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## Urgent: Questions for article on Tshwane tender

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Wed, Sep 25, 2019 at 3:27 PM

### Herewith the City of Tshwane's response:

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### Re: Media questions regarding Tshwane fuel tender

We are journalists with the amaBhungane Centre for Investigative Journalism and are working on an article concerning alleged corruption and political interference in the Tshwane fuel tender awarded on 31 January 2019.

We are seeking comment from the mayor and the City on the allegations contained in the intended article. We also ask that you bring this to the attention of the following officials who may be named in the intended article, and whom we invite to comment on their own behalf to the extent relevant: Ms Thembeke Mphefu, chairperson of the bid evaluation committee, and Mr Umar Banda, chairperson of the bid adjudication committee.

We shall approach Mr Moeketsi Mosola, the then city manager, separately.

We understand that Balimi Barui Trading (BBT) was the incumbent supplier for the Tshwane fuel contract (having been awarded a three-year tender in July 2015), and again won the renewed fuel supply tender after it was advertised last year, although this time in conjunction with MDZ Fleet Solutions and Rheinland Investment.

### **RESPONSE:**

After following a competitive bidding process that required three service providers BBT complied with all the requirements of the tender and was therefore recommended and approved as one of the suppliers.

We further understand also that BBT has since at least 2013/2014 won a number of tenders from Tshwane, including to supply and deliver cement products (a three-year tender effective 2013); to collect debt (a three year tender effective 2013 and another in 2016); to supply and deliver underground cable conduit (a three-year tender effective 2015); to supply and deliver chemicals (a three-year tender effective 2016); and to

supply yellow plant, refuse trucks etc (a three-year tender effective 2016).

**RESPONSE:**

All of the above mentioned tenders were awarded to BBT as follows:

No.	Description	Financial Year of Appointment	Appointment date	Status of Tender
1.	Tender for Fuel Contract	2015/16	30 July 2015	Expired
2.	Tender to supply and deliver cement products	2013/14	23 May 2014	Expired
3.	Tender for collection of outstanding debt	2016/17	19 July 2016	Expired
4.	Tender to supply and deliver underground cable conduit	2015/16	24 August 2015	Expired
5.	Tender to supply and deliver chemicals	2016/17	16 August 2016	Expired
6.	to supply yellow plant, refuse trucks	2016/17	12 September 2016	Panel appointment : Tender still valid
7.	Tender for Fuel Contract	2018/19	31 January 2019	Tender still valid

Out of the seven above mentioned tenders :

- One was awarded in 2013/14
- Two were awarded in 2015/16
- Three were awarded in 2016/17

(It is clear that majority of tenders awarded were tenders processed prior **2015/16** )

- One was awarded in 2018/19

As a result, BBT has featured high up in Tshwane's list of top suppliers, often earning R10m or more a month from the City.

**RESPONSE:**

Payments processed for BBT during the 2019/20 financial are not equal to nor exceed 10 million per month. However payments exceeding 10 Mil per month in previous years relating to the majority of contracts entered into in the previous five financial years are noted for some months. As the City we therefore cannot agree to 10mil or more

The City and by extension some of its officials is implicated in the allegations and we would like to put these and some questions to you, so as to afford you the full opportunity to reply. Please be so kind as to respond by noon on Monday 9 September to ensure enough time for us to consider and, if need be, engage further with you before publication by mid-next week.

1. Please let us know if you disagree with any of the information above regarding BBT’s previous tenders from and level of business with Tshwane.

**RESPONSE :**

Payments processed for BBT during the 2019/20 financial are not equal to nor exceed 10 million per month. However payments exceeding 10 Mil per month in previous years relating to the majority of contracts entered into in the previous five financial years are noted for some months. As the City we therefore cannot agree to 10mil or more

2. We have seen records from the tender process, including of the evaluation and adjudication. In the final round of evaluation, price was the main factor to be considered. BBT’s price of R73.50 was the best by a substantial margin of the 10 bidders who made it to the final round. It appears to us, however, that the method used by the evaluation committee and accepted by the adjudication committee was grossly inappropriate. It also appears that BBT had exploited this method – presumably in collusion with City officials -- to be placed first while, in fact, it did not have the best prices at all. We explain below. Please comment.

- a. The City’s requirement was for different grades of petrol and diesel to be supplied in differing quantities. In the documentation made available to bidders, figures were given for estimated monthly consumption of petrol and diesel per depot and group of depots. On average, the city estimated it would use 9 times as much diesel as petrol. The city also seemed to specify that it uses low sulphur/high grade diesel rather than high sulphur/low grade diesel.

**RESPONSE :**

The document published was approved at Bid Specification Officer with contents the City saw fit for the bidders to utilise during the bidding process.

