

O. R. TAMBO DISTRICT MUNICIPALITY

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REPORT FROM THE ACTING MUNICIPAL MANAGER TO THE PORTFOLIO COMMITTEE ON COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS: 14/07/2020

1. FINANCIAL IRREGULARITIES

The OR Tambo District Municipality has, over recent years, been besieged by financial mismanagement. Irregular expenditure is the leading cause for the qualified audit opinion of the Auditor General for the last three financial years. The municipality has adopted a two-pronged approach to deal with financial irregularities, that is:

- Establishing the Municipal Disciplinary Board to implement consequence management on individuals responsible for financial misconduct and
- Implementing a plan to improve financial systems and capacitate supply chain management officials.

MUNICIPAL DISCIPLINARY BOARD

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O. R Tambo District Municipality



The municipality has established the Municipal Disciplinary Board. The board has started functioning and is chaired by a member of the Audit Committee. The committee is as follows:

Chairperson

Director Corporate Services

Director in the Office of the Municipal Manager

Director Internal Audit.

PLANS TO ADDRESS IRREGULAR EXPENDITURE

Management has compiled a plan to eliminate irregular expenditure in the municipality. The plan does not only deal with areas that were identified by the Auditor General, but also all potential gaps in the systems in procurement and expenditure. In the 2018/2019 Financial Year the municipality incurred R1,4 billion irregular expenditure.

Detailed Findings	Root cause	Proposed action by Municipality
<p>1. Competitive bids were adjudicated by adjudication committees that were not properly constituted</p> <p>The Bid Adjudication Committee (BAC) composition was not in term of the SCM Regulation 29(2) for the bids awarded in the 18/19 financial year as the BAC was not composed in terms of the regulations. This was mainly due to the fact that the meeting has less than four (4) directors which is not compliant with regulation 29.</p> <p>Note: quorum should only be considered once the principles of regulation 29(2) are met first.</p>	<p>Management has not adequately implemented the SCM Regulations and this has therefore led to the non-compliance with the SCM Regulation.</p>	<p>1. The Committee to convene only when all the members of the Bid Adjudication Committee (BAC) are available i.e. the four Senior Managers. 2. Capacitate the members of the Bid Committees. 3. Enhance and enforce implementation of monitoring tool for functioning of BID Committees i.e. the weekly reports by the Bid Committees to the Municipal Manager..</p>



2. Non-declaration of interest by suppliers in the service of the state

The suppliers did not disclose that they are in the service of the state and were awarded quotation/ tender and some of them were picked up by prior year CAATs, yet management still continue to make payments to the supplier, hence their payment in 2018/19 result to non-compliance with SCM reg 13 (c) and MFMA 112 (j)

1. This is due to suppliers not declaring that they are in the service of the state
2. Municipality does not take actions once they become aware of their supplier in the service of the state

1. Provide data of suppliers paid to Auditor General South Africa (AGSA) to perform CAATs analysis for proper disclosure of Irregular Expenditure in the Annual Financial Statements (AFS).
2. Blacklist and terminate all the service providers that have been discovered to have not disclosed interest.
3. To issue an advert reminding all the prospective service providers/bidders regarding prohibition of service providers whose Directors are in the service of state but doing business with the Municipality and the consequences thereof.

3. Awards to bidders who did not meet the minimum functionality score

Bidders failed to achieve the minimum qualifying score for functionality of 60 points as per the BEC, but were further evaluated for pricing and awarded the bids:

Management has not adequately implement the SCM Regulations and this has therefore led to the non-compliance with the SCM Regulation.

1. Capacitate the members of the Bid Committees.
2. Develop and implement compliance checklist prior awarding and finalisation of the Bids.



4. Deviation (Transactions procured without following official competitive bidding process).

During the testing of the deviation by AG, awards were not made through the normal SCM process due to service provider being a sole supplier and in the auditor's knowledge and/or research, there are other available providers for the commodity/ service as there were no market analysis was done to substantiate the sole provider.

Management did not ensure compliance with applicable laws and regulations.
Non-compliance with SCM reg 13(c)
(i)

1. Strict adherence to Regulation 36 i.e. develop deviations checklist.
2. Utilisation of Term Contracts where necessary to minimise deviations.

5. Quotation not awarded to the supplier score the highest points

The following quotations that scored the highest based on predetermined criteria were not selected, no objective criteria was used to justify that reasonable grounds existed not to select the supplier and no evidence that the deviation was recorded and approved by a delegated official:

This is due to lack of adequate review and monitoring by the appropriate level of management.

1. Capacitate the members of the Bid Committees.
2. Develop and implement compliance checklist prior awarding and finalisation of the Bids.
3. To implement segregation of responsibilities at the SCM Unit.



