

Closing Report on allegations of maladministration against Mangaung Metropolitan Municipality
Ref no: 7/2- 016313/12



**PUBLIC PROTECTOR
SOUTH AFRICA**

**CLOSING REPORT ON AN INVESTIGATION INTO ALLEGATIONS OF
MALADMINISTRATION AGAINST MANGAUNG METROPOLITAN
MUNICIPALITY REGARDING THE CONSTRUCTION OF MANGAUNG
INTERMODAL TRANSPORT FACILITY AT BLOEMFONTEIN.**

1. INTRODUCTION

Summary of the Complaint

- 1.1. This is my closing report issued in terms of section 182(1)(b) of the Constitution of the Republic of South Africa, 1996 (the Constitution) and section 8(1) of the Public Protector Act, 1994, on an investigation conducted into allegations of maladministration against Mangaung Metropolitan Municipality (the Municipality) regarding the construction of the Mangaung Intermodal Transport facility at Bloemfontein.
- 1.2. The complaint relates to allegations of maladministration against Mangaung Metropolitan Municipality regarding the construction of the Mangaung Intermodal Transport facility at Bloemfontein.
- 1.3. The complaint was lodged on 30 July 2012 by Mr MI Liphoko (the Complainant).
- 1.4. In essence, the Complainant alleged the following:
 - 1.4.1. That *"the Taxi Rank was allocated R400m but only R40m has been accounted for"*. The Municipality only used R40 million of the budgeted R400 million rand for the construction of the taxi rank.
 - 1.4.2. That media reports alleged that in spite of the amount of R40 million spent on the construction of the taxi rank, it remains a white elephant in that it is not used for the purpose it was built ;
 - 1.4.3. The Mangaung Issue Newspaper, issue 254, published an article on 1 to 7 August 2012 in which it reported that:

"Rank incompetence or corruption

Public Protector Thuli Madonsela will be investigating Bloemfontein's "white elephant taxi rank".

Me Madonsela was in Bloemfontein on a consultative dialogue visit on 30 July, which was held at the 4th Raadsaal.

After the dialogue Me Madonsela was taken on a tour of the Mangaung Intermodal Transport Facility (the unused taxi rank) where she was shown around after some of the people who attended the dialogue told her about the rank that is not used.

The reason the ranks [sic] isn't used is because taxi operators say the rank was poorly planned and thus is congested and not user friendly.

"The province said the cost of the rank was R400 million but because of its state we believe that it cost less than the money allocated for it. A woman died in the building because it is not well ventilated, and people have lost money because the place is left unused because of its state", alleged a member of the public to Me Madonsela at the dialogue.

Mrs. [sic] Madonsela promised to investigate the complaint the allegations are serious which is why she wanted to see the building herself.

Some other issue raised by members of the public at the dialogue with the Public Protector were alleged corruption in public services, RDP house improperly built, and bribery to get government jobs."

1.4.4. The Free State Times Newspaper on 3 to 9 August 2012 reported as follows:

“Protector to probe rank

BLOEMFONTEIN – Public Protector Thuli Madonsela says she will investigate allegations that the controversial Bloemfontein intermodal taxi rank was built for R40 million or 10 times less than the R400 million that the municipality claims to have paid for the structure.

Madonsela, who was in Bloemfontein this week as part of her national stakeholder consultative dialogue, also said she would probe why the facility has turned into the proverbial white elephant that has remained unused, amid charges that it was too small and unfit for its purpose.

The public protector, who spoke in response to charges by the Greater Bloemfontein Taxi Association and other interested parties that the bill for the rank was inflated, appealed to members of the public in possession of evidence of alleged corruption relating to the construction of the facility to avail such information to her office.

“We can never make findings on the basis of a hunch or on a basis of a rumour”, Madonsela said at the Free State legislature where the public hearing took place.

“We will pursue that matter, but someone will have to give us some form of proof into all the allegations made here (the taxi rank cost less than is stated in council books)”.

“And apart from the costs issues raised there are also allegations that the building is unfit to carry all taxis meant to operate from there, so we will look

into that as well”, added Madonsela, who has previously exposed corruption at various government departments and agencies across the country.

Speaking during the public hearing, GBTA secretary Oupa Mofokeng said “We know that the rank cost the municipality only R40 million.”

