

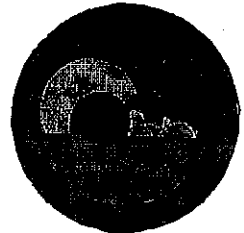


**GREATER TZANEEN MUNICIPALITY
GROTER TZANEEN MUNISIPALITEIT
MASIPALA WA TZANEEN
MASEPALA WA TZANEEN**

P.O. BOX 24
TZANEEN
0850

TEL: 015 307 8000
FAX: 015 307 8049

www.greatertzaneen.gov.za



A25 AMMENDMENT OF THE 2019/2020 UNATHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE INVESTIGATION REPORT OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE OF GREATER TZANEEN MUNICIPALITY.

(C 2022 08 30)

(12/2/31/1)

RESOLVED

- a) That expenditures which were referred to the Financial Misconduct Board during the 2018/19 Financial year were finalized and Council has approved the recommendations by the board through Resolution A59 during the Council meeting dated 26th of April 2022.
- b) That Council should further note that the expenditures which were referred to the Financial Misconduct Board during the 2018/19 financial year affects the UIF/W investigations for the period 2019/2020. Therefore, the following expenditures should be written off in line with Council Resolution A59:
 - That an amount of **R7 789 879,17** related to **Theuwedi Trading** Enterprise be written off in line with the resolution A59 (Financial Misconduct Board investigation) approved by Council on the 26th of April 2022.

- That an amount of **R12 839 312,76** related to **Thiamiso Trading (MULATI)** be written off in line with the resolution A59 (Financial Misconduct Board investigation) approved by Council on the 26th of April 2022.
- That an amount of **R5 630 428,23** related to **Eternity star investment (ESI)**- (Mopye High School) including its Cessions be written off in line with the resolution A59 (Financial Misconduct Board investigation) approved by Council on the 26th of April 2022.
- c) That Council writes-off Irregular expenditure amounting to **R5 946 851,96** related LEBP Construction (Upgrading of Relela Access Road) including its Cessions.
- d) That Council writes-off Irregular expenditure amounting to **R10,420 478,24** related to orders and deviation for all departments (Not a financial loss but non-compliance due to non-attachment of MBD 4).
- e) That Council write-off fruitless and wasteful expenditure amounting to **R3 641 272,49** for the financial year 2019/2020, related to Eskom and Forest Fig Property.
- f) That Council recovers fruitless and wasteful amounting to **R5 580.93**, interest incurred due to Auditor General's late payment.
- g) That the expenditures relating to the Compensation Commission amounting to **R70 751 ,90**, African Calabash **R845 970,00** and Ulwazi Security Services **R1 433 843,00** be referred to the Financial Misconduct Board for further investigation.
- h) That the Financial Misconduct Board be re-established as a matter of urgency to ensure that expenditures referred to the Board are investigated and finalized.
- i) That the expenditure amounting to **R5080,00** related to (Spectra Pest Control) be recovered, and consequence management be implemented by the accounting officer.
- j) That the expenditure amounting to **R121 981,97** be written-off relating to Focus Outsourcing Solutions CC and Council note that the municipality is

A25 AMMENDMENT OF THE 2019/2020 UNATHORISED, IRREGULAR. FRUITLESS AND WASTEFUL EXPENDITURE INVESTIGATION REPORT OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE OF GREATER TZANEEN MUNICIPALITY.

(C 2022 08 30)

(12/2/3/1/1)

REPORT OF THE CHAIRPERSON OF MUNICIPAL PUBLIC ACCOUNTS COMMITTEE.

PURPOSE OF THE REPORT

The purpose of the report is to re –submit to council the amended 2019/2020 Unauthorized, Irregular, Fruitless and Wasteful expenditure (UIF). **The report was submitted to council on the 26th February 2020 and approved as item A38.**

BACKGROUND

During the investigation of the 2019/2020 unauthorized, irregular, fruitless and wasteful expenditure (uif), there were still outstanding certain expenditures, which were investigated during the 2018/19 financial year, and referred to the financial misconduct board for further investigation.