- b. In the evaluation, the City “averaged” bidders’ prices by simply adding together a bidder’s quoted price per litre for each type of fuel. This is what gave BBT the “lowest” price of R73.50, as follows:

UL 93	UL 95	LRP 93	LRP 95	Diesel high grade	Diesel low grade	Total
R9.93	R18.65	R9.93	R10.05	R17.49	R7.45	R73.50

**RESPONSE :**

Assertion is incorrect, the prices were not averaged but totalled for the purposes of evaluation. All the bidder's process for the different types and grades of fuel at a unit level were taken and totalled to get a figure that can be used for evaluation purposes. This evaluation method was applied based on the specification that was approved and advertised to public as part of the tender. This specification require 3 service providers who would supply to predetermined groups of fuelling stations for all types and grades hence the totalling of the prices.

- c. Note the inconsistency in prices for the different grades quoted by BBT. Its prices for UL 95 and high grade diesel were well above wholesale and even retail prices, while for other grades it was far below. (In the case of low grade diesel, it was below even the Basic Fuel Price, which excludes government taxes and levies and would have been impossible to supply.)

**RESPONSE :**

The bid submitted by BBT would have seemed to have taken advantage of the larger volumes that are in high demand. This, BBT would have deduced from publicly available information on volumes that was shared with all prospective bidders as part of the specification. The pricing schedule indicated that the quoted prices must be all inclusive and the expectation was that the bidder would be required to supply at the quoted prices. The risk of a significantly higher prices, was identified at the committee level hence the recommendation that all preferred bidders be awarded at the lowest price of the 3 prices submitted for the different grades of petrol and diesel. This allowed the City to normalise the process awarded to the different bidders for the grades of petrol and diesel to ensure it is more consistent.

- d. Rather than simply adding the prices for each grade of fuel, the City should have weighted each price according to how much of that type of fuel the City estimated it would be using.

**RESPONSE :**

This is based on the specification that was issued and the intention was to appoint 3 service providers. The suggestion above could have been a consideration provided it was a requirement at the inception of the tender and thus included in the specification.

- e. The results were clearly iniquitous. BBT was placed first among the 10 qualifying bidders even though its price of R17.49 for high grade diesel – the type of fuel the City uses perhaps 9 times as much of as any other – was the highest by a significant margin.

**RESPONSE :**

BBT would have only benefited from the significantly higher prices to be regarded as a preferred bidder. The fact that he overpriced in some and under-priced on others brought BBT closer to other bidders on the total price. The restriction of applying this method is based on the intended result of having in place 3 service providers that would supply all grades of fuel per groupings of depots. At award level, BBT would have been awarded process that were significantly lower than what they bid for as indicated below.

UL 93	UL 95	LRP 93	LRP 95	Diesel high grade	Diesel low grade	Total

R9.93	R18.65	R9.93	R10.05	R17.49	R7.45	R73.50
<b>R9.93</b>	<b>R13.85</b>	<b>R9.93</b>	<b>R10.05</b>	<b>R14.39</b>	<b>R7.45</b>	<b>R65.60</b>

An award price difference of R7.90 from the lowest total of BBT is the benefit that the City received on the awarding of this tender and all bidders are able to deliver based on the prices awarded across the different items.

f. The same process was repeated with BBT's very high quote of R18.65 on UL 95. We understand that this is for all effects and purposes the only grade of petrol that the City uses.

**RESPONSE :**

Refer above one, price that was offered was R4.80 lower than the bid price being R13.85.

g. To summarise: Had the evaluation and adjudication committees and/or whoever designed the evaluation criteria applied their minds properly, they would have weighted the bidders' prices according to the City's actual needs. As a result, BBT would have been placed last among the qualifying bidders, not first. It may well also be that MDZ and Rheinland would not have been among the top three.

**RESPONSE :**

This would have been dependent on the intended award. The city believe this evaluation criteria was superior as it allowed the City to benefit from the lower process of all 3 preferred bidders. The intention of the bid from the beginning was to award the tender as a whole to a bidder per the groupings as identified.

h. The inescapable conclusion is that BBT "gamed" the system by quoting unsustainably large discounts on types of fuel it knew the City would not use, and very large profit margins on fuel it knew the City would use. It also appears to us that this could not have occurred without collusion, or at least wilful negligence, on the part of relevant officials.

**RESPONSE :**

All volumes were made available to prospective bidders. Any possibility of BBT "gaming" the city was not successful as the City is now benefiting from lower prices on grades that are not widely used and market related prices that are widely used. Whether there was collusion or wilful negligence, it is yet to be proven if such is the case. At a committee level, value for money was taken into consideration and the City is still of the view that the award made was in the best interests of the City.

