

**ITEM (07/2013)**

**Municipal Manager's Report to Council on the Deviation from and ratification of breaches from the Procurement processes for the period 1 April to 30 June 2013**

**PURPOSE**

To submit a report to Council on the deviation from procurement processes for the quarter ending 30 June 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 - 8) please find the instances for the quarter April to June 2013 where the prescribed procurement processes were not followed but approved in terms of the Municipal Manager's delegated powers.

**RECOMMENDED TO MUNICIPAL COUNCIL:**

1. that Council takes note of the item as per Annexure A (pp1 - 8) where the official procurement processes were dispensed with, for reasons as mentioned in the report, with the approval of the Municipal Manager, for the quarter ending 30 June 2013.
2. That Council ratify the minor breach of the procurement process a committee acting in terms of delegated powers or duties which are purely of a technical nature; whereby Tender no F (R) 02/2013: Long term loan for Infrastructure Capital Projects, was incorrectly referred to as F (R) 01/2013 in certain documentation;
3. that the items in 1 and 2 above be included by the Chief Financial Officer as a note to the 2012/2013 annual financial statements.

## DISPENSING WITH CALLING FOR TENDERS FOR THE PERIOD FROM 1 APRIL TO 30 JUNE 2013

## ANNEXURE A

| Department                            | Description  | Reason  | Approved Company   | Amount<br>(including VAT) |
|---------------------------------------|--|---|--|---------------------------|
| Office of the Chief Operating Officer | Review to assist MCLM in providing assurance on the Adequacy and Effectiveness of Application controls on the BIQ financial system | The Finance Department submitted a list of concerns in relation to the BIQ system to EXCO. The identified problems were flagged as high risk and could have a negative impact on the financial statement compilation and service delivery. The COO identified the need for the organization to undertake a process audit on the financial system in order to streamline processes. The services of an audit firm are required to review the "As-Is" business processes and to perform a BIQ financial modules application controls review.<br>Section 36 (1)(a)(v): Impractical to follow procurement process | Athena IT Consulting<br>Unit 60 Carlsward Crest<br>Erand Gardens<br>Midrand                        | R 192 660.00              |
| Office of the Chief Operating Officer | Testing of the Non-Cipal LIMMS Applications  | After the appointment of Lefatshe Technologies it was decided to appoint Comperio to perform testing on the non CIPAL LIMMS Applications as to ensure that the LIMMS system meets the MCLM functional requirements as stipulated in the tender document. The other objective was to provide MCLM with assurance that the risks with regard to the implementation of LIMMS are identified, managed and mitigated.<br>Section 36 (1)(a)(v): Impractical to follow procurement process due to sensitive nature of scope of work  | Comperio Forensic Services<br>Stonebridge House<br>Stonemill Office Park<br>Darrenwood<br>Randburg | R 343 989.72              |

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| Social Services                                     | Refurbishment of Azaadville Swimming Pool   | Azaadville swimming pool has been closed for 10 years and during the IDP roadshows the refurbishment has been a primary matter raised by the community. Two competitive bidding processes were embarked upon, SS (SR) 11/2013 and SS (SR) 12/2013 but were both unsuccessful as no responsive and acceptable bids were received. As the money is available on the 2012/13 Capex only, permission was requested to utilise a known and well established service provider with experience in mechanical and civil works.<br>Section 36 (1)(a)(v): Impractical to follow procurement process as previous two tenders did not deliver desired result | Thunani Construction<br>16 Paardekraal Road<br>Krugersdorp<br><br>Mogale bsd                       | R 1 500 000.00  |
| Integrated Environmental Management                 | Management of Krugersdorp Game Reserve Lodge on a Temporary basis until the new tender is awarded               | The Krugersdorp Game Reserve Lodge was vacated by the temporary operators on Friday 17 May 2013. The property was vacated without formal notice to the Municipality. A proposal was received from Red Ant to take over the management of the Lodge. This is only a temporary arrangement and tender will be called for the leasing of the Game Reserve. Red Ant has already been appointed for the temporary management of the Game Reserve as well.<br>Section 36 (1)(a)(v): Impossible to follow procurement process due to urgency.   | Red Ant Security Services<br>PO Box 5762<br>Rivonia<br>2128<br><br>Not Mogale based                | No amount mentioned in deviation report                                 |
| Chief Operating Officer and Chief Financial Officer | BIQ System Support and Maintenance for a period of 12 months and Migration of Visual Basic Applications used to | MCLM appointed Comperio to maintain and support the BIQ system as from 1 Nov 2012 to 30 June 2013. Support and maintenance is imperative and in the light of Comperio's extensive skills and experience on BIQ it was decided to   | Comperio Forensic Services<br>Stonebridge House<br>Stonemill Office Park<br>Darrenwood<br>Randburg | BIQ System Support and Maintenance for 12 months R 98 736.00 (excluding |

