

Reference no.

Nava Pillay (8979)

MEETING OF THE ADMINISTRATOR: 11 September 2020

3.1.1 COMMUNITY AND SOCIAL DEVELOPMENT SERVICES DEPARTMENT
REPORT ON THE STATUS OF THE INVESTIGATION INTO THE COVID-19
HOMELESSNESS PROGRAMME CATERING SERVICES
(From the Executive Committee: 7 September 2020)

1. PURPOSE

The purpose of the report is to appraise the Executive Committee of the status of the investigation into the catering services rendered to the permanent and temporary shelters that formed part of COVID-19 Homelessness Programme and to obtain approval for the process of payment as part of part 1 of the forensic investigation.

2. STRATEGIC PILLARS

The Tshwane COVID-19 Homelessness Programme supports the following Strategic Pillars:

Strategic Pillar 2	Creating a caring environment and promoting inclusivity
Strategic Pillar 4	Keeping the residents safe

3. BACKGROUND

The erstwhile Acting City Manager, Mr. Mavela Dlamini, after having received the Post Ex-Facto payment report from the Bid Adjudication Committee on the payment of service providers for catering, instituted a full forensic investigation into amongst others the following:

- The process followed in the appointment/selection of service providers for the provision for catering services rendered to the homelessness shelters set up by the City;
- To check and validate the amounts charged by the service providers; and
- To establish whether any collusion took place between service providers and City officials.

4. PROGRESS

A preliminary investigation was undertaken by Group Audit and Risk. On 31 July 2020, an executive summary of the investigation report (“zero proof = zero payment”) was completed.

Recommendations of the report, amongst others, were *inter alia* the following:

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5.1 “The investigation has clearly showed that the invoices are inaccurate and untrustworthy, there is no justification for honouring the invoices as presented;

- 5.2 We propose that the City follows one slogan: "If it's not 100% proven, then no 100% payment".
- 5.3 The cost of service provided or the charges per invoice was grossly overstated, the food is equivalent to 5 star executive and luxurious catering.
- 5.4 The officials failed to properly manage the project and created a field for pillage.
- 5.5 The system in place allowed the service providers to dictate how to charge, hence we made findings of undetected overcharging, which is tantamount to a criminal act of fraud, and potential fruitless and wasteful expenditure.
- 5.6 The department has no records that they relied on to verify the invoices, the records in question would have amounted to attendance registers. We conclude that this process was not even done. The Group Head and/or any other authorized official did not verify and validate the invoices prior to submitting them for the *ex post facto* process.
- 5.7 We don't rule out duplicated invoices (cases where two or more service providers) billed for services provided at the same shelter for the same day. We are still subjecting invoices to close analysis.
- 5.8 We have evidence to suspect that a crime of corruption may have been committed, the project managers' conduct is questionable.
- 5.9 The acting City Manager should approve the BAC report (*ex post facto*), but deal with the resulting payments as advised below.
- 5.10 The city should only entertain interim payment of invoices (based on the overstated charges as per the findings), some of the invoices would require to be reduced. This exercise will form part of the final report. Payments should not exceed 50% of the billed amount. The final report will provide final guidance."

Subsequent to this report, a meeting was held with service providers to brief them on the contents of the preliminary investigation report. At the meeting, it was resolved that the investigation be split into two parts with part one being the invoice validation process. Service providers were requested to submit all invoices and proof to Group Audit and Risk in order for Group Audit and Risk to start the validation process.

This process was completed and confirmatory letters were sent to all service providers indicating the revised amount for each invoice submitted and the reasons for such revision.

Notwithstanding the above, the service providers requested that they be afforded the opportunity to be given an explanation as to the method used to determine the revised amount.

In an impromptu meeting held on 31 August 2020 it was agreed that a schedule of individual interviews with the service providers would be held from Tuesday 1 September to Friday 4 September.