But Mofokeng did not provide proof to back his claim nor did he say who he thought could have pocketed the difference from the money paid out by council and what contractors actually received.

An opposition Democratic Alliance party councillor for Mangaung Werner Horn, told the same gathering that the rank was initially to cost less than R400 million. But the delays in the project had seen the cost ballooning beyond budget, with much of the money going into consultancy work instead of actual construction.

“The initial amount approved was less than R400 million, but time frames were never met and the cost had to escalate...because of this bulk of money was spent on consultancy” said the councillor. But Mangaung Metropolitan Municipality spokesperson Qondile Khedama yesterday said the local authority had played by the book on the construction of the taxi rank, adding that Bram Fischer had nothing to hide and would gladly welcome any probe by Madonsela.

Khedama also rejected claims that the rank was a white elephant, saying changes were being made to the structure and that it would be put to use as soon as construction work was complete.

“The construction of the taxi rank cost R400 million”, he said, refuting charges that the structure cost less than claimed by the municipality. “It is not true that

the rank is a white elephant, because it is being renovated and will soon be in use”, he added.

Construction of the taxi rank commenced in 2008 with a target to complete building the facility by 2010 in readiness for the FIFA World Cup held that year.

But the rank was only completed in 2011 – a year after the football event – only for taxi operators to boycott the new facility citing host of infrastructural problem that they said posed a serious risk to the safety of both the travelling public and taxi drivers.

After initially attempting to arm-twist taxi operators to use the rank, council officials eventually relented and opted to renovate the building - ironically only a few months after it was unveiled.

But there fears that even after renovation the rank will still be too small, with a capacity to service only 800 out of the more than 2 000 commuter omnibus operators in Bloemfontein.”

2. ISSUES

2.1. The issues identified to be investigated from the complaint were as follows:

2.1.1. Whether the Municipality, in respect of the budget amounting to R400 million for the construction of the taxi rank, reported the financial expenditure as required by legislative prescripts; and

2.1.2. Whether the construction of the taxi rank was completed within the timeframes of the project, if not what was the reason or reasons for the delay in the completion thereof.

3. THE INVESTIGATION

3.1. The investigation was conducted in terms of section 182 of the Constitution of the Republic of South Africa 1996, and sections 6 and 7 of the Public Protector Act 23 of 1994. It included exchange of correspondence, interviews with key role players and an analysis of the documents and other information obtained. The relevant laws and regulatory framework were also considered and applied, where appropriate.

3.2. Documents perused

- 3.2.1. 30 July 2012: Public Protector National Stakeholder Consultative Dialogue Speaker List;
- 3.2.2. 01 to 07 August 2012: Newspaper Article - Mangaung Issue entitled "*Rank Incompetence or corruption*";
- 3.2.3. 03 to 09 August 2012 Newspaper Article – Free Times entitled "*Protector to probe rank*";
- 3.2.4. 04 September 2015: Documentation received from VELAVKE Consulting Engineers PTY LTD – **Bundle 1** containing the following:
 - 3.2.4.1. Copy of the minutes of a meeting held at SANTACO Offices on 21 January 2008 by SANTACO Free State;
 - 3.2.4.2. Copy of the minutes of a meeting held at SANTACO Offices by SANTACO FS, Motheo Region Taxi Council, Greater Bloemfontein Taxi Association (GBTA) and VELAVKE on 29 January 2008;

- 3.2.4.3. Copy of the minutes of a meeting held at Motheo Region Offices Thaba Nchu by Motheo Region Taxi Council on 31 January 2008;
- 3.2.4.4. Copy of notes of a meeting of GBTA's Officials held on 01 February 2008 at GBTA Offices in Bloemfontein;
- 3.2.4.5. Copy of minutes of a meeting by VELAVKE, GBTA and Mangaung Local Municipality held on 11 February 2008;
- 3.2.4.6. Copy of an attendance register of a meeting held with stakeholders on 21, 29 and 31 January 2008;
- 3.2.4.7. Copy of the attendance register for a meeting held with stakeholders on 02 and 11 February 2008;
- 3.2.4.8. Copy of the attendance register for a meeting held on 31 March 2008;
- 3.2.4.9. Copy of the attendance register for a meeting held on 26 August 2008; and
- 3.2.4.10. Copy of a letter to Business/Property Owners dated 12 September 2008;
- 3.2.5. Documentation received from VELAVKE Consulting Engineers PTY LTD on 04 September 2015 – Bundle 2 containing the following:
 - 3.2.5.1. Copy of a letter dated 08 January 2008 from VELAVKE to the Chairman of the Free State Provincial Taxi Council;
 - 3.2.5.2. Copy of a letter dated 23 January 2008 from VELAVKE to the Chairman of SANTACO Free State;