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|                             | access BIQ Financial System.  | extend their appointment for another 12 months. It was also discovered that most of the reports required by Finance for financial reporting draws from the BIQ system using VB applications. These VB applications are corrupted and need to be fixed and migrated to a Central Repository. This is especially important in our endeavor to obtain and unqualified audit report.<br>Section 36 (1)(a)(v): Impractical to follow procurement process   |   | VAT) per month<br>VB Applications:<br>Rate per hour will be charged.                              |
| <b>EXTENSION OF TENDERS</b> |   |   |   |   |
| Social Services             | Extension of tender SS (L) 13/2013: Supply, delivery and installation of Library Furniture for Krugersdorp Youth Section, Auditorium and various counters | This library was refurbished in various stages with funds provided by Prov. Dep. of Sports, Arts, Culture and Rec. The library has steel lockers in the foyer for student use. These lockers break constantly and give the library an untidy appearance. The need was identified to replace these lockers with the same solid wood as used for other library furniture. Izandla is the current appointed service provider and therefore his contract is extended to include the installation of wooden library lockers at the Krugersdorp Library.<br>Section 36 (1)(a)(v): Impractical to follow procurement process | Izandla Ziyagezana<br>4260 Dimakatso Street<br>Nellmapius<br><br>Not Mogale based                                       | R 55 840.11   |
| Infrastructure Services     | Extension of contract for Construction of PR 2: Rietvallei Extension 2 Roads and Stormwater Stage 4   | Century Civils was appointed on 12 September 2012 and completion is anticipated to be end April 2013. The appointment value was R 5 300 303.23 – MIG funded. The contractor performed well and adhered to milestones. On the current financial year these is an unallocated amount of R 590 000 still to be utilized on the project. The add funds will   | Century Civils cc<br>Plot 47<br>Lloys Ellis Street<br>Mnandi Agricultural Holdings<br>Centurion<br><br>Not Mogale based | Original appointment of R 5 300 303.23 be increased to R 5 890 303.23 (additional amount of R 590 |

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|                         |  | be utilized to do works within Rietvallei Ext 2 in accordance with the approved MIG Business Plan  |   | 000)   |
| Infrastructure Services | Extension of contract for Construction of PR 10: Rietvallei Extension 1 Proper Roads and Stormwater Stage 4  | Monene Civils was appointed on 12 September 2012 and completion is anticipated to be end April 2013. The appointment value was R 3 500 000.00 – MIG funded. With the completion of the current R 3.5m the total MIG approved business plan value. The extension will therefore also cover the PR5 Rietvallei Ext 5 Roads and Stormwater area that is also funded by MIG. These funds will therefore be used for the current PR5 project, where unallocated funds are available under the approved MIG business plan.                           | Monene Civils (Pty) Ltd<br>275 Rokewood Road<br>Pomona<br>Kempton Park<br><br>Not Mogale based  | Original appointment of R 3 500 000 be increased to R 4 200 000 (additional amount of R 700 000) |
| Infrastructure Services | Extension of tender I (R) 36/2012 for 4 Community Based Co-operatives to perform Maintenance Works in Kagiso, Munsieville, Rietvallei and CBD on an as and when required basis for a period of 12 months | <p>Tender I (R) 36/2013 was awarded to five Mogale based community based co-operatives to perform road maintenance works during October 2012 for the total estimated value of R 5m. This tender expires on 1 Nov 2013.</p> <p>Since the tender was awarded, additional projects were undertaken by DIEM and Department Infrastructure Services, such as the grant funded by EPWP, which resulted in increased expenditure. In order to meet the SDBIP targets for the 2013/14 financial year – therefore an extension of 20% is requested.</p> | <p><b>Kagiso and surrounding areas:</b><br/>MM Cleaning &amp; Multi-Purpose Co-Operative<br/>7 van Ryneveld street,<br/>Dan Pienaarville</p> <p><b>Mogale CBD and surrounding areas:</b><br/>DSL-GB &amp; Civils Construction<br/>Docare Building<br/>20 Monument Street<br/>Krugersdorp</p> <p><b>Rietvallei and surrounding areas:</b><br/>Serontabole Construction<br/>Docare Building<br/>20 Ockerse St<br/>Krugersdorp</p> | Original approved value R 5 m – increased with R 1 m   |

