

CIRCULAR 14/ 2023

**FROM : MR RIO NOLUTSHUNGU
CHIEF EXECUTIVE OFFICER (ACTING)**

**TO : EXECUTIVE MAYORS/MAYORS/CITY/MUNICIPAL MANAGERS
POLITICAL HEADS OF CORPORATE SERVICES, PORTFOLIO COMMITTEES,
SPEAKERS,
HEADS OF CORPORATE SERVICES/HUMAN RESOURCES**

DATE : 14 MARCH 2023

PROPOSED DETERMINATION AND COST OF LIVING ADJUSTMENT OF THE UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS FOR THE FINANCIAL YEAR 2022/2023

1. PURPOSE OF THIS CIRCULAR

The purpose of this Circular is to:

- 1.1 Formally bring to the attention of Municipalities the draft Notice - Determination of 2022/2023 Cost of Living Adjustments (herein after referred to as the COLA) for the Upper Limits of the Total Remuneration Packages of Municipal Managers (MM) and Managers Directly Accountable to Municipal Managers, its key components and implementation modalities.
- 1.2 Request the Municipal Managers as the primary recipients of this Circular to mobilize the consideration of the proposed Upper Limits and submit written responses on the proposals contained therein to SALGA on behalf of their municipality, by no later than 17 March 2023.
- 1.3 Reaffirm in summary in this Circular, concerns raised by municipalities on prior pay proposals by CoGTA on a mix of factors.

2 BACKGROUND

2.1 The President of SALGA has been invited by the Minister for Cooperative Governance and Traditional Affairs to provide comments on the draft Notice, attached hereto within 14 days, effective from the date of the letter, which is 2 March 2023. Notwithstanding that, it should be noted that the communication was received by SALGA, from CoGTA on 7 March 2023, and therefore the 14 days would be calculated from that date of receipt.

2.2 Senior managers' remuneration is determined, annually through the Upper Limits Notice Government Gazette published by the Minister of CoGTA since 29 March 2014, informed by a range of the following factors set out in regulation 35 of the (2014) Local Government Regulations on the Appointment and Conditions of Employment of Senior Managers:

- Classification of municipalities according to different grades;
- Respective duties, powers and functions and responsibilities of a municipality;
- Affordability of different levels of remuneration, the number of municipal employees, and the salary and wage bill of the municipality;
- Population, operating budget and assets of the municipality;
- Current principles and levels of remuneration in society in general;
- Need for the promotion of equality and uniformity of salaries, allowances and benefits for equal work performed;
- Provision of uniform norms and standards nationally to address disparities; and
- Inflationary increases.

2.2 Specifically, the above regulation enjoins the Minister to determine the upper limits of the total remuneration package of senior managers annually, by Notice in the gazette before 31 March of the following financial year, after consultation with the South African Local Government Bargaining Council, Ministers for Finance and Public Service and Administration, Members of the Executive Councils responsible for Local Government and the Organized Local Government.

3 DISCUSSION

3.1 SALGA Documented Positions on the Previous Notices

This section briefly highlights some of concerns and comments that were previously submitted to CoGTA as mandated by municipalities and the recording thereof serves to reaffirm SALGAs determination to work with all concerned to ensure amicable resolution. Also bearing in mind that a comprehensive paper was shared with municipalities prior.

- The attempt to regulate the remuneration of senior managers without any scientific model for differentiation is a direct breach of the constitutional integrity of local government.
- Notice developed and issued without impact assessment, to determine the status quo on how each municipality would be affected and how to model and manage the different permutations that could arise.
- Source of data for benchmarking did not provide a sufficient defensible posture for the now applicable salary upper limits, in so far as grading of municipalities, factors used to determine point allocation etc.
- Unclear thrust of the strategic remuneration framework amidst the existence of the sphere of local government 25 years on, (larger strategic drivers in view of the disparities

between municipalities in macro-economic and financial terms and the greater need for deployment and retention of expertise in rural areas, the growing need to build real capacity in local government in general and therefore the need to attract and deploy seasoned managers in the sector).

