

CIRCULAR 09 / 2024

**FROM : THE CHIEF EXECUTIVE OFFICER (ACTING)
MR LANCE JOEL**

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

DETERMINATION OF 2023/2024 COST OF LIVING ADJUSTMENTS FOR THE UPPER LIMITS OF THE TOTAL REMUNERATION PACKAGES OF MUNICIPAL MANAGERS AND MANAGERS DIRECTLY ACCOUNTABLE TO MUNICIPAL MANAGERS

1. PURPOSE OF THE CIRCULAR

This Circular serves to:

- a) Bring to the attention of municipalities the determination of 2023/2024 cost of living adjustments of the total remuneration packages of senior managers.
- b) Distribute SALGA's position as set out in section 3 of this Circular, which was informed by amongst others, the comments received from municipalities, pursuant to the SALGA Circular 06/2024 (request for comments on the then draft Notice), issued on 12 March 2024.
- c) To encourage compliance with Section 13 (Information to be submitted to the Minister) of the attached Notice.

2. Background

- 2.1 Senior managers' remuneration is determined, annually through the Upper Limits Notice Government Gazette published by the Minister of CoGTA since 29 March 2014. Regulation 35 of the (2014) Local Government Regulations on the Appointment and Conditions of Employment of Senior Managers sets out the following factors to be

considered when determining remuneration:

- 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.

2.3 Accordingly, on 7 March 2024, the President of SALGA was invited by the Minister for Cooperative Governance and Traditional Affairs to provide comments on the draft Notice, within fourteen (14) days. These were submitted to the Minister on 2 April 2024,

3. Discussions

3.1 SALGA Documented Positions on the 2023/2024 Notice

This section provides a consolidated position of comments received from municipalities in relation to the proposed Notice. It should be noted that this section is confined to the provisions of the Notice referred to above. Other matters falling outside the scope of the 2023/2024 Notice, though pertaining to senior managers remuneration have been deferred to be dealt with under the COGTA convened Working Group, tasked with resolving the anomalies and unintended consequences created by the Upper Limit Notice remuneration regime.

3.1.1 Definitions

3.1.1.1 Total Remuneration Package

The Notice is called the Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers.

The “Upper Limits” is defined by the Notice as the applicable total remuneration package values as contained in the Notice.

- Noting that the Notice does not define what the total remuneration of senior manager entails, it was recommended that, some legislative certainty and guidance be provided on

whether other forms of remuneration, financial or non-financial should be included or excluded in align with the traditionally known notion of total remuneration.

3.1.1.2 Job Evaluation

- Chapter 2 of the Municipal Staff Regulations applies to all municipal staff, including senior managers and further makes provision for the evaluation of Section 56 and 54(A) posts. It is recommended that the modal grades for the said posts and the evaluation system to be utilised be defined.

3.1.1.3 Change of categorisation of municipality

Section 6 (b)(1) provides measures to be followed by a municipality to migrate to a higher category and that in considering the application by Council, the Minister should determine, amongst others, the sustainability of the driving factors that led to the higher categorisation of the municipality compared to the categorisation of the previous financial year.

- It is recommended that a definition or guiding factors which would unpack “sustainability” as alluded in section (6)(b)(1) be provided in the context of the senior managers remuneration given the plausible diverse meaning and applicability of the term “sustainability”.

3.1.1.4 Non-Pensionable Cash Gratuity

Senior managers earning below R1.9m are entitled to an additional non – pensionable cash gratuity amount of R1695 and an amount of R1818 for those earning R1.9m and above, for the 2023-2024 financial year, backdated to July 2023 to June 2024.

- Municipalities held a view that the rationale for a differentiated approach for the gratuity income is not understood, as an employee who is already benefiting from higher remuneration, further benefits from a higher gratuity amount. It is recommended that this approach be applied in reverse, or the amounts be standardized in both cases.
- It was also recommended that the gratuity amounts (R1818 for above R1900 and R1695 below R1900) be fused as part of the COLA percentage as opposed to the current isolated application, considering that they are not figures on the scales.

3.1.1.5 Allocation of number of points for total municipal income

- Number of points allocated in 10,11 ,16 was deemed to be inaccurate, it is recommended that these be verified.

3.1.1.6 Allocation of Number of Points for Total Population

- The revised threshold in the population criteria could result in some of the municipalities shifting one category lower, posing a serious threat should a municipality have to hire a new manager. The manager will be on a lower salary than their colleagues in work of equal value and 3rd level managers will earn significantly higher than the new senior manager.

This not only compromises the ability to attract new talent but further exacerbates salary creep.

3.1.1.7 Determination of Categorization of Municipalities

Section 6 (4) provides that if the categorisation of a municipality determined in terms of this Notice is lower than the categorisation of the previous financial year, the municipality must retain the categorisation of the previous financial year.

