

# ENGLISH ?



## WET OP PLAASLIKE REGERING: MUNISIPALE FINANSIËLE BESTUUR NO. 56 VAN 2003

[GOEDGEKEUR OP 9 FEBRUARIE 2004]  
[DATUM VAN INVOERING: 1 JULIE 2004]

(Tensy anders vermeld)

(Engelse teks deur die President geteken)



Hierdie Wet is gepubliseer in *Staatskoerant* 27748 gedateer 30 Junie 2005.

Investment Regulations

Public-Private Partnership Regulations

Supply Chain Management Regulations

Wet op die Raamwerk vir Voorkeurverkrygingsbeleid, 2000 (No.5 of 2000) & Regulations No. R. 32 of 20 January 2017

Municipal Budget and Reporting Regulations

WET

Municipal Asset Transfer Regulations

Om deeglike en volhoubare bestuur van die finansiële sake van munisipaliteite en ander instellings in die plaaslike regeringsfeer te verseker; om tesourienorme en standaarde vir die plaaslike regeringsfeer daar te stel; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

HOOFSTUK 1  
UITLEG, OOGMERK, TOEPASSING EN WYSIGING VAN WET

**1. Woordomskrywings.**—(1) In hierdie Wet, tensy uit die samehang anders blyk, beteken—

„**alleenbeheer**”, met betrekking tot ’n munisipale entiteit, die regte en bevoegdhede wat ’n munisipaliteit oor ’n munisipale entiteit het wat—

- (a) ’n privaat maatskappy is waarin effektiewe beheer soos omskryf in artikel 1 van die Wet op Munisipale Stelsels in daardie munisipaliteit alleen berus; of
- (b) ’n diens-nutsmaatskappy is wat deur die munisipaliteit ingestel is;

„**basiese munisipale diens**” ’n munisipale diens wat noodsaaklik is om aanvaarbare en redelike lewenskwaliteit te verseker en wat, indien dit nie verskaf word nie, openbare gesondheid of veiligheid, of die omgewing, in gevaar sal stel;



**„beampte”**, met betrekking tot ’n munisipaliteit of ’n munisipale entiteit—

- (a) ’n werknemer van ’n munisipaliteit of munisipale entiteit;
- (b) ’n persoon geseondeer aan ’n munisipaliteit of munisipale entiteit om as lid van die personeel van die munisipaliteit of munisipale entiteit te werk; of
- (c) ’n persoon deur ’n munisipaliteit of munisipale entiteit gekontrakteer om as lid van die personeel van die munisipaliteit of munisipale entiteit andersins as ’n werknemer te werk;

**„Begrotingsforum”** dieselfde as die betekenis wat in artikel 1 van die Wet op Interregerings- Fiskale Betrekkinge, 1997 (Wet No. 97 van 1997), daaraan geheg is;

**„begrotingsjaar”** die finansiële jaar waarvoor ’n jaarlikse begroting ingevolge artikel 16(1) goedgekeur moet word;

**„begrotingspos”**—

- (a) een van die hoofsegmente waarin ’n begroting van ’n munisipaliteit verdeel word vir die bewilliging van geld vir die verskillende departemente of funksionele terreine van die munisipaliteit; en
- (b) wat die totale bedrag vermeld wat bewillig word vir die doeleindes van die departement of die betrokke funksionele terrein;

**„begrotingsverwante beleidsdokument”** ’n beleidsdokument van munisipaliteit wat die jaarlikse begroting van die munisipaliteit raak of wat deur die jaarlikse begroting geraak word, en ook—

- (a) die tariefbeleid wat ’n munisipaliteit ingevolge artikel 74 van die Wet op Munisipale Stelsels moet aanneem;
- (b) die beleid op eiendomsbelasting wat ’n munisipaliteit moet aanneem ingevolge wetgewing wat munisipale eiendomsbelasting reguleer; of
- (c) die kredietbeheer- en skuldinvorderingsbeleid wat ’n munisipaliteit ingevolge artikel 96 van die Wet op Munisipale Stelsels moet aanneem;

**„belegging”**, met betrekking tot fondse van ’n munisipaliteit—

- (a) die plasing op deposito van fondse van ’n munisipaliteit by ’n finansiële instelling; of
- (b) die verkryging van bates met fondse van ’n munisipaliteit wat nie dadelik nodig word nie, met die primêre doel om daardie fondse in stand te hou;

**„burgemeester”**, met betrekking tot—

- (a) ’n munisipaliteit met ’n uitvoerende burgemeester, die raadslid wat ingevolge artikel 55 van die Wet op Munisipale Strukture as die uitvoerende burgemeester verkies is; of
- (b) ’n munisipaliteit met ’n uitvoerende komitee, die raadslid wat ingevolge artikel 48 van daardie Wet as die burgemeester van die munisipaliteit verkies is;

**„delegasie”**, met betrekking tot ’n plig, ook ’n instruksie of versoek om die plig uit te voer of om hulp met die uitvoering van die plig te verleen;

**„diensleweringsooreenkoms”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„dienslewerings- en begrotingsimplementeringsplan”** ’n gedetailleerde plan wat deur die burgemeester van ’n munisipaliteit ingevolge artikel 53 (1) (c) (ii) goedgekeur is vir die implementering van die munisipaliteit se lewering van munisipale dienste en van sy jaarlikse begroting, en wat moet aandui—

- (a) projeksies vir elke maand van—
  - (i) inkomste wat geïm moet word, per bron; en
  - (ii) bedryfs- en kapitaalbestedings, per begrotingspos;
- (b) diensleweringsteikens en prestasie-aanwysers vir elke kwartaal; en
- (c) enige ander aangeleenthede wat voorgeskryf mag word,

en sluit in enige hersienings van sodanige plan deur die burgemeester ingevolge artikel 54 (1) (c);

**„diens-nutsmaatskappy”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„direksie”**, met betrekking tot ’n munisipale entiteit, dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„distriksmunisipaliteit”** ’n munisipaliteit wat munisipale uitvoerende en wetgewende munisipale gesag het in ’n gebied wat meer as een munisipaliteit insluit, en wat in artikel 155 (1) van die Grondwet as ’n kategorie C munisipaliteit beskryf word;