- 3.2.5.3. Copy of a letter dated 20 February 2008 from VELAVKE to the Chairman of GBTA;
- 3.2.5.4. Copy of a letter dated 20 February 2008 from VELAVKE to the Chairman of Motheo Region Taxi Council;
- 3.2.5.5. Copy of a letter dated 11 April 2008 from VELAVKE to the Secretary of GBTA;
- 3.2.5.6. Copy of a letter dated 11 April 2008 from VELAVKE to the Chairman of the Secretary of GBTA;
- 3.2.5.7. Copy of a letter dated 14 July 2008 from VELAVKE to GBTA Task Team;
- 3.2.5.8. Copy of a letter dated 29 July 2008 from VELAVKE to GBTA Task Team; and
- 3.2.5.9. Copy of a letter dated 06 September 2008 from VELAVKE Mangaung Local Municipality: The General Manager Planning- Directorate Economic Development and Planning;
- 3.2.6. Documentation received from VELAVKE Consulting Engineers PTY LTD on 04 September 2015 – Bundle 3 containing the following:
 - 3.2.6.1. Copy of a letter dated 25 January 2008 from SANTACO to VELAVKE;
 - 3.2.6.2. Copy of a letter dated 26 February 2008 from GBTA to VELAVKE;
 - 3.2.6.3. Copy of a letter dated 14 March 2008 from to GBTA to VELAVKE;
 - 3.2.6.4. Copy of minutes of a meeting held by GBTA, ACHIB and ISBO on 27 February 2008;

- 3.2.6.5. Copy of a Stakeholder Participation Report dated 22 May 2008;
- 3.2.6.6. Copy of a letter dated 06 June 2008 from GBTA to the Acting City Manager: Mangaung Local Municipality; and
- 3.2.6.7. Copy of a letter dated 06 September 2011 from VELAVKE Mangaung Local Municipality: The General Manager Planning-Directorate Economic Development and Planning.

3.3. Interviews conducted

- 3.3.1. 02 August 2012: Consultation with the Complainant;
- 3.3.2. 14 June 2014: Consultation with Vive Chairman of GBTA Mr Masema;
- 3.3.3. 20 August 2014: Consultation with the City Manager Ms Mazibuko;
- 3.3.4. 02 September 2015: Consultation with Engineers: Incline Architects and VELAVKE Consulting Engineers; and
- 3.3.5. 03 September 2015: Consultation with the General Manager: Legal Service – Mangaung Metropolitan Municipality Adv. Charlie Naidoo.

3.4. Correspondence sent and received

- 3.4.1. 11 October 2012: Letter from the Public Protector to the Municipality;
- 3.4.2. 18 March 2013: E-mail from the Public Protector to the Municipality – Head of Department: Human Settlements;

- 3.4.3. 06 August 2013: Letter received from the Municipality marked 'Information required by the Public Protector: Mangaung Intermodal Transport Facility';
- 3.4.4. 17 May 2013: Email from the Public Protector to the City Manager;
- 3.4.5. 20 May 2013: E-mail from the Office of the City Manager;
- 3.4.6. 27 June 2013: E-mail from the Public Protector to the Municipality: Information Officer;
- 3.4.7. 15 July 2013: E-mail from the Public Protector to the Municipality: Office of the City Manager;
- 3.4.8. 26 July 2013: E-mail from the Public Protector to the Municipality: Office of the City Manager;
- 3.4.9. 27 July 2013: Email from the Municipality: Office of the City Manager;
- 3.4.10. 17 June 2014: Letter to the Municipality;
- 3.4.11. 17 September 2014: E-mail from the Municipality: Office of the City Manager;
- 3.4.12. 13 October 2014: E-mail from the Municipality: Office of the City Manager;
- 3.4.13. 11 September 2017: Discretionary notice to the Complainant;
- 3.4.14. 8 March 2018: Letter to the Executive Mayor of the Municipality; and
- 3.4.15. 23 March 2018: Response received from the Executive Mayor of the Municipality.

