

TO: Speaker

Councillor M Siyonzana
Council item

AN UPDATE REPORT TO COUNCIL ON UNAUTHORISED, IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURES' REGISTERS REFERRED TO MPAC FOR INVESTIGATION

1. PURPOSE

To advise Council of the progress or steps taken by MPAC to date on unauthorised, irregular and fruitless and wasteful expenditures' registers referred to MPAC for investigation.

2. BACKGROUND

The Mangaung Metro Municipality's Council, in its special council meeting held on the 7th October 2020, in considering unauthorised, irregular and fruitless and wasteful expenditures' registers as at end 2018/19 financial year, resolved to mandate MPAC to investigate and report to Council. In its decision, the municipal council was empowered by and resolved in terms of section 32 of the Municipal Finance Management Act 58 of 2003.

3. DELIBERATIONS

Immediately after the said council meeting, MPAC chairperson received the council resolution as well as the copies of the registers from the City Manager on the 9th October 2020.

On the 19th November 2020, MPAC held its meeting to consider and adopt an approach to guide these investigations. In this meeting, MPAC made the following resolutions:

- 3.1 The full MPAC will work on the investigations of unauthorised (R 2 268 781 595) and fruitless and wasteful (R 78 653 617) expenditures.
- 3.2 A technical team from internal audit anti-fraud and corruption units and legal services will be co-opted to assist MPAC with the investigations above. The City Manager should release this teams for the purpose as outlined above.
- 3.3 The municipality incurred irregular expenditure to a total value of R 948 515 953. The expenditure will be investigated as follows:
 - 3.3.1 MPAC will conduct the investigation of irregular expenditures to the total value of R 67 134 relating to overpayments of councillors.
 - 3.3.2 A technical team must be outsourced to assist MPAC with the investigation of irregular expenditures to the total value of R 603 800 648:

SCM process not followed	R 222 067 358
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Contracts extended without Council approval	R 275 675 031
Previous financial years	R 106 058 259
Total	R 603 800 648

3.3.3 Irregular expenditures with a total value of R 344 648 171 as a result of contravention of section 33 of the DORA will not be investigated as the matter currently being addressed with National Treasury as reported on the annual financial statement for 2018/2019 financial year. MPAC will deal with the matter once its concluded.

The minutes of this MPAC meeting are available for perusal.

4. FINANCIAL IMPLICATIONS

It is further envisaged that the Council must avail a dedicated budget for all the operations relating to the outsourced irregular expenditures investigation. The previous outsourced investigation of irregular expenditure cost the city about R 3 200 000 it is therefore recommended that +/- R 4 000 000 be availed for this process.

5. RECOMMENDATIONS

It is therefore in line with the aforesaid that MPAC is recommending:

- 5.1 Council to take note of the progress made to date.
- 5.2 Council to take note that reports on investigations done on unauthorised and fruitless and wasteful expenditures will be reported on, as and when concluded by MPAC.
- 5.3 Council to approve the Terms of Reference for outsourced investigation of irregular expenditure and mandate the City Manager to source these services before the end of December 2020 in line with the Supply Chain Management processes (attached Terms of Reference as Annexure A).

Signed on behalf of the Committee.



Cllr. M. Tladi
Chairperson

Date: 10-12-2020

ANNEXURE A



MUNICIPAL PUBLIC ACCOUNTS COMMITTEE

TERMS OF REFERENCE FOR THE INVESTIGATION OF IRREGULAR EXPENDITURE IN LINE WITH SECTION 32 OF THE MFMA AS PER COUNCIL RESOLUTION, 94.9-07/10/2020

BACKGROUND

Council has incurred Irregular Expenditure amounting to **R 603 800 648** covering the period from 2009/10 to 2018/19. On the 07th of October 2020 Council resolved to refer the expenditure to MPAC for investigation purposes in line with section 32 of the MFMA 56 of 2003.

PURPOSE OF THE INVESTIGATION

- To determine whether there are person(s) liable in law for the irregular expenditure incurred.
- To recover irregular expenditure incurred by person(s) liable for the expenditure.
- To certify after investigation the irrecoverable irregular expenditure.
- To establish any elements of financial misconduct and provide recommendations.

LEGISLATIVE FRAMEWORK

- Constitution of the Republic of South Africa
- Municipal Finance Management Act, Act 56 of 2003, and its regulations
- Municipal Systems Act, Act 32 of 2000, and its regulations
- Public Office-Bearers Act, Act 20 of 1998, and its regulations
- The Municipality's Supply Chain Management Policy, and any by-laws giving effect to the policy
- MFMA Circular 68
- Approved MPAC Terms of Reference
- Council Resolution 94.9-07/10/2020

Section 32(2)(b) of the MFMA stipulates that Council must recover unauthorised, irregular or fruitless and wasteful expenditure from the person(s) liable for the expenditure, unless the expenditure, is, after investigation by the Council Committee, (here in referred to as MPAC), certified by the Council as irrecoverable and written off by the Council.

SCOPE OF WORK


1. Analysis and review of information which includes but not limited to the following documents to ensure completeness:
 - Irregular expenditures registers for the above-mentioned financial years;
 - Payment vouchers that corresponds with the figures disclosed in various documents vs. the scope of work and the award value for each project;
 - Supply Chain Management Policy Implementation Report;

ANNEXURE A

- In year monitoring reports;
 - Previous Annual Financial Statements;
 - Council and Audit Committee Resolutions;
2. Gather information through conducting interviews with relevant persons.
 3. To establish any corrupt or fraudulent practices.
 4. To establish any elements of financial misconduct.
 5. Identify if any person(s) are liable in law for the irregular expenditure incurred.
 6. Determine whether the amount of the irregular expenditure resulted in any loss or damages suffered by the municipality.
 7. Ascertain whether the municipality attained value for money from the relevant transactions.
 8. Compilation of report with clear recommendations on whether the expenditure incurred must be recovered from any person(s) identified as liable in law and classify irrecoverable expenditure to be considered by Council.

The above terms of reference were drafted and considered by the MPAC members.

Signed on behalf of the Committee.



Cllr. M. Tladi
Chairperson

Date: 10-12-2020

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