- The current provision is contradictory to item 6(1). If the change to the categorization of a municipality requires assessment of the sustainability of the financial obligations, the retention of the previous financial year's categorization could result in overburdening the municipality financially should the category decline. In some instances, the retention of the applicable categorization would remain constant indefinitely whilst the categorization of the municipality perpetually decreases.

3.1.1.8 Annual Total Remuneration Packages of Municipal Managers and Managers Directly Accountable to Municipal Managers

- The calculations on the tables for the proposed remuneration were found to be inaccurate, not reflecting the adjustment of the 3.3% alluded to by the Minister, seemingly denoting a 3.2% adjustment across the board, a recalculation of these figures was recommended.
- Concerns were raised about the lower increase offered to senior managers than the 5.4% that was applicable in the SALGBC as from 1 July 2023, as it would again result in further creeping of salaries of managers reporting to senior managers. Managers that report to senior managers will in some instances earn more than senior managers.
- The salaries of middle managers remain higher than of the senior managers even if a Municipality may consider the maximum package due to more benefits available for that group as compared to senior managers. This is posing a challenge in retaining and attracting the best in the market considering the fact that now these positions have become permanent, as well diminishing the appetite for middle managers to aspire for senior manager roles with added responsibilities but less pay.
- Some municipalities lamented the fact that S56 employees who are positioned close to the maximum or who are currently on the maximum, will not benefit from a full COLA adjustment given the bar to pay a senior manager more than the maximum of the Upper Limits.
- Cities noted that in terms of their pay scales, the highest paid manager reporting to a S56 manager is earning at least 12,4% above the minimum of the Upper Limits, resulting in structural pay scale imbalances and rendering the minimum of the Upper Limits obsolete. Municipalities who invoked the waiver clause with a view to ameliorate this scenario, were often met with lack of responsiveness and or further complexities.

It the above regard, it was proposed that the market premium allowance etc. as indicated in Government Gazette No. 37500 be applied across since the current remote allowance does not make a difference and that the senior managers' cost of living increases must align with the SALGBC Agreement on increases to ensure that middle managers' salaries do not increase above those of Senior Managers.

3.1.1.9 Offer of Remuneration on Appointment & Notch Progression

- Clause 4(g) of the Municipal Systems Amendment Act of 2022, (7) “ ***The contract of employment of a manager directly accountable to the municipal manager must be on a permanent basis.***”. The proposed regulations do not make provision for progressive movement in notches (min, midpoint and max) based on performance. Since the implementation of the Notices, experiences have shown that the only achievable competency assessment result in pay at the minimum level only. A permanent Section 56 employee will remain on the minimum notch until normal attrition takes place. The regulations need to provide for performance-based assessment which can be rewarded through movement in notches as approved by the municipal council.
- The proposed revision of section 10(2), namely that “A senior manager shall be offered remuneration at the minimum notch of the applicable salary band and relevant categorisation of municipality on appointment”, is found to be contradictory to section 10(1) which provides for the determination of the commencing remuneration to be based on skills, expertise, competencies, qualifications, experience and knowledge. Further to that, the remuneration packages based on the offer of employment are generally attractive to external and or unemployed candidates. There is no smooth transition for permanent employees moving into Section 56 and 54(a) positions. In essence there is no provision for the retention of the existing remuneration as personal to holder in the event that the offer is lower than the existing remuneration. The conditions of service change, therefore the ‘consolation prize’ of retaining the remuneration as personal to holder offsets the loss of other benefits e.g. long service allowance, number of leave days etc.
- It is recommended that a "Scarce skills allowance that is non-pensionable, aimed at attracting a suitably qualified and competent senior manager with scarce skills be introduced.

3.1.1.10 Payment of Remote Allowance

- It was recommended that a review of municipalities listed in the remote allowance section needs to be undertaken to consider other excluded municipalities. Additional proposed scenarios entailed, the provision of the market premium allowance or fixing the remote allowance to 10% for all municipalities.
- Municipalities motivated for the introduction of a provision that would enable the application for inclusion on the list for eligibility to pay remote allowance.

3.1.1.11 Overpayment and Underpayment

- In respect of offering “lesser” pay, the provision should also be made for municipal councils to offer “greater” pay within limits, for attraction and retention. The limits could be a capping percentage above the level or the maximum e.g. not more than 20% above the level. This will also help in lessening the need for waivers or even remove the waiver option altogether.

3.1.1.12 Transitional Provisions

- In view of the various challenges and adverse consequences experienced it is recommended that the provision for waiver application, provided for under this section be removed and issues that occasion waiver applications be used as key informants to the overall review of senior managers remuneration.
- Another emerging issue about the waivers granted for smaller municipalities results in officials earning higher than those in larger municipalities where waivers have not been applied.

