

MANTSOPA



LOCAL MUNICIPALITY
PLAASLIKE MUNISIPALITEIT
LEKGOTLA LA MOTSE

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16 October 2020

2018/19 OVERSIGHT REPORT ON THE ANNUAL REPORT OF MANTSOPA LOCAL MUNICIPALITY FOR THE PERIOD ENDING 30 JUNE 2019

Notice is hereby given in terms the local Government: Section 129(3) of the Municipal Finance Management Act, No 56 of 2003 and in accordance with the Section 21 (A) of the Municipal Systems Act, No 32 of 2000, that Mantsopa Local Municipal Council has adopted the ~~MPAC~~ MPAC Oversight Report and approved the 2018/19 Annual Report without reservations during the ordinary Council Meeting which was held on 8th October 2020 at 10H00 through Microsoft Teams platform

Members of the public can access both reports for public inspection on the municipality's website www.mantsopa.fs.gov.za and also at the following offices.

1. Ladybrand Office (Head Office)
2. Manyatseng Municipal offices
3. Excelsior Municipal Offices
4. Mahlatswetsa Library
5. Tweespruit Library
6. Thaba Patchoa Municipal Offices
7. Hobhouse Municipal Offices

All enquiries may be directed Mr Dumile Nana who is the **Manager: Organisational Performance Management Division** in the Office of the Municipal Manager at (051) 924 0654 EXT 2114 during office hours from 07H30 to 16H30, alternatively at dumile@mantsopa.co.za or pmscoordinator@mantsopa.co.za

A handwritten signature in black ink, appearing to read 'T.P. Masejane'.

T.P MASEJANE
MUNICIPAL MANAGER



COUNCIL RESOLUTION NUMBER 04/10/08/10/2020

CONSIDERATION OF THE MPAC OVERSIGHT REPORT ON THE DRAFT ANNUAL REPORT FOR THE PERIOD ENDING 30 JUNE 2019 BY THE MUNICIPAL PUBLIC ACCOUNTS COMMITTEE.

1. PURPOSE

To consider the Municipality's Annual Report for 2018/2019 and to adopt the Oversight Report containing the Council's comments on the Annual Report in terms of the Local Government: Section 129(1) of the Municipal Finance Management Act, 56 of 2003 including the recommendations regarding MPAC's investigations on Unauthorised, Irregular, Fruitless and Wasteful expenditure emanating from the 2018/2019 Annual report, specifically the findings of the Auditor-General.

2. PRE-DETERMINED OBJECTIVES

Striving towards a secure and sustainable management of fiscal and financial affairs of the Municipality with the limited resources.

3. PART A: 2018/2019 OVERSIGHT REPORT ON THE DRAFT ANNUAL REPORT

3.1 BACKGROUND AND CONTEXT

The 2018/2019 Draft Annual Report of Mantsopa Local Municipality was prepared in terms of Local Government: Section 121 of the Municipal Finance Management Act No.56 of 2003 and Section 46 of the Municipal Systems Act, 32 of 2000, it was subsequently submitted by the Accounting Officer to the Auditor-General for audit as prescribed in terms of the Local Government: Section 126 of the Municipal Finance Management, Act 56 of 2003 on 31 August 2019.

The Draft 2018/2019 Annual Report, the Auditor-General's report and the audited Annual Financial Statements were tabled at a Special Council meeting held on 13 May 2020, thereafter members of the public were given 21 days to submit written inputs, the invitation to make inputs were made through the public notices, website and the Municipal Facebook Page in compliance with the conditions imposed by the Disaster Management Regulations during the national state of disaster, no inputs were received.

3.2 MPAC LEGISLATIVE PROCESSES

The 2018/2019 Draft Annual Report was discussed by the MPAC on 28th July 2020 as prescribed in terms of Section 129 (a), (b) & (c) of the Municipal Finance Management Act, 56 of 2003, however, the MPAC resolved that the investigations on Unauthorised, Irregular, Fruitless & Wasteful expenditure be conducted so that its recommendations should be included in the Oversight Report.

The MPAC satisfied itself that the 2018/2019 Draft Annual Report was prepared in terms of the Local Government: Section 121 of the Municipal Finance Management Act, 56 of 2003, such was demonstrated in the six prescribed chapters as prescribed in the MFMA Circular 63, namely: **Chapter 1: Foreword & Executive Summary; Chapter 2: Governance; Chapter 3:**

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Service Delivery Performance; Chapter 4: Organisational Development Performance; Chapter 5: Financial Performance (Annual Financial Statements); and Chapter 6. Report of the Auditor-General South Africa.