**„finansiële herstelplan”** ’n plan ingevolge artikel 141 opgestel;

**„finansiële jaar”** ’n jaar wat op 30 Junie eindig;

**„finansieringsooreenkoms”** ook enige leningsooreenkoms, huurkontrak, afbetalingskoopkontrak of huurkooppreëling, waarkragtens ’n munisipaliteit onderneem om oor ’n tydperk heen ’n langtermynskuld te betaal;

**„finansiële state”**, met betrekking tot ’n munisipaliteit of munisipale entiteit, state wat bestaan uit ten minste—

- (a) ’n staat van finansiële posisie;
- (b) ’n staat van finansiële prestasie;
- (c) ’n kontantvloeistaat;
- (d) enige ander state wat voorgeskryf mag word; en
- (e) enige aantekeninge by hierdie state;

**„gedeelde beheer”**, met betrekking tot ’n munisipale entiteit, die regte en bevoegdhede wat ’n munisipaliteit oor ’n munisipale entiteit het wat—

- (a) ’n privaat maatskappy is waarin effektiewe beheer soos omskryf in artikel 1 van die Wet op Munisipale Stelsels in daardie munisipaliteit en een of meer ander munisipaliteite gesamentlik berus; of
- (b) ’n multi-jurisdiksionele diens-nutsmaatskappy is waarin daardie munisipaliteit ’n deelnemer is;

**„georganiseerde plaaslike regering”** ’n organisasie wat ingevolge artikel 2 (1) van die Wet op Georganiseerde Plaaslike Regering, 1997 (Wet No. 52 van 1997), erken word om plaaslike regering op nasionale of provinsiale vlak te verteenwoordig;

**„goedgekeurde begroting”** ’n jaarlikse begroting wat—

- (a) deur ’n munisipale raad goedgekeur is; of
- (b) deur ’n provinsiale of die nasionale uitvoerende gesag na aanleiding van ’n ingryping ingevolge artikel 139 van die Grondwet goedgekeur is, en ook ’n jaarlikse begroting soos deur ’n aansuiweringsbegroting ingevolge artikel 28 hersien;

**„hierdie Wet”** ook regulasies uitgevaardig ingevolge artikel 168 of 175;

**„Hoof”,** met betrekking tot die Munisipale Finansiële Hersteldiens, ’n persoon wat—

- (a) ingevolge artikel 159 as die Hoof van die Diens aangestel is; of
- (b) as die Hoof van die Diens waarneem;

**„hoof- finansiële beampte”** ’n persoon ingevolge artikel 80 (2) (a) aangewys;

**„huidige jaar”** die finansiële jaar wat reeds begin het, maar nog nie geëindig het nie;

**„jaarlikse Wet op die Verdeling van Inkomste”** die Parlements wet wat jaarliks ingevolge artikel 2 14 (1) van die Grondwet uitgevaardig moet word;

**„jaarverslag”,** met betrekking tot ’n munisipaliteit of munisipale entiteit, ’n jaarverslag beoog in artikel 121;

**„kategorie”,** met betrekking tot munisipaliteite, ’n kategorie A, B of C munisipaliteit bedoel in artikel 155 (1) van die Grondwet;

**„korttermynskuld”** skuld terugbetaalbaar oor ’n tydperk van hoogstens een jaar;

**„kwartaal”** enige van die volgende tydperke tydens ’n finansiële jaar:

- (a) 1 Julie tot 30 September;
- (b) 1 Oktober tot 31 Desember;
- (c) 1 Januarie tot 31 Maart; of
- (d) 1 April tot 30 Junie;

**„langtermynskuld”** skuld terugbetaalbaar oor ’n tydperk van langer as een jaar;

**„LUR vir finansies”** die lid van die Uitvoerende Raad van ’n provinsie wat vir finansies in daardie provinsie verantwoordelik is;

**„LUR vir plaaslike regering”** die lid van die Uitvoerende Raad van ’n provinsie wat vir plaaslike regering in daardie provinsie verantwoordelik is;

**„maand”** een van die twaalf maande van ’n kalenderjaar;

**„Minister”** die Kabinetslid wat vir finansies verantwoordelik is;

**„moedermunisipaliteit”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„multi-jurisdiksionele diens-nutsmaatskappy”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„munisipale belasting”** eiendomsbelastings of ander belastings, heffings of regte wat ’n munisipaliteit kan hef;

**„munisipale bestuurder”** ’n persoon ingevolge artikel 82 (1) (a) of (b) van die Wet op Munisipale Strukture aangestel;

**„munisipale diens”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„munisipale entiteit”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„Munisipale Finansiële Hersteldiens”** die Munisipale Finansiële Hersteldiens deur artikel 157 ingestel;

**„munisipale raad”** of **„raad”** die raad van ’n munisipaliteit bedoel in artikel 18 van die Wet op Munisipale Strukture;

**„munisipale skuldakte”** enige skuldnota, verband, skuldbrief of ander bewys van skuld deur ’n munisipaliteit uitgereik, met inbegrip van gedematerialiseerde of elektroniese bewys van skuld wat bestem is vir gebruik in die handel;

**„munisipale tarief”** ’n tarief vir dienste wat ’n munisipaliteit kan vasstel vir die lewering van ’n diens aan die plaaslike gemeenskap, en ook ’n bo-belasting op sodanige tarief;

**„munisipaliteit”**—

- (a) wanneer daarna verwys word as ’n korporatiewe liggaam, ’n munisipaliteit soos beskryf in artikel 2 van die Wet op Munisipale Stelsels; en
- (b) wanneer daarna verwys word as ’n geografiese gebied, ’n munisipale gebied afgebaken ingevolge die Plaaslike Regering: Wet op Munisipale Afbakening, 1998 (Wet No. 27 van 1998);