3. The bid adjudication committee resolved on 29 January to award the tender to the three top-placed (albeit by the flawed methodology) bidders: BBT, MDZ and Rheinland. To its credit the committee resolved, however, that by negotiation each of them should be contracted at the lowest price any of them had offered for each grade of fuel, which to an extent would have taken the sting out of BBT's outlandishly high prices for the two fuel types the City uses. The prices the committee resolved should be negotiated were:

- a. UL 93 at R9.93/litre
- b. UL 95 at R13.85

- c. LRP 93 at R9.93
- d. LRP 95 at R10.05
- e. high grade diesel at R14.39
- f. low grade diesel at R7.45

Please explain whether such negotiation took place; who both conducted and signed off on the results of the negotiation; and what the final contracted prices for each grade of fuel were both at the time and now.

**RESPONSE :**

The recommended prices from the BAC as accepted by the City Manager were offered to the bidders and their appointment was subject to their acceptance of the revised rates. This was the initiation of the negotiations and offered bidders an opportunity to counter and request an audience.

4. Our understanding and analysis is that the City and relevant officials who were responsible for the prices finally agreed with BBT, MDZ and Rheinland did not comply with the adjudication committee’s resolution regarding the prices, but instead agreed prices that were effectively much higher, as explained below. Please comment.

- a. The prices that bidders were required to quote, were prices relative to the reigning wholesale/grid prices at the time the tender closed in July 2018. The prices to be contracted should therefore also be seen as relative, i.e. at the same discount or premium to the reigning price.
- b. When the committee resolved that the winning bidders should supply at the prices referred to in 3 above, the obvious interpretation should have been that those prices were to be adjusted to the same extent that reigning wholesale/grid prices had moved in the intervening six months.
- c. On our analysis, the prices for the two grades that matter should have been as follows: UL 95 = retail price less R2.17; and high grade diesel = wholesale price less R0.10.
- d. We understand that in fact, the prices eventually agreed with the winning bidders were in both cases in the region of R2.50 above the respective retail and wholesale prices, meaning that per litre of UL 95 the city has been paying at least R4.50 more than it should have, and for high grade diesel R2.50 or more.

**RESPONSE :**

	UL 95	High grade Diesel
Awarded Price ( 31 Jan 2019)	R13,85	R14,39
Retail /Wholesale Price (2 Feb 2019)	R13,49	R13,18
Difference	R0,36	R1,21

The agreed upon prices were the acceptable prices for the City having taken into consideration all the inputs necessary and risks associated with delivery of the fuel. The prices accepted by the City were as tabled above.

The prices eventually paid by the City do exceed the agreed upon prices. See table below:

	UL 95	High grade Diesel
Actual Payment ( 30 August 2019)	R18,38	R16,82
Retail /Wholesale Price (30 August 2019)	R13,50	R14,28
Difference	R4,88	R2,54

This was due to a mistake in recalculation done monthly to cater for the rise and fall in fuel prices and this cannot be seen as collusive act from the City.

5. At an estimated 100 000-litre usage of UL 95 and 900 000 litres of high grade diesel per month, the city's losses from the above would total in the region of R450 000 + R2 250 000 = R2 700 000 each month. Given the extreme cost of the error -- and the obvious red flag of the City acquiring large amounts of fuel at higher than pump prices -- our conclusion once again is that this is no innocent mistake. Collusion and corruption appear to be the obvious explanation. Please comment.

The payments made exceeding the agreed upon prices were processed for all three appointed service providers. It is clear that the intention was not to benefit the service provider in question but rather an administrative error and honest mistake made by the City.

6. We have reason to believe that BBT was favoured by the EFF and its senior leadership. It also appears that the EFF's then support of Mr Mosola, the then city manager, may have been because of collusion regarding tenders such as the fuel tender from which BBT benefited. Please comment.

7. The political interest in this deal could explain why Mr Mosola, was in such a hurry to sign off on the tender award on 31 January this year, shortly after two BAC meetings in quick succession. He signed during a motion to remove him from his post that same day, and reportedly while he was on leave. This led senior individuals within the City administration to raise concerns about the rush and whether this meant that due process and diligence had been cut short. The allegations have been reported here: <https://www.news24.com/SouthAfrica/News/eleventh-hour-signing-of-crucial-tshwane-tender-causes->

[ructions-in-the-capital-20190503](#).

It appears to us that for Mr Mosola and/or other officials the urgency must have been improperly motivated to advantage BBT and/or MDZ and/or Rheinland. Please comment.

8. Mr Mosola has claimed that the rush in signing off on the tender was because the tender was about to expire and it was a matter of urgency. However, the date of expiry for this tender had been pushed back to April. Has the City sought clarity from Mr Mosola over the urgency? What explanation has he given? And is it satisfied with his explanation?

9. In order to better help us to understand the events of 31 Jan, could you please confirm where Mr Mosola was and his status – on leave or not -- when he signed tender award, as well as the time at which he signed?

Kindly acknowledge receipt of this email. We eagerly await your response by noon on Monday.

Thanking you,

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