In terms of the Local Government: Section 129(1) of the Municipal Finance Management Act, 56 of 2003- The Council of a municipality must consider the Annual Report of the Municipality and of any Municipal Entity under the municipality's sole or shared control, and by no later than two months for the date on which the Annual Report was tabled in the Council in terms of Section 127, adopt an Oversight Report containing the Council's comments on the Annual Report, which must include a statement whether the Council-

- (a) Has approved the Annual Report with or without reservations.
- (b) Has rejected the Annual Report; or
- (c) Has referred the Annual Report back for revision of those components that can be revised.

3.3 MPAC RECOMMENDATIONS REGARDING THE 2018/2019 DRAFT ANNUAL REPORT

Having considered the 2018/2019 Draft Annual Report including the representations by Management, the **MPAC hereby recommend** as follows:

- (a) That the 2018/2019 Draft Annual Report be approved without reservations.
- (b) That the progress report regarding the implementation of the Audit Action Plan be tabled at the MPAC meetings quarterly to enable the MPAC to detect early signs of internal control deficiencies and effect the necessary remedies to prevent recurrence.
- (c) That the 2018/2019 Oversight Report be submitted to the Free State Legislature, the MEC responsible for Local Government and MEC for Provincial Treasury as prescribed in terms of Section 132(2) of the Municipal Finance Management Act, 56 2003.
- (d) That the 2018/2019 Oversight Report be submitted to Thabo Mofutsanyana District Municipality and be published immediately for public consumption.

4. PART 2: INVESTIGATIONS REGARDING THE UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

4.1 INTRODUCTION

The Auditor-General's findings regarding the Unauthorised, Irregular, Fruitless and Wasteful expenditure during the 2018/2019 financial year including prior years can be summarised as follows:

- (a) **Irregular Expenditure:** R5 439, 656,45 incurred due to non-compliance with regulation 29 for BAC composition; R1 412, 245, 88 incurred due to non-compliance with Supply Chain Management processes; and R30,000,00 incurred due to obtaining only one quotation instead of three.
- (b) **Prior year Irregular Expenditure:** R16 221, 171,23 incurred due to non-compliance with regulation 29 for BAC composition; R191, 892 incurred due to obtaining only one quotation instead of three; R926, 578,46 incurred due to obtaining only one quotation instead of three; R57, 200 incurred due to obtaining only one quotation instead of three; R130, 783,07 incurred due to obtaining only one quotation instead of three; R14, 950 incurred due to obtaining one quotation instead of three; R30, 172,38 incurred

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due to obtaining only one quotation instead of three; R13 267 897, 75 incurred for participating in a contract of other organ of state not line with SCM regulation 32;

- (c) **Unauthorised Expenditure:** R105 302 668 (Technical Services) incurred due to overspending of the total amount appropriated in the municipality's approved budget; R4 707 880 (Finance Department) depreciation which was initially under-budgeted and had big impact on budget variance; R3 508 647 due to non-cash items like depreciation and provision of bad debts; R1 210 455 amount relating to Manyatseng: Construction of Toilet Top Structures on 383 sites (MIG/FS1216/S/17/19)
- (d) **Fruitless & Wasteful Expenditure:** R16 319 732.21 incurred due to late payment penalty levied on all late payments and or underpayments at a rate of 10% of the amount underpaid.

4.2 MPAC INVESTIGATIONS ON UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE FOR 2019/2020 AN PRIOR YEARS.

The MPAC sought the expertise of the Municipal Internal Audit (Mr KJ Chauke) and the Free State Provincial Treasury (Mr Yumile Nkelo) in assisting on the investigations and PMS Division (Mr D.E Nana) also provided general strategic support in the work of the MPAC in this regard.

5. PROCESS TO BE FOLLOWED WHEN DEALING WITH IRREGULAR EXPENDITURE

In terms of the National Treasury Guidelines regarding the process to be followed when dealing with Irregular Expenditure, the following should be strictly adhered to:

- (a) All cases of irregular expenditure must be referred to MPAC for investigation. MPAC must, after investigation, make a recommendation to Council for the **recovery** or **write off** of the irregular expenditure in terms of the Local Government: Section 32 (2) (b) of the Municipal Finance Management Act, 56 of 2003.
- (b) In terms of Section 170 of the MFMA, only the National Treasury may condone non-compliance with the MFMA or its regulations, therefore, Mantsopa Local Municipality has no power to **condone** any act of non-compliance with the MFMA or any of its regulations.
- (c) The Council may, after investigation and recommendation by MPAC, only resolve to "write off" the expenditure as irrecoverable or resolve to recover the expenditure" in terms of Section 32(2)(b) of the MFMA.
- (d) Council may only condone a contravention of its own Supply Chain Management policy or a by-law giving effect to that policy, provided that the contravention is not also a contravention of the MFMA or the Supply Chain Management regulation.
- (e) Irregular expenditure resulting from a contravention of the Public Office Bearers Act cannot be written off and must be recovered from the Political Office Bearer concerned, in terms of Section 167(2) of the MFMA.

