



## The Role of Auditor-General in Strengthening Compliance Levels in Local Government Administration: The Quest for Dedicated Public Officials

Kgobe S.F; Selepe M; Thusi Xolani

Department of Public Administration, University of Limpopo, South Africa

E-mail: Sanyanekgobe03@gmail.com; modupi.selepe@ul.ac.za; Xolani.thusi@ul.ac.za

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### **Abstract**

The purpose of this paper is to unpack the role of the Auditor General in strengthening local government administration. This article argues that in the public sector, compliance requires restricting actions and behavior to achieve the goal of good governance and citizen service. There is no better place to study compliance in all its forms than in the audit processes and results of local governments in South Africa. This paper examines its purpose based on the Principle-Agent Theory and the Policeman Theory. The document is conceptual in nature and is based on existing relevant literature to demonstrate how the Auditor General's administration and/ or powers can help strengthen local government administration, particularly Municipal Finance management.

**Keywords:** Auditor General; Municipality; Compliance; Local Government

### **1.Introduction**

The issue of compliance in South African local government is as diverse as it is essential (Matlala and Uwizeyimana, 2020). According to Aikins (2012), many local governments have struggled with operational and financial control weaknesses for decades. Seitheisho (2018) similarly states that local governments have come under intense scrutiny recently because of local government's repeated failure to attain clean "audit results.". In spite of ongoing efforts to obtain a resolution to poor annual audit results, the issue of clean audits continues to persist (Seitheisho, 2018).

For many years, failure to comply with municipal financial legislation has been a persistent and widespread problem in South Africa (Khaile, Davids, and Khaile, 2021). In numerous consecutive annual audit results, AGSA has indicated that municipalities have not adhered to the prescribed financial legislation, which results in poor audit results. According to Khaile, Davids, and Khaile (2021), despite

numerous interventions such as the Local Government Turnaround Strategy (COGTA, 2009), the perennial failure to enforce compliance persists.

According to AGSA (2019: 2), the effect of failure to comply with legislation is that "fiscal resources placed at the disposal of municipalities are either misused or not properly accounted for as required by laws and regulations." As a result, failure to comply with laws and regulations has resulted in municipal functions, as well as the provision of services being crippled (AGSA, 2019:2). The recurring issue of previously reported findings lends credence to the view that risk areas, recommendations, and guidelines identified by AGSA are often ignored or poorly implemented in all spheres of government, including local governments (AGSA 2014: 9,16, 2015: 12). There was enough evidence, according to AGSA, that underperformance, negligence, and wrongdoing at all spheres of government, including municipalities, do not always result in consequences (AGSA 2012: 5). Given the CoGTA intervention since 2009 and the specific reform proposals of AGSA, it is difficult to comprehend the dire state of municipal finances in South Africa. (Wessels, Makhosandile Kwaza, and Ijeoma, 2021).

The rising culture of regulatory noncompliance in municipal audit outcomes was highlighted by trends in AGSA reports (Dlamini, Mutambara, & Assensoh-Kodua 2017:46). For the last nine years, AGSA issued consolidated reports on the audit results of South African local governments. show that most municipalities were designated as not financially sustainable for the relevant years. (Chaka 2013). This has raised concerns about the municipal operations' financial viability as crucial services and infrastructure maintenance may be severely disrupted as a result (Matlala & Uwizeyimana, 2020).

Various studies have noted that municipalities are engaged in a culture of non-compliance, which resulted in disastrous effects on municipal governance and financial health (COGTA, 2009). The National Treasury, COGTA, and AGSA have all emphasized the importance of obtaining a "clean audit" opinion as a key indicator of good governance (National Treasury, 2014; COGTA, 2009; AGSA, 2011/12). As a result, the 'occurrence' of failing to obtain a clean audit opinion is due to various challenges facing local governments, such as inefficient management, ineffective financial management, and poor governance (Mazibuko & Fourie, 2013). Deloitte, 2013a), municipalities in South Africa are not the only ones facing these difficulties. (COGTA, 2009; PricewaterhouseCoopers, 2010).