**„Nasionale Tesourie”** die Nasionale Tesourie deur artikel 5 van die Wet op Openbare Finansiële Bestuur ingestel;

**„ongemagtigde besteding”**, met betrekking tot ’n munisipaliteit, enige besteding aangegaan deur ’n munisipaliteit op ’n ander wyse as ooreenkomstig artikel 15 of 11 (3), en ook—

- (a) oorbesteding van die totale bedrag wat in die munisipaliteit se goedgekeurde begroting bewillig is;
- (b) oorbesteding van die totale bedrag wat in die goedgekeurde begroting vir ’n begrotingspos bewillig is;
- (c) besteding uit ’n begrotingspos wat nie verwant is aan die departement of funksionele terrein wat deur die begrotingspos gedek word nie;

- (d) besteding van geld wat vir 'n spesifieke doel bewillig is, op 'n ander wyse as vir daardie spesifieke doel;
- (e) besteding van 'n toekenning bedoel in paragraaf (b), (c) of (d) van die omskrywing van „toekenning” op 'n ander wyse as ooreenkomstig enige voorwaardes van die toekenning; of
- (f) 'n toekenning deur die munisipaliteit op 'n ander wyse as ooreenkomstig hierdie Wet;

**„onreëlmatige besteding”, met betrekking tot 'n munisipaliteit of munisipale entiteit—**

- (a) bestedings wat deur 'n munisipaliteit of munisipale entiteit aangegaan is in stryd met, of wat nie in ooreenstemming is nie met, 'n vereiste van hierdie Wet, en wat nie ingevolge artikel 170 gekondoneer is nie;
- (b) bestedings wat deur 'n munisipaliteit of munisipale entiteit aangegaan is in stryd met, of wat nie in ooreenstemming is nie met, 'n vereiste van die Wet op Munisipale Stelsels, en wat nie ingevolge daardie Wet gekondoneer is nie;
- (c) bestedings wat deur 'n munisipaliteit aangegaan is in stryd met, of wat nie in ooreenstemming is nie met, 'n vereiste van die Wet op Openbare Ampsdraers, 1998 (Wet No. 20 van 1998); of
- (d) bestedings wat deur 'n munisipaliteit of munisipale entiteit aangegaan is in stryd met, of wat nie in ooreenstemming is nie met, 'n vereiste van die voorsieningskanaal-bestuursbeleid van die munisipaliteit of entiteit of enige van die munisipaliteit se verordeninge wat uitvoering gee aan sodanige beleid, en wat nie ingevolge sodanige beleid of verordeninge gekondoneer is nie,

maar nie ook bestedings deur 'n munisipaliteit wat binne die omskrywing van „ongemagtigde besteding” val nie;

**„oorbesteding”—**

- (a) met betrekking tot die begroting van 'n munisipaliteit, om te veroorsaak dat die bedryfs- of kapitaalbestedings wat gedurende die finansiële jaar deur die munisipaliteit aangegaan is, die totale bedrag oorskry wat in die begroting vir daardie jaar vir die munisipaliteit se bedryfs- of kapitaalbestedings, na gelang van wat toepaslik mag wees, bewillig is;
- (b) met betrekking tot 'n begrotingspos, om te veroorsaak dat bestedings onder die begrotingspos die bedrag oorskry wat vir daardie begrotingspos bewillig is; of
- (c) met betrekking tot bestedings kragtens artikel 26, om te veroorsaak dat bestedings kragtens daardie artikel die perke oorskry wat ingevolge subartikel (5) van daardie artikel toegelaat word;

**„Ouditeur-generaal”** die persoon wat ingevolge artikel 193 van die Grondwet as Ouditeur-generaal aangestel is, en ook iemand wat—

- (a) as Ouditeur-generaal waarneem;
- (b) ingevolge 'n delegasie deur die Ouditeur-generaal optree; of
- (c) deur die Ouditeur-generaal aangewys is om 'n bevoegdheid of plig van die Ouditeur-generaal uit te oefen of te verrig;

**„plaaslike gemeenskap”** dieselfde as die betekenis wat in artikel 1 van die Wet op Munisipale Stelsels daaraan geheg is;

**„plaaslike munisipaliteit”** ’n munisipaliteit wat uitvoerende en wetgewende gesag in daardie munisipaliteit se gebied deel met ’n distriksmunisipaliteit binne wie se gebied dit geleë is, en wat in artikel 155 (1) van die Grondwet as ’n kategorie B munisipaliteit beskryf word;

**„politieke ampsdraer”**, met betrekking tot ’n munisipaliteit—

- (a) die speaker, uitvoerende burgemeester, adjunk- uitvoerende burgemeester, burgemeester, adjunkburgemeester of ’n lid van die uitvoerende- of burgemeesterskomitee van ’n munisipaliteit wat ingevolge ’n spesifieke bepaling van die Wet op Munisipale Strukture verkies, aangewys of aangestel is; of
- (b) ’n raadslid bedoel in artikel 57 (1);

**„politieke struktuur”**, met betrekking tot ’n munisipaliteit—

- (a) die raad van ’n munisipaliteit; of
- (b) enige komitee of ander kollektiewe struktuur van ’n munisipaliteit wat ingevolge ’n spesifieke bepaling van die Wet op Munisipale Strukture verkies, benoem of aangestel is;

**„primêre bankrekening”** ’n bankrekening bedoel in artikel 8 (1);

**„privaatmaatskappy”** ’n maatskappy bedoel in artikels 19 en 20 van die Maatskappywet, 1973 (Wet No. 61 van 1973);

**„provinsiale departement”** ’n departement in Bylae 2 by die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), vermeld, wat binne ’n provinsiale administrasie val wat in Bylae 1 by daardie Wet vermeld word;

**„provinsiale tesourie”** ’n tesourie deur artikel 17 van die Wet op Openbare Finansiële Bestuur ingestel;

**„raadslid”** ’n lid van ’n munisipale raad;

**„rekenpligtige beampte”**—

- (a) met betrekking tot ’n munisipaliteit, die munisipale beampte bedoel in artikel 60; of
- (b) met betrekking tot ’n munisipale entiteit, die beampte van die entiteit bedoel in artikel 93, en ook ’n persoon wat as rekenpligtige beampte waarneem;