This report relates to the investigation of Unauthorized expenditure of **R0.00**, Irregular expenditure of **R 43 362 077** 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 **R 0.00**. The said expenditure can be broken down into:

2. FRUITLESS AND WASTEFUL EXPENDITURE

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

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

- a) Forest Fig Properties - NYDA Office Rental.
- b) Auditor General
- c) African Calabash Lodge;
- d) Eskom-Bulk Purchases
- e) African Calabash Lodge
- f) Ulwazi Security (Pty) Ltd

FRUITLESS & WASTEFUL EXPENDITURE PER DEPARTMENT

FRUITLESS & WASTEFUL EXPENDITURE PER DEPARTMENT				
MM (Office of the Mayor)	Forest Fig Properties - NYDA Office Rental	interest on late payment due to cash flow constraints	242.78 318.33 1,701.69 Total 2, 262,80	Recommendation: That the expenditure be written off by Council.
Corporate Services (HR)	Compensation Commission	interest on late payment due to cash flow constraints	70,751.90	This amount was incurred due to penalties charged by the Compensation Fund Commission. Compensation for Occupational injuries and Diseases Act (COIDA) requires the municipality to submit a declaration known as Return of Earnings (ROE) or annual earnings to the Compensation Fund each year. The amount payable to the

				<p>compensation fund is being determined by the category in which the organisation is registered. The municipality failed to pay the payable amount as required by the commission on time and this resulted in penalties being charged to the municipality.</p> <p>Recommendation: That the amount charged referred to the Financial Misconduct Board for investigation.</p>
Budget and Treasury (CFO); Electrical Engineering: (Director Electrical); Municipal Manager (Accounting Officer)	Eskom-Bulk Purchases	Interest on late payment	371,443,83 1,780,292.45 404, 528, 20 1 024,453,50 58.291,71 Total 3, 639, 009, 69	<p>The expenditure was incurred due to interest paid to Eskom on account overdue. The municipality had long outstanding debt with Eskom due to cash flow constraints, of which interest was incurred.</p> <p>Recommendation: That the expenditure be written off by Council.</p>
Budget & Treasury (Expenditure Division)	Auditor General	Interest on late payment due of the AG invoice by the Budget and Treasury	5,580,93	<p>This expenditure was incurred due to interest paid to the Auditor General on late payment of invoice. The Auditor General has sent the invoice to the Budget and</p>

				<p>Treasury office through email on the 13th of January 2020 for the payment of audit fees for the December 2019/20 financial year audit period, however the invoice has been paid during March 2020 and of which interest had been incurred due late payment.</p> <p>Recommendation: That the expenditure be recovered.</p>
Community Services	African Calabash Lodge	Non-compliance to s 62(1) (d) & s 116 (1) (a) of the MFMA	363,300.00 482,670.00 Total 845,970	<p>Council resolved during the Council sitting dated 26th of February 2022 that:</p> <p>a) That fruitless expenditures related to Ulwazi Security and Calabash Lodge be referred to the Financial Misconduct Board for further investigation.</p> <p>b) That the Community Services Director and the Chief Financial Officer be held</p>

				<p>accountable for the non-submission of documents pertaining to the investigation of the fruitless expenditure on Ulwazi Security and Calabash Lodge.</p> <p>c) That the Financial Misconduct Board be re-activated urgently to ensure that all cases for investigations referred to it are conducted, and matters are finalized without delay.</p>
Community Services	Ulwazi Security (Pty) Ltd.		358,429.00 358,429.00 716,859.00 Total 1,433,843.00	<p>Council resolved during the Council sitting dated 26th of February 2022 that:</p> <p>d) That fruitless expenditures related to Ulwazi Security and Calabash Lodge be referred to the Financial Misconduct Board</p>

				<p>for further investigation.</p> <p>e) That the Community Services Director and the Chief Financial Officer be held accountable for the non-submission of documents pertaining to the investigation of the fruitless expenditure on Ulwazi Security and Calabash Lodge.</p> <p>f) That the Financial Misconduct Board be re-activated urgently to ensure that all cases for investigations referred to it are conducted, and matters are finalized without delay.</p>
Total Fruitless &Wasteful				