3.5. Inspection *in loco* conducted

3.5.1. 30 July 2012 to view the status of the construction of the Taxi Rank.

3.6. Legislation and other prescripts

3.6.1. Constitution of the Republic of South Africa, 1996 (the Constitution);

3.6.2. Public Protector Act No. 23 of 1994;

3.6.3. Municipal Finance Management Act No. 56 of 2003 (the MFMA); and

3.6.4. Supply Chain Management Policy of the Mangaung Local Municipality, 2008 (the SCM policy).

4. THE DETERMINATION OF THE ISSUES IN RELATION TO THE EVIDENCE OBTAINED AND CONCLUSIONS MADE WITH REGARD TO THE APPLICABLE LAW AND PRESCRIPTS

4.1. Whether the Municipality, in respect of the budget amounting to R400 million for the construction of the taxi rank, reported the financial expenditure as required by legislative prescripts:

Common cause issues

4.1.1. The Municipality received a grant in the amount of R400 Million, VAT excluded, for the construction of the taxi rank. This grant was allocated to the Municipality by the National Department of Transport.

4.1.2. It was a 2010 Soccer World Cup project that commenced in 2008 and was to be completed before the commencement of the soccer tournament in June 2010.

Issues in dispute

4.1.3. The Complainant alleged that the Municipality only used R40 million of the budgeted R400 million rand for the construction of the taxi rank. No supporting documentation to substantiate the allegations levelled against the Municipality was submitted.

4.1.4. The newspaper articles referred to above also alleged that the taxi rank only cost R40 million rand and not R400 million as budgeted by the Municipality.

4.1.5. The Municipality submitted documentation of expenditure as at 30 June 2012 and the amount spent was R357 963 168. 38 (VAT excluded) amounting to 89.49% of the budget as reflected in the certified summary of amounts.

4.1.6. Summary of amounts certified up to 30 June 2012 (final):

Description	VAT Inclusive	VAT Exclusive
Professional Fees Phase 1 and 2: Contract 22 – 2007/8 (payments 1 -12)	R40,174,376.04	R35,240,680.76
Phase 1: Contract SB 2 – 2008/9 Reder		
Tender – Reder (payments 1 to 15 and final)	R17,514,440.98	R15,363,544.72
Phase 2: Contract SB 3 – 2008 / 9 RSI		
Tender – RSI (payments 1 to 33)		

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	R317,658,297.32	R278,666,895.96
Public Seating: Contract ED – 8 – 2011/12		
Tender – Furniture Fair (payments 1 -3)		
	R1,226,539.34	R1,075,911.80
Departmental Sundry Expenditure		
Insurance – Contract SB 2 – 2008 / 9 (0,23%)		
Marketing and advertisements	R19,018.00	R16,682.46
Ejalk CC – purchasing of property by Property Management	R450,619.88	R395,280.60
Ejalk CC (21 Months)	R9,871,260.00	R8,659,000.00
Transnet Property – purchase of property by Property Management	R8,821,890.00	R7,738,500.00
	R11,400,000.00	R10,000,000.00
Motheo FET College – renting of temporary rank area	R191,226.20	R191,226.20
SC 2 – 2009: Temporary toilets (8) – Ponelelope	R43,394.19	R38,065.08
SC 2 – 2009: Temporary toilets – extension (8) – Ponelelope	R10,848.30	R9,516.05
GBTA Temporary Liaison Officers (27 months estimate)	R270,000.00	R270,000.00
SC 6a – 2009: Temporary toilets (5)	R127,843.56	R112,143.47
BM 6 – 2010/11: Temporary toilets (5) Mamello	R130,182.60	R114,195.26
Temporary toilets Mamello (40 days) – hand quotations	R9,515.60	R8,347.02
Temporary toilets – NYBS	R8,800.00	R8,800.00
Traffic signals	R20,592.06	R44,379.00
Total	R407,978,844.18	R357,953,168.38

4.1.7. The developments regarding the taxi rank remained closely monitored by the Public Protector and as on 30 April 2015 an amount of R362 047 438. 53, excluding VAT, thus 90.51% of the budget had been utilised in the construction of the taxi rank.

