

**A7 UNATHORISED, IRREGULAR. FRUITLESS AND WASTEFUL
EXPENDITURE INVESTIGATION REPORT OF MUNICIPAL PUBLIC
ACCOUNTS COMMITTEE OF GREATER TZANEEN MUNICIPALITY**

(EC 2020 07 16, C 2020 07 29)

(12/2/3/1/1)

**REPORT OF THE CHAIRPERSON OF MUNICIPAL PUBLIC ACCOUNTS
COMMITTEE, CLLR G MKHABELE**

PURPOSE OF THE REPORT

The purpose of this submission is to report to Council on the results of the investigations conducted on the 2018/19 Unauthorized, Irregular, Fruitless and Wasteful expenditure (UIF).

BACKGROUND

The Council has referred the 2018/19 Unauthorized, Irregular, Fruitless and Wasteful expenditure (UIF/W) report to the Municipal Public Account Committee for investigation on 27 June 2019, (Council resolution A125 C 2019 06 27). The Municipal Public Accounts Committee requested the Risk Management Unit, through the Accounting officer to investigate the expenditures on its behalf.

This report relates to the investigation of Unauthorized expenditure of **R83 025 989.00**, Irregular expenditure of **R 19 073 994.89** and Fruitless and Wasteful expenditure of **R9 975 974.30** in 2018/2019 financial year. In terms of section 62 of the Municipal Finance Management Act No. 56 of 2003 (herein referred to as “MFMA”), the accounting officer is responsible for managing the financial affairs of Greater Tzaneen Municipality (GTM) and he must, for this purpose, inter alia:

- a) Take all reasonable steps to ensure that unauthorized, irregular; fruitless and wasteful expenditure and other losses are prevented; and
- b) Ensure that disciplinary or, when appropriate, criminal proceedings are instituted against any official or Councilor of the municipality who has allegedly

committed an act of financial misconduct or an offence in terms of Chapter 15 of the MFMA.

This is to ensure the effective, efficient and transparent systems of financial, risk management and internal control.

Section 32 (2) of the Local Government Municipal Finance Management Act 56 of 2003 “unauthorized, Irregular, fruitless and wasteful expenditure”. States that: “a Municipality must recover unauthorized, irregular, fruitless and wasteful expenditure from the person liable for such expenditure unless the expenditure-

- (a) In case of unauthorized expenditure;
 - (i) Unauthorized in an adjustment budget; or
 - (ii) Certified by the municipal Council, after investigation by the council committee as irrecoverable and written off by Council; and
- (b) In case of Irregular or fruitless and wasteful expenditure, is, after investigation by a Council Committee, certified by the council as irrecoverable and written off by the Council.”

REGULATORY FRAMEWORK

The MFMA defines the following:

“Irregular expenditure”, in relation to a municipality or municipal entity, means—

- (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;
- (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
- (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or
- (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality’s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure”;

“Fruitless and wasteful expenditure” means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

“Unauthorised expenditure”, in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3), and includes—

(a) overspending of the total amount appropriated in the municipality’s approved budget;

(b) overspending of the total amount appropriated for a vote in the approved budget;

(c) expenditure from a vote unrelated to the department or functional area covered by the vote;

(d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;

(e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of “allocation” otherwise than in accordance with any conditions of the allocation; or

(f) a grant by the municipality otherwise than in accordance with this Act; “vote” means—

(a) One of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and

(b) which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

SUMMARY OF THE KEY FINDINGS

1. UNAUTHORISED EXPENDITURE: (Unauthorised expenditure occurs when the municipality exceeded its budget)

The investigation revealed that the municipality incurred unauthorized expenditure amounting to **R83 025 989.00**. The said expenditure can be broken down into:

DEPARTMENT	ORIGINAL BUDGET (R –Value)	ACTUAL Jul’18-June’19 (R –value)	DIFFERENCE (R-Value)	% VARIANCE
01 Budget and treasury (Financial Services)	R104 244 570	R182 538 971	R 78 294 401	133.14%
02 Electrical Services	R509 551 609	R514 283 197	R4 731 588	0.93%

Although these expenditures are considered as non-cash items related to depreciation and debt impairment because there is no transaction with any service provider or supplier, an under provision during the budget compilation process is a material misstatement of the surplus or deficit position of the municipality. This could be the result of poor budgeting or financial management, or unknown events that gave rise to the asset and debt impairment after the adoption of the budget. Therefore, it is recommended the unauthorized expenditure be condoned.

