

# **The Chronicles of Operation Mabone: Fetakgomo Tubatse Municipality**



A presentation by  
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# **1. EXECUTIVE SUMMARY**

- 1. I refer to the presentation made by the Municipality to your Committee on the live DSTV Channel 408 on the 17<sup>th</sup> of March 2021.**
- 2. The submission made by the Fetakgomo Tubatse Municipality was not only incorrect and nonfactual, but it was also intended to cause harm to me as a person and my company.**
- 3. It is a clear sign that the Municipality is hell-bent on closing my company and any prospects to showcase my skills as an innovative Professional Engineer and make a living.**

# **1. EXECUTIVE SUMMARY**

- 4. The Municipality (Mr Walter Phala) misled Parliament on the 17th March 2021 by stating that I claimed for work not done. The claim submitted in November 2017 was for professional services rendered, accepted and certified by Eskom. Attached hereto as Annexure “A” is the letter that I addressed to the Mayor and the MEC in January 2021.**
- 5. The Municipality (Mr Walter Phala) misled Parliament on the 17th of March 2021 by stating that the SIU found that I overstated my claims for payment in the Operation Mabone programme. This is a narrative that goes against the decisions of the Polokwane High Court and the Supreme Court of Appeal of South Africa.**

# **1. EXECUTIVE SUMMARY**

- 4. The Municipality failed to mention that they went to the SIU to get the SIU to reverse the decisions of the Polokwane High Court and the Supreme Court of Appeal which made decisions in favour of Mphaphuli Consulting.**
  
- 5. The Municipality (Mr Walter Phala) “misled” Parliament on the 17th of March 2021 by stating that the SIU is pursuing the recovery of R76 million from Mphaphuli Consulting. Whilst it is true there such summons were issued in October 2017. The Municipality has not discovered its documents on the matter. A judgement was issued last year by the Polokwane High Court to compel them to discover their documents. We granted them an extension up to the 26th of February 2021 to which they again failed to discover their documents.**

# 1. EXECUTIVE SUMMARY

- 6. The unfortunate part of these “games” being played by the Municipality and the SIU is that more than 14 000 households remain without electricity 3 years later.**
- 7. What is regrettable is for the SIU allowing itself to pursue agenda in an unlawful way that goes against Section 165 of the Constitution of the Republic of South Africa – that the decisions of the courts are binding to all persons and the state organs.**
- 8. Operation Mabone programme was approved by the National Treasury Department in May 2013 and was 99% funded by the Department of Energy and had undergone a due diligence process including support from Eskom. These processes formed the basis for the contract agreement between the Municipality and Mphaphuli Consulting.**



# 2. BACKGROUND





## 2.1 MAYORS OF MUNICIPALITY

The Mayors of the Municipality from 2011 to 2020 were:

- a) Cllr Nkosi Mahlaka (from 2011 to 2014),
- b) Cllr Samuel Mamekoa (from 2014 to 2016),
- c) Cllr Choris Phokane (from 2016 to 2019),
- d) Cllr Naomi Phala (in 2019) and
- e) now by the same Cllr Samuel Mamekoa (from 2019 to current date).

## 2.2 ACCOUNTING OFFICERS

The following are the Accounting Officers (Municipal Managers) of the Municipality in the period from 2011 to 2021:

- a) Mr Lemon Phala (from 2011 to 2013),
- b) Ms Adelaide Monyepao (from 2013 to 2014),
- c) Mr Mike Moja (from 2014 to 2015),
- d) Ms Angelina Ramaipadi (2015),
- e) Mr Joe Mohlala (from July 2015 to June 2017),
- f) Ms Patience Busane (from July 2017 to 2018),
- g) Mr Lefty Gabaganenwe (2018 to 2019),
- h) Ms Maureen Ntshudisane (2019),
- i) Ms Mavis Magooa (2019),
- j) Mr David Mashoeu (2020),
- k) Mr Eld Mathebula (2020), and now
- l) Mr Walter Phala (from August 2020 to date).