## **2. Theoretical Framework**

Various arguments have been advanced to explain why auditing ideas are so important. According to Ittonen (2010), auditing theories aid in explaining the frameworks and concepts that govern the auditing process and its operations. As a result, the frameworks aid in the comprehension of the firm's relationships with other parties. The following theories will be used to frame the study:

### **2.1. Principle-Agent Theory**

This theory is often regarded the most important paradigm for explaining research accountability and monitoring, particularly in government (Gailmard, 2012). This theory proposes that non-compliance issues arise because of municipal officials breaking the law and acting unethically while downplaying municipal councils' role as primary perpetrators of non-compliance with municipal budget standards (Khaile, Davids, Khaile, 2021). The principals-agents relationship is based on the notion that agents have conflicting interests and act opportunistically, while principals always act in good faith, and agents need to be constrained and regulated (Gailmard, 2010; Akpanuko and Asogwa, 2013; Döhler, 2018). Similarly, according to Roach (2016: 31), "an agent may engage in self-serving shirking behaviors, and by doing so, an agent engages in non-compliance activities that divert their attention away from achieving the principals' primary objectives outlined and expected, to secure their secondary interests." As a result, this concept is often regarded as implying that the client has an obligation to ensure compliance (Gailmard,

2010). The agent activities are limited to complying with the limits set by civil servants through laws and norms and preventing them from deviating, avoiding or deviating from them (Bruehl, McCubbin, and Harden, 1999). As a result, the principle-Agent Theory is seen as requiring inspection as a deterrent to non-compliance. Preventing and dealing with agent shirking is regarded as critical (Thomann, Van Engen, and Tummers, 2018).

## **2.2. The Policeman Theory**

The policeman theory believes that investigators are responsible for finding, detecting, and preventing fraud. The auditor's focus has recently, the emphasis has turned to giving reasonable confidence and verifying the accuracy and authenticity of financial accounts. (Hayes, Dassen, Schilder, Wallage, 2005: 44). Fraud detection remains a hot subject in the auditor's liability debate, and there is often a demand to increase auditor liability in fraud detection after financial statement fraud is detected (Ittonen, 2010).

Agents are more prone to participate in fraudulent actions if they are not supervised, according to this notion. As a result, the auditor's responsibility is to look for and halt fraudulent acts (Ittonen, 2010). The auditor (serving the interests of the business owner or citizens) duties of detecting fraud and other irregularities appear to be the emphasis of the policeman theory (Hayes, Dassen, Schilder, and Wallage 2005:44). This is especially important for government and other corporate governance organizations that work to promote honesty and protect consumers from deceptive practices such as fraud or embezzlement, tax evasion, and money laundering, among others.

This paradigm promotes honesty and fairness in organizational activities and operations (Hayes et al., 2005:44). As a result, it is critical because it addresses a number of concerns, such as accountability and integrity, and as a result, the information provided is trustworthy. It elaborates on the audit functions (Ittonen, 2010).bThe theory aids the paper in providing reasonable assurance and verifying the fairness and truth of financial statements, as well as increasing internal auditors' responsibility for detecting financial frauds, increasing physical control, information processing controls, and monitoring, and enabling internal auditors to develop skills and competencies that improve financial performance (Hayes et al., 2005:44).

## **3. Legislative Frameworks Underpinning Auditing in the Local Government**

The Municipal Systems Act (2000), the Municipal Finance Management Act (2003), the Public Audit Act (2004) (Act No. 25 of 2004), and the Auditor-General Act (Act No. 25 of 2004) all control auditing in municipal and government departments; each of these pieces of law has a specific role to play, which is outlined below:

### **3.1. Constitution of the Republic of South Africa, 1996**

Under Chapter 9 of the Constitution of RSA 1996, the AGSA is one of the public institution's backing constitutional democracy. The powers of AGSA are outlined in section 188 of the Constitution, and AGSA is required to carry out the Constitution and other obligations. AGSA's constitutional function is exercised to carry out its highest priority mission. Auditors are government agencies established by Article 181 (1) of the Constitution to assist the with the development of democracy of the Republic. Under Section 188 of the Constitution, The AGSA is in charge of auditing the public sector financial statements.