6. Awards to bidders who did not score the highest points in the bid evaluations, and there was no justification for the deviation

Contracts were awarded to bidders that did not score the highest points in the evaluation process, as required by section 2(1)(f) of Preferential Procurement Policy Framework Act and Preferential Procurement Regulations, objective criteria used to justify that reasonable grounds exist not to select the tenders with the highest points was not stipulated in the request for tender documents or the municipal SCM policy and is not consistently applied in the following awards:

was not selected, objective criteria was used to justify that reasonable grounds exist not to select the tender with the highest points was incorrectly applied and was not stipulated in the request for tender documents therefore the procurement of goods/service was not economical:

Management has not adequately implement the SCM Regulations and this has therefore led to the non-compliance with the SCM Regulation.

1. Develop and implement a Framework for fair distribution of work.



7. Interests

The suppliers did not submit the declaration of interest, as the award was below R30 000, yet had interest with the employees of the municipality,
In 2018/19 the following supplier did not submit the declaration of interest that he is in the service of the state, the supplier is sub-contractor to Cycle Civils in the construction of VIP toilets in ward 1B Mhlonhlo and there was deed of cession for direct payment of the sub-contractor (Mtwakazi) for R196 200,00 by OR Tambo district municipality:

The above findings were due to suppliers not declaring their connection to the person in service of the municipality

1. Provide data of suppliers paid to Auditor General South Africa (AGSA) to perform CAATs analysis for proper disclosure of Irregular Expenditure in the Annual Financial Statements (AFS).
2. Blacklist and terminate all the service providers that have been discovered to have not disclosed interest.
3. To issue an advert reminding all the prospective service providers/bidders regarding prohibition of service providers whose Directors are in the service of state but doing business with the Municipality and the consequences thereof.

9. Deviation not reasonable/justifiable

The reasons for deviation for the awards are not reasonable and justifiable because they are appearing to be due to poor planning:

Management has not adequately implement the SCM Regulations and this has therefore led to the non-compliance with the SCM Regulation.

1. Strict adherence to Regulation 36 i.e. develop deviations checklist.
2. Utilisation of Term Contracts where necessary to minimise deviations.

2. DOOR TO DOOR AWARENESS PROGRAMME

During the COVID 19 Lockdown 4 in May, and according to the Department of Legislative Services, a number of trainings were conducted in various wards. The trainings were on COVID 19 Awareness and were done by Phathilizwi Training Institute. The Municipal Manager, requesting to be appraised of the methodology used in conducting the awareness



programme, rejected the invoices submitted by the Director Legislative Services for payment. The invoices ended up circulating in the social media.

SOCIAL MEDIA POSTS

Over the weekend of the 3rd, 4th and 5th of July 2020, various allegations of financial impropriety emerged in the social media, print media and broadcast media against the municipality. These allegations were a result of invoices that were allegedly submitted by the Director: Legislative Services to the Office of the Municipal Manager for payment. The invoices were from the Phathilizwi Training Institute for a door-to-door programme conducted in various wards across local municipalities of the district. The invoices were for a total amount of over R4, 8 million, claimed for training of communities during May 2020 for COVID-19 Awareness.

The invoices were all over social media platforms and were further quoted in both electronic, print and broadcast media. The matter brought embarrassment and disrepute to the institution and deserved a thorough investigation to establish whether there was any wrongdoing on the part of any official involved in the matter.

The Acting Municipal Manager considers these allegations very serious and thus constituting an act of misconduct on the part of the director should they be proved. Accordingly and In view of the seriousness of these allegations, there was then a need to investigate:

- The authenticity of the invoices
- Whether the programme did take place
- Whether the municipality incurred any irregular expenditure through the alleged programme



- Whether anyone must be accountable for the losses, if any and
- The conduct of the company providing the awareness programme.

The Acting Municipal Manager wrote to the director asking her to provide explanation about the leaked invoices. The Director responded explaining that she is certain that the programme did take place, contrary to what circulated in the social media.

In the council meeting of the 9 July 2020, the matter was presented under 'Urgent Reports Item'. The council resolved that an independent investigator be appointed to investigate the Door-to-Door COVID 19 Awareness Programme and that the Director Legislative Services must be given special leave while the investigation is continuing.

The Acting Municipal Manager is currently implementing the process as per the resolution.

PAYMENTS: THE AMOUNT OF R4, 8 MILLION CLAIMED IN THE INVOICES HAS NOT BEEN PAID.

Attachments:

1. Letters from the Director Legislative Services
2. Public Participation Report by Phathilizwi Training Institute
3. Whippyery Report by Phathilizwi Training Institute
4. The Profile of Phathilizwi Training Institute



F. Mphako

Acting Municipal Manager

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