambique and Zimbabwe. The seat of Mopani District Municipality is in Giyani municipality. According to the 2016 Community Survey, Mopani District Municipality has a total population of 1 159 185 of whom the majority are Tsonga and Northern Sotho speaking people. The district code is DC33.



Figure 5.1: A map of Mopani district municipality

6.2 Municipal council

Section 18 of the *Municipal Structures Act* (RSA, 1998c) provides that municipalities must have municipal councils consisting of a number of councillors determined by the Member of the Executive Committee (MEC) for local government in the province concerned by notice in the Provincial Gazette. A municipality has the power to designate councillors as determined by the MEC for local government as full-time councillors. An MEC's determination must be in accordance with a policy framework as may be determined by the Minister after consulting the MECs for local government of the province concerned.

A municipal council is composed of those councillors (political party representatives or independent) who are elected in accordance with schedules 1 and 2 of the *Municipal Structures Act* (RSA, 1998c). Both Category A and B municipalities may use proportional and ward representation. Through the election of these councillors, a municipal council is established for a period not exceeding five years, as provided for by section 24(1) of the *Municipal Structures Act* (RSA, 1998c). The municipal council is the highest decision-making body in terms of the legislative and executive authority of a municipality. This means that the municipal council is vested with the authority to make binding decisions in relation to the authorisation of the municipal by-laws, and resolutions pertaining to matters as identified in schedules 4B and 5B of the *Constitution* (RSA, 1996a) provided for by sections 156 and 229 of the *Constitution* (RSA, 1996a), and its basic responsibility is to make municipal decisions. Section 84 of *Municipal Structures Act* (RSA, 1998c) provides for the division of municipal functions and powers between Category B and Category C municipalities.

A municipal council must strive within its capacity to achieve the objectives of local government as set out in section 152 of the *Constitution* (RSA, 1996a). Section 19(2) of the *Municipal Structures Act* (RSA, 1998c) obliges the municipal council to review, on an annual basis,

- the community's needs;
- its priorities to meet those needs;
- its processes for involving the community;

- its organisational and delivery mechanisms for meeting the community's needs; and
- its overall performance in achieving the objectives of local government, as set out in section 152 of the *Constitution*.

Section 29 of the *Municipal Structures Act* (RSA, 1998c) mandates the Speaker of a municipal council to decide when and where the council meets, subject to section 18(2). If a majority of the councillors requests the Speaker in writing to convene a council meeting, the Speaker must convene a meeting at a time set out in the request. The municipal manager of a municipality (or, in the absence of the municipal manager, a person designated by the MEC for local government in the province) must call the first meeting of the council of that municipality within 14 days after the council has been declared elected (or, if it is a district council, after all the members to be appointed by local councils have been appointed).

Section 151(2) of the *Constitution* (RSA, 1996a) provides that the municipal council possesses both legislative and executive authority. This sets the scene for a possibly uneasy relationship between the Speaker and the municipal executive. South Africa's national and provincial legislatures are configured in a similar style. Their Speakers are responsible for managing the affairs of the legislature: they generally have no authority over the affairs of the executive, except when its members participate in the legislature. By contrast, the Speaker in a municipality plays a different role, because the municipal council is not a body exclusively tasked with passing laws and overseeing the executive. It also must discuss and dispose over a range of executive and administrative issues. The fact that the municipal Speaker presides over council meetings where administrative and executive issues are debated and discussed can result in role confusion.

Section 37 of the *Municipal Structures Act* (RSA, 1998c) provides that the municipal speaker is responsible for chairing council meetings and enforcing the Code of Conduct for Councillors. However, additional powers may be delegated to the speaker. It is common practice for the council to delegate to the speaker responsibilities related to community participation and councillor support. However, both these functional areas can result in political involvement.

In terms of Section 80(1) of the *Municipal Structures Act* (RSA, 1998c), if a municipal council has an executive committee or executive mayor, it may appoint committees of councillors to assist the executive committee or executive mayor (in terms of in terms of section 79), but the number of committees may not exceed the number of members of the executive committee or mayoral committee. According to section 80(3) of the *Municipal Structures Act* (RSA, 1998c), an executive committee or executive mayor appoints a chairperson for each committee from the executive committee or mayoral committee. He or she may delegate any powers and duties of the executive committee or executive mayor to the committee. This committee must report to the executive committee or executive mayor in accordance with the directions of the executive committee or executive mayor.

The members of a mayoral committee remain in office for the term of the executive mayor who appointed them. If the executive mayor vacates office, the mayoral committee appointed by that executive mayor also dissolves. The mayoral committee is not a committee of council. Section 160(6)(c) of the *Constitution* (RSA, 1996a) states that the municipal council may make by-laws which prescribe rules and orders for the establishment, composition, procedures, powers and functions of its committees. Committees of a municipal council should be fairly representative, in terms of section 160(8) of the *Municipal Structures Act* (RSA, 1998c).

In the case of the current municipal council of the MDM, the first council meeting after the 2016 local government elections were held on 24 August 2016 (MDM, 2016b:10). The municipal council elected the Speaker from among the councillors. The municipal manager of the MDM presided over the election of the Speaker in terms of section 36(3) of the *Municipal Structures Act* (RSA, 1998c). The Speaker presides at meetings of the council and performs the duties and exercises the powers delegated to him/her in terms of section 59 of the *Municipal Systems Act* (RSA, 2000b). In line with its assigned powers and functions, the MDM facilitates and supports constituent local municipalities in terms of section 88(2) of the *Municipal Structures Act* (RSA, 1998c) (MDM, 2016b:10).

The MDM uses the executive mayoral system of government (Section 7(b) of the *Municipal Structures Act* (RSA, 1998c). The executive mayor performs the executive powers and functions assigned to him/her by the municipal council. The preamble of the *Municipal Systems Act* (RSA, 2000b) recognises the need to create a more

harmonious relationship between municipal councils, municipal administration and the local communities through the acknowledgement of mutual rights and duties. It can be deduced that the duty of creating a harmonious relationship between the municipal council and local communities is led by the executive mayor.

The MDM council designed both its administrative and political structures in terms of sections 156(1) and (4) of the *Constitution* (RSA, 1996a) and sections 83 and 84 of the *Municipal Structures Act* (RSA, 1998c) as detailed below. The political structures and political office bearers of the MDM are the following:

- the Council, presided over by the Speaker;
- the Executive Mayor;
- the Mayoral Committee (ten members);
- the Office of the Whip of Council; and
- the Chairperson of the Municipal Public Accounts Committee (MPAC).

