

REPORT – FLOW COMPLIANCE CHECK

(LAST DAY FOR REPORTS TO GOVERNANCE AND SECRETARIAT OFFICE OF THE SPEAKER BY 12 00

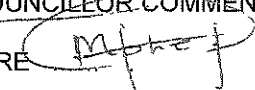


- GROUP FINANCIAL SERVICES
 - **NO OBJECTIONS** – 12 WORKING DAYS BEFORE THE MEETING
 - **OBJECTIONS** – 20 WORKING DAYS BEFORE THE MEETING
- ALL OTHER COMMITTEES
 - 9 WORKING DAYS BEFORE THE MEETING)

FILE **Irregular Expenditure for the first quarter of 2022/23 Financial Year**

INITIATOR **Ms Thembeke Mphefu / U Banda**

GROUP FINANCE DEPARTMENT

REPORT CHECKED AND PASSED FOR SUBMISSION TO THE MEETING OF **EXECUTIVE COMMITTEE**

	COMPREHENSIVE NESS (FACTS, COMMENTS, RECOMMENDATIO NS ANNEXURES) (√)	CORRECTN ESS (√)	QUALITY (√)
DIVISIONAL HEAD SUPPLY CHAIN MANAGEMENT Ms Thembeke Mphefu WARD-SPECIFIC YES <input type="checkbox"/> NO <input type="checkbox"/> WARD COUNCILOR COMMENTS YES <input type="checkbox"/> NO <input type="checkbox"/> SIGNATURE  DATE 13 October 2022			
HEAD OF DEPARTMENT GROUP CHIEF FINANCIAL OFFICER – Mr. U Banda REPORT ALSO BEARS APPROVAL OF COO <input type="checkbox"/> MM <input type="checkbox"/> CHAIR OF SECTION 79 COM <input type="checkbox"/> SIGNATURE  DATE 14/10/2022			
CITY MANAGER Mr. Johann Mettler REPORT ALSO BEARS APPROVAL FOR LATE SUBMISSION YES <input type="checkbox"/> NO <input type="checkbox"/> SIGNATURE  DATE 20/10/2022 subject to removal of recommendation 2			

INITIATORS: Ms T Mphefu /Mr. U Banda (012 358 8101)
EXECUTIVE COMMITTEE.

GROUP FINANCIAL SERVICES DEPARTMENT
(SUPPLY CHAIN MANAGEMENT)
IRREGULAR EXPENDITURE FOR THE FIRST QUARTER OF 2022/23 FINANCIAL YEAR

1. PURPOSE

The purpose of the report is to comply with section 32 of the MFMA to inform Executive Committee in respect of irregular expenditure incurred during the first quarter of 2022/23 financial year. The expenditure be referred for investigation and recover from the person liable or write-off the expenditure if it is irrecoverable.

The accounting officer must promptly inform the Mayor, the MEC of local government in the province and the Auditor-General in writing of any irregular expenditure incurred by the municipality and whether any person is responsible or under investigation for such irregular expenditure and steps are taken to recover or rectify such expenditure and to prevent the recurrence thereof.

2. STRATEGIC OBJECTIVES

To ensure:

- Strategic Pillar 1 A City that facilitates economic growth and job creation
- Strategic Pillar 3 A City that delivers excellent services and protects the environment
- Strategic Pillar 5 A City that is open, honest and responsive

3 ABBREVIATIONS AND ACRONYMS

CoT	City of Tshwane
MFMA	Municipal Finance Management Act
MEC	Member of Executive Council

4 BACKGROUND

All Ex post Facto payments (payments made without having followed the normal official process of supply chain management) are approved by the Accounting Officer and are governed by Section 32 of the MFMA (Irregular expenditure)

Section 32 of Municipal Finance Management Act 56 of 2003 state the following:

(1) without limiting liability in terms of the common law or other legislation –

(c)

Any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure

- (2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from person liable for that expenditure unless expenditure-
 - (b) In the 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
- (3) if the accounting officer becomes aware that the council , the Mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely results in unauthorized, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorized or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the Mayor or the executive committee, in writing, that the expenditure is likely to be unauthorized, irregular or fruitless and wasteful expenditure.
- (4) The accounting officer must promptly inform the Mayor, the MEC for local government in the province and the Auditor General, in writing, of
 - (a) any unauthorized, irregular or fruitless and wasteful expenditure incurred by the municipality:
 - (b) whether any person is responsible or under investigation for such unauthorized, irregular or fruitless and wasteful expenditure. and
 - (c) the steps that have been taken-
 - (i) to cover or rectify such expenditure. and
 - (ii) to prevent a recurrence of such expenditure
- (5) The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless or wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure
- (6) The accounting officer must report to the South Africa Police services all cases of alleged-
 - (a) irregular expenditure that the constitute a criminal offence, and
 - (b) theft and fraud that occurred in the municipality
- (7) The council of a municipality must take all reasonable steps to ensure that all cases referred to in sub section (6) are reported to the South African Police Services if –
 - (a) the charged is against the accounting officer: or
 - (b) the accounting officer fails to comply with that subsection

5 DISCUSSIONS

Irregular, fruitless and wasteful expenditure identified in each financial year is disclosed in the financial statements With a view to obtaining a clean audit by 2022/23 it is imperative that these cases be investigated and handled appropriately in terms of section 32 (2) of the MFMA and Circular 68 as issued by the National Treasury

Irregular expenditure in terms of the MFMA is defined as:

- (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 system 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-Bearer's 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 municipalities by laws, giving effect to such policy, and which has not been condoned in terms of such policy or by law.
- (e) Fruitless and wasteful and expenditure in term of the MFMA is defined as; expenditure that was made in vain and would have been avoided had reasonable care been exercised

Section 32(2) of the MFMA further states that:

- (2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure-
 - (b) In the 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".