6. RECOGNITION OF IRREGULAR EXPENDITURE

- (a) The recognition of irregular expenditure must be linked to a financial transaction.
- (b) Although a transaction or an event may trigger irregular expenditure, the Council will only identify irregular expenditure when a payment is made or when the invoice is received in terms of GRAP 1.
- (c) If the possibility of irregular expenditure is determined prior to a payment being made, the transgression shall be regarded as a matter of non-compliance.

7. RECOVERY OF UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

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1. The processes to respond appropriately to prohibited expenditure are as follows:
 - a. Disciplinary charges against Officials and Political Office Bearers,
 - b. Criminal charges against Officials and Political Office Bearers,
 - c. Recovery of the Fruitless and Wasteful expenditure from liable persons.
2. The **writing -off** of prohibited expenditure is not a **primary response**, it is **subordinate** to the recovery processes, and may only take place if the expenditure is certified by Council as irrecoverable.

If the actions were in the best interest of the Municipality and the local community, or the official(s) and or political office bearer acted in good faith and finally if the Municipality did not suffer material loss as a result of the action, Council may write off such irregular expenditure following a substantive recommendation from the Municipal Public Accounts Committee.

8. 2018/2019 IRREGULAR EXPENDITURE AND PRIOR YEARS

On Monday, 21 September 2020 at 10H00, Manyatseng Council Chambers, the MPAC conducted a hearing from implicated officials for incurring Unauthorised, Irregular, Fruitless & Wasteful Expenditure during 2018/2019 and prior years, such officials included the Municipal Manager (could not join due to connection challenges), all Directors, Mr Khotso Pharo: Manager: Supply Chain Management, Mr Majoro Mpuru (Office of the Mayor), Mr Kelth Cloete: Superintendent Water & Sanitation, Mr Sam Moefi: Manager Water & Sanitation, Ms Machell: Skills Development Facilitator and Mr Pule Hlahane who is a Manager: Legal & Administration.

The above-mentioned officials were probed on their role in incurring the Unauthorised, Irregular, Fruitless & Wasteful Expenditure, explanation was given and others like Mr Hlahane, Ms Machell, Chief Financial Officer & Supply Chain Manager submitted documentations in support of their representations.

8.1 The MPAC investigations in this regard found as follows:

*The Irregular expenditure incurred due to non-compliance with regulation 29 for Bid Adjudication Committee composition which affected about 13 projects in which a Senior Supply Chain Management Official was not included in the Bid Adjudication Committee totalling **R16 221, 171,23***

Although the Management argued that the Senior Supply Chain Management Practitioner was appointed to serve as a Secretariat rather than a full member as the evidence adduced that only Senior Managers were appointed as full members, the MPAC was not persuaded by the argument.

In terms of the **Local Government: Sub-regulation 29 (2) (ii) of the Municipal Supply Chain Management Regulations, 2005**, A Bid Adjudication Committee must consist of at least four Senior Managers of the Municipality or Municipal Entity which must include:-

(ii) "At least one Senior Supply Chain Management Practitioner who is an Official of the Municipality or Municipal Entity".

8.1.2 In view of the above-mentioned legislative obligation to the Accounting Officer and Management, taking into account that the prescript is clear and has no ambiguity regarding the composition of the Bid Adjudication Committee, **the MPAC recommends as follows:**

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- (i) That the R16 221, 171,23 incurred as Irregular Expenditure due to Improper composition of the Bid Adjudication Committee be written off.
- (ii) That the final written warning be issued against the Accounting Officer for his failure to take all reasonable steps to ensure that this irregular expenditure is prevented by appointing a Bid Adjudication Committee as prescribed in terms of Sub-regulation 29(2)(II) of the Municipal Supply Chain Management Regulations, 2005.

8.2 The MPAC investigations in this regard found as follows:

R 191,892 was classified as irregular expenditure as there was only one quotation obtained instead of three quotations and deviation were attached explaining the reason for one quotation. This was due to accommodation.

Details are as follows:

Document No	Supplier	Payment Date	Expenditure Type	Actual Expenditure (Rands)
SP2990 6	Garden Court East London	28/05/2019'	Accommodation for Councillors	R 114 132,00
SP2749 7	Garden Court East London	28/03/2019'	Accommodation for Councillors	R 77 760,00

Management presented a Supply Chain Management Policy approved by Council which permitted the use of one quotation for accommodation. The Supply Chain Management Policy approved by Council provides as follows: **Section 12(4) Accommodation-**

The Supply Chain Management Division can obtain one quotation for accommodation according to best practices, we only arrange accommodation for employees nearby, next or whereby workshop, conference, seminar and meeting is going to be held, it is impractical to obtain the quotation in this regard.