The engagement of municipal office-bearers with the municipal community is an activity where the political leaders or office-bearers are involved. At times, speakers do not limit themselves to organising and guarding the quality of community engagement when it comes to reporting on financial management. The power to decide who is entitled to undergo training, conference visits and other types of councillor support often represents political leverage. According to its *Annual Report, 2017/18*, in the case of MDM, for example, training and deployment of councillors to various conferences is decided by the Office of the Speaker (MDM, 2018:65).

The role of the most senior municipal official, the municipal manager, has changed significantly. Since 2000, the municipal council has the authority to appoint the municipal manager and those managers that report directly to him/her in terms of section 56 of the *Municipal Systems Act* (RSA, 2000b). This configuration was designed to produce a senior management team in the municipality that understands and operates in sync with its political principals in the municipal executive. This objective is supported, but there appears to be several important side-effects. Firstly, political instability in a municipal council influences senior management because quorums are not present at council meetings and this means that resolutions are not taken or delayed.

There are also large number of unfilled vacancies in the top two echelons of municipal administration. In 2006 and 2007, 15% of the posts in senior municipal management were vacant (National Treasury, 2008:184). Municipal administrations thus suffer from a lack of consistency at senior management level (Municipal Demarcation Board, 2007:89).

A change in local political leadership, shifts in a ruling coalition, or even a reform within a ruling party, often results in the dismissal of the municipal manager and sometimes even to the dismissal of managers reporting to the municipal manager. For example, according to the Mopani District Municipality *Annual Report* for 2017/18, the municipal council of the Mopani District Municipality dismissed its Municipal Manager in 2017 after the new councillors were sworn in the council (Mopani District Municipality, 2018 97).

Section 151 (3) of the Constitution provides that the council of a municipality has the right to govern on its own initiative, the local government affairs of the local community. The municipal Structures Act, 1998 defines a municipality as a structure with political office bearers and administration components; a geographic area and the community of the municipality. The Mopani District Council comprises of the political and administrative components responsible for decision-making and implementation. The Executive Mayor, the Speaker and the Chief Whip head the political component of the municipality. The Council has 50 members. There are 30 Traditional Authorities in Mopani District and each of the Local municipalities has at least one representative of Traditional leaders in the District Council.

The following are key positions in the municipality that are influential in the control of the finances of the municipality.

6.3 Executive Mayor

Section 54(1) of the *Municipal Structures Act* (RSA, 1998c) provides for executive mayors for particular types of municipality. The Act also provides for the election of mayors for those municipalities that do not qualify to have executive mayors. Section 56 of the *Municipal Structures Act* (RSA, 1998c) provides that executive mayors act under delegated authority from the council. Mayors under the executive committee type do not have delegated powers entrusted to them. The mayors have to consult municipal councils on any matter affecting the municipality. The executive committee

and the executive mayor are responsible for analysing the reports received from the other committees of the council, and as a result they take recommendations to the municipal council in a case where they are not permitted to make a decision in terms of delegated powers.

In accordance with sections 44(2) and 56(2) of the *Municipal Structures Act* (RSA, 1998c), an executive mayor is empowered to

- (a) identify the needs of the municipality;
- (b) review and evaluate those needs in order of priority;
- (c) recommend strategies to the municipal council; and
- (d) recommend or determine the most appropriate methods to implement the identified strategies.

Sections 44(3) and 56(3) of the *Municipal Structures Act* (RSA, 1998c) determines that both the executive committee and executive mayor are required by legislation to implement the identified strategies, as well as to ensure the evaluation and the review of the key performance indicators for the functioning of the municipalities. According to *Municipal Structures Act* (RSA, 1998c), the Executive Mayor of the MDM appointed ten members of the mayoral committee in terms of section 80 of the *Municipal Structures Act* (RSA, 1998c) in June 2011. Members of the Mayoral Committee advised the Executive Mayor on playing an oversight role to the administration. They headed the following portfolio committees:

- (i) Integrated development plan (IDP), Performance monitoring and evaluation;
- (ii) Special projects which focus on youth, the elderly, HIV/AIDS and people with disability;
- (iii) Budget and Treasury;
- (iv) Sport, arts and culture;
- (v) Economic development and tourism;
- (vi) Corporate support services;
- (vii) Agriculture and rural development;
- (viii) Technical services and infrastructure;
- (ix) Community development services;
- (x) Health and environmental services. (MDM, 2016:83)

The Executive Mayor of the MDM monitors the management of the municipality's administration in accordance with the directions of the municipal council. He or she also oversees the provision of services to communities in the municipality in a sustainable manner, and performs whatever duties, and exercises whatever powers the council delegates to him or her in terms of section 59 of the *Municipal Systems Act* (RSA, 2000b). He or she annually reports on the involvement of communities and community organisations in the affairs of the municipality, ensures that regard is given to public views, and reports on the effect of consultation on the decisions of the council. Besides performing ceremonial roles, he or she reports to the municipal council, in every council meeting, on all decisions taken by him or her.

Section 51 of the *Municipal Systems Act* (RSA, 2000b) states that a municipality must, within its administrative and financial capacity, establish and organise its administration in such a way that it enables the municipality to

- facilitate a culture of public service and accountability amongst its staff;
- be performance-oriented and focus on the objects of local government set out in section 152 of the *Constitution* (RSA, 1996a) and its developmental duties as required by section 153 of the *Constitution*;
- ensure that its political structures, political office bearers and managers and other personnel align their roles and responsibilities with the priorities and objectives set out in the municipality's IDP;
- establish clear relationships, and facilitate co-operation, co-ordination and communication between its political structures and political office bearers and its administration, its political structures, political office bearers and administration and the local community; and
- organize its political structures, political office bearers and administration in a flexible way in order to respond to changing priorities and circumstances.

Section 38 of the *Municipal Systems Act* (RSA, 2000b) provides that a municipality must perform its functions through operationally effective and appropriate administrative units and mechanisms, including departments. Responsibilities for the management and co-ordination of these administrative units and mechanisms are assigned to relevant managers and heads of department. In terms of section 51(i) of the *Municipal Systems Act* (RSA, 2000b), the municipal manager

- is accountable for the overall performance of the administration;

- must maximise the efficiency of communication and decision-making in the administration;
- delegates responsibility to the most effective level in the administration;
- involves personnel in management decisions as far as is practicable; and
- provides an equitable, fair, open and non-discriminatory working environment.

6.4 Speaker

Each municipal council must have a chairperson in accordance with section 36 of the *Municipal Structures Act* (RSA, 1998c). This chairperson is called the Speaker. The Speaker is elected at the first sitting of a municipal council, and must be chosen from among the councillors of the municipal council. The municipal manager of the municipality or, if the municipal manager is not available, a person designated by the MEC for local government in the province, presides over the election of a Speaker. The functions of the Speaker are prescribed by section 37 of the *Municipal Structures Act* (RSA, 1998c).