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|                                     |  |  | <p><b>Munsieville and surrounding areas:</b><br/>Mhobolo Construction &amp; Maintenance<br/>Plot 32 Rietvlei<br/>Muldersdrift</p> <p><b>Add service provider for smaller projects throughout Mogale City:</b><br/>Tshenolo Construction and Maintenance<br/>85A Sivewright St<br/>Krugersdorp</p> <p>Mogale based</p> |   |
| Infrastructure Services             | Extension of tender I (R) 38/2012 for the appointment of Community based Co-Operatives for the implementation of Erosion Control Measures on an as and when required basis for a period of 24 months | Tender I (R) 38/2012 was awarded to DSL GB & Civils Co-operative for the implementation of erosion control measures on an as and when required basis for a period of 24 months with an estimated value of R 771 511.78, the tender expires on 1 November 2013. Since the tender was awarded, add grant funding has been received under the EPWP and therefore an extension of 20% is required. | DSL GB & Civils Co-operative<br>37 Kobie Krige Street<br>Krugersdorp<br><br>Mogale based  | Original approved value R 771 511,78 increased with R 154 302.36              |
| Integrated Environmental Management | Extension of tender IEM(P) 01/2011 for Kagiso Regional Park Development  | MIG approved value for this project is R 23 262 359.48. Original tender price of Tswellapele Plant was R 22 381 910.77. The scope of work was reduced to remain within the approved MIG project value and contractor was subsequently appointed for R 16 222 593.83. That the variance to secure functionality of the facility be approved which represents 22.06% - or R 3 578 2013.77.       | Tswellapelle Plant cc Trading as Plantwise  | Original reduced appointment of R 16 222 593.83 increased with R 3 578 203.77 |

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| Infrastructure Services                            | Extension of Electrical Maintenance on Council Owned Buildings in terms of tender I (FM) 21/20101 for the Inner City for a period of two months ending 30 August 2013. | In June 2010 a contract to the value of R 2 769 660.45 was entered with Landa Electrical to maintain and execute identified electrical maintenance work for MCLM buildings.<br><br>The new electrical maintenance tender was advertised on 23 May 2013 and closed on 11 June 2013. The anticipated date for appointing a new service provider will be August 2013. A two months extension and 20% variation on the amount is requested.  | Landa Electrical Projects<br>Plot 63<br>Swacina Park<br>Pretoria<br><br>Not Mogale based | Original contract value R 2 769 660.45 increased with R 553 932.09 to R 3 323 592.09 |
| <b>CANCELATION OF DEVIATION</b>                    |  |  |  |  |
| Social Services                                    | Cancellation of the appointment of a sole service provider for the deployment of part-time traffic pointsmen in MCLM for a period of three years                       | In terms of section 36 (1)(a)(ii) of the SCM Policy a deviation was requested for purposes of acquiring services from a sole provider to go into a partnership with MCLM for the running of the pointsmen project in MCLM and it was approved by the MM in October 2012 and reported to Council in Jan 2013. The end of April 2013 a letter was received from the Managing Director stating that the services that they render are business based and not politically driven or motivated and that they needed the buy-in and support from the Traffic Department. Traffic Free Flow indicated that they will therefore not be able to accept the contract.<br>Cancellation of deviation reported in Jan 2013. | Traffic Free Flow (Pty) Ltd  | No cost to Council   |
| <b>RATIFICATION OF MINOR BREACH OF PROCUREMENT</b> |  |  |  |  |

| <b>PROCESS</b>          |  |  |  |  |
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| Finance Department      | Tender no F (R) 02/2013: Long term loan for Infrastructure Capital Projects  | That the utilization of the incorrect tender number for certain documentation pertaining to the long term tender, be ratified by the Accounting Officer and reported to Council. The tender number utilized on certain documentation was I (R) 01/2013 which is the actual tender number for Management of Credit Control and Revenue Protection Administration – the correct tender number for the long term loan tender is I(R) 02/2013<br>Section 36 (1)(b): Ratify minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which as purely of an technical nature  | Nedbank  | No financial implication   |
| <b>CONDONATION</b>      |  |  |  |  |
| Infrastructure Services | Installation of water pipe lines and communal stand pipes to informal settlements in MCLM areas – payments of SMME's | Potable water is delivered to settlements through a contract awarded to Twin M. From the current expenditure and the increase of service delivery to additional settlements, the allocated amount will not be sufficient for the entire contract period. As a result, Water & Sanitation started to install additional or new water pipe lines and communal stand pipes were possible to connect to Municipal infrastructure. SMME's were appointed to do the installation in Plot 6 Vlakplaats and Hekpoort informal settlements in order to minimize the water tanker deliveries.<br><br>Condonation of procedure followed is requested and SCM procedures will be followed before | Eunice Buthi – Tarlton<br>Patrick Matswe - Tarlton<br>Joseph Senwelo – Tarlton<br>Eunice Buthi - Tarlton<br>Eunice Buthi – Hekpoort<br>Patrick Matswe - Hekpoort | R 25 440<br>R 25 440<br>R 20 160<br>R 20 160<br>R 28 665<br>R 28 665 |



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|  |  | SMME's can be engaged in future for these particular jobs. |  |  |
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