

ITEM (01/2014)

Municipal Manager's Report to Council on the Deviation from and ratification of breaches from the Procurement processes for the period 1 October to 31 December 2013 in the 2013/14 financial year

PURPOSE

To submit a report to Council on the deviation from procurement processes, extension of tenders, ratification of minor breaches and regularization of irregular expenditure for the quarter ending 30 December 2013.

BACKGROUND

In terms of Section 36 of the Supply Chain Management Policy: Deviation from, and ratification of minor breaches of, procurement processes:

- (1) *"The accounting officer may –*
- (a) *dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –*
- (i) *in an emergency;*
 - (ii) *if such goods or services are produced or available from a single provider only;*
 - (iii) *for the acquisition of special works of art or historical objects where specifications are difficult to compile;*
 - (iv) *acquisition of animals for zoos and/or nature and game reserves;*
 - (v) *in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and*
- (b) *ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.*
- (2) *The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements."*

Attached as Annexure A (pp1-3) please find the instances for the quarter October to December 2013 where the prescribed procurement processes were not followed but the deviations were approved in terms of the Municipal Manager's delegated powers.

Attached as Annexure B (pp4-5) please find the instances where existing tenders/contracts were extended and were approved in terms of the Municipal Manager's delegated powers.

Attached as Annexure C (pp6) please find the instances where the ratification of any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature are required. No instances to report for this quarter.

Attached as Annexure D (pp7-8) please find the instances where the expenditure have been classified as irregular and permission is requested from Council to regularise the expenditure incurred in this regard.

RECOMMENDED TO MUNICIPAL COUNCIL:

1. that Council takes note of the item as per Annexure A (pp1-3) where the official procurement process was dispensed with, for reasons as mentioned in the report, with the approval of the Municipal Manager, for the quarter ending 30 December 2013.
2. that Council takes note of the item as per Annexure B (pp4-5) where existing tenders were extended, with the approval of the Municipal Manager, for the quarter ending 30 December 2013.
3. that Council takes note of the item as per Annexure D (pp7-8) where expenditure has been classified as irregular and permission is requested from Council to regularise the expenditure incurred in this regard.
4. above be included by the Chief Financial Officer as a note to the 2013/2014 annual financial statements.

M THELEJANE
ACTING MUNICIPAL MANAGER

DATE:

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DISPENSING WITH CALLING FOR TENDERS FOR THE PERIOD FROM 1 OCTOBER TO 30 DECEMBER 2013

ANNEXURE A

Department	Description	Reason	Approved Company	Amount (including VAT)
Finance Department	Extension of scope on budget Caseware templates and training of Budget and Treasury officials	MCLM procured Caseware System during 2009/10 financial year for the purpose of uniformity and reporting on AFS. One template now needs to be extended – the budgeting template, this will assist in the preparation of financial statements whilst the budget template will assist in NT Returns and Budget Formats. Training will be required for all Budget and Treasury staff and interns. Section 36 (1)(a)(ii) – Sole Service provider	CQS Technology Holdings (Pty) Ltd Dunkeld Gardens Cnr Kent and Jan Smuts Dunkeld West	R 79 374.00
Social Services	Appointment of a service provider for Phase 2 of the Refurbishment of Bob van Renen stadium.	In the Premiers State of the Province Address a public commitment was made to facilitate the fast tracking of the restoration of the Bob van Renen Stadium for community usage. SACR subsequently engaged Provincial Treasury to facilitate allocation of funding for the initiation of the repair work. An allocation of R 10m was received from Province with the understanding that MCLM with also contribute R 10m. The original scope of work on Bob van Renen was done by Gauteng Department of Infrastructure on behalf of SACR. The costing reported was R 46m. This implied that the project had to be implemented in phases. SACR appointed Tauris Garden Trading 500 cc through an official tender process for the work required during phase 1.	Tauris Garden Trading 500 cc 80 Thabo Mbeki Street 14 Munpen Building Mokopane	R 10 000 000 including professional fees payable to ProPlan Consulting Engineers.

		<p>The stadium has been closed for over 7 years. In order to fast tract the process a decision was taken by various committees and task teams to utilize the existing contract that is already on site. This was result in a saving for establishment cost, the quality of work will be of the same acceptable standard to date and there will be a seamless integration from phase 1 to phase 2</p> <p>Section 36 (1)(a)(v) – Impractical to follow normal procurement process.</p>		
Infrastructure Services	<p>Project Completion: 11/2008: (W&S) Upgrading of Percy Steward Wastewater Treatment Works</p>	<p>There are outstanding items remaining from the civil contract with Erbacon. These items are from the completion certificate snag list.</p> <ul style="list-style-type: none"> • A civil contractor is required to undertake these works to prevent the project from being further delayed. The Consulting Engineers, Royal Haskoning recommended Mpanza as the contractor that is most able to assist in the timeframe available. • There is a single item outstanding on the three settling tanks that require the attention of a specialist mechanical contractor. SAME Water is the main mechanical, electrical and instrumentation contractor presently on site. It is therefore recommended that SAME Water be appointed to make the required adjustments to the bridges that they supplied in order to fir the civil structures provided. 	<p>Mpanza KE Enterprises cc Ptn 55 Zeekoeihoek Magaliesburg</p> <p>SAME Water</p>	<p>R 209 394.66 (excl contingencies)</p> <p>R 103 832.27 (including VAT and 20% contingencies)</p>

In terms of sub-clause 53.4 of GCC of the civil contract, MCLM has the authority to nominate a sub-contractor directly. Mpanza and SAME Water will be paid from the retention money retained from Erbacon who refuses to come back to site.