These include ensuring that the council meets at least four times a year, presiding at meetings of the council, and maintaining order during the meetings. The term of office of the Speaker of a municipal council ends when the term of office of the municipal council expires. However, the Speaker may vacate office during a term, subject to section 39 of the *Municipal Structures Act* (RSA, 1998c). If the speaker is absent or not available to perform the functions of Speaker, or during a vacancy, the council must elect another councillor to act as a Speaker. In addition to the duties listed above, the Speaker of council must ensure compliance in the council and council committees with the Code of Conduct set out in Schedule 1 to the *Municipal Systems Act* (2000b).

6.5 Municipal manager

Section 54A of the *Municipal Systems Act* (RSA, 2000b) provides that a municipal council must appoint a municipal manager who is the head of administration and also the accounting officer for the municipality, and when absent an acting municipal manager may be appointed. The amendment to the *Municipal Systems Act* obligates a council to appoint a municipal manager that possesses the required skills, knowledge and expertise to perform his or her functions. If these requirements are not

met, the appointment is null and void, and the provincial executive is required to intervene (Thornhill & Cloete, 2014:81).

According to section 57(6)(a) of the *Municipal Systems Act* (RSA, 2000b), the municipal manager is appointed by a council for a fixed term contract of employment up to a maximum of five years, not exceeding a period ending one year after the election of the next council of the municipality. As head of administration, the municipal manager (subject to the policy directions of the municipal council) is responsible and accountable for the formation and development of an economical, effective, efficient and accountable administration, equipped to carry out the task of implementing the municipality's integrated development plan in accordance with Chapter 5 of the *Municipal Systems Act*. The administration must also operate in line with the municipality's performance management system in accordance with Chapter 6; and must be responsive to the needs of the local community to participate in the affairs of the municipality.

Section 55(1) of the *Municipal Systems Act* (RSA, 2000b) provides that the municipal manager is responsible and accountable for the management of the municipality's administration in accordance with this Act and other legislation applicable to the municipality. He or she must implement the municipality's IDP, and monitor progress with the implementation of the plan. The municipal manager also manages the provision of services to the local community in a sustainable and equitable manner, and appoints personnel other than those referred to in section 56(a), subject to the *Employment Equity Act, 55 of 1998* (RSA, 1998d). He or she oversees the management, effective use and training of personnel, the maintenance of discipline of employees, the promotion of sound labour relations and compliance by the municipality with applicable labour legislation.

In terms of section 55(i) of the *Municipal Systems Act* (RSA, 2000b), the municipal manager is responsible for

- advising the political structures and political office bearers of the municipality;
- managing communications between the municipality's administration and its political structures and political office bearers;
- carrying out the decisions of the political structures and political office bearers of the municipality;

- administering and implementing the municipality's by-laws and other legislation;
- exercising any powers and performing any duties delegated by the municipal council, or sub-delegated by other delegating authorities of the municipality, to the municipal manager in terms of section 59;
- facilitating participation by the local community in the affairs of the municipality;
- developing and maintaining a system to assess community satisfaction with municipal services is assessed;
- implementing national and provincial legislation applicable to the municipality; and
- performing any other function that may be assigned by the municipal council.

Section 55(2) of the *Municipal Systems Act* (RSA, 2000b) provides that as accounting officer of the municipality, the municipal manager is responsible and answerable for all income and expenditure of the municipality, all assets and the discharge of all liabilities of the municipality, and proper and diligent compliance with the *MFMA* (RSA, 2003a).

The MDM appointed its municipal manager in terms of 54A of the *Municipal Systems Act* (RSA, 2000b). The municipal manager must possess the required skills, knowledge and expertise to perform his or her functions. The duties of the Office of the Executive Mayor and the municipal manager are to ensure the financial management control, maintenance and sustainability of a culture of high performance towards the improvement of the socio-economic conditions of the MDM residents through efficient, effective and sustainable service delivery.

The Corporate Support Services Department of the Municipality is an internal service department that provides structural support to all the municipal departments, various political office-bearers and the council. The MDM has the following departments:

- the Office of the Municipal Manager;
- the Department of Corporate Support Services;
- the Department of Economic Development, Tourism, Agriculture & Rural Development;
- the Department of Budget and Treasury;
- the Department of Community Development Services;
- the Department of Health & Environmental Services;
- the Department of Technical Services and Infrastructure; and

- political offices (Executive Mayor, Speaker and the Chief Whip's offices).

These departments have been established to obtain efficient and effective delivery of services in accordance with its mandate. The departments are managed by Senior manager appointed in terms of section 56 of the Municipal Systems Act, 32.

6.6 Chief Financial Officer

The Department of Budget and Treasury in every municipality is headed by the chief financial officer (Cloete & Thornhill, 2005:149). The chief financial officer is designated by the municipal manager to perform administrative responsibilities of the office, including budgeting, accounting, financial reporting, cash management and all the other duties that pertain to budget, financial management control and treasury affairs. As a protocol, the chief financial officer of a municipality is accountable to the municipal manager. According to section 81 of the *MFMA* (RSA, 2003a), the chief financial officer, *inter alia*,

- (a) must advise the accounting officer on the exercise of powers and duties assigned to the accounting officer in terms of this Act;
- (b) must assist the accounting officer in the administration of the municipality's bank accounts and in the preparation and implementation of the municipality's budget;
- (c) must advise senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of section 78 or delegated to them in terms of section 79; and
- (d) must perform such budgeting, accounting, analysis, financial reporting, cash management, debt management, supply chain management, financial management, review and other duties as may in terms of section 79 be delegated by the accounting officer to the chief financial officer.

It could be argued that that the chief financial officer plays a complementary role to the municipal manager. However, the chief financial officer is the accounting specialist who has to perform all the financial duties of the municipality. The above-mentioned officials play a significant role in controlling the finances of the municipality.

It is also important to touch on the powers and functions of a municipality in order to understand how decisions which impact on the control of finances of the municipality are taken.

6.7 Functions and powers of municipal council

The powers and functions of a municipality are contained in sections 156 and 29 of the *Constitution* (RSA, 1996a). However, the *Constitution* does not distinguish between a district and a local municipality. *The Municipal Structures Act* (RSA, 1998c) makes this distinction in section 84 and provides for the adjustment of powers and functions between a district municipality and a local municipality. In terms of section 85(2) of the *Municipal Structures Act* (RSA, 1998c), adjustment of the division of functions and powers between district and local municipalities is based on the capacity required to execute such a power or function.

Section 83(3) of the *Municipal Structures Act* (RSA, 1998c) provides that the district municipality must achieve the integrated, sustainable and equitable social and economic development of its area as a whole, for example, by

- ensuring integrated development planning for the district as a whole;
- promoting bulk infrastructural development and services for the district as a whole;
- building the capacity of local municipalities in its area to perform their functions and exercise their powers where capacity is lacking; and
- promoting the equitable distribution of resources between the local municipalities in its area to ensure appropriate levels of municipal services within the area.