## 2.3 CHIEF FINANCIAL OFFICERS

The Chief Financial Officers (CFOs) of Municipality in the period from 2011 to 2020 were:

- a) Mr Lesley Mokwena (from 2011 to 2012),
- b) Mr David Mogofe (from 2012 to 2013),
- c) Mr William Maepa (from 2013 to 2014),
- d) Mr Donald Mhangwana (from 2014 to 2015),
- e) Mr Ratau (from 2015 to 2018),
- f) Mr Frank Maredi (from 2018 to 2019),
- g) Mr Sasa Mulenga (2019),
- h) Mr Dennis Magoma (from 2019 to 2020) and
- i) Mr M.J. Makgata (from 2020 to date).

## 2.4 DIRECTORS OF TECHNICAL SERVICES

The Directors of Technical Services in the Municipality in the period from 2011 to 2020 were:

- a) Mr Bruce Mhlaba (from 2011 to 2012),
- b) Mr S. Mathunyane (from 2012 to 2014),
- c) Mr Eugene Malungana (from 2014 to 2015),
- d) Mr Vusi Skosana (from 2015 to 2016),
- e) Ms Patience Busane (from 2016 to 2017),
- f) Mr Lefty Gabaganenwe (2017 to 2020) and now
- g) Ms Reneilwe Ntuku (from October 2020 to date).

# 3. CHALLENGES AND OPPORTUNITIES

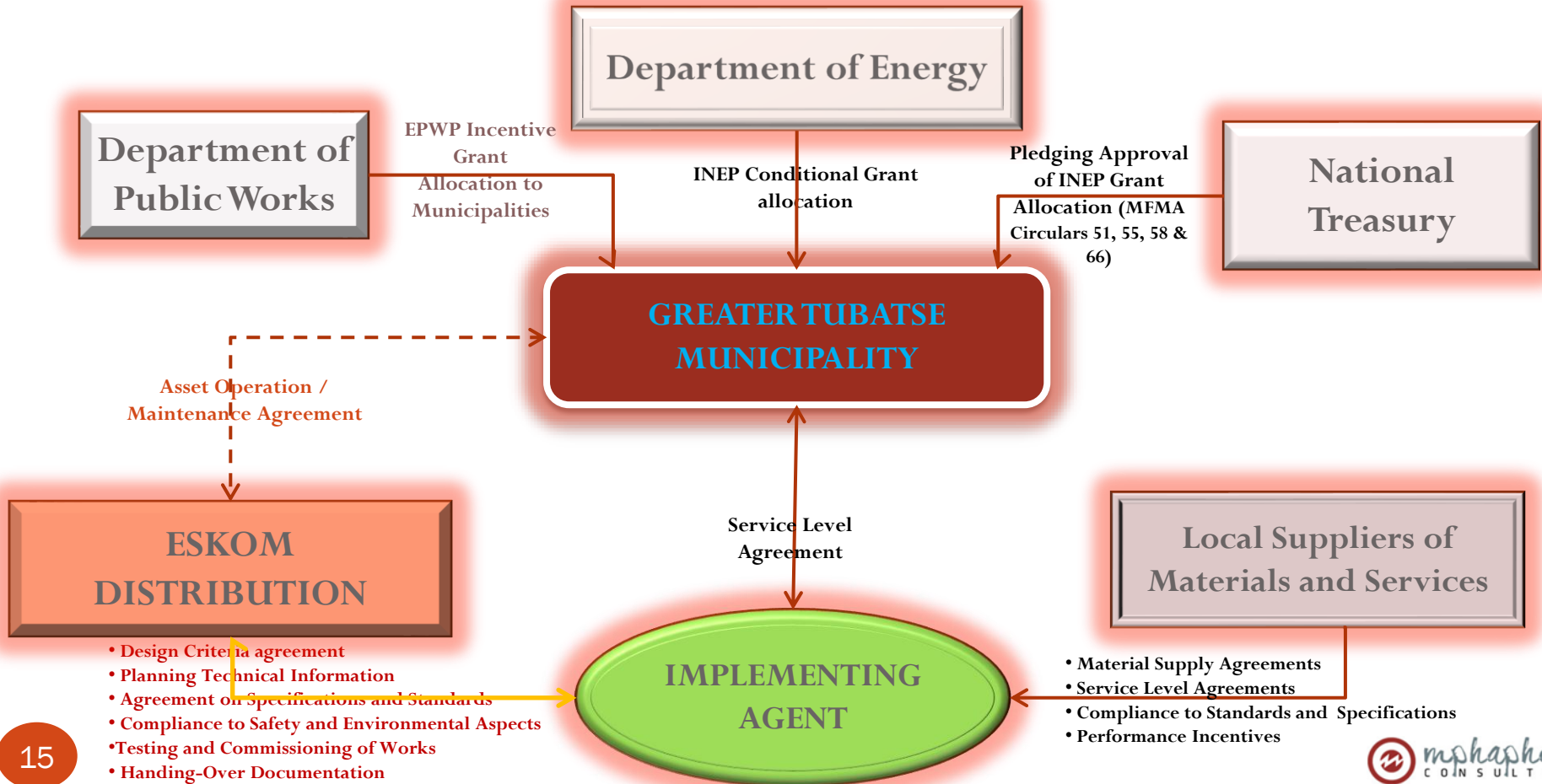
As per the directives of the MFMA Circular 51, 55, 58, 66 and 67 issued by National Treasury, the Municipality is continuously exploring ways of responding to the Government's calls for the following:

- ❑ Expediting spending on capital projects that are funded by conditional grants;
- ❑ Delivering more and better services in a caring and efficient manner;
- ❑ Moving from debate to effective implementation and decisive action;
- ❑ Working in partnership with communities, labour and business to achieve the shared objectives;
- ❑ Lowering costs of procuring goods and services, and
- ❑ Creating employment and training opportunities for the benefit of our communities.

## 4. OPERATION MABONE

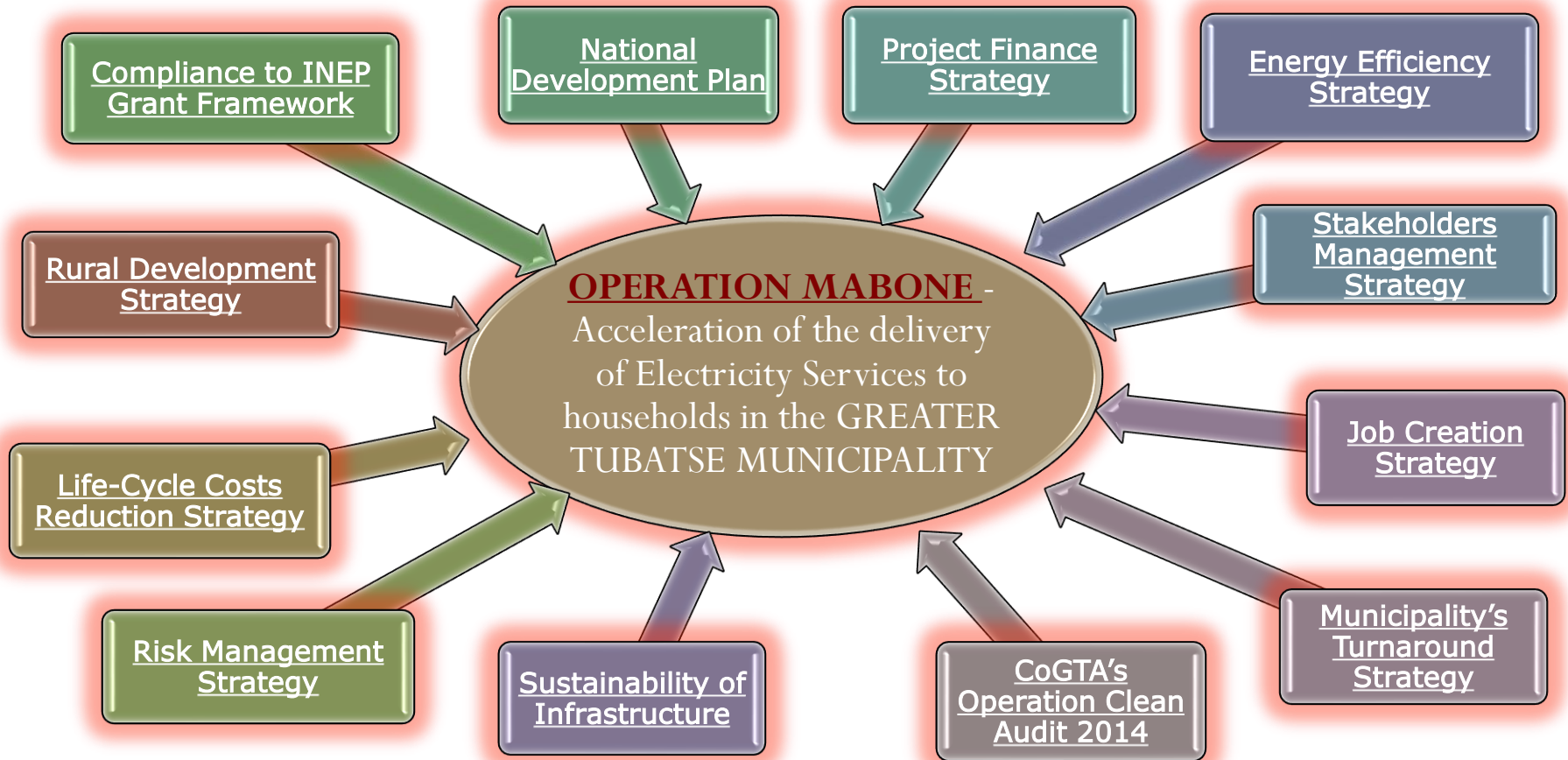
- 4.1 AN OVERVIEW OF THE MUNICIPALITY'S BUSINESS MODEL
- 4.2 THE PILLARS OF THE MUNICIPALITY'S BUSINESS MODEL
- 4.3 PLANNED CONTRIBUTION TO GOVERNMENT'S PRIORITY OUTCOMES
- 4.4 POLICY FRAMEWORKS SUPPORTING THE BUSINESS MODEL
- 4.5 COMMUNICATION PLAN