8.2.1 Having considered the Management representations, the MPAC recommends as follows:

- (i) That R 191,892 was classified as irregular expenditure be written off.
- (ii) That the SCM Policy which allowed only one quotation for accommodation be reviewed to prevent recurrence of the irregular expenditure: and
- (iii) That three quotations be obtained in all instances

8.3 The MPAC investigations in this regard found as follows:

R 926,578,46 was classified as irregular expenditure as there was only one quotation obtained instead of three quotations and deviation were not attached explaining the reason for one quotation.

Management was able to demonstrate that the bulk of this irregular expenditure (R749 945.96) was from SETAs and the three quotations were kept at the Department of Corporate Services, the Skills Development Officer submitted three quotations to the MPAC, it must be noted that these quotations were not kept at UIF & W Register which must be updated on a monthly basis under the auspices of the Chief Financial Officer.

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The other R100 000 was incurred from the appointment of Mthembu & Muhammed Attorneys to defend the municipal assets in 2018 which were to be attached by the Sheriff of the Court for failure to pay Mr Seabata Johannes Monyane an amount of R351 500,00 for malicious prosecution, the amount was subsequently negotiated and settled at R230 000,00.

The remaining R 76 532,50 was for leasing of the Honey Sucker, only one service provider submitted a quotation.

8.3.1 Having considered the Management representations, the MPAC recommends as follows:

- (i)** That the R 926,578,46 was classified as irregular expenditure be written-off.
- (ii)** That under no circumstances that the Officials and or Political Office Bearers obtain quotations for any service including grants from other organs of state, the Supply Chain Management should be centralised in the Office of the Chief Financial Officer within the Supply Chain Management Division.
- (iii)** That the Accounting Officer issue out a notice to all staff members that all quotations should be acquired through the SCM Division to prevent the recurrence Irregular expenditure.

8.4 RELATED FINDINGS BY THE MPAC

R 57,200 was classified as irregular expenditure as there was only one quotation obtained instead of three quotations for N.J.H General Dealers and Mapelepo Projects & Logistics for transportation of members of the public to the government official events.

R130,783,07 was classified as irregular expenditure as there was only one quotation obtained instead of three quotations for Q &H Water & Sewer to repair pump station and for Water Enviro cc for Repair Golf Borehole

R14 950 was classified as irregular expenditure as there was only one quotation obtained instead of three quotations for Trentyre in procuring Retreated Tyres.

R30,172,38 was classified as irregular expenditure as there was only two quotation obtained instead of three quotations for Sizabantu Piping Systems in procuring Bulk Meter Connection material.

Management presented that in all these instances, specifically relating to water and sanitation maintenance procurement, it was impractical to obtain three quotations, the situation was also exacerbated by the fact that each Department is obtaining quotations without the involvement of the Supply Chain Management Division.

8.4.1 Having considered the Management representations, the MPAC recommends as follows:

- (i)** That the amount of R228,105,45 be written off.
- (i)** That under no circumstances that the Officials and or Political Office Bearers obtain quotations for any service including grants from other organs of state, the Supply Chain Management should be centralised in the Office of the Chief Financial Officer within the Supply Chain Management Division.
- (ii)** That the Accounting Officer issue out a notice to all staff members that all quotations should be acquired through the SCM Division to prevent the recurrence Irregular expenditure.

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8.5 The MPAC investigations in this regard found as follows:

R13 267 897,75 was classified as irregular expenditure as the municipality participated in the contract of other organ of state not in line with the requirements of SCM regulation 32.

No	Document No	Supplier	Payment Date	Expenditure Type	Actual Expenditure (Rands)
30	MLM 15/18/19	ERMSA	02/10/2018'	Supply and Installation of 30 LED High Mast Lights for Mantsopa Local Municipality	R 11 818 228,00
31	MLM 26/17/18	HDM Projects	12/07/2018'	Fixing and Re-sealing of Potholes for Mantsopa Local Municipality	R 1 449 669,75

Management presented evidence that its submitted the Completion Certificate and Practical Certificate of Completion to the Auditor-General South Africa (AGSA) on 24th January 2020 to substantiate its participation in the Regulation 32 of the Municipal Supply Chain Management Regulations, 2005 relating to "Procurement of goods and services under contracts secured by other organs of state".