Specific functions regarding services required for the district are also assigned to district municipalities, such as

- potable water supply systems;
- bulk supply of electricity (including for the purpose of such supply systems);
- the transmission, distribution and, where applicable, the generation of electricity,
- domestic waste-water and sewage disposal systems; and
- solid waste disposal sites.

Every local municipality has been assigned functions and powers, excluding those functions and powers retained by the district municipality. If a dispute arises between a district and a local municipality concerning the performance of a function or the exercise of a power, the MEC for local government of the province, as prescribed by section 86 of the *Municipal Structures Act* (RSA, 1998c), may resolve the dispute after consulting the councils concerned. The resolution must be made known by notice in the *Provincial Gazette*. The municipal Demarcation Board must also be consulted by the MEC as prescribed. The notice must define the respective roles in the performance of a function by the district council and the local councils respectively. There can also be temporary allocation of functions and powers to adapt to a municipality's lack of capacity. The district municipality and the local municipalities must cooperate with one another by supporting and assisting each other, as provided by section 88 of the *Municipal Structures Act* (RSA, 1998c).

Section 85 of the *Municipal Structures Act* (RSA, 1998c) regulates how the adjustment of powers and functions between a district and local municipality must be done: a section 12 notice must be published in the *Limpopo Provincial Gazette*. The Minister or MEC for local government may adjust the following powers and functions:

- potable water supply;
- bulk electricity services;
- domestic waste water and sewage disposal systems; and
- municipal health services (RSA, 1998c).

The current powers and functions of the MDM are gazetted in the *Limpopo Provincial Gazette* No. 6304 of 28 July 2006 DC 37, and are shown in Table 6.9, overleaf. The functions allocated to the district municipality, which are functions of a local municipality in terms of section 83(3), require a district municipality to build the necessary capacity in the affected municipality to execute such functions when the MEC adjusts the function. The functions and powers relating to services contemplated in Part B of Schedule 4 of the *Constitution* (RSA, 1996a) in the area of the local municipality are as indicated below.

Table 5.1: The functions and powers of the MDM (Mopani District Municipality)

| NAME MUNICIPALITY | OF SUPPORT PROVIDED BY MDM |
|---|--|
| LIM332 Greater Letaba Local Municipality | <p>Bulk supply of water</p> <p>Bulk supply of electricity</p> <p>Regulations of passenger transport services</p> <p>Bulk sewage purification</p> <p>Municipal health services</p> <p>District Integrated development planning</p> <p>Promotion of local tourism</p> <p>84 (1)(e)-solid waste</p> <p>84(1)(f) - Roads</p> <p>84(1)(j) - Fire fighting services</p> <p>84(1)(n) - Public works relating to the above functions</p> |
| LIM331 Greater Giyani Local Municipality | <p>Bulk supply of water</p> <p>Bulk supply of electricity</p> <p>Regulations of passenger transport services</p> <p>Bulk sewage purification</p> <p>Municipal health services</p> <p>District Integrated development planning</p> <p>Promotion of local tourism</p> <p>84(1)(e) - Solid waste</p> <p>84(1)(f) - Roads</p> <p>84(1)(j) - Fire fighting services</p> |

| NAME OF MUNICIPALITY | SUPPORT PROVIDED BY MDM |
|---|---|
| | 84(1)(l) – Cemeteries |
| LIM333 Greater Tzaneen Local Municipality | <p>Bulk supply of water</p> <p>Bulk supply of electricity</p> <p>Regulations of passenger transport services</p> <p>Bulk sewage purification</p> <p>Municipal health services</p> <p>District Integrated development planning</p> <p>Promotion of local tourism</p> <p>84(1)(e) - Solid waste</p> <p>84(1)(f) - Roads</p> <p>84(1)(j) - Fire fighting services</p> <p>84(1)(l) – Cemeteries</p> |
| LIM335 Maruleng Local Municipality | <p>Bulk supply of water</p> <p>Bulk supply of electricity</p> <p>Regulations of passenger transport services</p> <p>Bulk sewage purification</p> <p>Municipal health services</p> <p>District Integrated development planning</p> <p>Promotion of local tourism</p> <p>Municipal airport</p> <p>84(1)(j) - Fire fighting services</p> |

| NAME MUNICIPALITY | OF | SUPPORT PROVIDED BY MDM |
|---|----|--|
| | | 84(1)(l) -Cemeteries 84(1)(n) - Public works relating to the above functions |
| LIM 334 Ba-Phalaborwa Local Municipality | | Bulk supply of water Bulk supply of electricity Regulations of passenger transport services Bulk sewage purification Municipal health services District Integrated development planning Promotion of local tourism Municipal airport 84(1)(e) - Solid waste 84(1)(f) - Roads 84(1)(j) - Firefighting services 84(1)(l) – Cemeteries |

Source: Adapted from MDM (2016b)

As shows the powers and functions that the MDM provides to support its constituent local municipalities. Currently, the MDM provides bulk water, electricity, passenger transport, bulk sewage purification, Municipal Health Services, fire fighting services at the Greater Letaba, Greater Tzaneen, Greater Giyani, Ba-Phalaborwa and Maruleng local municipalities. Solid waste, roads and cemeteries are the functions which MDM provide to the constituent local municipalities. This implies that each constituent local municipality provides water, sanitation, electricity and waste removal to its own residents assisted by Mopani District Municipality as a Water Services Authority.

6.8 Integrated Development Planning (IDP)

Prior to 1994, municipalities were mainly concerned with providing services and implementing by-laws, provincial ordinances and national legislation (Subban & Theron, 2012:21). After the *Constitution* (RSA, 1996a) and related new legislation and policy frameworks were introduced, local government's functions and powers were greatly expanded. Municipalities are now required to be developmental in their approach and activities. The value of the IDP process for municipalities lies in formulating focused plans and developmental priorities (Subban & Theron, 2012:21). The approach assists in avoiding wasteful expenditure and perpetuating unwarranted spending patterns, viewed as common challenges in municipal government. The aim of adopting a more business-based approach is thus not to manage councils like companies, but to ensure that scarce resources are spent effectively, efficiently and economically. Through the IDP, the management of finances needs to be prioritised based upon the issues raised by communities.

