

ITEM (07/2015)

Municipal Manager's Report to Council on the Deviation from and ratification of minor breaches from the Procurement processes for June 2015.

PURPOSE

To submit a report to Council on the deviation from procurement processes and ratification of minor breaches from the procurement process for June 2015.

BACKGROUND

In terms of Section 36 of the Supply Chain Management Policy: Deviation from, and ratification of minor breaches of procurement processes:

- (1) *"The accounting officer may –*
- (a) *dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –*
- (i) *in an emergency;*
 - (ii) *if such goods or services are produced or available from a single provider only;*
 - (iii) *for the acquisition of special works of art or historical objects where specifications are difficult to compile;*
 - (iv) *acquisition of animals for zoos and/or nature and game reserves;*
 - (v) *in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and*
- (b) *ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.*
- (2) *The accounting officer must record the reasons for any deviations in terms of subparagraphs (1) (a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements."*

Attached as Annexure A (pp 1-5) please find the instances in June 2015 where the prescribed procurement processes were not followed and the deviations were approved in terms of the Municipal Manager's delegated powers.

In terms of Section 36 (1)(b) of the SCM Policy the Municipal Manager is also allowed to ratify any minor breach of the procurement processes made by a committee acting in terms of delegated powers which are purely of a technical nature. The following two minor breaches, as reported to the bid committees, were ratified:

- IEM (MHS) 07/2014: Local cooperatives for litter picking, street cleaning in the central business district
- IEM (MHS) 04/2015: Waste collection in identified areas of Mogale City Local Municipality.

In the first instance the available budget of R 2 400 000 was utilized as the estimated contract value. The (R 2 400 000) has now been exceeded and the project is not yet complete (Completion date is July 2017). The new budget availability is R 15 000 000. Therefore this amount will be taken as the new estimated contract value. In the

second instance an administrative mistake was made by omitting the public holiday rates. Attached as Annexure B.

RECOMMENDED TO MUNICIPAL COUNCIL:

1. that Council takes note of the item as per Annexure A (pp 1-4) where the official procurement process was dispensed with, for reasons as mentioned in the report, with the approval of the Municipal Manager, for June 2015.
2. that Council takes note of the ratification of the minor breaches as per Annexure B (pp 5 - 6) of the procurement processes by an official or committee acting in terms of delegated powers which are purely of a technical nature for the following two tenders:
 - IEM (MHS) 07/2014: Local cooperatives for litter picking, street cleaning and the central business district
 - IEM (MHS) 04/2015: Waste collection in identified areas of Mogale City Local Municipality.
3. that above be included by the Chief Financial Officer as a note to the 2014/2015 annual financial statements.

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Supported by:

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Chief Financial Officer

Approved by:

D Mashitisho
Municipal Manager

Date

DISPENSING WITH CALLING FOR TENDERS FOR JUNE 2015

ANNEXURE A

Department	Description	Reason	Approved Company	Amount (including VAT)
Energy Services	Purchase traffic light controllers which was damaged during an accident in the following intersections (Grey & Main Reef RD, Windsor & Paardekraal, Barat Street, Luipaardsvlei Station, Voortrekker & Van Oordt and Ockerse & Kruger Street)	<p>Appointment of Automotor Traffic Signal Co (Pty) Ltd as an emergency.</p> <p>On the 25th and 26th of May 2015 two motor vehicle accidents happened at the following two intersections; corner Grey Street & Main Reef Rd at Lewisham and corner Ockerse and Kruger Street in Krugersdorp where by the motor vehicle bumped the traffic light poles, the traffic light heads including the robot controllers. These are busy intersections in the city and they require attention to be restored to their functional state in order to avoid having more accidents happening while the robots are not functioning.</p> <p>Automotor Traffic Signal Co (Pty) Ltd manufactured all the traffic light controllers around the city. This was done in order to standardize the repair parts and the software to programme the PLC controllers.</p> <p>In order to speed up the procurement process of obtaining these traffic light controllers sooner, the Energy Service Section requests authorization to use the quotation from Automotor Traffic Signal Co (Pty) Ltd to</p>	Automotor Traffic Signal Co (Pty) Ltd	R 182 675.88

		<p>procure the robot controller because this service provider as the manufacturer of the damaged electro mechanical type traffic light controllers.</p> <p>Section 36 (1)(a)(i) – In an emergency</p>		
Economic Services	Tudor Shaft relocation, resettlement and relocation programme (Kagiso Ext 13)	<p>The National Upgrading Support Programme research conducted as part of the Mogale City's Informal Settlement Programme found that Tudor Shaft and Soul City are located on undermined ground and acid mine damage therefore "residential development within areas affected by undermining activities and AMD should be discarded from the outset". It was further found that possible health risks exist in the area and that during the rainy season, the area is exposed to flooding and pooling due to inadequate grading of roads and storm water management.</p> <p>Consequently, it was concluded that "strategically located land" should be identified and acquired for areas such as Soul City and Tudor Shaft. It is therefore proposed that these settlements should be relocated to Rietvallei Ext 13)</p> <p>It is for the environmental, health and acid mining drainage reasons that the relocation of the people of Tudor Shaft must be undertaken as a matter of priority.</p>	<p>Vuka Africa, Ultrasonic Express and Masekwameng Joint Venture</p> <p>Turnkey Solution in a site and services development basis</p>	R 32 512 336.59