# 4.1 OVERVIEW OF THE BUSINESS MODEL

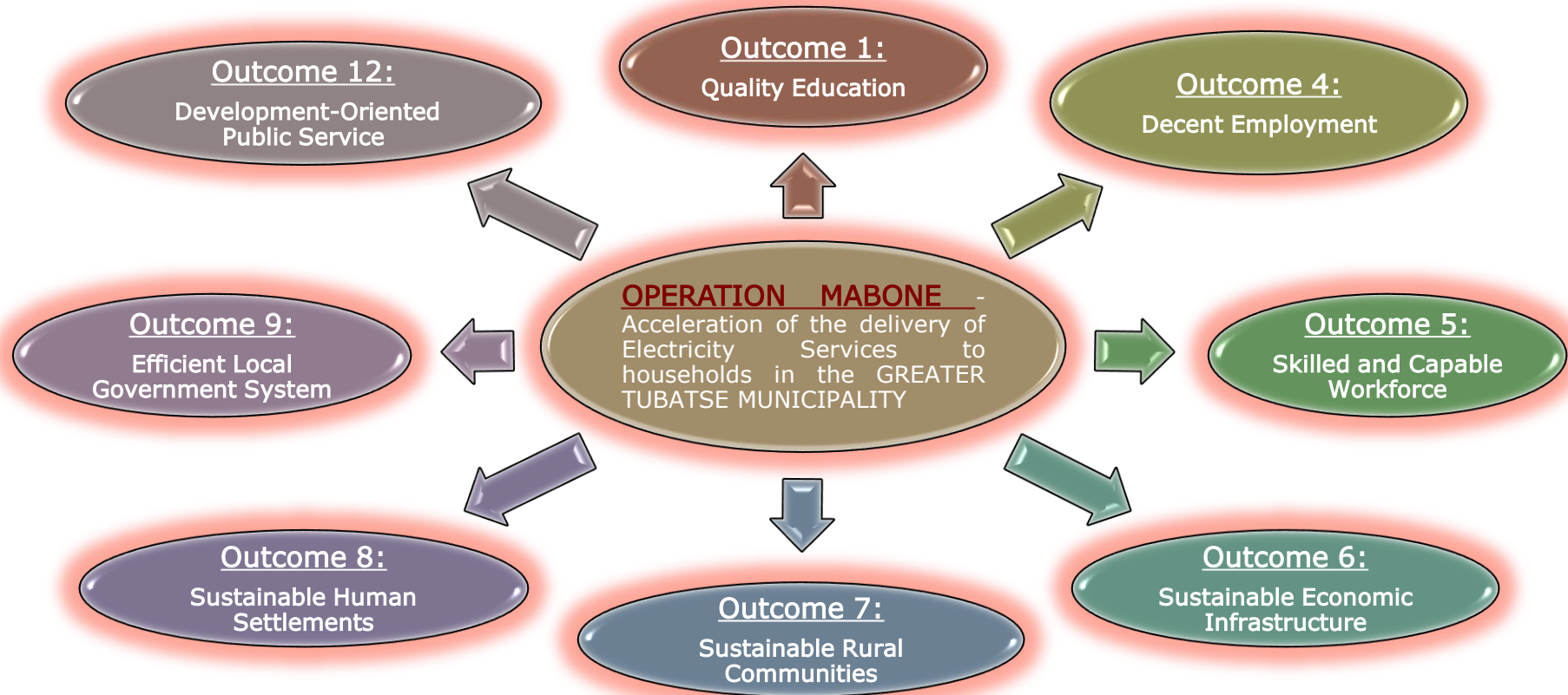




## 4.2 THE PILLARS OF THE BUSINESS MODEL



## 4.3 CONTRIBUTION TO GOVERNMENT'S PRIORITY OUTCOMES



# 4.4 POLICY FRAMEWORKS SUPPORTING THE MUNICIPAL APPROACH

- A. ADOPTED GREATER TUBATSE MUNICIPALITY'S INTEGRATED DEVELOPMENT PLANS (IDP) REGARDING THE ELECTRIFICATION BACKLOGS IN THE MUNICIPALITY
- B. DEPARTMENT OF ENERGY'S INTEGRATED NATIONAL ELECTRIFICATION PROGRAMME (INEP)'S GRANT POLICY FRAMEWORK
- C. DEPARTMENT OF PUBLIC WORKS'S EXPANDED PUBLIC WORKS PROGRAMME (EPWP)'S INCENTIVE GRANT TO MUNICIPALITIES POLICY FRAMEWORK
- D. 2013 DIVISION OF REVENUE BILL NO. 36180, 22 FEBRUARY 2013 – Section 8(4) regarding the Pledging of Conditional Grants to Municipalities, and Section 20(1) regarding the Conversion of Allocations to Municipalities.
- E. MFMA CIRCULAR 51, 55, 58 AND 66, AS ISSUED BY THE NATIONAL TREASURY DEPARTMENT REGARDING THE PLEDGING OF CONDITIONAL GRANT FUNDING
- F. MFMA SUPPLY CHAIN MANAGEMENT REGULATIONS – regarding the appointment of the Service Provider(s)
- G. NATIONAL DEVELOPMENT PLAN (NDP), as endorsed by Cabinet in November 2012
- H. MFMA MUNICIPAL SYSTEMS ACT, regarding the developmental role (duty) expected of Municipalities