2. FRUITLESS AND WASTEFUL EXPENDITURE

The municipality incurred fruitless and wasteful expenditure amounting to **R9 975 974.30**. The detailed breakdown is on **page 13-35** of the report.

The **root-causes** of this expenditure are due to:

- a) interest paid Eskom on account overdue;
- b) interest paid to DBSA on overdue account;
- c) interest on late payment on an overdue account

3. IRREGULAR EXPENDITURE

The municipality incurred irregular expenditure amounting to **R 19 073 994.89**. The breakdown of the said expenditure is on **pages 36-58** of the report.

The root-causes of this expenditure are as a result of:

- a) expired contracts;
- b) non-compliance to CIDB regulations (threshold) 2018
- c) contract amounts which differs from signed SLA;

d) supply chain processes not followed;

Irregular Expenditure per Department

DEPARTMENT	SERVICE PROVIDER	AMOUNT PAID (R'Value)	RECOMMENDATIONS
Community Services	Theuwedi Trading Enterprise	R7 054 788, 37	That the matter be referred to the Financial Misconduct Disciplinary Board as it appears to have an element of financial misconduct.
Budget and Treasury	Focus Outsourcing Solutions CC Contour Technology	R121 920, 56 R261 424, 71	It is recommended that the expenditure be written off and the municipality should finalise the appointment of the recommended or preferred bidder to render the required services.
Engineering Services	Tshiamiso Trading (MULATI)	R3 086 697, 55	That the matter be referred to the Financial Misconduct Disciplinary Board as it appears to have an element of financial misconduct.
	Tshiamiso Trading (CODESA)	R7 246 886,00	That the matter be referred to the Financial Misconduct

	Eternity star investment (ESI)-(Mopye High School)	R1 302 277, 70	Disciplinary Board as it appears to have an element of financial misconduct. That the matter be referred to the Financial Misconduct Disciplinary Board as it appears to have an element of financial misconduct.
Total		R 19 073 994.89	

4. CRITICAL ISSUES IDENTIFIED DURING INVESTIGATIONS

- a) Non-termination of contracts by the municipality;
- b) Long term expired contracts continue rendering services to the municipality;
- c) Overspending on budget by departments which led to unauthorized expenditure;
- d) Court matters takes time to be finalized;
- e) Payments delayed due to cash flow problems;
- f) Non- compliance with relevant legislation or regulation in line with the SCM processes.

In terms of Section 32(2) (b) of the MFMA the irregular expenditure may only be written off by Council, if after an investigation by Council committee, the irregular expenditure is certified as irrecoverable. In terms of Section 170 of the MFMA only National Treasury may condone non-compliance with a regulation issued in terms of the MFMA or a condition imposed by the Act itself. The municipal Council has therefore no power in terms of the MFMA to condone any act of non-compliance in terms of the MFMA or any of its regulations. The treatment of expenditure associated with non-compliance is therefore the responsibility of Council.

The municipality can avoid unauthorized, irregular or fruitless and wasteful expenditure if due processes and procedures are being followed. The development of the policies such as unauthorized, irregular, fruitless and wasteful policy will be of the utmost importance. Those charged with responsibilities should adhere to the policies, procedures and processes. That proper procedures and processes be followed for any elements of financial misconduct within the municipality and consequence management be implemented

Recommendations:

- a) That the Financial Misconduct Disciplinary Board investigate any element of financial misconduct and against any alleged transgressor;
- b) That expenditure be condoned in line with (MFMA Sec 32 (2)(a)) on the basis that it is mainly non-cash items, no loss was incurred by the municipality;
- c) That the municipality adhere to the SCM Policy, Regulations and processes;
- d) That the Budget and Treasury Office (Office of the CFO) conduct awareness workshops regularly on SCM Policy and Regulations to sensitize employees about SCM processes;
- e) That consequence management be implemented on non-compliance;
- f) That unauthorized, irregular or fruitless and wasteful expenditure policy or procedure manual be developed;
- g) That monitoring and evaluation of projects be strengthened;
- h) That Contract management be strengthened, and each municipal department develop its own contract register;
- i) That communication gap between SCM and user departments be strengthened;
- j) That budget practices be strengthened, and availability of budget be monitored to avoid unauthorized expenditure;
- k) That payments to services providers not be effected where user departments cannot produce proper documentation;
- l) That unauthorized, irregular or fruitless and wasteful expenditure be reported to Council on a quarterly basis.

FOR CONSIDERATION.