**„sekuriteit”** ’n meganisme bestem om die belang van ’n uitlener of belegger te beveilig, en ook enige van die meganismes genoem in artikel 48 (2);

**„senior bestuurder”**—

- (a) met betrekking tot ’n munisipaliteit, ’n bestuurder bedoel in artikel 56 van die Wet op Munisipale Stelsels; of
- (b) met betrekking tot ’n munisipale entiteit, ’n bestuurder wat direk verantwoordbaar is aan die hoof- uitvoerende beampte van die entiteit;

**„skuld”**—

- (a) ’n monetêre aanspreeklikheid of verpligting geskep deur ’n finansieringsooreenkoms, skuldnota, skuldbrief, verband of oortrekking, of deur die uitreiking van munisipale skuldaktes; of
- (b) ’n voorwaardelike aanspreeklikheid geskep deur ’n monetêre aanspreeklikheid of verpligting van ’n ander te waarborg;

„**skuldeiser**”, met betrekking tot ’n munisipaliteit. enige persoon aan wie die munisipaliteit geld verskuldig is;

„**standaarde van algemeen erkende rekeningkundige praktyk**” ’n rekeningkundige praktyk wat voldoen aan standaarde wat van toepassing is op munisipaliteite of munisipale entiteite en wat ingevolge Hoofstuk 11 van die Wet op Openbare Finansiële Bestuur uitgevaardig is;

„**toekenning**”, met betrekking tot ’n munisipaliteit—

- (a) ’n munisipaliteit se deel van plaaslike regering se billike deel bedoel in artikel 214 (1) (a) van die Grondwet;
- (b) ’n toekenning van geld aan ’n munisipaliteit ingevolge artikel 214 (1) (c) van die Grondwet;
- (c) ’n toekenning van geld aan ’n munisipaliteit ingevolge ’n provinsiale begroting; of
- (d) enige ander toekenning van geld aan ’n munisipaliteit deur ’n staatsorgaan, asook deur ’n ander munisipaliteit, andersins as ingevolge ’n kontraktuele verpligting;

„**uitlener**”, met betrekking tot ’n munisipaliteit, ’n persoon wat skuldfinansiering aan ’n munisipaliteit verskaf;

„**voorskryf**” voorskryf by regulasie ingevolge artikel 168;

„**vorige finansiële jaar**” die finansiële jaar wat die huidige jaar voorafgaan;

„**vrugtelose en verkwiste besteding**” besteding wat onnodig aangegaan is en wat vermy kon gewees het indien redelike sorg aan die dag gelê was;

„**Wet op Munisipale Stelsels**” die Plaaslike Regering: Wet op Munisipale Stelsels, 2000 (Wet No. 32 van 2000);

„**Wet op Munisipale Strukture**” die Plaaslike Regering: Wet op Munisipale Strukture, 1998 (Wet No. 117 van 1998);

„**Wet op Openbare Finansiële Bestuur**” die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999).

(2) In hierdie Wet het ’n woord of uitdrukking wat afgelei is van ’n woord of uitdrukking wat in subartikel (1) omskryf is, ’n ooreenstemmende betekenis tensy die samehang aandui dat ’n ander betekenis bedoel word.

**2. Oogmerk van Wet.**—Die oogmerk van hierdie Wet is om deeglike en volhoubare bestuur van die fiskale en finansiële sake van munisipaliteite en munisipale entiteite te verseker deur norme en standaarde en ander vereistes daar te stel—

- (a) om deursigtigheid, verantwoordingspligtheid en gepaste verantwoordelikhedskanale in

- die fiskale en finansiële sake van munisipaliteite en munisipale entiteite te verseker;
- (b) vir die bestuur van hul inkomste, bestedings, bates en laste, asook die hantering van hul finansiële transaksies;
  - (c) vir begrotings- en finansiële beplanningsprosesse en die koördineringsprosesse met dié van staatsorgane in ander regeringsfere;
  - (d) vir die leen van geld;
  - (e) vir die hantering van finansiële probleme in munisipaliteite;
  - (f) vir voorsieningskanaalbestuur; en
  - (g) vir ander finansiële aangeleenthede.

**3. Instellings waarop hierdie Wet van toepassing is.**—(1) Hierdie Wet is van toepassing op—

- (a) alle munisipaliteite;
- (b) alle munisipale entiteite; en
- (c) nasionale en provinsiale staatsorgane in die mate van hul finansiële transaksies met munisipaliteite.

(2) In geval van 'n teenstrydigheid tussen 'n bepaling van hierdie Wet en enige ander wetgewing van krag by die inwerkingtreding van hierdie Wet en wat 'n aspek van die fiskale en finansiële sake van munisipaliteite of munisipale entiteite reguleer, gee die bepaling van hierdie Wet die deurslag.

**4. Wysigings van Wet.**—Konsep nasionale wetgewing wat hierdie Wet direk of indirek wysig, of wat voorsiening maak vir die uitvaardiging van ondergeskikte wetgewing wat strydig met hierdie Wet mag wees, kan by die Parlement ingedien word slegs nadat die Minister en die Finansiële en Fiskale Kommissie skriftelik geraadpleeg is oor die strekking van die konsepwetgewing en skriftelik daarop gereageer het.

## HOOFSTUK 2 TOESIG OOR PLAASLIKE REGERING FINANSIËLE BESTUUR

**5. Algemene funksies van Nasionale Tesourie en provinsiale tesourieë.**—(1) Die Nasionale Tesourie moet—

- (a) sy verantwoordelikhede ingevolge Hoofstuk 13 van die Grondwet en hierdie Wet nakom;
- (b) die oogmerk van hierdie Wet vermeld in artikel 2 bevorder—
  - (i) binne die raamwerk van regering van samewerking soos in Hoofstuk 3 van die Grondwet uiteengesit; en
  - (ii) in die koördinerings- en finansiële en fiskale interregeringsbetrekkings ingevolge die Wet op Interregerings- Fiskale Betrekkings, 1997 (Wet No. 97 van 1997), die jaarlikse Wet op die Verdeling van Inkomste en die Wet op Openbare Finansiële Bestuur; en
- (c) nakoming afdwing van die maatreëls ingestel ingevolge artikel 216 (1) van die Grondwet, met inbegrip van daardie ingevolge hierdie Wet ingestel.