8.5.1 Having considered the Management representations, the MPAC recommends as follows:

- (i) **That the amount of R13 267 897,75 be written-off.**
- (ii) **That the Accounting Officer must take all reasonable steps to ensure that the municipality avoid to participate in the processes of Regulation 32 of the Municipal Supply Chain Management Regulations, 2005 relating to "Procurement of goods and services under contracts secured by other organs of state" at all costs.**

9. 2019/2020 IRREGULAR EXPENDITURE

9.1 The MPAC investigations in this regard found as follows:

The Irregular expenditure incurred due to non-compliance with regulation 29 for Bid Adjudication Committee composition which affected five (5) projects in which a Senior Supply Chain Management Official was not included in the Bid Adjudication Committee totaling R5 439, 656,45.

Although the Management argued that the Senior Supply Chain Management Practitioner was appointed to serve as a Secretariat rather than a full member as the evidence adduced that only Senior Managers were appointed as full members, the MPAC was not persuaded by the argument.

In terms of the **Local Government: Sub-regulation 29 (2) (ii) of the Municipal Supply Chain Management Regulations, 2005**, A Bid Adjudication Committee must consist of at least four Senior Managers of the Municipality or Municipal Entity which must include-

- (ii) *"At least one Senior Supply Chain Management Practitioner who is an Official of the Municipality or Municipal Entity".*

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9.1.1 In view of the above-mentioned legislative obligation to the Accounting Officer and Management, taking into account that the prescript is clear and has no ambiguity regarding the composition of the Bid Adjudication Committee, **the MPAC recommends as follows:**

- (i) *That the R5 439, 656,45 incurred as Irregular Expenditure due to improper composition of the Bid Adjudication Committee be written off.*
- (ii) *That the final written warning be issued against the Accounting Officer for his failure to take all reasonable steps to ensure that this Irregular expenditure is prevented by appointing a Bid Adjudication Committee as prescribed in terms of Sub-regulation 29(2)(ii) of the Municipal Supply Chain Management Regulations, 2005.*

9.2 The MPAC investigations in this regard found as follows:

R 1 412,245,88 was classified as irregular expenditure as SCM process was not followed when appointing the service provider, it was recovery of property rates from Department of Rural Development and Land Reform, it was commission to service provider

Details are as follows:

Document No	Supplier	Payment Date	Expenditure Type	Actual Expenditure (Rands)
2019/11/11	INV111119	Upsurge Construction and Projects (Pty)Ltd	Recovery of property rates from Department of Rural Development and Land Reform (Commission paid)	R 1 412 245,88

Management explained that two service providers who demonstrated capacity to recover property rates from the Department of Rural Development & Land Reform were appointed on risk, only one service provider (Upsurge Construction & Projects (Pty) Ltd managed to recover the property rates and was paid commission, Management indicated that it needed the support of external service providers to recover the rates within the short space of time given the financial constraints faced by the Municipality at that time.

9.2.1 Having considered the Management representations, **the MPAC recommends as follows:**

- (i) *R 1 412,245,88 was classified as Irregular expenditure be written off.*
- (ii) *That the Accounting Officer must take all reasonable steps to ensure strict adherence to SCM processes to prevent recurrence.*

9.3 The MPAC investigations in this regard found as follows:

R30,000,00 was classified as Irregular expenditure as there was only one quotation obtained instead of three quotations.

Document No	Supplier	Payment Date	Expenditure Type	Actual Expenditure (Rands)
22/09/2019	May29715	Star Chalale Gospel	Live Gospel performance	R 15 000,00

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2019/02/10	May29706	Star Chalale Muso (Pty) Ltd	Live Gospel performance	R 15 000,00
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With regard to **R15 000,00** expenditure incurred as per Doc No. 22/09/2019, Management explained that it was for Heritage performance and could not obtain three quotations in that the service required a local Artist with the necessary sound and system to perform, therefore only Star Chalale Gospel was able to submit the quotation.

Regarding the **R15 000,00** expenditure incurred as per Document No. 2019/02/10, Management explained that it was for a donation paid to Star Chalale Muso (Pty) Ltd, **no substantive details** including the process followed were divulged during the MPAC hearing on **Monday, 21 September 2020**.

9.3.1 Having considered the Management representations, the MPAC recommends as follows:

- (i) **R 15 000,00 expenditure incurred as per Document No. 22/09/2019 paid to Star Chalale Gospel be written off.**
- (ii) **The payment of donation without an approved Donation Policy and or an approved Business plan for disbursements of donations could not be reasonably substantiated by Management and implicated official, therefore the amount to R 15 00,00 expenditure incurred as per Document No. 2019/02/10 paid to Star Chalale Muso (Pty) Ltd as donation be recovered from the User Department which is the Office of the Mayor, furthermore, the Mayor ought to have provided general political guidance over the fiscal and financial affairs of the municipality as prescribed in terms of Section 52 of the MFMA given our negative financial position, therefore the Mayor should pay a R7 500,00 and the Accounting Officer pay R7 500,00 for failure to take reasonable steps to prevent an irregular expenditure prescribed in terms of Section 62(1)(d) of the MFMA.**

10. 2018/2019 UNAUTHORISED EXPENDITURE

In considering the authorisation of unauthorised expenditure, Council must consider the following:

- (a) "Has it been established whether the Accounting Officer or Official or Public Office Bearer that made, permitted or authorised the unauthorised expenditure as per section 32(3) of the MFMA"
- (b) Are there good grounds shown as to why an unauthorised expenditure should be authorised including whether the actions were in the best interest of the Municipality?
- (c) Actions were in good faith when making or permitting unauthorised expenditure?
- (d) The Municipality has not suffered any material loss as a result of the action.