Section 36 (1)(a)(v) – Impractical to follow normal procurement process

EXTENSION OF TENDERS FOR THE PERIOD FROM 1 OCTOBER TO 30 DECEMBER 2013

ANNEXURE B

Department	Description	Reason	Approved Company	Amount (including VAT)
Infrastructure Services	Extension of tender I (FM) 21/2010: Maintenance and repairs to all building and building related electrical distribution and fittings for MCLM inner city buildings for a period of three years	In June 2010 a contract to the value of R 2 769 660.45 was entered into with Landa Electrical for a period of three years. The contract ended in June 2013 and permission was granted for extension of time by further two months ending August 2013.	Landa Electrical Projects	Original tender value R 2 769 660.45 20% variation R 553 932.09 New contract value R 3 323 592.09
Social Services	Extension of tender SS (T&S) 08/2010: Prevention of land invasion and vandalism of infrastructure for a period of three years	In June 2010 Red Ant was appointed for the prevention of land invasion and vandalism for a period of three years. The contract ended on 30 June 2013. The extension will allow for the supply chain process to unfold until the new tender process has been finalized. Contract extended for a period of three months.	Red Ant Security Services Cnr Von Brandis and Krugerstreet Krugersdorp	As and when required basis for a period of three months.
Infrastructure Services	I (R) 13/2013 Extension of tender: Construction of PR 3: Kagiso Ext 13 (Stage 1) Roads and Stormwater	Original appointment of R 6 816 162.73 (24 weeks construction) be increased to R 8 179 395.28 (26 weeks construction) to make full use of MIG allocation.	Jodan Construction (Pty) Ltd 222 Monument Street Mnandi Centurion	Original appointment of R 6 816 162.73 (24 weeks construction) be increased to R 8 179 395.28 (26 weeks construction)
Infrastructure Services	Extension of Current Full Maintenance Lease for vehicles:	Various fleet tenders expired on various dates due to delivery dates of vehicles varying from type of vehicle to service provider. Infrastructure Services		Expired on

	<ul style="list-style-type: none"> • I (F) 42/2010: 1 x Landfill Compactor • I (F) 44/2010: 6 x Waste Trucks, 3 x Roll on's, 3 x Skip Loaders • I (F) 43/2010: 54 x General Vehicles 	<p>Department took a decision to extend all the existing fleet tenders until end of August 2014. New tender processes currently underway and will be finalized in order for new fleet to replace old fleet by September 2014.</p>	<p>Aqua Transport and Plant Hire (Pty) Ltd 42 Heidelberg Road Alberton</p> <p>Aqua Transport and Plant Hire (Pty) Ltd 42 Heidelberg Road Alberton</p> <p>SMM Telematics PO Box 2916 Morningside</p>	<p>31/10/2013 extended until 31/08/2014 R 189 000 per month</p> <p>Expired on 30/08/2013 extended until 31/08/2014 R 379 624 per month</p> <p>Various termination dates</p>
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RATIFICATION OF MINOR BREACH OF THE PROCUREMENT PROCESS

ANNEXURE C

Department	Description	Reason	Approved Company	Amount (including VAT)
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REGULARISATION OF IRREGULAR EXPENDITURE

ANNEXURE D

Department	Description	Reason	Approved Company	Amount (including VAT)
Infrastructure Services	Installation of 3 x Rural boreholes at: <ul style="list-style-type: none"> • Ptn 26 Kromdraai • Ptn Rem. Vogelzang (Hekpoort) • Vlakdrift Tarlton 	<p>Tecroveer (Pty) Ltd as appointed by MCLM in terms of bid I (W&S) 10/2013 for Flip Human Waste Water Treatment Works: Sludge operations contract for a period of three years on 18 Jan 2013. Previously they were appointed for maintenance of bulk water and wastewater equipment in MCLM.</p> <p>The Manager: Water and Sanitation assigned the installation of the 3 boreholes to Tecroveer in terms of the above mentioned tender as he was of the opinion that this is in line with their appointment.</p> <p>This deviation from the SCM policy was reported by the Internal Audit section through an internal audit finding reference IA/10/09/13/FS</p> <p>The Executive Manager: Infrastructure Services is to institute corrective steps against the Manager: Water and Sanitation, Mr Sandile Mbanjwa.</p>	Tecroveer (Pty) Ltd & Ron Trading JV	R 192 350.99 R 129 210.93 R 127 790.00
Corporate Services	Payment of Design work for an advert placed in Municipal Focus plus design and layout for Dikgang tsa Mogale	<p>On 12 November 2013 a meeting was held with Mr Tiro Mokoditso, MD of Boldia Consulting to resolve outstanding invoices submitted to Marketing and Communication Unit. At the meeting the service provider provided proof of the work done and expressed his frustration with lack of payment by the municipality.</p> <p>Boldia designed an advert for MCLM which was published in Municipal Focus in October 2013 and also designed the layout for Dikgang tsa Mogale newspaper.</p> <p>SCM procedures were not followed by the Manager:</p>	Boldia Consulting 59 Jericho Complex Cnr Reyger & Kolbe Street Witpoortjie	Municipal Focus R 9 500.00 Dikgang tsa Mogale R 20 500.00

		<p>Marketing, Communication and CRM (currently on suspension) – hence the delay in payment of the service provider.</p> <p>The Executive Manager: Corporate Services will recover the money from the Manager: Marketing and Communications, Mr Andy Nesengani.</p>		
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