



Hon. Councillor Nelsing Sewraj
C/O KwaDukuza Municipality
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13 February 2024

Dear Hon. Councillor Sewraj

REQUEST FOR INVESTIGATION INTO ALLEGATIONS OF IRREGULARITIES DURING THE APPOINTMENT OF SERVICE PROVIDERS FOR FLOOD RELIEF GRANT-FUNDED PROJECTS

We thank you for your correspondence dated 02 May 2023 requesting the Auditor-General of South Africa to investigate allegations of irregularities during the appointment of service providers participating in the flood relief grant-funded projects at KwaDukuza Municipality.

In terms of the Public Audit Act, No 25 of 2004 (PAA), the Auditor-General South Africa (the AGSA) has a constitutional mandate which is to audit and publicly report on the accounts, financial statements and the financial management of all government departments, all municipalities and municipal entities and selected public entities. In terms of section 5(1) of the PAA, the AGSA has a discretion to perform other, audit-related services, which are secondary to the core function (regularity audit). Among other audit related services, is the discretion to perform appropriate investigations or special audits, as stipulated in section 5(1)(d) of the PAA.

The regularity audit is vastly different from a forensic investigation. The primary objective of regularity audit is to provide reasonable (not absolute) assurance that the financial statements do not contain material misstatements. Regularity audit also provides limited assurance that an auditee complied with key legislation. The evidence gathered for regularity audit is therefore persuasive in nature and is not gathered with the intention to determine the impact of a finding. The statutory timelines applicable to regularity audit and the inherent limitation of the audit process prevent us from reaching these in-depth conclusions.

An investigation, however, implies an organised, detailed and critical examination of the books of accounts and transaction records (both past and present) of an entity, conducted by a team of experts to determine the facts behind a particular situation or to uncover the truth. An investigation therefore requires the gathering of factual evidence that is sufficient to conclude on who is responsible, whether losses had been suffered, and if fraud or theft might have been committed. Investigations are not time-bound, which allows for conclusive evidence to be obtained to either confirm or refute the allegations investigated.

With this in mind, we have assessed your request and wish to inform you that the audit team gave attention to the following matters during our 2022/23 MFMA regularity audit:

- a) We performed supply chain management compliance testing using computer-assisted audit techniques (CAATS) with the assistance of our information systems audit team to determine possible conflicts of interest, as well as assess the legal status of the contractors used for the road rehabilitation projects, as per the records held by the Companies Intellectual Properties Commission (CIPC).
- b) In addition to the testing highlighted above, we also reviewed the appointment process for the panel of contractors to determine if the process was fair, equitable, transparent and competitive as required by section 217 of the Constitution of the Republic of South Africa.

Our audit into the abovementioned matters revealed the following:

- a) We identified conflicts of interest in some of the participating companies and these conflicts of interest were communicated to management and those charged with governance for follow-up and further appropriate action to assess whether these were fraudulent declarations by the bidders concerned. These instances were also highlighted in our report tabled to Council.
- b) We selected a sample of awards related to disaster-relief grants received during the year and tested the awards for compliance with SCM policy and legislation and noted several aspects of non-compliance with SCM legislation which were not deemed to be material. With regards to the three entities Goodness and Grace, Yena Uyabusa, and Benjivert, we performed tailored audit procedures on their appointment to the panel to address the allegations made and noted several discrepancies in the documentation submitted during the bidding process by the above three companies. The conclusions made included fraud risk factors that were communicated to management and those charged with governance. Management agreed to recognise

the related expenditure as irregular and also committed to investigating this matter further. We will follow this up in next year's audit to ensure that appropriate actions have been taken.

- c) Furthermore, we raised a control deficiency relating to the lack of rotation for the appointment of contractors included in panel appointments and made recommendations on how to address the internal control deficiency identified in this regard.

We thank you for raising the issues with the AGSA.

Yours sincerely



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