

**NATIONAL ASSEMBLY**  
**QUESTION FOR WRITTEN REPLY**  
**QUESTION NUMBER: 2470 [NW2838E]**  
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**2470. Dr M J Figg (DA) to ask the Minister of Finance:**

- (1) With regard to the letter from a certain person (name and details furnished) from Ekurhuleni Metropolitan Municipal Council (EMMC) dated 3 September 2012 requesting condonation of irregular expenditure to the value of R819 million (details furnished) and National Treasury's response (details furnished), why was the National Treasury not aware or made aware of (a) all the irregular expenditure in the (i) 2009-10, (ii) 2010-11 and (iii) 2011-12 financial years, (b) bids above R10 million under appeal and (c) bids above R10 million under investigation, in total over R7,2 billion (details furnished);
- (2) did the application for condonement by the specified city manager give a full picture of the irregular expenditure in the municipality; if not, why not; if so, what are the relevant details;
- (3) whether the National Treasury intends to take any relevant action (a) prescribed by applicable legislation in respect of this matter in general and (b) against the specified person (name and details furnished) of the Ekurhuleni Metropolitan Municipal Council in this regard; if not, why not; if so, what are the relevant details;
- (4) whether the National Treasury will conduct a forensic audit of the Ekurhuleni Metropolitan Municipal Council's (EMMC) finances; if not, why not; if so, when will the forensic audit commence?

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**REPLY:**

- a) Section 62(1)(d) of the Municipal Finance Management (MFMA) provides that the Accounting Officer must take all reasonable steps to ensure that unauthorized, irregular, fruitless and wasteful expenditure or other losses are prevented. Furthermore section 125(2)(d) of the MFMA requires that the notes to the annual financial statements must include particulars of any material losses or any material irregular or fruitless and wasteful expenditure, including in the case of a municipality, any material unauthorized expenditure that occurred during the financial year and whether these are recoverable.

From the above it is clear that the legislation places the obligation to make public and disclose particulars of any irregular expenditure incurred, including taking steps to prevent such expenditure from being incurred, on the Accounting Officer. Moreover, the legal principle underpinning the MFMA is that the Accounting Officer and Council are responsible for implementation of the MFMA and to ensure appropriate corrective measures are taken.

- b) The Honorable member to note that section 62 of the Municipal Systems Act sets out the process to be followed when aggrieved persons are dissatisfied with decisions taken by a municipality. The process provides for appeals to be dealt with by the municipality within its internal governance structures. There is no requirement in section 62 for decisions with regard to the outcomes of appeals to be reported to the National Treasury. Information in this regard is therefore only available at institutional level and therefore National Treasury was not made aware of the extent of the appeals.
  - c) With regards to supply chain management disputes or objections, regulations 49 and 50 of the Municipal Supply Chain Management Regulations provide the procedure to be followed. The regulations provide that such disputes be first investigated internally by the municipality before it escalates the matter to the provincial or national treasury. It is therefore clear that the National Treasury will not be aware of supply chain management disputes unless a municipality or the relevant treasury was unable to resolve the matter through its internal processes. The details of such information will be available at institutional level.
- (2) Correspondence was received from the City Manager dated 3 September 2012. However, this only provided information of irregular expenditure relating to the request for condonement. As mentioned earlier, the detailed information on all irregular expenditure is maintained within the municipality and in this instance was not shared with National Treasury.
- (3) (a) Section 32(2) of the MFMA provides that the Municipal Council must recover all irregular expenditure incurred unless the municipal council has, after an investigation by a council committee, certified the expenditure as irrecoverable and has written it off. It is therefore clear that legislatively, the municipal council is the only appropriate structure who should take action in relation to the irregular expenditure that has been incurred. Information in this regard is therefore best obtained from the municipality concerned.
- (b) Section 171 of the MFMA defines when an accounting officer of a municipality commits an act of financial misconduct. To further support the implementation of this section and chapter 15 as a whole, the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings (“Financial Misconduct Regulations”) was promulgated on 31 May 2014 which sets out processes to be followed by municipalities in dealing with allegations of financial misconduct. The regulations provide that as a start, allegations has to be dealt with by the municipal council through its internal established structures that deals with disciplinary matters. This relevant matter will therefore be referred to the Executive Mayor of this specific municipality for his further handling consistent with the provisions of the Financial Misconduct Regulations.
- (4) The National Treasury will not be conducting any forensic audit at the municipality at this stage as the information at hand indicate that the Office of the Public Protector is in the process of conducting an investigation at the municipality. The National Treasury will await the outcome thereof.