### **3.2. The Public Audit Act, 25 of 2004**

This is an enabling legislation for the Auditor-General in South Africa. The legislation establishes and assigns functions to an Auditor General, as well as providing for government institution auditing, in order to give effect to the requirements of our country's constitution. To provide us with more authority to maintain public sector accountability, the Public Audit Act was revised [Public Audit Amendment Act (Act No. 5 of 2018)]. The changes are not meant to take over the obligations for responsibility of the municipal manager, mayor, or council, which are clearly specified in municipal legislation. It is more about stepping in when those tasks aren't being fulfilled, despite our warnings to management about material anomalies that must be investigated and corrected (MFMA, 2017-2018).

### **3.3. Local government: Municipal Systems Act, 32 of 2000**

Sections I and II of Section 41(c) require that municipalities monitor, measure and analyze their performance at least once a year. Section 41(d) requires a municipality to implement measures if it fails to offer services or achieve its goals, to improve its performance in areas where it has fallen short in its performance criteria in terms of its development targets and objectives Mpehle and Qwabe, 2006: 264). Performance measurement outputs must be audited, according to Section 45, and this approach must be used both internally and externally through audits. According to Section 14(1), quarterly reports must be produced so that internal auditors can analyze municipal performance on a regular basis (Notshikila and Govender, 2014: 5).

### **3.4. Local Government: Municipal Finance Management Act, 56 of 2003**

The statute gives the accounting officer the responsibility for "the economic, efficient, and effective usage of resources, "The MFMA states The AG must be reasonably satisfied that acceptable management processes are followed to guarantee that available resources are used economically, efficiently, and that reports are given to the appropriate legislative bodies. (Mpehle & Qwabe, 2006: 264).

## ***4. Why Are Municipalities Unable to Attain Clean Audits?***

The results of municipal audits are often reflections of the performance of a municipality in terms of delivering public services; however, their impact on service delivery appears to be limited and the relationship between the two variables (service delivery and municipal performance) becomes even weaker in cases where municipalities lack key operational resources (Matlala & Uwizeyimana, 2020).

The AGSA report also found that most public institutions did not take corrective action on anomalies raised during previous annual audits; as a result, some flaws remain unresolved or recur every year (AGSA 2014:10, 2015:14, 2016:34. According to the Auditor-General of South Africa (2014), the problem of unfavorable test results is deeply rooted and is the result of widespread misunderstandings of governance and law surrounding the executive system. This limits the effectiveness of the law in strengthening local government fiscal oversight (Khanyile, 2016: 27).

Local government budget and spending assessment reports show that the success or failure of a local government depends on the quality of its political leadership, the proper management of funds, and the quality of its finances. Most important of this is the strength of institutional and staff skills (National Treasury, 2011). The repeated lack of accountability and the failure of leadership is also believed to be the main reason for the significant setback in audit results compared to the previous year (AGSA, 2018).

According to DPME (2014:34), half of the assessors could blame their poor assessment results on mayors and councilors who fail to respond to identified assessed concerns and disregard their suggestions.

They are sluggish in accepting responsibility and do not understand their role in putting important control measures in place (DPME, 2014: 34). According to Aadnesgaard and Willows (2013), municipal audit legislation aims to improve accountability and create a tool to measure urban performance. The literature suggests that the reasons for this are self-reporting financial inefficiencies and the lack of ramifications by cities (Aadnesgaard and Willows, 2013).

According to Diedericks (2017, p. 5), one of the main causes of poor public sector audit results is the insufficient documentation to verify the reported results. Govender and Redd (2014) state that the main function of the target as an accountability tool is undermined by the lack of reliable information, moreover, performance monitoring is not possible without reliable relevant data. According to Hendricks and Botha (2015, p. 113), an organization's weak performance reporting system leads to qualified audit opinions, whether financial or nonfinancial.

As Burke and Freidman (2011) pointed out, control, along with planning and execution, is a vital management factor that cannot be overlooked. Leadership and governance are important in achieving clean audits (Motubatse, Ngwakwe, and Sebola, 2017). According to the AGSA (2015), clean audit progress in some municipalities is jeopardized if the following three root causes are not addressed: senior municipal management and political leadership; slow response to improving key internal controls; insufficient consequences for poor performance and instability, and prolonged vacancies in key management positions in municipalities.

## ***5. Reasons for the Failure of the Municipality to Execute the Audit Recommendations***

Failure to follow AGSA recommendations can be due to a variety of issues, including funds, personnel, and time (Matlala & Uwizeyimana, 2020). Cohen and Savag (2010: 297) state that "the basis of audit performance is the availability of resources and time to adopt recommendations." Abdullah (2014: 6) states, " Due to a lack of resources, audit recommendations may be delayed or impossible to implement.