4.1.8. Summary of certified payment certificate as of 30 June 2015:

Inter – Modal Transport Facilities – Phase One and Two Updated: 30 April 2015

	Budget		Amounts Certified VAT Exclusive	Balance Uncertified (Provisional) VAT Exclusive	Expenditure %
	VAT Exclusive	VAT Inclusive			
PROFESSIONAL FEES Phase 1 and 2: Incline/VELAVKE Contract SB 22 – 2008/9					
Estimated Fees (maximum scenario)	R30,547,067.34	R34,823,656.77	R35,632,669.57	R298,320.68	99.18%
Additional project management fee	R2,400,000.00	R2,736,000.00	Incorp above		
Contingency allowance (provisional)	R1,920,000.00	R2,188,800.00	Incorp above		
Additional work done as approved by cm(21/05/2012)	R1,058,921.91	R1,207,170.98			
Phase 1: CONTRACT SB 2 – 2008 / 9 Reder					
Tender Amount - Reder	R7,381,395.17	R8,414,790.49	R15,363,544.72		100.00%
Variation orders	R7,982,149.55	R9,099,650.49	Incorp above		
Phase 2: CONTRACT SB 3 – 2008 / 9 RSI					
Tender amount - RSI	R332,727,988.27	R379,309,906.63	282,202,610.81	R177,808.22	99.94%
Expected savings (estimated 05/03/2011)(provisional)	-R55,766,518.82	-R63,573,831.46	Incorp above		
Recovery statement	R156,886.28	1R56,886.28	Incorp above		
Additional work as approved by cm (21/05/2012)	R5,262,063.30	R5,998,752.16			
CONTRACTED ED 8 – 2011/12 FURNITURE FAIR					
Tender amount – furniture fair	R1,190,000.00	R1,356,600.00	R1,152,479.29	R1,232.71	96,85%
Expected Savings	-36,288.00	-41,368.32			
DEPARTMENTAL SUNDRY EXPENDITURE					

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Insurance – Contract SB 2 – 2008/9 (0, 23%)	R16,682.46	R19,018.00	R16,682.46	R0.00	100.00%
Marketing and advertisements	R395,280.60	R450,619.88	R395,280.60	R0.00	
Ejalk CC	R8,659,000.00	R9,871,260.00	R8,659,000.00	R0.00	
Ejalk CC (21 Months)	R7,738,500.00	8,821,890.00	7,738,500.00	R0.00	
Transnet Property	R10,000,000.00	R11,400,000.00	R10,000,000.00	R0.00	
Motheo FET College	R191,226.20	R191,226.20	R191,226.20	R0.00	
SC 2 – 2009: Temporary toilets (8) – Ponelelope	R38,065.08	R43,394.19	R38,065.08	R0.00	
SC 2 – 2009: Temporary toilets – extension (8) – Ponelelope	R9,516.05	R10,848.30	R9,516.05	R0.00	
GBT A Temporary Liaison Officers	R360,000.00	R360,000.00	R360,000.00	R0.00	
SC 6a – 2009: Temporary toilets (5) Mamello	R112,143.47	R127,843.56	R112,143.47	R0.00	
BM 6 – 2010/11: Temporary toilets (5) Mamello (15/09/2011)	R114,195.26	R130,182.60	R114,195.26	R0.00	
Temporary toilets Mamello (40 days) – hand quotations	R8,347.02	R9,515.60	R8,347.02	R0.00	
Temporary toilets – NYBS	8,800.00	8,800.00	8,800.00	R0.00	
Traffic signals	44,379.00	50,592.06	44,379.00	R0.00	
SUB-TOTAL	R362,519,800.1 4	R413,172,204.4 1	R362,047,438.5 3	R472,361.61	99.87%
Projected Project Savings	R37,480,199.86	R42,827,795.59			
Total	R400,000,000.0 0	R456,000,000.0 0	R362,047,438.5 3		90.51%

Application of the relevant law

- 4.1.9. Section 15 of the MFMA prescribes the appropriation of funds for expenditure. A municipality may only incur expenditure in terms of an approved budget and within the limits of the amount appropriated.
- 4.1.10. The SCM policy of the Municipality provides “to ensure that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the MFMA.”