The legal and policy framework for development planning in South Africa envisages that municipalities will play an essential role in realising coherent planning across the three spheres of government. Section 23 of the *Municipal Systems Act* (RSA, 2000b) provides that a municipality must undertake developmentally oriented planning to achieve the objectives of local government set out in section 152 of the *Constitution* (RSA, 1996a). Each municipality is required, in terms of section 25 of the *Municipal Systems Act* (RSA, 2000b) to adopt an IDP. The IDP must be adopted shortly after the beginning of a municipal council's term. Section 34 of the *Municipal Systems Act* (RSA, 2000b) states that a municipal council must review its IDP annually, in accordance with an assessment of its performance measurements. An IDP is the municipality's strategic plan and should be based on an intensive community participation process to gauge and prioritise the municipal community's needs. The IDP is expected to integrate the planning of all municipal departments under the umbrella of a united strategy for the municipal area.

As mandated by section 25 of the *Municipal Systems Act* (RSA, 2000b), a municipality must prepare an IDP as a strategic development plan for a five-year period linked to the term of a council. The overall purpose of an IDP is to coordinate the planning efforts of different spheres and sectors of government and other institutions in the local

government sphere. The process should be participatory and should cover a process of six to nine months to draw in various stakeholders in the area who can have an impact on or benefit from development in the area. Once the IDP is compiled, all municipal planning and projects should be undertaken in terms of the IDP. Section 35(b) of the *Municipal Systems Act* (RSA, 2000b) indicates that an IDP adopted by the council of a municipality binds the municipality in the exercise of its executive authority, except where the IDP is inconsistent with provincial and national legislation, in which case such legislation prevails. The annual budget should reflect the communities' development priorities, and other government departments working in the area should take the IDP into account in their own planning and budgeting processes.

The compilation of an IDP is a process through which municipalities prepare a strategic development plan, for a five-year period. The IDP guides and informs all planning, budgeting, management and decision-making in the municipality. According to section 25 of the *Municipal Systems Act* (RSA, 2000b), all municipalities have to undertake an IDP process. Because the IDP is a legislative requirement, it has a legal status, and it supersedes all other plans that guide development in the local government sphere. Because of its participatory nature, its timing is closely related to the municipal budgeting cycle. It is reviewed every year, and the review should result in amendments if necessary (Thornhill *et al.*, 2014:222). An IDP allows a municipality to identify its priority goals or challenges, which determine its vision, objectives and strategies, followed by the identification of projects to address the issues concerned.

Typical strategies, programmes and projects in an IDP represent the functions that matter most in the daily lives of people:

- for those who wait for provision of houses and shelter, the upgrading of informal settlements;
- access to the full range of public facilities for health, education and recreation;
- disaster management;
- electricity;
- water and sanitary services;
- the provision and maintenance in infrastructure;
- integrated public transport;
- the fostering of opportunities for enterprise and business development; and
- a generally attractive and healthy natural environment (Thornhill *et al.*, 2014:222).

Some of the pitfalls identified by Theron (2009:144-150) and reasons for the inadequacies of the IDP process are the following:

- The IDP is often seen as the sole responsibility of a specific department or a few allocated officials who do not facilitate the interaction, alignment and integration between departments internally as well as with other sectoral governmental and non-governmental stakeholders, which is the essence of the IDP philosophy.
- There is a shortage of planning and implementation skills and especially of project management capacity in the local sphere, as the IDP, as a holistic planning process, is based on project management principles and aims to achieve specific development objectives through the implementation of specific programmes and projects.
- The alignment of the budget and the needs identified in the IDP are still major challenges for most municipalities: some municipalities do not spend their budget as is expected of them. Municipalities request rollovers from the National Treasury as a result of underspending on the capital budget.
- The standard engagement strategy of community meetings is sometimes perceived as limiting participation. People are often instructed about what topics will be discussed; if they speak on any other subjects they are cut off as officials presenting the IDP process at community meetings come with own priorities, and politicians put forward and implement party political decisions, which are not necessarily the priorities articulated by the community.
- The process of needs-prioritising is a controversial as it is perceived that councillors take decisions regardless of community input and do not communicate information and give feedback about the IDP to community members effectively.

In the case of the MDM, all the constituent local municipalities tend to request National Treasury to allow money budgeted for one financial year to be transferred to another

financial year as a result of underspending on the capital budget (Mopani District Municipality, 2017:84).

The municipality is expected to be the pivot that skilfully mediates between the diverse needs of a municipal community and the requirements of departments and parastatals in the two other spheres of government (Patel & Powell, 2008:353). This is to be done within the parameters of a limited municipal budget. A report by the Good Governance Learning Network (2008) indicates that capacity for compiling IDPs in the municipal sphere is low. The dependency on consultants to realise an IDP is not being implemented as expected. Lack of capacity and dependence on consultants must encourage municipalities to involve ward committees and traditional leaders in planning. Good Governance Learning Network's (2008) report found that 28% of local municipalities lack the most basic capacity to prepare an IDP, and will find it difficult to prepare one, even with additional support. Only 37% of municipalities have independent capacity to prepare an IDP, and another 35% have some basic capacity and can prepare an IDP with additional support (Good Governance Learning Network, 2008:51). In the case of the MDM and its constituent local municipalities, an IDP is compiled by the political leaders, traditional leaders, ward committees and residents.

The creation of IDPs has become a regulated process that must absorb the input of a multitude of development actors towards the adoption of a document within prescribed deadlines. This process has thus become a 'pressure cooker', which is incompatible with unwieldy community input, which tends to disrupt intergovernmental cohesion and adherence to intergovernmental deadlines (Good Governance Learning Network, 2008:52). There is then a real danger that communities and community organisations may become dissatisfied with an IDP, as they perceive the process to be inadequate in responding to their needs. It may be worthwhile to consider the identification of a limited number of national key priorities and insist on their alignment, whilst relaxing the effort towards synchronisation on other, less important policy areas. This may provide the necessary opportunity for municipalities to develop their planning capabilities, devise mechanisms for genuine interaction with communities, and display creativity.

The previous term of municipal councils from 2011-2016 was characterised by the drafting, reviewing and assessing of the outcomes of IDPs. In terms of section 23 of the *Municipal Systems Act* (RSA, 2000b) and section 152(3) of the *Constitution* (RSA,

1996a), municipalities are responsible for development processes and municipal planning. Municipalities have to formulate and review IDPs. Two ‘generations’ of IDPs have been drafted and reviewed from 2001 to 2011 by South African municipalities. COGTA and its predecessors have evaluated and measured legal compliance of the drafting and submission processes (Subban & Theron, 2012:21).