### **5.1. The Absence of Audit Committees**

Ibrahim, Baker, and Doyle (2014:15), states that some committees are tasked with overseeing the execution of audit recommendations by local governments and other departments, and as well as agencies to determine how well they follow the AGSA recommendations. Ibrahim et al. (2014), furthermore states that the execution of AGSA recommendations is an indicator of the effectiveness of the committee, however, according to the literature, the AGSA recommendations cannot be implemented due to the lack of active audit committees. According to Sigidi (2012: 14), audit committees exist in most municipalities. Despite their existence, it seems that audit committees were not performing their responsibilities correctly. Although the South African public sector has multiple audit committees, Van des Nest (2008:176) asserts that their performance varies. The lack of personnel with financial audit capabilities and technical experience, another reason for the underperformance of the audit committee, is the inadequate internal control system. (Dodo, 2017: 19).

### **5.2. No-Consequences for Failure to Execute the AG's Recommendations**

Aikins (2012) states that if status monitoring identifies inactive recommendations, it is necessary to identify why no action is being taken in the follow-up. Aikins further indicated that "the environment may have changed to the point that the problem no longer exists, or the recommendation is no longer relevant or practical" (Aikins 2012:60). Municipalities may be hesitant to implement AG's advice in this case because there are no consequences for inaction on the part of the municipalities. Municipalities may be hesitant to implement AG's advice in this case because there are no consequences for inaction on the

part of the municipalities. Mr. Makwetu, the Auditor General, has also criticized the lack of sanctions for high officials who spend public money in an unauthorized, pointless, wasteful, or irregular manner (AGSA 2012, 2013, 2014). Aikins (2012), furthermore, argued that despite AGSA's persistent and vigorous recommendations and warnings to institutions responsible for governance and administrative errors since 2013, their advice was largely ignored (AGSA 2015:14). AGSA (2014:45) states that "without consequences, misuse of funds will continue to go unchecked". These issues, AGSA, are one of the factors that cause audit results to continue to be deadlocked or poor, due to inadequate leadership, which has been recognized time and time again. According to SALGA (2010), the following causes contribute to unfavorable audit outcome: failure to comply with relevant accounting standards, insufficient preparation of asset records, deficient internal control system, weakness in accounting and determination price and adequacy of assets records.

### **5.3. Lack of Experienced Personnel**

According to Makwetu (2014), low quality financial statements are produced due to a lack of experienced personnel, and the quality of financial accounts supplied for auditing purposes is not improved by municipalities. Municipalities, on the other hand, continue to struggle to implement supply chain management systems, resulting in subpar service delivery and unsatisfactory audit results (Bizana, Naudé, & Ambe, 2015). Makwetu (2014) further states that little has been done to solve the acquisition and agreement management challenge.

### **5.4. Hiring of Inexperienced and Unqualified Personnel**

According to Draai and Oshoniyi (2013), the employment of untrained individuals and the absence of limited skills and high vacancy rates in the local government contributed to poor performance. High vacancy rates, according to Shipalana and Phago (2014), result in increased tasks, which contributes to burnout and low staff morale. To fill the voids left by vacancies, the appointed incumbents are expected to go above and beyond, resulting in a high volume of labor and exhaustion. Makwetu (2014) confirmed that vacancies were badly handled and acting period was high, resulting in the municipality's incapacity to execute to its full potential. According to Ramutsheli and Janse van Rensburg (2015: 110), nepotism and cronyism remain major contributors to South African local government skills shortages. Senior local government officials are still appointed on the basis of association with the ruling party at the municipal level. The people appointed to these positions are usually untrained, inexperienced, and unable to perform their duties. (Deloitte 2012:3; Kanyane 2006:116; SALGA 2010).

### **5.5. Ineffective Planning, Spending, and Finance Employees**

As part of the examination, the Auditor General of South Africa looked into the municipality's ability to continue as a going concern. According to Makwetu (2014), 76% of the auditees showed signs of financial difficulty and serious doubt about their capacity to continue as a continuing concern.