Expenditure to be written- off				

3. IRREGULAR EXPENDITURE

The municipality incurred irregular expenditure amounting to R. The breakdown of the said expenditure 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 PROVIDED	AMOUNT (R)	RECOMMENDATIONS
Community Services	Theuwedi Trading Enterprise	600 378. 24	That the expenditure be written off in line with resolution A59 (Financial Misconduct Board investigation), approved by Council during Council sitting of the 26 th of May 2022.
		585,378.24	
		660,378.24	
		660,416.05	
		660,416.05	
		660,416.05	
		660,416.05	
		660,416.05	
		660,416.05	
		660,416.05	
		660,416.05	
		660,416.05	
		Total	
		7 789 879,17	
		1,980.00	

	Eternity star investment (ESI)- (Mopye High School) including its Cessions	314 106.98 284 836.20 236 659.71 615 235.13 1,614,593.87 735,604.91 Total R 4,401 186, 43 327,750.07	That the expenditures relating to Eternity Star including the Cessions be written in line with Resolution A59 of the Financial Misconduct Board.
	Ditlotlo Trading (Cession to ESI)	233,793.46	
	Ekageng Construction (Cession to ESI)	428,621.34 239,076.93 Total R 901, 494, 73 157 834. 79	
	Mosomo Consulting (Cession to ESI)	1,200,836.01	
	LEBP Construction (Upgrading of Relela Access Road) including its sessions.	1,003,604.95 532,479.83 644,841.22 703,665.45 1,248,106.50 Total R5, 333 533,96	
			LEBP Construction and Projects CC (preferred bidder) was evaluated as being compliant on proof of plant and equipment submitted by the bidder, even though none

			<p>of the plants and equipment offered met the type of plant and equipment required as per Bid Document.</p> <p>Furthermore, third parties owned the plant and equipment items without submitting the required lease agreements as stipulated in the bid document, the</p> <p>a) That the expenditures be written as the service was rendered.</p> <p>b) That the consequence management be implemented where SCM processes were not followed to the latter.</p>
	Mmqomo Trading (Cession to LEBP)	613,318.00	
		3,162.50	
		5,694.80	
		39,035.60	
	BEC Konstruksie	Total R 478 93.10	The irregular expenditure occurred due to the supplier being in the service of state (Municipal Councillor) and
		5,949,810.84	

		4,470,667.40	has conducted business
		Total	with the municipality with
	All Departments	R 10, 420 478,	no
	(Orders)	24	declaration of interest
	Deviations		Recommendation:
			That expenditure be
			recovered.
			Not a financial loss
			but non-compliance due
			to
			non-attachment of
			MBD 4
			Recommendation:
			That the expenditure be
			written off.

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 Council note that the Financial Misconduct Board has finalized its investigations of the expenditures referred during the 2018/19 investigation process.
- b) That Council further note that the expenditures which were referred to the Financial Misconduct Board affects the UIF/W investigations for the period 2019/2020.
- c) That Council Note that for the 2019/2020 financial year R0,00 was incurred
- d) That Council write-off fruitless and wasteful expenditure of R 3 641, 272, 49 for the financial year 2019/2020, related to Eskom and Forest Fig Property.
- e) That Council That Council recovers fruitless and wasteful R5 580.95, interest incurred due to Auditor General's late payment.
- f) That the expenditures relating to the Compensation Commission R70 751 ,90, African Calabash R845 970 and Ulwazi Security Services R 1 433 843 be referred to the Financial Misconduct Board for further investigation.
- g) That the Financial Misconduct Board be re-established as a matter of urgency.
- h) That an amount of **R 7, 789 879,17** related to Theuwedi Trading Enterprise be written off in line with the resolution A59 (**Financial**

Misconduct Board investigation) approved by Council on the 26th May 2022.

- i) That the expenditure of **R5080,00**, (Spectra Pest Control) be recovered, and consequence management be implemented by the accounting officer.
- j) That an expenditure of R **121 981,97121** be written off relating to Focus Outsourcing Solutions CC.
- k) That the municipality should finalize the appointment of the recommended or preferred bidder to render the required services.
- l) That an expenditure amounting to **R 274 812,08** (Contour Technology) be written off as the service was rendered, and Council note that the municipality is now utilizing MSCOA to perform the transactions that were performed by the Contour system.

FOR CONSIDERATION.