10.1 The MPAC Investigations in this regard found as follows:

The results of our review indicate that in many areas Unauthorised expenditure is as a result of the overspending of the total amount appropriated in the municipality's approved budget; (The **R105 302 668 from Technical**) excess of actual expenditure over the budget does not entirely represent actual unauthorised expenditure transactions, included are amongst

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others non-cash items such as depreciation, provision for bad debts and employee retirement provision which are either posted at year end in trial balance for accounting corrections or normal accounting entries and contributes to material differences between budget and actuals.)

Details are as follows:

Vote	Description	Budget	Actual	Variance	Comment
0443/3501/0000	PROVISION BAD DEBTS;	7 169 266	37 846 446	(30 677 180)	Provision for bad debt vote is a year-end control vote which was passed in TB against vote 0443/3501/0000
0450/3501/0000	PROVISION BAD DEBTS;	3 648 238	22 765 351	(19 117 113)	Provision for bad debt vote is a year-end control vote which was passed in TB against vote 0443/3501/0000
0430/3501/0000	PROVISION BAD DEBTS;	-	2 175 854,89	(2 175 854,89)	Provision for bad debt vote is a year-end control vote which was passed in TB against vote 0443/3501/0000
0460/3819/0000	LANDFILL SITES;	650 000	2 370 682,46	(1 720 682,46)	Landfill sites provision is a non-cash control vote which is passed at year end

R4 707 880, there are underlying non-cash items i.e. depreciation which was initially under-budgeted and had big impact on budget variance, note should also be taken there were underspending on majority of the votes which also had impact when setting off under/over spending of budget

Analysis of material variances which are identified in finance department as follows:

Vote	Description	Budget	Actual	Variance	Comment
0200/3701/0000	DEPRECIATION;	42 120	3 346 656,2	(3 304 536,2)	Non-cash item, depreciation expense was under-budgeted
0200/4481/0000	INTEREST & PENALTIES CREDITO	10 000 000	20 428 732,6	(10 428 732,6)	Interest expense on ESKOM and other key creditors was under-budgeted
0200/3902/0000	INTEREST EMPLOYEE BENEFITS;	-	2 57 7000	(2 57 7000)	Transaction were posted against the vote

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					that was not budgeted for
0200/4701/0000	Loss On Disposal Of PPE;	-	1620829,58	(1 620 829,58)	Non-cash item, we did not anticipate any loss on disposal of assets during budget process

R 3 508 647 are non-cash items such as depreciation and provisions which had a significant impact on budget material variance

Table below highlights material variances identified in community department:

Vote	Description	Budget	Actual	Variance	Comment
0410/3701/0000	DEPRECIATION;	170 000	3 416 509	(3 246 509)	Non-cash depreciation expenditure
0353/3501/0000	PROVISION BAD DEBTS;	200 000	1 468 203,66	(1 268 203,66)	Non-cash provisions

R1 210 455 This amount does not entirely represent actual unauthorized expenditure transactions since it was for Manyatseng: Construction of Toilet Top Structures on 383 Sites (MIG/FS1216/S/17/19) and it was budgeted under MIG however since the Municipality do not have control over those toilets that's the reason why they are saying its donation and accounting corrections were done under council vote.

Table below highlights material variances identified in Council department:

Description	Budget	Actual	Variance	Comments
DONATIONS;	100 000,00	4 234 246,41	(4 134 246,41)	Transaction were posted against the vote that was not budgeted for and further more please take note that this amount was for toilets that were built in Extension 6 and it was called donation as It was amount posted at year end in trial balance for accounting corrections or normal accounting entries and contributes to material differences between budget and actuals. This amount does not entirely represent actual unauthorized expenditure transactions since it was budgeted under MIG for Thabong Ext toilets.

10.1.1 Having considered the Management representations, the MPAC recommends as follows:

- (i) That the amount of R 114 729 650 unauthorised expenditure incurred be written-off.
- (ii) That the final warning letter be issued against the Chief Financial Officer for wrong classification of R4 234 246,41 from MIG vote to Donations vote, he ought to have

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taken reasonable steps to review the AFS in ensuring that there are correct classifications in all instances.