- (2) In soverre dit nodig is om aan subartikel (1) te voldoen, kan die Nasionale Tesourie—
- (a) die begrotings van munisipaliteite monitor ten einde te bepaal of daardie begrotings—
    - (i) met die nasionale regering se fiskale en makro-ekonomiese beleid bestaanbaar is; en
    - (ii) aan Hoofstuk 4 voldoen;
  - (b) goeie begrotings- en fiskale bestuur deur munisipaliteite bevorder, en vir hierdie doel die implementering van munisipale begrotings monitor, met inbegrip van hul besteding, insameling van inkomste en lenings;
  - (c) munisipaliteite en munisipale entiteite monitor en bepaal of hulle voldoen aan—
    - (i) hierdie Wet; en
    - (ii) enige toepaslike standaarde van algemeen erkende rekeningkundige praktyk en eenvormige bestedings- en inkomste-klassifikasiesistels;
  - (d) enige stelsel van finansiële bestuur en interne beheer in enige munisipaliteit of munisipale entiteit ondersoek en verbeterings voorstel;
  - (e) gepaste stappe doen as 'n munisipaliteit of munisipale entiteit 'n breuk van hierdie Wet begaan, met inbegrip van die staking van fondse aan 'n munisipaliteit ingevolge artikel 216 (2) van die Grondwet as die munisipaliteit, of 'n munisipale entiteit onder die alleen- of gedeelde beheer van daardie munisipaliteit, 'n ernstige of volgehoue wesenlike breuk van enige maatreëls bedoel in daardie artikel begaan; en
  - (f) enige ander gepaste stappe doen wat nodig is om sy funksies effektief te verrig.
- (3) 'n Provinsiale tesourie moet ooreenkomstig 'n voorgeskrewe raamwerk—
- (a) sy verantwoordelikhede ingevolge hierdie Wet nakom;
  - (b) die oogmerk van hierdie Wet soos vermeld in artikel 2 binne die raamwerk van regering van samewerking uiteengesit in Hoofstuk 3 van die Grondwet bevorder; en
  - (c) die Nasionale Tesourie behulpsaam wees om nakoming af te dwing van die maatreëls kragtens artikel 216 (1) van die Grondwet ingestel, met inbegrip van die maatreëls ingevolge hierdie Wet ingestel.

(Datum van inwerkingtreding van sub-a. (3): 1 Julie 2005.)

- (4) In soverre dit nodig is om aan subartikel (3) te voldoen—
- (a) moet 'n provinsiale tesourie die volgende monitor:
    - (i) Nakoming van hierdie Wet deur munisipaliteite en munisipale entiteite in die provinsie;
    - (ii) die opstel deur munisipaliteite in die provinsie van hul begrotings;
    - (iii) die maandelikse resultaat van daardie begrotings; en
    - (iv) die voorlegging van verslae deur munisipaliteite in die provinsie soos ingevolge hierdie Wet vereis;
  - (b) kan 'n provinsiale tesourie hulp aan munisipaliteite in die provinsie verleen met die opstel van hul begrotings;
  - (c) kan 'n provinsiale tesourie enige bevoegdhede uitoefen en moet 'n provinsiale tesourie

enige pligte verrig wat ingevolge hierdie Wet deur die Nasionale Tesourie aan hom gedelegeer is; en

- (d) kan 'n provinsiale tesourie gepaste stappe doen indien 'n munisipaliteit of munisipale entiteit in die provinsie 'n breuk van hierdie Wet begaan.

(Datum van inwerkingtreding van sub-a. (4): 1 Julie 2005.)

(5) Die funksies ingevolge hierdie Wet aan die Nasionale Tesourie of 'n provinsiale tesourie opgedra, is bykomend tot daardie ingevolge die Wet op Openbare Finansiële Bestuur aan die Nasionale Tesourie of 'n provinsiale tesourie opgedra.

(6) Die Minister, as hoof van die Nasionale Tesourie, neem alle besluite van die Nasionale Tesourie ingevolge hierdie Wet, behalwe daardie besluite wat uit hoofde van 'n delegasie ingevolge artikel 6 (1) geneem word.

(7) Die LUR vir finansies in 'n provinsie, as hoof van die provinsiale tesourie, neem alle besluite van die provinsiale tesourie ingevolge hierdie Wet, behalwe daardie besluite wat uit hoofde van 'n delegasie ingevolge artikel 6 (4) geneem word.

(8) 'n Provinsiale tesourie moet alle inligting ingevolge hierdie Wet aan hom voorgelê, op 'n kwartaallikse basis, of wanneer daartoe versoek, aan die Nasionale Tesourie voorlê.

(Datum van inwerkingtreding van sub-a. (8): 1 Julie 2005.)

**6. Delegasies deur Nasionale Tesourie.**—(1) Die Minister kan enige van die bevoegdhede of pligte wat ingevolge hierdie Wet aan die Nasionale Tesourie opgedra is, deleger aan—

- (a) die Direkteur-generaal van die Nasionale Tesourie; of  
(b) die LUR verantwoordelik vir 'n provinsiale departement, soos tussen die Minister en die LUR ooreengekom mag word.

(2) Die Minister mag nie die Nasionale Tesourie se bevoegdheid deleger om fondse aan 'n munisipaliteit ingevolge artikel 5 (2) (e) te staak nie.