Such interviews were still ongoing at the time of writing this report and at that stage only two service providers accepted the revised calculations submitted revised invoices. These invoices are currently being processed for payment.

Annexure A contains the status of validation of invoices and the outcome of the engagement with service providers. The validation of invoices from five service providers is outstanding but the balance of invoices for 29 service providers have been validated. Furthermore, audit fieldwork for 10 service providers is underway and follow up interviews with four service providers is being held on 4 September 2020.

The second part of the investigation will encompass a much broader and in depth investigation. Amongst others, it will have to cover flouting of the supply chain management processes and regulations, possible collusion among service providers and between service providers and city officials.

Notwithstanding the above, the second part of the investigation will also have to include the following:

1. The July 2020 catering invoices as the said service providers continued to provide services up until 31 July 2020.
2. Claims by non-governmental organisations of promises made for the payment of volunteers, perishable and non-perishable food, gas, services, transport, and in some cases, medical expenses. In this regard, the investigation should also cover the payment of approximately R82, 000.00 billed to the City but paid by a service provider. There is also a claim of R120, 000.00 from the same organization.
3. Details in the *ex post facto* report indicated that service providers were also selected to purchase perishable and non-perishable goods and to deliver such to various centers managed by NGOs and churches. All these amounts were surprisingly below the R30, 000.00 threshold. This is despite the fact that some of these NGOs were also receiving non-perishable goods from the City's Food Bank.

5. PAYMENT OF SERVICE PROVIDERS

The principle of 'zero proof equals zero payment' as agreed to with service providers has been applied throughout the invoice validation process. In concluding that process, only two service providers accepted the audit investigation findings and re-submitted invoices as per the supplied calculations.

The remaining service providers will only be compensated in the context of the abovementioned principle. Furthermore, as part of the preliminary investigation, Recommendation 5.10 is also instructive as to the amount to be paid to service providers.

6. COMMENTS OF THE STAKEHOLDER DEPARTMENTS

6.1 COMMENTS OF THE CHIEF FINANCIAL OFFICER

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"Cognizance is taken of the contents of this report.

The purpose of this report is to appraise the Executive Committee of the status of the investigation into the catering services rendered to the permanent and temporary shelters that formed part of COVID-19 Homelessness Programme. Service providers

were appointed to either provide prepared meals to those shelters that did not have cooking facilities and groceries to those that could cook on site.

It is a concern to Group Financial Services that proper supply chain management processes have not been followed.

In terms of Section 1 of the Municipal Finance Management Act, Act 56 of 2003 (MFMA) and in particular with regard to irregular expenditure:

“irregular expenditure”, in relation to a municipality or municipal entity, means—
 (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 municipality’s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure”

The expenditures in the report has been declared as irregular, and requires the necessary consequence management to be implemented in line with the provision of Section 32 of the MFMA and in particular subsections 2 and 4.

Section 78 (1) (a), (b) and (c) of the MFMA stipulates roles and responsibilities of senior managers and other officials of the municipality and reads as follows:

Each senior manager and other officials of a municipality exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure –

- a) that the system of financial management and internal control established for the municipality is carried out diligently;”
- b) that the financial and other resources of the municipality are utilized effectively, efficiently, economically and transparently; and
- c) that any unauthorised, irregular or fruitless and wasteful expenditure and any losses prevented.

It should also be noted that late payment of invoices creates various problems, for example, litigations, where court orders are issued against the City and bank accounts are attached and credited, late payments where interest are levied, etc. Such practice leads to unauthorized expenditure, irregular or fruitless and wasteful expenditure and eventually to audit findings.

Group Financial Services supports recommendation 2 of the report which states that the principle of ‘zero proof equals zero payment’ be approved.

Group Financial Services recommends that the final report on the investigation should contain clear financial implications containing the invoices to be paid. These payments must be done against Cost Element 412339 (Covid-19 Expenditure) and it must be accrued into 2019/20 financial year.”