11. FRUITLESS AND WASTEFUL EXPENDITURE

11.1 PROCESS TO BE FOLLOWED WHEN DEALING WITH FRUITLESS AND WASTEFUL EXPENDITURE

In determining whether expenditure is fruitless and wasteful, Officials and Councillors must apply the requirement of reasonable care as an objective measurement, that is-

- (a) Would the reasonable person (In this case the experienced Official or Councillor) have incurred the particular expenditure under exactly the same conditions or circumstances? And
- (b) Is the expenditure being incurred at the right price, right quality, right time and right quantity?

11.2 The MPAC investigations in this regard found as follows:

The fruitless & wasteful expenditure that was incurred by the Municipality was due to late payments to suppliers as a result of the cash flow problems. Therefore, the Municipality has to prioritize which suppliers must be paid first. E.g. the payments that will hamper service delivery will be released first by the Municipality.

Interest and penalty charges by SARS were not as a result of reckless behaviour by the Chief Financial Officer and other officials. However, interest and penalty charges were as a result of the late payments to SARS not as a result of late submission of the VAT returns to SARS.

SARS Statement of Account defines the "Interest and late payment penalty" as follows:

Interest – Interest has been calculated on the rate determined by the Minister of Finance in terms of the Public Finance Management Act, 1999. All VAT and Diesel amount that remain unpaid will accrue interest at the prescribed rate for each month or part of a month from the first day of a month following the month during which the period, allowed for payment of tax, ended.

Late payment penalty – A late payment penalty will be levied on all late payments and/or underpayments at a rate of ten percent of the amount underpaid.

No	Description	Total Fruitless & Wasteful Expenditure	Total Amount Investigated	Total Amount to be written off
1	Interest paid to Eskom - Electricity purchase	R15 149 688,13	R15 149 688,13	R15 149 688,13
2	Interest paid to MWRF	R47 434,39	R47 434,39	R47 434,39
3	Interest paid to NFMW	R6 666,33	R6 666,33	R6 666,33
4	Interest paid to MCPF	R5 142,12	R5 142,12	R5 142,12
5	Interest paid to SARS	R542 495,03	R542 495,03	R542 495,03

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6	Interest paid to Free State Utilities	R3 198,22	R3 198,22	R3 198,22
7	ONTVANGER VAN INKOMSTE	R515 302,49	R515 302,49	R515 302,49
8	Interest paid to Telkom	R513,58	R513,58	R513,58
9	Interest paid to OVK	R27 125,36	R27 125,36	R27 125,36
10	Interest paid to Bloem Water	R22 166,56	R22 166,56	R22 166,56
		R16 319 732,21	R16 319 732,21	R16 319 732,21

11.2.1 Having considered the Management representations, **the MPAC recommends as follows:**

- (i) *The amount of R16,319 732.21 classified as Fruitless & Wasteful Expenditure be written off.*
- (ii) *That where possible, the Management should enter into payment agreement with key creditors to avoid late payment interest charges.*
- (iii) *That the Management should immediately develop and implement Revenue Enhancement strategy for short, medium, and long -term financial viability and management.*

12. STAKEHOLDERS CONSULTED

Free State Department of Provincial Treasury

13. LEGAL IMPLICATIONS

In compliance with the **Local Government:** Section 129 and 132 of the Municipal Finance Management Act, 56 of 2003 and MPAC Terms of Reference as approved by Council.

14. ANNEXURES

8.1 Reports of the Unauthorised, Irregular, Fruitless & Wasteful Expenditure for 2018/2019 financial year and prior years.

8.2 Documents adduced by management at the hearing.

15. FINANCIAL IMPLICATIONS

None.

16. RISKS IMPLICATIONS

Recurrence of Unauthorised, Irregular, Fruitless & Wasteful Expenditure if there are no consequences for non-compliance with applicable prescripts, norms and standards.

17. SUBMISSION BY THE MPAC CHAIRPERSON

Honourable Speaker, the Mayor and all Councillors, let me take this opportunity to thank all members of the MPAC for having invested their time and resources in engaging this report, it is possible that all incidents of Unauthorised, Irregular, Fruitless and Wasteful expenditure can be prevented if all of us are serious about ensuring that this Municipality is financially sustainable and is managed in a responsible manner.

J.A.

I hereby present the report for your consideration and approval.

Cllr Moletsane moved.