As reported earlier in this research, the powers and the functions of the AGSA are set out in detail in section 20 of the *Public Audit Act, 25 of 2004* (RSA, 2004d). The *Constitution* (RSA, 1996a) provides that the AGSA must audit and report on the accounts, financial statements, financial management and performance information of all national and provincial state departments and administrations, all municipalities; and any other institution or accounting entity required by national or provincial legislation to be audited by the AGSA. The AGSA must submit audit reports to any legislature that has a direct interest in the audit and to any other authority prescribed by national legislation. All reports must be made public. During the audit process, the AGSA takes the IDP of the municipality and checks whether or not the resources of the municipality were used efficiently, effectively and in an economic way. The Annual Financial Statements of Mopani District Municipality have been submitted to the AGSA for the past three financial years (2015/16, 2016/17 and 2017/18). The AGSA has audited Mopani District Municipality and the opinion, findings and recommendations are indicated below.

CHAPTER 7: FINDINGS AND INTERPRETATIONS, OBSERVATION AND RECOMMENDATIONS

7.1 INTRODUCTION

Accountability continues to fail local government as governance, leadership and oversight lapses contribute to undesirable audit outcomes. South African Auditor General Kimi Makwetu said that accountability continues to fail in local government, stated that glaring governance, leadership and oversight lapses at municipal level had contributed immensely to undesirable audit outcomes. Makwetu reported a 75 percent increase in municipal irregular expenditure from R16,212 billion in the 2016/17 financial year. Fruitless and wasteful expenditure amounted to R1,5 billion which was a 71 percent increase from the previous year. Announcing the 2016/17 municipal audit outcomes Makwetu said 45 municipalities regressed while 16 improved and that only 33 municipalities or 13 percent managed to produce quality annual financial statements and performance reports, as well as complied with all key legislation, thereby receiving a clean audit.

“When we released the 2011/12 municipal audit outcomes in August 2012 we highlighted among other things, a lack of decisive leadership to address the lack of accountability by ensuring consequences against those who flouted basic processes that hampered effective municipal governance. We reported weaknesses in internal control and the risk that needed attention in local government by providing root cause for audit finding and recommendation to remedy these underlying causes. It is now five years later, and we are still faced with the same accountability and governance challenges we had flagged throughout these years. There has been no significant positive change towards credible results instead we are witnessing a reversal in audit outcomes” Makwetu said.

The deteriorating audit outcomes shows that various local government role players have been slow in implementing, and in many instances even disregarded the AGSA`s recommendations. These were the views of the Auditor General, Kimi Makwetu, when releasing the 2017/18 financial year`s municipal audit outcomes. As a result, the

accountability for financial and performance management continues to worsen in most municipalities as evidence based on audit outcomes shows.

The general report deals with the audit outcomes of local government for the financial year ended 30 June 2018. It preceded the amendments to the Public Audit Act, which became effective on 1 April 2019. Accordingly, the requirements of these amendment are applicable for the first time to municipal audit reports issued for the financial years that ended on or after the 30 June 2019. These amendments introduce the concept of a material irregularity in audits performed under the Public Audit Act and, once a material irregularity has been identified, may result in a number of possible actions, including the referral of the material irregularity to an investigative body, where there are complex and intricate matters not capable of being concluded directly by the audit. once a recommendation is made through an audit such will be required to be effected within a period prescribed by the auditors, failing which, a binding remedial action will be issued by the auditors to the accounting officer to correct the identified material irregularity, also within a prescribed period. (AGSA, 2018 Media release).

Table 7.1 depicts the comparison of the findings of Auditor General in MDM for 2015/16, compared with 2016/17 and 2017/18 respectively and tries to analyse if there is any improvement on the findings of Auditor General.

Table 7.1: Audit opinions of the AGSA in the MDM municipalities

| MUNICIPALITY | 2013/14 | 2014/15 | 2015/16 | 2016/17 | 2017/18 |
|-----------------|-------------|------------|-------------|-------------|-------------|
| Greater Tzaneen | Disclaimer | Qualified | Qualified | Qualified | Qualified |
| Maruleng | Unqualified | Qualified | Unqualified | Unqualified | Unqualified |
| Greater Giyani | Disclaimer | Disclaimer | Qualified | Qualified | Qualified |
| Greater Letaba | Qualified | Qualified | Qualified | Qualified | Unqualified |
| Ba-Phalaborwa | Disclaimer | Disclaimer | Qualified | Disclaimer | Disclaimer |
| Mopani | Qualified | Disclaimer | Adverse | Disclaimer | Adverse |

Source: Adapted from AGSA (2013-2018)

Table 6.1 shows a slight improvement, between the 2013/14 and 2017/18 financial years in all the constituent local municipalities with regard to the financial statements,

which are fairly represented in all material respects, the financial position of the municipalities, financial performance and cash flows for the year then ended in accordance with the South African Standards of GRAP and the requirements of the *MFMA* and the DoRA (ISA 705:703) except Mopani District Municipality. Thus, it could be argued that the political oversight on the municipal administration and the involvement of communities in matters of local government has resulted in an improvement of the audit. Ward committees play an important role in coordinating community meetings where the local municipality presents its annual report, which includes the performance of the municipality in relation to the audit opinion. An improved audit opinion gives the local communities and the public confidence that the funds of the municipality are used efficiently, effectively and economically.

7.2 AGSA FINDINGS ON MOPANI DISTRICT MUNICIPALITY

Table 6.1 shows that Mopani District Municipality has not been improving and the following are the findings of AGSA

7.2.1 Comparative summary of audit findings

| Details | 2011/15/16 | 2016/17 | 2017/18 |
|--|------------|------------|---------|
| Audit opinion | Adverse | Disclaimer | Adverse |
| Findings on compliance with laws and regulations | Yes | Yes | Yes |
| Material misstatement in financial statement submitted | Yes | Yes | Yes |
| Unauthorized, irregular and fruitless and wasteful expenditure | Yes | Yes | Yes |
| Procurement and contract management | Yes | Yes | Yes |
| Expenditure management | Yes | Yes | Yes |
| Asset management | Yes | Yes | Yes |
| Consequence management | Yes | Yes | Yes |
| Revenue management | Yes | Yes | Yes |
| Findings on predetermined objectives | Yes | Yes | Yes |

Table 7.2 is the MDM summary of audit findings by AGSA

7.2.2 Narrative information based on comparative summary of audit findings

The Auditor General of South Africa has a constitutional mandate and, as the Supreme Audit Institution (SAI) of South Africa, it exists to strengthen the country's democracy by enabling oversight, accountability and governance in the public institutions. Audit General's report is a public document which is supposed to be published in the municipal's website in terms of section 75 of the Municipal Finance Management Act, 2003. The researcher outlined the following findings from Auditor General's report for the year 2015/2016 in comparison with 2016/2017 and 2017/2018 financial years respectively.