- Isolating only one of the three screening tiers, the competency achievement level (competent, advanced or superior) to determine appointment and remuneration on offer.
- It has been observed since instalment of this system that the determining factor for “Offer of Remuneration on Appointment” is mainly biased towards “competent” achievement levels and as practice has proven, one candidate has scored differently ie. “Competent” at one time and “Basic” on the other, whilst being assessed on the same batteries.
- It is the submission of SALGA therefore that competency assessments are just that, to determine competency levels and inform other interventions within the human resource management value chain – such as developmental needs, predicting levels of performance etc, except remuneration. The current confinement of this selection instrument for the determination of remuneration amounts to gross misapplication of this important competency assessment tool which has huge potential to deliver value for talent management in municipalities.
- There must also be a clear dispute management procedure to be followed should the incumbent is dissatisfied with any aspects of the competency assessment process.
- The section on “offer on remuneration” further provides that a municipal council may offer a lesser pay should it not be able to afford the determined pay. Such a clause is the very basis which exacerbates the disparities and could raise claims of unfair discrimination in terms of the Employment Equity Act (amendment of 2013, section 6(4)), principle of equal pay for the same or substantially similar and work of equal value. Accordingly, a deletion of this was proposed.
- The requirement for approval by the Minister/MEC is seen as a direct attack on the Constitutional integrity of municipalities in terms of its ability to pay employees within the upper limits structure, as required in the event of change of categorization of the municipality.
- Remoteness allowance was welcomed; however, it was pointed out that the list was incomplete as other municipalities who could benefit were excluded.
- Transitional provisions: The notice should specify in precise terms that existing incumbents will not be affected where a municipality is “downgraded” in terms of the Notice.
- Several challenges have been experienced with securing authorized deviation in respect of the provisions of the Notice, these range from delayed or non-response, unsubstantiated declensions, or inconsistencies in the outcomes thereof, where the deviation was approved and is later declined when made by the same candidate upon reapplication, with all things remaining equal.
- It was proposed that the process for waiver applications be specified with a deadline for responses from the MEC or the Minister or be done away with and council be vested with the authority to exercise its discretion as it ought to be the case in an autonomous organisation, that the municipality is, by right and law.
- Revenue driven salary determination frameworks: Another critical issue is the fact that remuneration frameworks for local government are tied to revenue generated by municipalities, to which a higher weighting of 60% compared to other factors is assigned. If this approach persists, municipalities in rural areas may never be able to have better remuneration levels and the ability to attract the needed scarce skills compared to their urban counterparts. due to unfavourable economic conditions.
- Constitutional issues and the right of municipalities to govern their own ‘affairs’, with the evolution and maturation of the local government system, is the right thing to do to take

away the right of municipalities to determine their own systems including remuneration frameworks?

- Salary differentials between municipal managers, managers directly accountable to municipal managers and level 3 managers: In most municipalities the packages for senior managers would go lower than the current, the gap in packages between municipal managers and managers directly accountable would be higher and in others lower. This has presented negative, unintended consequences for employee morale, retention and succession management in municipalities.
- As indicated above, in many cases level 3 managers ended up earning the same or more than managers accountable to municipal managers.
- Integrity of internal management systems: The variations, inconsistencies, and lack of justifiable alignment between packages of the top 3 managers, would negatively affect the integrity of management regime in many municipalities.
- Equity in distribution of capacity in the sector: Upper limits will certainly affect the low-income municipalities more and most of these are rural municipalities struggling to attract or retain imminent managers.

3.2 Comments on the draft 2021/22 Notice:

- Concerns about unsubstantiated zero percent salary adjustment were raised.
- The vacuum created by the non-pronouncement on the salary adjustments for senior managers during period is of concern as this is contrary to regulation 35 cited above, which promises to deliver the Notice by March annually. The table below demonstrates the inconsistencies on the issuing of the Notice.