- 4.1.11. Section 62 of the MFMA prescribes the general financial management function of an accounting officer of a municipality and *inter alia* prescribes in subsection 1(b) "*that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards.*"

Conclusion

- 4.1.12. The Municipality received a R400 million grant from the National Department of Transport to construct the taxi rank and the expenditure was appropriated in a budget in terms of the prescripts of the legislation and policies. On 23 March 2018, the Municipality reported that the total amount spent on the taxi rank amounts to R357 953 168.38 resulting in a saving of R42 046 831.62.
- 4.1.13. The Municipality submitted documentation which documentation indicates that full and proper records of the financial expenditure on the taxi rank were kept as required by section 62 of the MFMA and legislative prescripts in respect of grants received from other government institutions.
- 4.2. **Whether the construction of the taxi rank was completed within the timeframes of the project, if not what was the reason or reasons for the delay in the completion thereof:**

Common cause issues

- 4.2.1. The construction of the taxi rank commenced in 2008 and was planned to be completed in 2010 before the commencement of the Soccer World Cup Tournament.
- 4.2.2. The construction of the taxi rank was completed a year later in 2011. However, there were infrastructural and non-infrastructural issues that came about,

leading to an extensive negotiation process conducted by the Municipality with stakeholders, including the Greater Bloemfontein Taxi Association (the GBTA) which commenced on 19 April 2012. The issues raised at this meeting therefore contributed and or caused the delay for the operators to take occupation and utilise the taxi rank.

Issues in dispute

- 4.2.3. During the inspection *in loco* by the Public Protector on 30 July 2012, the Complainant further alleged that the taxi rank was constructed without consultation with the stakeholders and specifically the associations that would use the taxi rank. However, the document submitted by the Municipality clearly indicated numerous meetings with the associations between January and February 2008.
- 4.2.4. The consulting engineers appointed by the Municipality however submitted documentation and attendance registers which indicate consultations with SANTACO FS, Motheo Region Taxi Council, Greater Bloemfontein Taxi Association and Free State Provincial Taxi Council from January 2008.
- 4.2.5. The documentation further indicate that around July 2008 a GBTA Task Team was in consultation with the consulting engineers during the planning and construction phase. The consulting engineers submitted further evidence of a Stakeholder Participation Report dated 22 May 2008.
- 4.2.6. After the completion of the taxi rank during 2011, infrastructural and non-infrastructural issues were raised by the various stakeholders. As a result of these issues, the Municipality negotiated extensively with all stakeholders including the GBTA which commenced on 19 April 2012. This largely contributed and/or caused the delay for the Operators to take occupation and utilise the taxi rank.

- 4.2.7. **Infrastructural issues identified were the following:**
- 4.2.7.1. **Painting of road markings in Hanger Street to accommodate an additional lane;**
- 4.2.7.2. **Welding of steel plates to risers and sides of steel fire escapes to eliminate line of sight directly from below;**
- 4.2.7.3. **Removal of barriers and extension of passenger loading platforms;**
- 4.2.7.4. **Chiselling-off loading platform corners so as to permit taxi vehicles easy entrance and exit from loading bays;**
- 4.2.7.5. **Increase CCTV coverage to expose all the blind spots;**
- 4.2.7.6. **Install three CCTV cameras at the Hanger Street Bridge;**
- 4.2.7.7. **Improve security at ablution blocks to expose all blind spots;**
- 4.2.7.8. **Cover steel stair plates with non-slip surfaces; and**
- 4.2.7.9. **Install air conditioning in the offices of GBTA.**
- 4.2.8. **The above mentioned infrastructural matters were discussed by and dealt with in a meeting between the Municipality and stakeholders on 19 April 2012. The meeting resolved to address the issues identified above within a short period of time.**
- 4.2.9. **On 21 May 2012 the Municipality, through the City Manager, granted permission that the contract of the consultant team, namely Incline Architects/VELAVKE Joint Venture, be extended for professional work at the**

taxi rank to a value not exceeding R1 058 921, 91 (VAT excl) and that the contract of RSI International be extended for construction work at the taxi rank to a value not exceeding R5 262 063,00 (VAT excl).