6.2 COMMENTS OF THE GROUP HEAD: GROUP LEGAL AND SECRETARIAT SERVICES

7. CONCLUSION

In view of the above, it is evident that this process will also have to be subjected to the COVID-19 DTI Regulations to report possible collusion as this matter is already in the public domain and further in line with the request of the Minister of Public Enterprises at the Command Council (3 September 2020 Command Council).

ANNEXURE:

A. Schedule of Completed Audit (Validation of Invoices)

After the presentation by the Chief Audit Executive and the discussions of this report at the Executive Committee meeting held on 7th September 2020, various amendments were made and it was:

RECOMMENDED:

1. That cognisance be taken of the report;
2. That cognisance also be taken that the invoice validation process is still continuing;
3. That the principle of 'zero proof equals zero payment' be approved;
4. That payment to service providers as outlined in Annexure A will only proceed subject to:
 - 4.1.1 confirmation of revised invoices by Group Audit and Risk Department; and
 - 4.1.2 That an irregular expenditure report be submitted and approved by the Bid Adjudication Committee;
5. That the Group Audit and Risk Department inform all service providers in writing that the deadline for the submission of the revised invoices is the 9th September 2020;
6. That the Group Audit and Risk Department meet with the two service providers who have accepted the revised calculations for completeness sake;
7. That the second part of the forensic investigation should commence urgently; and
8. That due to the public knowledge of this matter and the enquiry by the Minister of Public Enterprises, this matter must be reported to the DTI Competition Commission as per COVID-19 DTI Regulations.

ANNEXURE A: Schedule of Completed Audit (Validation of Invoices)

		VALIDATION COMPLETE	REVISED INVOICE ISSUED	REVISED INVOICE ACCEPTED
1	Eva	YES	YES	N/A
2	Preview	YES	YES	YES
3	Reve	YES	YES	NO
4	Nomsa	YES	YES	NO
5	Sister T	YES	YES	NO
6	Nyeleti	NO	NO	N/A
7	Destiny	YES	YES	NO
8	Rabatsumi	YES	YES	NO
9	Umqeto	YES	YES	NO
10	Nwankumi	NO	NO	NO
11	Letsies	NO	NO	N/A
12	Kanyamazane	YES	YES	NO
13	Mahuma	NO	NO	NO
14	Seletjo	YES	YES	NO
15	Dinyane	YES	YES	NO
16	Tshenuda	YES	YES	NO
17	Orateng	YES	YES	NO
18	Rona Ritlile	YES	YES	NO
19	Bellider	YES	YES	YES
20	Nendou	YES	YES	NO
21	Ethels	NO	NO	N/A
22	Thagiso	YES	YES	NO
23	jamzteds	YES	YES	NO
24	Empilweni	NO	NO	N/A
25	Pruzee	YES	YES	NO

26	NVT	YES	NO	N/A
27	Phlwe	YES	YES	NO
28	Del Montsho	YES	YES	NO
29	Nwayaketi	YES	YES	NO
30	Mabena	YES	YES	NO
31	Khayalemndi	YES	YES	NO
32	Modifho	YES	NO	NO
33	FJs	YES	YES	NO
34	Boltsholo	YES	YES	NO

AMENDED REVISED INVOICES ACCEPTED, AWAITING PAYMENT

AWAITING SECOND PHASE INPUT FROM THE SERVICE PROVIDER

3. OUTSTANDING FOLLOW-UP INTERVIEWS (SCHEDULED 04 SEPTEMBER 2020)

		VALIDATION COMPLETE	REVISED INVOICE ISSUED	REVISED INVOICE ACCEPTED
1	Eva	YES	YES	N/A
2	Rona Ritile	YES	YES	NO
3	Thagiso	YES	YES	NO
4	Boltsholo	YES	YES	NO

4. AUDIT FIELDWORK UNDERWAY

#	SERVICE PROVIDER NAME
1	Nyeleti
2	Letsies
3	Mahuma