# 4.5 COMMUNICATION PLAN

#	STAKEHOLDER	INFORMATION
1	<b>PROJECT STEERING COMMITTEES OF THE RESPECTIVE VILLAGES</b>	EXECUTION PLAN, LABOUR UTILISATION, PAYMENT TERMS, SAFETY PLAN
2	<b>COMMUNITIES</b>	GENERAL INFORMATION, CUSTOMER AWARENESS, ENERGY EFFICIENCY CAMPAIGN
3	<b>GREATER TUBATSE MUNICIPALITY</b>	APPOINTMENT OF SERVICE PROVIDER, APPLICATION FOR PLEDGING APPROVAL BY TREASURY, ORIGATION COSTS, SUBMISSION OF EPWP INFORMATION TO PUBLIC WORKS DEPARTMENT, SCHEDULING OF VILLAGES TO BE ELECTRIFIED, APPLICATION OF INEP GRANT FUNDING, PAYMENT FOR ACHIEVED MILESTONES
4	<b>MPHAPHULI CONSULTING</b>	BRIDGING FINANCE REQUIREMENTS, BUSINESS PLAN, ELECTRIFICATION DESIGNS, WORKING CAPITAL REQUIRED, PROGRESS REPORTS, PROCUREMENT MANAGEMENT, PROJECT MANAGEMENT, QUALITY AND SAFETY MANAGEMENT, ENVIRONMENTAL ASPECTS, LIASING WITH ESKOM, EPWP TARGETS, HAND-OVER DOCUMENTATION
5	<b>ESKOM DISTRIBUTION LIMPOPO</b>	DESIGN CRITERIA, BULK POWER INFORMATION, DESIGN APPROVALS, CUSTOMER AWARENESS REQUIREMENTS, ENERGISATION REQUIREMENTS, ETC.
6	<b>DEPARTMENT OF ENERGY</b>	INPUTS AND OUTPUTS AS REQUIRED IN THE INEP GRANT POLICY FRAMEWORK
7	<b>DEPARTMENT OF NATIONAL TREASURY</b>	PLEDGING OF CONDITIONAL GRANTS, APPROVAL OF BRIDGING FINANCE SECURITY, FINANCE REQUIREMENTS AS PER THE MFMA CIRCULAR 51, 55, 58, and 66
8	<b>DEPARTMENT OF LABOUR</b>	LABOUR UTILISATION AND SAFETY PLANS
9	<b>DEPARTMENT OF NATIONAL PUBLIC WORKS</b>	EPWP TARGETS, SCHEDULE 8 EPWP INCENTIVE GRANTS TO MUNICIPALITIES, ETC.

# 5. DUE DILIGENCE

1. Presentations to the National Treasury Department and the Department of Energy - April 2013 (AF47)
2. Support from Eskom and Service Level agreement between Municipality and Eskom (AF49 & AF50)
3. Approval by National Treasury Department (AF52)
4. Operation Mabone's Project Steering Committee - Terms of reference (AF53)
5. Application for INEP Grant Funding allocation (AF55)
6. Letter from Municipality to Department of Energy (AF23 & AF24)
7. Meeting with Minister of Energy
8. Funding allocation to the Municipality (AF26)

## 6. BRIDGES CROSSED

1. SIU Proclamation R52 of 2014 in August 2014 (AF05)
2. Cancellation of Pledging Approval by the National Treasury Department - August 2014 (AF56 & AF57)
3. Appeal to the DG of National Treasury - 8 August 2014 (AF58 & AF59)
4. Submission to the Municipality - 22 August 2014 (AF60 & AF61)
5. Submission to Council for the cancellation of the Contract (AF27)
6. Rebuttal of the information in the Council submission (AF28)
7. Letter from Minister of Finance to Municipality (AF16)
8. Agreement to proceed with Operation Mabone
9. Alleged illegality of the Contract with Mphaphuli Consulting (AF30)

# 7. IMPLEMENTATION

1. Steering Committees in the Project areas
2. Approval of Electrification Designs for the first 26 projects - April 2014
3. Launching of Operation Mabone by Mayor Samuel Mamekoa - March 2015



# 7. IMPLEMENTATION

- a) Mapareng village (with 350 households) :On 22 December 2015;
- b) Makotaseng village (with 37 households) :On 29 December 2015;
- c) Leboeng village (with 600 households) :On 29 December 2015;
- d) Malaeneng village (300 households) :On the 5 January 2016;
- e) Pidima village (with 260 households) :On 11 February 2016;
- f) Matokomane village (with 200 households) :On the 21 April 2016;
- g) Sekopung village (with 360 households) :On the 11 May 2016;

# 7. IMPLEMENTATION

- h) Mountain View (Praktiseer)(with 300) :On the 16 May 2016;
- i) Vodaville (Praktiseer)(with 175 households) :On the 17 May 2016;
- j) Makofane village (with 1000 households) :On the 20 July 2016;
- k) France South village (450 households) :On the 25 July 2016;
- l) France North village (750 households) :On the 29 July 2016;
- m) Dithamaga village (120 households) :On 14 September 2016;
- n) Mariseleng village (900 households) :On 17 February 2017; and
- o) Kampeng village (200 households) :On the 15 March 2017.