- 4.2.10. On 28 May 2012, the building was handed to the contractors, RSI International to address the identified infrastructural issues. The work was completed on 28 September 2012 with the exception of the road markings in Hanger Street. This was done by the contractors appointed by the Directorate Infrastructural Service as part of the existing road upgrading project.
- 4.2.11. In addition to the above mentioned infrastructural issues, there was copper cable theft at the taxi rank. The theft was discovered around April 2012 approximately six months after the completion of the taxi rank. The implication hereof was that the certificate of compliance issued for each distribution board within the taxi rank at the completion of the construction became invalid, thus rendering the electrical installation as non-compliant and the building essentially hazardous for occupation.
- 4.2.12. The Municipality, in particular the Property Management Division of the Directorate Human Settlements, on discovery of the theft, as custodian of the facility dealt with the incident as a matter of urgency and therefore instituted a claim with the insurer.
- 4.2.13. RAM Electrical Contractors were appointed for the testing and cost assessment of the theft and or damage. The repairs were estimated to be completed within a period of six weeks from the date of appointment. The taxi rank would have been ready for occupation at the end of November 2012.
- 4.2.14. The non-infrastructural and operational issues identified were compilation of an Evacuation Plan; compilation of an Operational Plan; Rules/Training Manual for the commissioning of the taxi operations within the taxi rank; and

management structure of the taxi rank. The sub-directorates of the Municipality needed time to properly compile these documents in terms of their by-laws.

Application of the relevant law

- 4.2.15. Section 21.2.4 of the SCM Policy prescribes that *“delivery of the goods and performance of services shall be made by the Contractor in accordance with the time schedule prescribed by the Municipality in the contract.”*

Section 21.2.5 of the SCM Policy prescribes that *“at any time during performance of the contract, the Contractor or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the Contractor shall promptly notify the Municipality in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the Contractor’s notice, the Municipality shall evaluate the situation and may at his discretion extend the Contractor’s time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.”*

- 4.2.16. The construction was only completed in 2011, a year later than the scheduled time. However the documents indicated the proper application of the SCM policy.

Conclusion

- 4.2.17. At the time when the complaint was lodged, the construction of the Taxi Rank had been completed. This included attending to the infrastructural issues that were identified and replacing the stolen copper cables.
- 4.2.18. The documentation obtained from the Municipality indicated that the construction of the taxi rank was scheduled to take a period of 15 months from

December 2008. The construction was only completed in 2011, a year later than the scheduled time.

4.2.19. It further appears that due to the requirements of extensive consultation with various stakeholders being mostly taxi associations during the planning and approval of each phase, the project could not be completed on time.

4.2.20. The process of negotiation between the Municipality and GBTA continued in an attempt to get the operators to take occupation of the facility. On 01 December 2014, the parties entered into an agreement where, amongst others, GBTA agreed to take occupation of the taxi rank on a date to be determined.

5. REASONS FOR CLOSURE

5.1. Evidence reveals that the amount budgeted for the construction of the taxi rank was indeed an amount of R400 million. At the time when the complaint was lodged on 30 July 2012, an amount of R357 953 168.38 had been spent and accounted for in terms of legislative prescripts. On 23 March 2018, the Municipality confirmed that the total amount spent on the taxi rank amounts to R357 953 168.38 resulting in a saving of R42 046 831.62.

5.2. At the time when the complaint was lodged the construction of the taxi rank had been completed. This included attending to the infrastructural issues that were identified and replacing the stolen copper cables.

5.3. It appears from the evidence obtained from the Municipality that the construction of the taxi rank was scheduled to take a period of 15 months from December 2008. The construction was only completed in 2011, a year later than the scheduled time.

- 5.4. It further appears that due to the requirements of extensive consultation with various stakeholders being mostly taxi associations during the planning and approval of each phase the project could not be completed on time.
- 5.5. Structural and non-structural issues were identified after completion of the taxi rank despite extensive consultation during planning and completion of all the phases with all relevant stakeholders. These were all attended to and the taxi rank was ready for utilisation since the end of November 2012.
- 5.6. No evidence was submitted to substantiate a finding of maladministration and or undue delay in the completion of the taxi rank.
- 5.7. The allegations pertaining to the complaint could not be sustained as the above submissions and evidence dispels the allegations made.

6 CONCLUSION

- 6.1 The Municipality negotiated a long-term lease agreement with GBTA through its entity the Free State Taxi Association (FSTA). After consultation with National and Provincial Treasury the lease agreement was approved by the Council of the Municipality and the Municipality indicated that the intended date for occupation of the taxi rank is December 2018.



ADV BUSISIWE MKHWEBANE
PUBLIC PROTECTOR OF THE
REPUBLIC OF SOUTH AFRICA

DATE: 13 / 11 / 2018

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