(3) 'n Delegasie ingevolge subartikel (1)—

- (a) moet op skrif wees;  
(b) is onderworpe aan enige beperkings of voorwaardes wat die Minister mag oplê;  
(c) kan, behoudens enige sodanige beperkings of voorwaardes—  
(i) die Direkteur-generaal van die Nasionale Tesourie magtig om 'n gedelegeerde bevoegdheid of plig te subdeleger aan 'n personeellid van die Nasionale Tesourie; en  
(ii) die LUR verantwoordelik vir die betrokke provinsiale departement magtig om 'n gedelegeerde bevoegdheid of plig te subdeleger aan 'n personeellid van daardie departement; en  
(d) ontdoen nie die Nasionale Tesourie van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die gedelegeerde plig nie.

(4) Die LUR vir finansies in 'n provinsie kan enige van die bevoegdhede of pligte ingevolge hierdie Wet aan 'n provinsiale tesourie opgedra, aan die hoof van die betrokke provinsiale departement waarvan die provinsiale tesourie deel vorm, deleger.

- (5) 'n Delegasie ingevolge subartikel (4)—
- (a) moet op skrif wees;
  - (b) is onderworpe aan enige beperkings of voorwaardes wat die LUR vir finansies in die provinsie mag oplê;
  - (c) kan, behoudens enige sodanige beperkings of voorwaardes, die betrokke hoof van die provinsiale departement magtig om 'n gedelegeerde bevoegdheid of plig aan 'n personeellid van daardie tesourie te subdelekeer; en
  - (d) ontdoen nie die provinsiale tesourie van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die gedelegeerde plig nie.

(6) Die Minister of LUR vir finansies in 'n provinsie, na gelang van wat toepaslik mag wees, kan enige besluit geneem uit hoofde van 'n delegasie of subdelegasie ingevolge hierdie artikel, bevestig, wysig of herroep, maar so 'n wysiging of herroeping van 'n besluit mag nie afbreuk doen aan enige regte wat as gevolg van die besluit mag ontstaan het nie.

### HOOFTUK 3 MUNISIPALE INKOMSTE

#### *Deel 1: Munisipale bankrekenings*

**7. Opening van bankrekenings.**—(1) Elke munisipaliteit moet ten minste een bankrekening in die naam van die munisipaliteit open en in stand hou.

(2) Alle geld wat deur 'n munisipaliteit ontvang word, moet in die munisipaliteit se bankrekening of -rekenings inbetaal word, en dit moet onverwyld en ooreenkomstig hierdie Hoofstuk sowel as enige vereistes wat voorgeskryf mag word, gedoen word.

- (3) 'n Munisipaliteit mag nie 'n bankrekening open—
- (a) in die buiteland nie;
  - (b) by 'n instelling wat nie ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), as 'n bank geregistreer is nie; of
  - (c) andersins as in die naam van die munisipaliteit nie.
- (4) Geld kan slegs ingevolge artikel 11 (1) uit 'n munisipale bankrekening onttrek word.

**8. Primêre bankrekenings.**—(1) 'n Munisipaliteit moet 'n primêre bankrekening hê. Indien 'n munisipaliteit—

- (a) slegs een bankrekening het, is daardie rekening die munisipaliteit se primêre bankrekening; of
  - (b) meer as een bankrekening het, moet die munisipaliteit een van daardie bankrekenings as sy primêre bankrekening aanwys.
- (2) Die volgende gelde moet in 'n munisipaliteit se primêre bankrekening inbetaal word:
- (a) Alle toekennings aan die munisipaliteit, met inbegrip van daardie toekennings wat aan die munisipaliteit betaal is vir oordrag aan 'n munisipale entiteit of ander eksterne meganisme

wat die munisipaliteit bystaan met die verrigting van sy funksies;

- (b) alle inkomste ontvang deur die munisipaliteit op sy beleggings;
- (c) alle inkomste ontvang deur die munisipaliteit met betrekking tot sy belang in enige munisipale entiteit, met inbegrip van dividende;
- (d) alle geld deur 'n munisipale entiteit of ander eksterne meganisme namens die munisipaliteit ingevorder; en
- (e) enige ander gelde wat voorgeskryf mag word.

(3) 'n Munisipaliteit moet alle redelike stappe doen om te verseker dat al die gelde in subartikel (2) bedoel in sy primêre bankrekening inbetaal word.

(4) Geen staatsorgaan in die nasionale, provinsiale of plaaslike regeringsfeer mag 'n toekenning van fondse in subartikel (2) bedoel aan 'n munisipaliteit oordra behalwe deur die munisipaliteit se primêre bankrekening nie. Alle toekennings verskuldig deur 'n staatsorgaan aan 'n munisipale entiteit moet gemaak word deur die moedermunisipaliteit, of indien daar meer as een moedermunisipaliteit is, deur enige van daardie moedermunisipaliteite soos tussen die moedermunisipaliteite ooreengekom mag word.

(5) Die rekenpligtige beampte van 'n munisipaliteit moet die naam van die bank waar die primêre bankrekening van die munisipaliteit geopen is, en die tipe en nommer van die rekening, skriftelik aan die Nasionale Tesourie, die betrokke provinsiale tesourie en die Ouditeur-generaal verstrek. Indien 'n munisipaliteit sy primêre bankrekening wil verander, kan die munisipaliteit dit doen slegs nadat die rekenpligtige beampte die Nasionale Tesourie en die Ouditeur-generaal ten minste 30 dae voordat die wysiging gedoen word, skriftelik daarvan in kennis gestel het.

**9. Bankrekeningbesonderhede verstrek te word aan provinsiale tesourieë en Ouditeur-generaal.**—Die rekenpligtige beampte van 'n munisipaliteit moet skriftelik aan die betrokke provinsiale tesourie en die Ouditeur-generaal verstrek—

- (a) binne 90 dae nadat die munisipaliteit 'n nuwe bankrekening geopen het, die naam van die bank waar die rekening geopen is en die tipe en nommer van die rekening; en
- (b) jaarliks voor die aanvang van 'n finansiële jaar, die naam van elke bank waar die munisipaliteit 'n bankrekening het, en die tipe en nommer van elke rekening.

(Datum van inwerkingtreding van a. 9: 1 April 2005.)