# 7. IMPLEMENTATION

The switching-on ceremony of France North village, on the 29 July 2016 was graced by the attendance of the: (AF31)

- 1. Speaker of Parliament (Hon. Baleka Mbete),**
- 2. Minister of Energy (Hon. Tina Joemat-Pettersson),**
- 3. Minister of Cooperative Governance and Traditional Affairs (Hon. Douglas Van Rooyen),**
- 4. MEC of the Limpopo's CoghSTa (Hon. Makoma Makhurumetja),**
- 5. Mayor of the Greater Tubatse Municipality (Cllr Samuel Mamekoa) and the**
- 6. Traditional Leaderships of the areas in the Municipality.**

# 8. Disputes and Litigations

1. Allegations of overclaiming in December 2015
2. Verification of claims in February 2016
3. Request for mediation and/or arbitration in August 2016 (AF32 & AF33)
4. The Mayor Phokane's speech on the local community radio station regarding Operation Mabone - 18 September 2016
5. Polokwane High Court Judgements in November/December 2016 (AF34, AF35 & AF36)
6. Municipal Council's resolution to conduct forensic investigation of Mphaphuli Consulting - 8 December 2016 (AF17)

# 8. Disputes and Litigations

7. Supreme Court of Appeal of South Africa's judgement - 9 March 2017 (AF40)
8. Received notification of cancellation of part of contract - 4 January 2017 (AF37)
9. Meeting with the President of the Republic of South Africa - 22 January 2017 (AF38)
10. Requests for meeting in pursuance of avoiding further litigations
11. Proposal on way forward resulting from the meeting of the 8<sup>th</sup> March 2017 (AF39)
12. The Supreme Court of Appeal of South Africa's judgement - 9 March 2017 (AF40)
13. The meeting of the Municipality and the SIU - 10 & 16 March 2017 (AF02)

# 8. Disputes and Litigations

14. The SIU investigation notice served on Mphaphuli Consulting - 6 April 2017 (AF41, AF77, AF 78, AF79, AF82 & AF83)
15. The decision of the Municipality to abandon the rescission application of the Polokwane High Court judgement - 7 April 2017 (AF64, AF65 & AF66)
16. Advertorial in the local newspaper against Mphaphuli Consulting by the Municipality - April 2017 (AF43 & AF44)
17. Meeting with the Municipality regarding completion of Projects - 7 May 2017 (AF74)
18. Written submission to Municipality on proposal to complete the Projects - 9 June 2017 (AF75 & AF76)
19. Claim for the approval of electrification designs of 9 remaining villages - November 2017 (AF99)

## 9. Investments to VBS (AF87)

No	Date of Authorization	Transfer Date	Amount
1	08 November 2016	15 November 2016	R30 000 000.00
2	09 March 2017	09 March 2017	R34 253 902.00
3	22 March 2017	23 March 2017	R40 000 000.00
4	19 July 2017	12 July 2017	100 000 000.00
5	14 November 2017	12 November 2017	R30 000 000.00
6	11 January 2018	12 January 2018	R30 000 000.00

Limpopo Provincial Treasury report by BDO, Pages 84 to 91, 13 March 2019



# 10. SIU Investigations

1. Submission to the Public Protector - 5 June 2017 (AF100 & AF101)
2. SIU interview of Mphaphuli Consulting - 1 August 2017  
Submission to the Minister of Justice and Correctional Services - September 2017 (AF102)
3. Submission to the Chairperson of the Portfolio Committee on Justice and Correctional Services - September 2017 (AF103)
4. SIU issued summons against Mphaphuli Consulting (First Defendant) and Municipality (Second Defendant) - October 2017 (AF02)

# 10. SIU Investigations

5. Submission to the President of the Republic of South Africa - 18 April 2018 (AF105)
6. Response from the Office of the President - May 2018 (AF106)
7. Response from the Minister of Cogta - March/April 2019 (AF107 & AF 108)
8. Submission to SIU Head and Scopa - September 2019 (AF96, AF97 & AF98)
9. Submission to the Speaker of Parliament - July 2019 (AF104)

# 11. CONCLUSIONS

# 12. CONCLUSIONS