### **5.6. The Absence of Skilled Chief Financial Officers (CFO)**

Most municipalities used consultants, which cost R734 million in total. In all, 79% of the auditees used consultants, with the most common reason being a lack of capacity to perform the assignment. In addition, the evaluation of management by the consultant indicates that skills have not been transferred and that the appointment of consultants, management, and supervision of activities is lacking (Makwetu, 2014). According to van Helden, Gronlund, Mussari & Ruggiero (2012), public sector managers typically hire consultants owing to a lack of skills, experience, and expertise, as a result of the lack of formalization of the skills transfer process, managers continue to rely on consulting services. Other problems that impacted the abilities of these municipalities included an exceptionally high reliance on grants, since

revenue was insufficient to finance operational expenditures, in terms of recovery, failure and current liabilities exceeding current assets (AGSA 2011:11–89, 2012:12:90, 2020:45). The AGSA has repeatedly expressed its concerns about the situation and made specific recommendations, such as asking affected communities to prepare financial recovery plans to improve the financial status of the municipality (Motubatse, 2014:3).

Some scholars stated that some of these criteria that are linked to audit difficulties encountered by local governments around the world include leadership quality and governance (AGSA, 2012:11, 40; Dalton et al. 1998:270). These roadblocks are just as severe in local government when it comes to implementing audit recommendations (COGTA 2009:9), however, in far too many places around the country, the goal has proven to be difficult for all parties involved and unrealistic. Since the goal was announced in 2011, AGSA and other groups have consistently cited lack of leadership, bad financial management, and weak administration as major roadblocks to success (AGSA 2013a: 196, 2013b: 87).

### ***6. Framework to Follow to Achieve Clean Audits***

According to Nzewi (2017), from a functionalist approach, work procedures serve to control behavior and result in an order. Studies reveal that work procedures are versatile for compliance (Nzewi 2015:26; Antonsen, Almklov & Fenstad 2008), Squires, Moralejo, and LeFort (2007) found success in adopting new techniques and growing corporate culture (Antonsen et al. 2008:2). Managers enable the system to adapt to input pressures and unpredictable outputs by having control over organizational processes, structures, and procedures.

Motubatse (2016) proposed a model that demonstrates how a combination of positive and effective management and governance can lead to meaningful accountability. As a result, the proposed framework corresponds to the key internal control drivers of AGSA (Motubatse, Ngwakwe & Sebola, 2018).

Among others, Cohen et al. (2002), Morgan (2010), and Soliman & Ragab (2014) all agree that the audit committee's efficiency and effectiveness in proving factors improve the audit committee's overall efficiency. As a result, adding these governance variables to the Auditor General's three-drivers-of-audit-outcomes paradigm seemed reasonable, bringing the total number of audit committee variables to five. The revised framework now recommends that audit scrutiny be broadened to include elements that influence audit committee effectiveness in audit practice (Motubatse, 2016).

### ***7. Government Measures aimed at Resolving Municipal Audit Compliance Difficulties in South Africa***

To remedy unsatisfactory audit results, the government launched steps to improve audit compliance. The South African government has dealt with unsatisfactory audit results in a variety of ways, many of which demonstrate inadequate financial management and reporting standards. The Department of Cooperative Governance and Traditional Affairs (CoGTA) initiated an investigation in 2009 to review the 283 municipalities (now 278) in the country (COGTA, 2009a:3; Powell, O'Donovan, Ayele & Chigwata, 2014:1). A review of audit results revealed that self-governing municipalities experienced a "crash" in 2009 due to widespread systemic problems such as major delays in service delivery, breakdowns in governance, corruption, fraud, and widespread protests in service delivery (Kanyane, 2014: 94).

Poor financial management was also identified as a key contributor to municipal problems (Powell, O'Donovan, Ayele, & Chigwata, 2014:5-6). Following this evaluation, CoGTA developed the Local Government Turnaround Strategy (LGTAS) (CoGTA, 2009a:4). One of the LGTAS's goals was for

municipalities to achieve clean audit results by 2014. (CoGTA, 2009a:21). The first program, Operation Clean Audit 2014 (OCA 2014), was developed in 2009 as a "turnaround plan" to improve the opinion of the local government audit. Powell, O'Donovan, Ayele, and Chigwata (Powell, O'Donovan, Ayele, & Chigwata, 2014) hoped that by 2014, all 283 local and district municipalities would have had clean audit results. However, the Auditor-Report General's for 2012/2013 shows that only 9% of municipalities had clean audits (Makwetu, 2014).