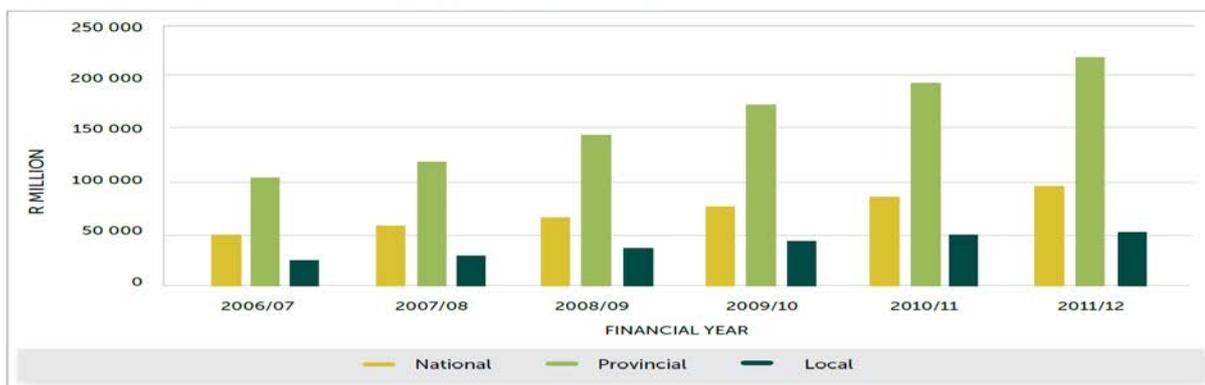
#	GG Number	Year	Date Issued
1.	37500	2014	▪ 29 March 2014
2.	38946	2015	▪ 1 July 2015
3.	40117	2016	▪ 1 July 2016
4.	41173	2017	▪ 10 October 2017
5.	42023	2018	▪ 8 November 2018
6.	43122	2019	▪ 20 March 2020
7.	46062	2020&21	▪ 18 March 2022

The Minister was also requested to consider an increase, whether across the board or differentiated based on the following:

- An inflation related increase based on the applicable CPI as @ 01/07/21, given that the previous upper limits Notice also applied a 0% increase in certain categories of municipalities. There was a call to consider that municipal employees have also been hard hit during the economic downturn and having to adapt to the rising cost of living e.g. food and fuel hikes affecting household budgets.
- The remuneration creep factors brought about by the 3,5% effected for municipal employees falling under the jurisdiction of the SALGBC, could also perpetuate the unjustifiable salary discrepancies. Drawing from an analysis of the waiver applications that have been lodged through to the minister illustrates the unevenness of the municipal remuneration at senior as well as at non - senior municipal management level.
- SALGA further expressed a view that a 0% proposal, if upheld, opposes, at the very least the remuneration philosophy espoused in the previous Notices.
- Contrary to the remuneration philosophy espoused in the various Notices, the manner in which remuneration was pursued by CoGTA, including the 0% COLA adjustments, militates against reward principles pertaining to consistent, internally balanced (equitable), externally competitive, cost effective and fair remuneration, especially for senior managers.
- The graph below, extracted from the FFC's submission for the 2022/23 division of revenue, was surfaced in the communication with the Minister to further demonstrate the lack of external equity on the remuneration of public servants, especially when

local government is compared to the two other spheres of government. Provincial and national governments have the highest share of government's compensation of employees' expenditure, whilst that is low on the municipal side, the sphere that is tasked with the mammoth task of being on the coalface of service delivery.

Figure 3.2: Compensation of employees by sphere of government



Source: National Treasury (2020b)

- It was noted that the draft Notice introduced a new definition, namely, “the Non-Pensionable Cash Gratuity”, which is defined as the income that is not subject to a compulsory contribution towards a pension or provident fund.
- Despite opposition by SALGA after consulting municipalities, a 1.5% offer of Cost-of-Living Adjustments was determined to MM and direct reports, coupled to a Non-Pensionable Cash Gratuity of R1695 offered to Senior Managers earning below R1.9m and R1818 for those earning at least R1.9m, effective from July 2021 to June 2022.