The reasons for these expenditures must be seen in the context of service delivery as well as the circumstances surrounding their occurrences

National Treasury, Municipal Finance Management Act No 56 of 2003, Circular 68 states that:

The matters should be referred to Council Committee for investigation in terms of section 32 (2) (b) of MFMA through Group Audit and Risk Department or any other appropriate investigation body, to determine whether or not grounds exist for a charge of financial misconduct to be laid against the official liable for the expenditure. If Council Committee recommend as irrecoverable, then the expenditure is certified as irrecoverable and write-off in terms of 32 (2) (b) of MFMA. If the official is found liable after investigation the expenditure should be recovered from the liable official.

If after following a proper investigation, the Council concludes that the official responsible for making or permitting an instance of irregular, fruitless and wasteful expenditure acted deliberately or negligently, then the Council should institute disciplinary procedures and lay criminal charges against the liable official

Section 32 approvals for the first quarter of the 2022/23 financial year

July 2022							
NO	Descriptions	Contractor/s	Period	Award amount	Department	Recommended BAC	Approved CM
CIR68-01-07-2022/23	Approval for the provision of alternative accommodation for the evacuated tenants of Schubart Park	CBD Residency and Singyung investment	April 2022 to July 2022	8,505,809 33	Human Settlement	30-Jun-22	7-Jul-22
CIR68-02-07-2022/23	Approval for Regulation 36 2017/11/28 CB131-2012 to complete the outstanding milestones for turnkey projects	Zimport, Amibex and Sunrise Joint Venture	Financial Period 2021/22	15,505,932 71	Human Settlement	30-Jun-22	7-Jul-22
			Financial Period 2022/23	10,604,787 34			
CIR68-03-07-2022/23	Approval for the provision of alternative accommodation for the evacuated tenants of Schubart Park	HBC Construction cc	Period not indicated	5,137,780 87	Human Settlement	30-Jun-22	7-Jul-22
			Period not indicated	2,335,570 08			
CIR68-04-07-2022/23	Approval for the for Contract HHS 01 2015/16(HS-12) for the construction of internal water and sewer reticulation on 2 767 stands and construction of bulk water and sewer services and toilet top structures in Hammanskraal Extension 10	Khato Civils (Pty) Ltd	Financial Period 2021/22	15,000,000 00	Human Settlement	6-Jul-22	11-Jul-22
			Financial Period 2022/23	8,347,083 69			
CIR68-05-07-2022/23	Approval to manage the maintenance services required for the TBS's	MAN & Truck Pty (Ltd) Hatfield (MAN)	November 2021 to June 2022	11,239,970 24	Roads and Transport	20-Jul-22	21-Jul-22

	MAN bus fleet						
August 2022							
CIR68-01-08-2022/23	Approval for the repairs and maintenance of the electrical infrastructure from tenders USD EE 06-2019/20 and USD EE 07-2019/20 within Region 4 on an as-and-when required basis without prior generated official purchase orders	Various contractors	August 2020 to July 2021	19,301,864 90	Regional Operations and Coordination	23-Jun-22	27-Jul-22
CIR68-02-08-2022/23	Approval for the ex post facto payments incurred from leased building 174 Visagie, Roodal and any ancillary costs related thereto	Various contractors	June 2020 to Sep 2021	22,091,870 65	Group Property Management	4-Aug-22	8-Aug-22
September 2022							
NO	Descriptions	Contractor/s	Period	Award amount	Department	Recommended BAC	Approved CM
There was no section 32 approved for the month of September 2022							
Sub-Total				R 118,070,669.81			

6 FINANCIAL IMPLICATIONS

The total amount of irregular expenditure incurred in the first quarter of the 2022/23 financial year amounted to R 118,070,669 81

In terms of section 32(2)(b), (4) (5) and (6) of the MFMA it is stated that a municipality must recover irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure is after an investigation by a council committee, certified by the council as irrecoverable and written off by council

The writing off any irregular or fruitless and wasteful expenditure is no excuse to conduct in criminal or disciplinary proceedings against a person with the commission of an

offence or a breach of the MFMA relating to irregular or fruitless and wasteful expenditure.

7 PREVIOUS COUNCIL AND AUGUSTORAL COMMITTEE RESOLUTIONS

Not applicable

8 RECOMMENDATION

- 1 That cognizance be taken of the irregular expenditure incurred in the first quarter of 2022/23 financial year.
2. That the Municipal Public Accounts Committee (MPAC) be mandated to investigate the identified irregular expenditure and make a recommendation to council for a determination as required by Section 32(2) of the Local Government Municipal Finance Management Act
- 3 That the Accounting Officer informs the member of the Executive Council for Local Government (MEC) and Auditor General of South Africa of the irregular expenditure and action to be taken as required by Section 32(4) of the Local Government Municipal Finance Management Act