3.1.1.13 Other Important Matters

The comments set out were reiterated to the minister and the following recommendations were made:

- That position paper submitted for 2023/2024 financial year's Notice be read and treated together with position papers previously submitted to the Minister by SALGA on behalf of municipalities since the introduction of the Notice as the matters had not yet been addressed and therefore remain valid.
- A Notice to sanction payment of an inflation related across the board increase, to enable senior managers to offset the cost-of-living expenses, was still supported and be effected immediately.
- The Notice be published timely to enable proper budget planning, inclusive of anticipated salary adjustments for senior managers by councils.
- The recently gazetted municipal systems amendment be placed at the centre of the work of the Working Group owing to the fundamental implications for senior management conditions of appointment and employment.
- The inclusion of VIP protection for Municipal Managers / City Managers should be considered.

4. KEY FEATURES OF THE NOTICE FOR THE MUNICIPAL FINANCIAL YEAR 2023-2024

Government Notice No. 4897 on Upper Limits of Total Remuneration Packages Payable to Municipal Managers and Managers Directly Accountable to Municipal Managers for the financial year 2023-2024 published in Government Gazette No. 50737, dated 30 May 2024, provides for the following:

4.1 Definitions

- The definition of Competency Framework has been deleted on this Notice.

4.2 Allocation of Number of Points for Total Municipal Income, Population and for Municipal Equitable Share, for the determination of Categorization of Municipalities, including Change to a Higher or Lower Category and Implications for remuneration of senior managers.

- Save for the fluctuation on the statistics in this section, number of points allocated per category and applicable procedure in the event of change in category as well as the implication for applicable pay scales are set out in this section.

4.3 Annual Total Remuneration Packages of Municipal Managers and Managers Directly Accountable to Municipal Managers

- Both tables on sections 7 and 8 respectively, reflect the adjusted figures incorporating the applicable salary scales for this cohort of municipal employees.

4.4 Non-Pensionable Cash Gratuity

- Senior managers earning below R1.9m are entitled to an additional non – pensionable cash gratuity amount of R1695 and an amount of R1818 for those earning R1.9m and above, for the 2023-2024 financial year, backdated to July 2023 to June 2024.

4.5 Offer of Remuneration on Appointment

- The amendment to the criteria used to determine offer of remuneration on appointment should be noted and is welcomed as it concedes to objections raised on the improper application of competency assessment outcomes in the context of the Notice.
- The revised provision provides for a senior manager to be offered remuneration at the minimum notch of the applicable salary band and relevant categorisation of the municipality on appointment with effect from 1 July 2024.

4.6 Payment of Remote Allowance

- Payment of remote allowance in the eight (8) provinces, amounting to 4% for 80 municipalities, 7% to 22 municipalities and 10% to 15 municipalities is provided to the 117 municipalities as listed.
- The scope of application is also detailed.

4.7 Overpayment and Underpayment

- This section makes provision for errors (overpayment or underpayment) that could result during the implementation of the COLA to be rectified, as there may be necessary, defrayed from the 2023-2024 budget of the municipality.

4.8 Information to be Submitted to the Minister

- Municipalities should note the important, information reporting requirements directed by the Minister in this section.

4.9 Transitional Provisions

- Provisions of this Notice exclude senior manager's contracts entered into in 2014 before the 1st Notice was published.
- The Notice specifies that municipalities with no income are category 1.

- The issue of the application of the waiver to deviate with any of the prescribed requirements remains in force.
- Translation key tables are presented expressing the difference between the 2022/2023 and 2023/2024, to reflect the COLA.

4.12 Short Title and Commencement

A retrospective effective date of 1 July 2023 is indicated.

5. MOBILISATION OF INFORMATION REQUESTED BY THE DEPARTMENT FROM MUNICIPALITIES

It is worth noting that, the Working Team established by CoGTA to work on rectifying the concerns on Senior Managers remuneration, comprises of Municipal Managers representing various provinces, over and above other stakeholders, including the nine (9) Provincial CoGTA's / DLG, National Treasury, Department of Public Service and Administration (DPSA), South African Local Government Association (SALGA), Financial and Fiscal Commission (FFC).

Municipalities have been requested to submit information to the Department, which would amongst others, guide the scope of revision of the remuneration regime. This Notice does not address most of the concerns experienced by municipalities on the remuneration of senior managers. The Working Team is tasked with rectifying those. The cooperation of municipalities in ensuring that the review adopts a data – driven modality, by submitting the required data without delay to the Department is requested.

Ms. Fikile Tshabangu – Senior Manager: Municipal Human Resource Support & OD, contactable: per email on: ftshabangu@salga.org.za or on 0828022098, is the designated official to assist in the consolidating of this work.

Yours sincerely



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