- Immovable assets. Assets were not verified because there were no supporting documents on the capitalized assets. The following assets could not be verified (Infrastructure assets, mostly the underground assets including boreholes) and the location of these assets could not be pointed out during the audit team. Root cause remains the municipality's internal controls which remain weak. Effective system of internal control for assets was not in place as found by the AGSA.
- Difference in calculation for depreciation as the auditors recalculated the information as contained in the assets register. The amount arrived at could not agree with the amount disclosed in the financial statements. Consultants put together the assets register instead of internal municipal officials.
- No supporting documents for capitalized assets. The Auditor General was unable to validate that the expenditure incurred was paid for genuine work done as the supporting documents were inadequate. Some payments were processed based on quotations without any invoices, billing documents without any evidence, that work was indeed done. Root cause, shows internal controls remain weak and deteriorating.
- Officials from Mopani District Municipality were slammed for racking up R24 million in consulting fees as well as R196 million in irregular expenditure. The Municipality spent R2 million on boreholes which even collapsed and dried up.
- Expenditure on capital expenses was not capitalized in terms of section 122(1) of the MFMA, the financial statement did not fairly present the state of affairs of

the municipality, its management of revenue, expenditure, assets and liability its business activities, its financial results and its financial year contrary to the requirements of section 122. AGSA had identified material discrepancies and misstatement on the financial statements, discrepancies in the capital expenses were not capitalized due to lack of internal control and accountability.

- Expenditure incurred to repair and maintainance of property, plant and equipment were not disclosed separately in line with the MFMA. During the auditing process of the submitted AFS, AGSA noted that the expenditure that was incorreccted on repairs and maintenance was not disclosed separately and the root cause identified was internal control system which is not in place.
- Supporting documents for borehole development were not availed for audit. The AGSA was unable to validate that the expenditure incurred was for genuine work done as the supporting documents provided were inadequate. Poor record keeping is the root cause
- During assets verification the AGSA noted that the assets on the annexures per local municipality did not have assets/borehole numbers. Hence it was impractical for AGSA to conclude that mentioned assets/boreholes exist and belong to the municipality and the root cause was found to be poor record keeping.
- AGSA identified non-compliance with MFMA municipal supply chain Regulation section 12(3) and section 12(2). Contrary to the above it was noted that the municipality issued the listed orders of a similar nature to one service provider. Proper planning would have indicated that the procurement would be above the prescribed threshold of R200 000 and therefore, a competitive bidding process should have been followed and non-compliance was the root of all this.
- Contract management deficiencies was found to be a problem as contracts for consultants were not prepared. Section 116(1) of the MFMA states that a contract agreement procured through supply chain management system of a municipal entity must.
 - Be in writing;
 - Stipulate the terms and conditions of the contract or agreement which must include endowment providing for;
 - Termination of the contract or agreement in case of non or-underperformance; and

- Dispute resolution mechanism to settle disputes between parties.

Contrary to the above, AGSA identified that contracts were not signed by both the municipality and the supplier, and further that there was no proof that the consultants were monitored in line with legislation. Non-compliance with legislation is a serious transgression and results in negative audit findings.

- About supply chain management (SCM), bid adjudication committee was not properly constituted. Section 29(2) of SCM policy mandates that the bid adjudication committee must consist of at least four Senior managers. In terms of section 57 of Mopani District municipality's SCM must include –
 - The chief financial officer, or another manager in the Budget for Treasury office;
 - At least one senior supply chain management practitioner who is an official of MDM; and
 - A technical expert in the relevant field who is an official of the municipality, if the MDM has such expert.

Contrary to the above mentioned clause in the SCM policy, AGSA noted that the bid-adjudication committee was not properly constituted as neither the CFO nor another manager in the Budget and Treasury office reporting directly to the CFO or designated by the CFO was not a member of the adjudication committee that adjudicated tenders and any expenditure incurred in those bids is regarded as irregular expenditure and needs to be dealt with in terms of section 32 of the MFMA. Failure to comply with treasury prescribed policies will lead to negative audit finding, non-compliance.

- AGSA has found that Suppliers' tax matters were not cleared by SARS. Paragraph 112(i)(ii)(iii) of the MFMA states that the supply chain management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive, cost effective and must comply with prescribed regulatory framework for municipal supply chain management, which must cover at least the following:
 - The barring of a person from participating in tendering or other bidding process including persons whose tax matters are not declared by SARS.

- In terms of section 13(b) of the SCM regulation states that the municipality or municipal entity must obtain a tax clearance from SARS that the provider's tax matter is in order.

Contrary to the above requirement, AGSA has identified cases where suppliers' tax were not declared by SARS and tax clearance certificates were not provided. Audit findings raised in the previous years were not addressed and findings are recurring.

- AGSA has noted that deviation was not sufficiently justified. The municipality deviated from normal procurement process for the listed bidders as per the specified finding above. The reason advanced was that the procurement was urgent/emergency however no justification was provided for the emergency.
- With regard to the Unauthorised, irregular fruitless and wasteful expenditure (UIFWE), the municipality incurred expenditure in contravention with SCM prescripts in the current and previous years. Control to ensure that all irregular expenditure was accounted for was not in place. Irregular expenditure incurred was more than the disclosed amount. AGSA was not able to determine the full extent of the understatement of irregular expenditure in the 2017/18 and the previous year as it was impractical to do so. The findings are recurring and the root cause was weak internal control system. UIFWE expenditure was not investigated in line with section 32 of the MFMA, 2003.
- AGSA found that there was non-compliance with MFMA on other compulsory disclosure requirements. The municipality did not include the total amount paid in levies, pension, and medical aid contributions, and whether any amount was outstanding as at the end of the financial year.
- The AGSA has found that the unauthorized expenditure was understated. The municipality overspent on operational budget. Failure to meet own set targets particularly on core functions of the municipality provides a portrait of a failing institution.
- Irregular, fruitless and wasteful expenditure's opening balance to the schedules of unauthorized expenditure submitted for audit was found to be incorrectly stated. There were no breakdown and supporting documents on the UIFWE. This is a clear indication of lack of budget financial management control systems in Mopani District Municipality. There is pure lack of monitoring and oversight in the implementation of the MFMA.

- SCM's supplier additional information was not provided from the municipality on all Regulation 32 appointments. The MDM did not provide AGSA with information from municipality that they have performed the competitive bidding process on the appointment of the suppliers before it went to Regulation 32 process.
- The findings of the study reveal that the annual financial statements (AFS) are submitted to the Auditor General for auditing with material misstatements.
- The findings of the study also reveal that there is high level of non-compliance with legislation on supply chain management.
- The other findings show that lack of consequence management at MDM makes the state of municipality to remain at adverse and disclaimer audit opinion.