According to Oberholzer (2012), OCA 2014's failure is due to the following factors: lack of sufficient skills; dedicated funding for the necessary intervention. inadequate coordination and support from national and state governments. political instability.

The second government project was Back to Basics, which started in 2014. The purpose of this initiative was to help municipalities become more effective and better governance centers (COGTA, 2014). According to Corruption Watch (2014), the campaign is based on five principles.

- Prioritizing people and interacting with the society, this involves efforts to promote community communication and participation, as well as collaboration between all important stakeholders.
- Providing essential services, the principle encourages towns to plan, build, and maintain the basic infrastructure necessary to maintain basic living conditions and economic activity.
- Effective management means keeping an eye on the council's and other municipal oversight agencies' effectiveness.
- Keeping track of financial performance and resolving municipal capacity gaps to design and implement post-audit and audit action plans are all part of effective financial management.
- Development of skills, this includes the appointment of experienced and committed individuals capable of improving municipal services and performance.

Another approach has been to group weaker self-governing cities with seemingly stronger municipalities to improve the goal of eliminating revised audit reports between cities by 2014 (Powell et al., 2014). Powell et al. (2014), states that another alternative was to implement interventions under Section 139 of the South African Constitution and implement municipal recovery measures led by provincial and national governments, however, this did not yield the desired results and municipalities.

## ***Recommendations***

- There is a lack of consequence management in South African local government, the GSA makes recommendations informed by the findings to municipalities, but the municipal leaderships do not hold anyone accountable. This creates situation of non-compliance in the municipalities and the price is paid by the citizens, and this is indicated by service delivery protests that take place every month in South African local communities.
- The South African local government must strengthen internal controls to improve compliance and close financial leaks caused by corruption and mismanagement of public funds. This imperative, as local government is a vehicle for service delivery and democracy in South Africa.
- The procurement and contract management should be enhanced in the South African local government, there is a high level of non-compliance in this section, the public officials who are entrusted with this section, view it as a golden opportunity to enrich themselves at the expense of the citizens.
- Local government lacks enforcement of accountability, the public officials in the municipality are not held accountable for their actions, and they tend to collude to misuse the public funds for their own benefits. Municipal leadership must create or promote a culture of public accountability for all employees and ensure that those who abuse public resources are held accountable.



- The local government in South Africa must employ preventive and information technology controls to force compliance within public servants and the public. This will ensure that the financials leaks are eliminated, and compliance is enhanced in the local municipalities. This will lead to sustainable public service delivery.
- The local government must recruit and retain skilled employees who will have the ability to make financial statements and advise the municipal leadership about the efficient use of public resources. Currently, local government is faced with irregular, fruitless, and wasted expenditures, which can be avoided if the local government can employ qualified employees. The local government is wasting a lot of money by suing consultants to prepare the financial statements annually; this can be easily executed by permanent skilled employees from the municipalities.
- The civil society organization needs to act as watchdog to ensure and force the municipal leadership to ensure compliance is enhanced and irresponsible employees are called to answer for their actions.

### Conclusions

The authors contend that compliance is imperative in the local government sphere, as it is the vehicle of service delivery in South Africa. Currently the sphere is experiencing many challenges due to noncompliance, such as corruption, nepotism, tender corruption, political meddling, cadre deployment, poor service delivery and lack of accountability and consequence management. This is alarming because more South African citizens depend on government for basic services, which are mostly provided by the municipalities because they nature and proximity to the general population. Prompting compliance should be one of government role and function, hence effective and efficient services provision heavily relies on the government organizations that are compliant. The state capture issues, Zondo Commission reports, and AGSA reports paint a clear picture on how political office bearers have abandoned the citizens and turned the focus to self-enrichment scheme, they have forgotten that their mandate is to serve the public, not the other way around. The AGSA is already playing an essential role of oversight on local government finances; it is to the municipality to implement the AGSA findings to improve compliance in the public sector. The enhancement of the level of compliance in the public sector is essential and matter of urgency, and this paper arrives at the right time where local government is characterized by many deficiencies.

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