COUNCIL RESOLVED: -

Part A - MPAC RECOMMENDATIONS REGARDING THE 2018/2019 DRAFT ANNUAL REPORT

Considered the 2018/2019 Draft Annual Report including the representations by Management, and resolved as follows:

- 1) That the 2018/2019 Draft Annual Report be approved without reservations.
- 2) That the progress report regarding the implementation of the Audit Action Plan be tabled at the MPAC meetings quarterly to enable the MPAC to detect early signs of internal control deficiencies and effect the necessary remedies to prevent recurrence.
- 3) That the 2018/2019 Oversight Report be submitted to the Free State Legislature, the MEC responsible for Local Government and MEC for Provincial Treasury as prescribed in terms of Section 132(2) of the Municipal Finance Management Act, 56 2003.
- 4) That the 2018/2019 Oversight Report be submitted to Thabo Mofutsanyana District Municipality and be published immediately for public consumption.

PART B: INVESTIGATIONS REGARDING THE UNAUTHORISED, IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

8.1 COUNCIL RESOLVED: -

- a) *That the R16 221, 171,23 incurred as Irregular Expenditure due to improper composition of the Bid Adjudication Committee be written off.*

8.2 COUNCIL RESOLVED: -

- a) *That R 191,892 was classified as irregular expenditure be written off.*
- b) *That the Supply Chain Management Policy which allowed only one quotation for accommodation be reviewed to prevent recurrence of the irregular expenditure; and*
- c) *That three quotations be obtained in all instances*

8.3 COUNCIL RESOLVED: -

- a) *That the R 926,578,46 was classified as irregular expenditure be written- off.*
- b) *That under no circumstances that the Officials and or Political Office Bearers obtain quotations for any service including grants from other organs of state, the Supply Chain Management should be centralised in the Office of the Chief Financial Officer within the Supply Chain Management Division.*
- c) *That the Accounting Officer issue out a notice to all staff members that all quotations should be acquired through the Supply Chain Management Division to prevent the recurrence Irregular expenditure.*

8.4 COUNCIL RESOLVED: -

- a) *That the amount of R228,105, 45 be written off.*
- b) *That under no circumstances that the Officials and or Political Office Bearers obtain quotations for any service including grants from other organs of state, the Supply Chain Management should be centralised in the Office of the Chief Financial Officer within the Supply Chain Management Division.*

J. M.

- c) That the Accounting Officer issue out a notice to all staff members that all quotations should be acquired through the Supply Chain Management Division to prevent the recurrence Irregular expenditure.

8.5 COUNCIL RESOLVED: -

- a) That the amount of **R13 267 897,75** be written-off.
 b) That the Accounting Officer must take all reasonable steps to ensure that the Municipality avoid to participate in the processes of Regulation 32 of the Municipal Supply Chain Management Regulations, 2005 relating to "Procurement of goods and services under contracts secured by other organs of state" at all costs.

IRREGULAR EXPENDITURE 2019/2020

9.1 COUNCIL RESOLVED: -

- a) That the **R5 439, 656,45** incurred as Irregular Expenditure due to Improper composition of the Bld Adjudication Committee be written off.

9.1 COUNCIL RESOLVED: -

- a) That the **R 1 412,245,88** was classified as irregular expenditure be written off.
 b) That the Accounting Officer must take all reasonable steps to ensure strict adherence to Supply Chain Management processes to prevent recurrence.

9.2 COUNCIL RESOLVED: -

- a) That the following Irregular Expenditure be deferred back for further investigation: -
- (i) **R 15 000,00** expenditure incurred as per Document No. 22/09/2019 paid to Star Chalale Gospel be written off.
 - (ii) That the payment of donation without an approved Donation Policy and or an approved Business plan for disbursements of donations could not be reasonably substantiated by Management and implicated official, therefore the amount to R 15 00,00 expenditure incurred as per Document No. 2019/02/10 paid to Star Chalale Muso (Pty) Ltd as donation be recovered from the User Department which is the Office of the Mayor, furthermore, the Mayor ought to have provided general political guidance over the fiscal and financial affairs of the Municipality as prescribed in terms of Section 52 of the MFMA given our negative financial position, therefore the Mayor should pay a R7 500,00 and the Accounting Officer pay R7 500,00 for failure to take reasonable steps to prevent an Irregular expenditure prescribed in terms of Section 62(1)(d) of the MFMA.

UNAUTHORISED EXPENDITURE 2018/2019

10.1 COUNCIL RESOLVED: -

- a) That the amount of **R 114 729 650** unauthorised expenditure incurred be written-off.

FRUITLESS AND WASTEFUL EXPENDITURE 2018/2019

12.1 COUNCIL RESOLVED: -

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- a) The amount of **R16,319 732.21** classified as Fruitless & Wasteful Expenditure be written off.
 - b) That where possible, the Management should enter into payment agreement with key creditors to avoid late payment interest charges.
 - c) That the Management should immediately develop and implement Revenue Enhancement strategy for short, medium, and long -term financial viability and management.
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Approved:



Cllr MJ Moduka

Speaker