7.2.3 Consequences of the findings

While the executive mayor has legislative responsibility in terms of section 13(10) of the MFMA, to address matters raised by the AGSA in audit reports for 2015/2016, 2016/17 and 2017/18 and to ensure compliance with the section, one may conclude there is no oversight on his part as the findings are repeating from the previous years. The municipality has developed a comprehensive audit action plan aimed at addressing findings made by the AGSA. A workshop was also arranged to engage the AGSA on the findings with a view of ensuring that the action plan is implemented appropriately. It has been noted with concern that the implementation of the action plan has not yielded the desired results. Out of 40 audit findings which affected the audit report only 27 were resolved during the period under review. The status of implementation of the audit action plan points to a number of unresolved report findings which will easily result in yet another negative audit opinion. Management seems to take audit opinion lightly and does not bother to take corrective measures to resolve the findings. It is based upon this understanding that the Executive Mayor needs to be held accountable by the Municipal Council of Mopani District Municipality.

The quality of annual financial statements submitted for audit remains a concern. The accounting officer's monitoring and oversight mechanisms over financial reporting, performance information and compliance with applicable laws and regulations are

ineffective and have not yielded positive results. Management has not addressed the root cause of the negative audit outcomes. The following matters have been identified as at root causes of the municipality not improving on its audit outcomes.

- Daily controls for recording and reconciling of transactions were ineffective.
- Audit action plans were not properly monitored and implemented.
- Lack of control measures to monitor compliance with laws and regulations.
- Processes for collecting, collating, verifying and reporting on performance information are ineffective.

Control over data collection, collation, verification and reporting of performance information are ineffective. Management's processes for monitoring performance of the MDM requires attention. A complete mind shift is required to turn around the municipality towards clean administration. Although there is stability at the level at the senior management level because both the Municipal Manager and CFO have been appointed, the audit outcomes of the MDM are not improving. There has been no significant positive change towards credible results instead, a reversal in audit outcome is being witnessed. Therefore, the Executive Mayor needs to hold both the Municipal Manager and the CFO accountable as part of consequence management due to poor performance.

AGSA has extensively cautioned, in his municipal report for 2015/16, government's administrative and oversight leadership at all levels to prioritise accountability and warned against possible regression in audit outcomes following changes in the political leadership after the last local government elections. The 2017/18 Financial year's municipal results indicate that the AGSA's audit counsel has largely not been implemented or totally ignored as the audit outcomes reflect the state of governance AGSA had painstakingly cautioned against. All the relevant accountability structures and persons within Mopani District Municipality must be held liable by the municipal council.

7.3 WEAKNESSES IDENTIFIED THAT RESULTS IN INADEQUATE FINANCIAL

MANAGEMENT CONTROL

Through interpretation and analysis of data, the researcher has identified the following weaknesses related to finance management control in the Mopani District Municipality

- Lack of leadership skills led to the current state of MDM because there are no policies that are adhered to and nobody is responsible for monitoring, supervising and accountable for maladministration prevailing in the institution.
- Lack of consequence management to those who deviate from the legislative framework on certain procedures.
- Poor record keeping which led the MDM with no institutional memory and put the institution on risks and more AGSA findings.
- It was observed that processes were not followed when appointing service providers in terms of regulation 32 requirements.
- In all the overspending of votes, emergencies, unforeseen and unavoidable expenditure were not tabled within the stipulated 60 days as per section 29 of the MFMA. This implies that all those mentioned expenditures were never disclosed to the municipal council and were not even considered for budget adjustment in terms of section 28 of the MFMA.
- The municipality has developed an audit action plan as a commitment to ensure that all municipal assets are recorded in the assets register but it was not done and no one was held accountable.
- It has discovered that there is no opening balance to schedule of UIF submitted for audit. There were no supporting documents submitted. Information on the supporting documents was also incomplete, which resulted in AG's findings.
- It has been observed that records management was still a challenge within the MDM. Some payments were done based on quotations only without invoice and all other relevant documents and officials paid contractors without any evidence that the job was indeed done.
- It was observed that some contracts were appointed without following due processes and procedures and SCM committees were not properly constituted and, in some instance, appointments of service providers were done without

any bid adjudication committee (BAC) sitting in line with regulation of bid committees

- The research has found that MDM does not have proper internal control system in place. The budget management control system is very weak and as such proper processes as stipulated in the MFMA when overspending were not conducted.
- Key performance indicators (KPIs) were not well defined and as such there is a risk of not implementing the IDP and SDBIP as approved by the municipal council. It was observed that this has been a standing finding from the previous audit editions. In 2015/16 audit finding, AGSA picked that there was 40% of inconsistencies on the KPIs.
- It was also noted that requested documents were not submitted by the audit team to AGSA and it resulted in the limitations of scope.
- Lack of council policy on the management of unauthorized, irregular, fruitless and wasteful expenditure.

7.5 RECOMMENDATIONS TO IMPROVE FINANCIAL MANAGEMENT CONTROL

The following recommendations to improve financial management control at Mopani District Municipality are made:

- That management should tighten its system of internal control and the council must hold management accountable for continued failure to put internal controls in place.
- Management must attend to all internal audit findings and must be held accountable for failure to take corrective measures on the findings of the internal audit committee and AGSA's findings.
- The Municipal Manager and the Chief Financial Officer must comply with all approved accounting policies, if not so, consequence management ought to be applied.

- Management should be held accountable for failure to submit annual financial statements for quality assurance and review by audit committee and provincial treasury before submitting to the AGSA.
- That there be proper monitoring of performance by management, executives and relevant portfolio committees to all appointed service providers.
- That internal financial control system or measures to be activated by the Chief Financial Officer to prevent further duplication of payments of service providers.
- That management should keep schedules of all unauthorized, irregular, fruitless and wasteful expenditures for the current and previous periods and report to the municipal council on a quarterly basis.
- That consequence management should be applied to all the affected officials responsible for causing unauthorised, irregular, fruitless and wasteful expenditure with the intention of stopping this from ever recurring.
- That consequence management should be applied to those who deviated from the approved list of funded plans/ projects as per AGSA`s findings.
- That the Municipal Manager should be held accountable for any irregular expenditure caused by non-compliance of the SCM regulations on the establishment of bid committees.
- That accredited training of all officials involved in the supply chain management processes of the municipality should be held within a year as provided for in section 119(2) of the MFMA which compels a municipality to provide training for the employees to meet the prescribed competency levels.

7.6 CONCLUSION

Based on the research findings, it can be concluded that Auditor General plays a significant role in the control of public funds in local government. The Public Audit Amendment Act, 5 of 2018 empowers the AGSA because the Act stipulates that the recommendations of AGSA are binding to the auditee. The key expansion of the mandate of AGSA was to refer material irregularities to relevant public bodies for further investigations; take binding remedial action for failure to implement the AGSA`s recommendations; and to issue a certificate of debt for failure to implement the AGSA`s recommendations if there had been financial losses. Municipalities are now compelled to act in line with the recommendations of AGSA.

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