**10. Beheer oor munisipale bankrekenings.**—(1) Die rekenpligtige beampte van 'n munisipaliteit—

- (a) moet al die munisipaliteit se bankrekenings bestuur, met inbegrip van 'n bankrekening bedoel in artikel 12 of 48 (2) (d);
- (b) is verantwoordingspligtig teenoor die munisipale raad vir die munisipaliteit se bankrekenings; en
- (c) moet nakoming van artikels 7, 8 en 11 afdwing.

(2) Die rekenpligtige beampte kan die pligte beoog in subartikel (1) (c) slegs aan die munisipaliteit se hoof- finansiële beampte delegeer.

**11. Onttrekkings uit munisipale bankrekenings.**—(1) Slegs die rekenpligtige beampte of die hoof- finansiële beampte van 'n munisipaliteit, of enige ander senior beampte van die munisipaliteit wat

met die skriftelike magtiging van die rekenpligtige beampte optree, kan geld onttrek uit enige van die munisipaliteit se bankrekenings, of die onttrekking daarvan magtig, en kan dit doen slegs—

- (a) om bestedings te maak wat ingevolge 'n goedgekeurde begroting bewillig is;
- (b) om bestedings te maak wat ingevolge artikel 26 (4) gemagtig is;
- (c) om onvoorsiene en onvermydelike bestedings te maak wat ingevolge artikel 29 (1) gemagtig is;
- (d) om, in die geval van 'n bankrekening wat ingevolge artikel 12 geopen is, betalings uit die rekening ooreenkomstig subartikel (4) van daardie artikel te maak;
- (e) om aan 'n persoon of staatsorgaan geld oor te betaal wat deur die munisipaliteit namens daardie persoon of staatsorgaan ontvang is, met inbegrip van—
  - (i) geld wat deur die munisipaliteit namens daardie persoon of staatsorgaan by ooreenkoms ingevorder is; of
  - (ii) enige assurance- of ander betalings deur die munisipaliteit namens daardie persoon of staatsorgaan ontvang;
- (f) om geld terug te betaal wat foutiewelik in 'n bankrekening gestort is;
- (g) om waarborge, borge en sekuriteitsdeposito's terug te betaal;
- (h) vir doeleindes van kontantbestuur en belegging ooreenkomstig artikel 13;
- (i) om verhoogde besteding ingevolge artikel 31 te betaal; of
- (j) vir sodanige ander doeleindes wat voorgeskryf mag word.

(2) Enige magtiging aan 'n senior finansiële beampte ingevolge subartikel (1) om geld te onttrek of om die onttrekking van geld uit 'n bankrekening te magtig, moet in ooreenstemming wees met 'n raamwerk wat voorgeskryf mag word. Die rekenpligtige beampte mag geen beampte behalwe die hoof-finansiële beampte magtig om geld te onttrek, of die onttrekking van geld te magtig, uit die munisipaliteit se primêre bankrekening nie, indien die munisipaliteit 'n primêre bankrekening het wat afsonderlik van sy ander bankrekenings is.

(3) Geld kan ingevolge subartikel (1) (b) tot (j) uit 'n bankrekening onttrek word sonder bewilliging ingevolge 'n goedgekeurde begroting.

(4) Die rekenpligtige beampte moet binne 30 dae na die einde van elke kwartaal—

- (a) 'n gekonsolideerde verslag in die munisipale raad ter tafel lê van alle onttrekkings ingevolge subartikel (1) (b) tot (j) gedurende daardie kwartaal gedoen; en
- (b) 'n afskrif van die verslag aan die betrokke provinsiale tesourie en die Ouditeur-generaal voorlê.

**12. Noodlenigings-, liefdadigheids-, trust- of ander fondse.**—(1) Geen politieke struktuur of politieke ampsdraer van 'n munisipaliteit mag 'n noodlenigings-, liefdadigheids-, trust- of ander fonds van watter soort ook al stig behalwe in die naam van die munisipaliteit nie. Slegs die munisipale bestuurder mag die rekenpligtige beampte van enige sodanige fonds wees.

(2) 'n Munisipaliteit kan ingevolge artikel 7 'n afsonderlike bankrekening in die naam van die munisipaliteit open vir die doel van 'n noodlenigings-, liefdadigheids-, trust- of ander fonds.

(3) Geld ontvang deur die munisipaliteit vir die doel van 'n noodlenigings-, liefdadigheids-, trust-

of ander fonds moet in 'n bankrekening van die munisipaliteit gestort word, of indien 'n afsonderlike bankrekening ingevolge subartikel (2) geopen is, in daardie rekening.

(4) Geld in 'n afsonderlike rekening ingevolge subartikel (2) geopen, kan sonder bewilliging ingevolge 'n goedgekeurde begroting uit die rekening onttrek word, maar slegs—

- (a) deur of met skriftelike magtiging van die rekenpligtige beampte handelende ooreenkomstig besluite van die munisipale raad; en
- (b) vir die doeleindes waarvoor, en onderworpe aan enige voorwaardes waaronder, die fonds gestig of die geld in die fonds geskenk is.

*Deel 2: Bestuur van kontant, beleggings en bates*

**13. Kontantbestuur en beleggings.**—(1) Die Minister, handelende met die instemming van die Kabinetslid verantwoordelik vir plaaslike regering, kan 'n raamwerk voorskryf waarbinne munisipaliteite—

- (a) hulle kontantbestuur en beleggings moet hanteer; en
- (b) geld wat nie onmiddellik benodig word nie, moet belê.

(2) 'n Munisipaliteit moet 'n gepaste en effektiewe kontantbestuurs- en beleggingsbeleid instel in ooreenstemming met enige raamwerk ingevolge subartikel (1) voorgeskryf.

(3) 'n Bank waar 'n munisipaliteit teen die einde van 'n finansiële jaar 'n bankrekening het, of te eniger tyd gedurende 'n finansiële jaar gehad het, moet—

- (a) die Ouditeur-generaal, binne 30 dae na die einde van daardie finansiële jaar, skriftelik in kennis stel van sodanige bankrekening, asook—
  - (i) die tipe en nommer van die rekening; en
  - (ii) die begin- en eindsaldo's van daardie bankrekening in daardie finansiële jaar; en
- (b) onverwyld inligting in verband met die rekening verstrek wanneer daartoe versoek deur die Nasionale Tesourie of die Ouditeur-generaal.