The following recommendations were made by SALGA overall, that:

- Beyond dealing with the immediate pressures of annual salary adjustments, SALGA advanced a submission to the Minister to implement the outcomes and recommendations of the benchmarking commissioned to 21st Century by the Department in 2019, to address anomalies and adopt a competitive pay structure for senior managers.
- The Minister publishes a Notice to sanction payment of an inflation related across-the-board inflation increase, to enable senior managers to offset the cost-of-living expenses, effective immediately.
- The Notice be published timely to enable proper budget planning, inclusive for anticipated salary adjustment for senior manager by Councils.
- The 14 day comments window period should be extended to allow sufficient time for consultation and compilation of formidable policy positions.
- SALGA supported that the Working Group established by CoGTA with specific terms of reference to resolve remuneration and conditions of service of senior managers, be comprised to include representatives from senior managers echelon, among others.
- Other matters raised with SALGA pertaining to the remuneration in general be registered for the attention of the CoGTA driven Working Group.
- The recently gazetted municipal systems amendments be placed at the centre of the work of the Working Group owing to the inherent implications for senior managers conditions of appointment and employment.

4. KEY FEATURES OF THE PROPOSED NOTICE FOR THE 2022/2023 FINANCIAL YEAR

The Notice largely maintains the template as established since its inception; therefore the previous concerns and implementation challenges still forms part of the relevant matters for attention in ensuring an improved remuneration framework for senior managers.

4.1 The Proposed Annual Total Remuneration Packages of Municipal Managers / Cost Of Living Adjustments for Municipal Managers and Managers Directly Accountable to Municipal Managers

- **An across-the-board increase of 3% is offered.**
In addition, a once off monthly non-pensionable gratuity of:
- **R1, 695.00 payable monthly to senior managers earning a total remuneration package below R1,900,000**
- **R1, 818.00 payable monthly to senior managers earning a total remuneration package of R1,900,000.**
- **The once non pensionable gratuity is to be backdated from 1 July 2022 until 30 June 2023.**
- Translation key tables are presented expressing the difference between 2021/2022 and giving guidance on 2022/2023 scales, owing to the effect of the proposed 3%.
- This Notice is said to be effective from 1 July 2022.

4.2 Other Matters for Consideration

Municipalities are advised to consider and respond to the following emerging aspects as well in the compilation of the comments to be submitted in this response to the Minister:

- Firstly, due to the retroactive implementation of salary increases, do senior managers who were employed and are no longer employed by the municipality, by the publication of the final Notice qualify to be paid the **once off non - pensionable cash gratuity?**
- Secondly, the Notice makes the following disclaimer:

“This Notice does not affect the existing employment contract of a senior manager appointed before 1 July 2014.”

In the above regard, tensions and uncertainties have arisen in municipalities due to the vacuum created by this exclusion, what councils should rely upon to determine the COLA for employees affected by this clause in view of the 3 applicable determinations at bargaining council, Senior Managers and the Notice for Councillors.

5. Concluding Remarks

On the basis of the proposals above and that the draft legal Notices requires inputs from SALGA, written comments on behalf of each municipality should be submitted per email by no later than 17 March 2023, per email to: smremuneration@salga.org.za.

6. MOBILISATION OF COMMENTS WITHIN MUNICIPALITIES

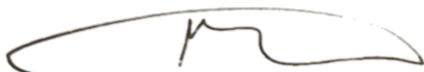
Executive Mayors/Mayors and City/Municipal Managers as primary recipients of this Circular are kindly requested to distribute it widely within the political and administrative echelons of the

designated or target beneficiary audience within the municipality for constituency reach and the necessary feedback.

Ms. Fikile Tshabangu – Senior Manager: Municipal Human Resource Support & OD, is the designated official to handle this matter, contactable as follows:

- per email on: ftshabangu@salga.org.za or on 0828022098.

Yours sincerely



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CHIEF EXECUTIVE OFFICER (ACTING)