		Section 36 (1)(a)(i)(v) – An emergency and impractical to follow the normal SCM process		
Social Services	<p>Extension of scope of work: Renovation of Krugersdorp West swimming pool (installation of new pool filtration system and plumbing modifications to the pool structure and building) SS (SR) 11/2014</p>	<p>The Krugersdorp West swimming pool was constructed approximately in 1955. Repairs or maintenance on the pool structure were never done before. Ultrasonic Express took site in November 2014 and the project was implemented as expected. As the project progressed, the following challenged were discovered:</p> <ul style="list-style-type: none"> • Waterproofing <p>The original scope of work did not include waterproofing as the Engineer from MDCC assumed that the current pool structure that was filled with rain water and dirt at the time was waterproofed.</p> <p>During the construction process the contractor removed the existing tiles. In the process the structural integrity of the existing concrete walls as well as the expansion joints of the main pool were compromised. The Engineer realized the need for special waterproofing to ascertain water tightness.</p> <ul style="list-style-type: none"> • Flowrate <p>A number of pool specialists were invited to site. In addition to the need for waterproofing, assessment pointed out that the proposed</p>	<p>Ultrasonic Express Original contract value R 3 874 043.65</p>	<p>R 1 745 046.82 (extension of scope)</p>

		<p>plans for filtration and circulation were not efficient in that :-</p> <p>The flow rate as per original design does not make provision for any unforeseen circumstances such as breakdowns, load shedding and excessive usage of the pool</p> <p>The circulation as per original design would not be effective and certain areas of the pool would not be circulated as per required and that might lead to high bacteria counts and algae growth.</p> <p>Once again, the Engineer acknowledged that bigger pumps would be required with bigger matching motor.</p> <ul style="list-style-type: none">• Piping <p>The bigger pump/ motor combination implies the increase in the flow rate, which requires bigger pipes, more inlets and outlets. More inlets/outlets require extra trenching and core drilling through the pool structure.</p> <p>These activities constituted specialised additional work which was not included in the original scope of work.</p> <p>Section 36 (1)(a)(v) – impractical to follow the normal SCM process</p>		
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RATIFICATION OF MINOR BREACHES OF THE PROCUREMENT PROCESS

The following two tenders followed the official procurement processes in 2014/15 and were awarded to the highest point scoring bidders:

- IEM (MHS) 07/2014: Local cooperatives for litter picking, street cleaning and the central business district
- IEM (MHS) 04/2015: Waste collection in identified areas of Mogale City Local Municipality.

1. IEM (MHS) 07/2014: Local cooperatives for litter picking, street cleaning and the central business district on an as and when required basis for a period of three years

At a strategic planning workshop held at Engedi Conference Centre on January 20-204th 2014, a strategic decision was taken that all municipal departments should look at the possibility of appointing cooperatives to assist with job creation and enhancement of service delivery. In terms of this DIEM was expected to appoint a total of five cooperatives with three of them in Parks Management and the other two cooperatives were to work in waste management.

The cooperatives to work in waste were appointed in June 2014 and they were Lefika La Motheo Cooperative and Cleaned Green Road Construction and Maintenance Cooperative. However Lefika La Motheo's contract was terminated due to breach of Supply Chain regulations. As the Department was considering appointing another cooperative the news of establishment of new metro surfaced. At the same time the cumulative payments made to Cleaned Green Road Construction and Maintenance Cooperative increased significantly as the result and the amount of more than R3 000 000 has already been spend on this particular cooperative.

It must also be pointed out that at the strategic planning session held at Engedi Conference Centre at the beginning of this year (2015), it was agreed that EPWP grant funding should also be channeled to cooperatives which has the effect of increasing the total payments that will have been made to Cleaned Green Road Construction and maintenance Cooperatives.

In the letter of appointment to Cleaned Green Road Construction and Maintenance Cooperative no contract value is mentioned. The R 3 000 000 was merely a projection by the department based on the budget availability at the time. It is against this background that it is proposed that the internal contract value for Cleaned Green Road Construction and Maintenance Cooperative be amended and increased to approximately R 15 000 000 over the period of three (3) years and that Cleaned Green Construction and maintenance Cooperative will also be utilized to appoint EPWP temporary employees under the same terms and conditions of tender no. IEM (MHS) 07/2014 on new budget allocation.

The complete amended report was submitted to the BEC, BAC and Municipal Manager for approval on 06 May 2015.

2. IEM (MHS) 04/2015: Waste collection in identified areas of Mogale City Local Municipality for a period of three (3) years

The bidders were requested to submit their daily rates per service point on public holidays. The public holiday rates were requested since the waste collection service is rendered on every weekday including public holidays. Saturday and Sundays are not included since the service is supposed to be rendered only on weekdays.

The omission which occurred is that the appointment letter did not also capture the public holiday daily rates per service point as submitted by those two appointed service providers. It is therefore requested that the omission be corrected from the first date of appointment (01 April 2015)

The complete amended report was submitted to the BEC, BAC and Municipal Manager for approval on 28 May 2015.