(4) 'n Bank, versekeringsmaatskappy of ander finansiële instelling wat teen die einde van 'n finansiële jaar 'n belegging vir 'n munisipaliteit hou, of te eniger tyd gedurende 'n finansiële jaar gehou het, moet—

- (a) die Ouditeur-generaal, binne 30 dae na die einde van daardie finansiële jaar, skriftelik van daardie belegging in kennis stel, asook die begin- en eindsaldo's van daardie belegging in daardie finansiële jaar; en
- (b) onverwyld inligting oor die belegging verstrek wanneer daartoe deur die Nasionale Tesourie of die Ouditeur-generaal versoek.

**14. Beskikking oor kapitale bates.**—(1) 'n Munisipaliteit mag nie eiendomsreg in 'n kapitale bate wat benodig word vir die verskaffing van die minimum vlak van basiese munisipale dienste na aanleiding van 'n verkoping of ander transaksie oordra of so 'n bate andersins permanent van die hand sit nie.

(2) 'n Munisipaliteit kan eiendomsreg oordra van, of andersins beskik oor, 'n kapitale bate uitgesonderd 'n bate in subartikel (1) beoog, maar slegs nadat die munisipale raad op 'n vergadering wat vir die publiek oopgestel was—

- (a) op redelike gronde besluit het dat die bate nie benodig word vir die verskaffing van die

minimum vlak van basiese munisipale dienste nie; en

- (b) die billike markwaarde van die bate en die ekonomiese- en gemeenskapswaarde wat in ruil daarvoor ontvang staan te word, oorweeg het.

(3) 'n Besluit deur 'n munisipale raad dat 'n spesifieke kapitale bate nie vir die verskaffing van die minimum vlak van basiese munisipale dienste benodig word nie, kan nie deur die munisipaliteit ingetrek word nadat die bate verkoop, oorgedra of andersins van die hand gesit is nie.

(4) 'n Munisipale raad kan aan die rekenpligtige beampte van die munisipaliteit sy bevoegdheid delegeer om die bepalings bedoel in subartikel (2) (a) en (b) te maak met betrekking tot roerende kapitale bates met 'n waarde laer as 'n waarde deur die raad vasgestel.

(5) Enige oordrag van eiendomsreg van 'n kapitale bate ingevolge subartikel (2) of (4) moet regverdig, billik, deursigtig, kompetend en in ooreenstemming wees met die voorsieningskanaal-bestuursbeleid wat die munisipaliteit ingevolge artikel 111 moet hê en in stand hou.

(6) Hierdie artikel is nie van toepassing op die oordrag van 'n kapitale bate aan 'n ander munisipaliteit of 'n munisipale entiteit of 'n nasionale of provinsiale staatsorgaan in omstandighede en met betrekking tot kategorieë van bates wat deur die Nasionale Tesourie goedgekeur is nie, mits sodanige oordragte in ooreenstemming met 'n voorgeskrewe raamwerk is.

#### HOOFSUK 4 MUNISIPALE BEGROTINGS

**15. Bewilliging van fondse vir bestedings.**—'n Munisipaliteit kan, behalwe waar anders in hierdie Wet bepaal, 'n besteding maak slegs—

- (a) ingevolge 'n goedgekeurde begroting; en
- (b) binne die perke van die bedrae wat vir die verskillende begrotingsposte in 'n goedgekeurde begroting bewillig is.

**16. Jaarlikse begrotings.**—(1) Die raad van 'n munisipaliteit moet vir elke finansiële jaar 'n jaarlikse begroting vir die munisipaliteit goedgekeur voor die aanvang van daardie finansiële jaar.

(2) Ten einde 'n munisipaliteit in staat te stel om aan subartikel (1) te voldoen, moet die burgemeester van die munisipaliteit die jaarlikse begroting ten minste 90 dae voor die aanvang van die begrotingsjaar by 'n raadsvergadering ter tafel lê.

(3) Subartikel (1) belet nie die bewilliging van geld vir kapitaalbestedings vir 'n tydperk van hoogstens drie finansiële jare nie, mits 'n afsonderlike bewilliging ten opsigte van elk van daardie finansiële jare gedoen word.

**17. Inhoud van jaarlikse begroting en ondersteunende dokumente.**—(1) 'n Jaarlikse begroting van 'n munisipaliteit moet 'n tabel in die voorgeskrewe formaat wees wat—

- (a) realisties verwagte inkomste vir die begrotingsjaar vanaf elke inkomstebron uiteensit;
- (b) besteding vir die finansiële jaar onder die verskillende begrotingsposte van die munisipaliteit bewillig;
- (c) die aangeduide inkomste per inkomstebron en die geprojekteerde besteding per begrotingspos vir die twee finansiële jare wat volg op die begrotingsjaar vermeld;

- (d) (i) geraamde inkomste en besteding per begrotingspos vir die huidige jaar vermeld; en
- (ii) werklike inkomste en besteding per begrotingspos vir die finansiële jaar wat die huidige jaar voorafgaan, vermeld; en
- (e) enige ander inligting verklaar soos deur artikel 215 (3) van die Grondwet vereis of soos voorgeskryf mag word.

(2) 'n Jaarlikse begroting moet in die algemeen verdeel word in 'n kapitaal- en bedryfsbegroting ooreenkomstig internasionale beste praktyk, soos voorgeskryf mag word.

(3) Wanneer 'n jaarlikse begroting ingevolge artikel 16 (2) ter tafel gelê word, moet dit van die volgende dokumente vergesel wees:

- (a) Konsepresolusies wat—
  - (i) die begroting van die munisipaliteit goedkeur;
  - (ii) enige munisipale belasting oplê en enige munisipale tariewe vasstel soos wat vir die begrotingsjaar vereis mag word; en
  - (iii) enige ander aangeleentheid goedkeur wat voorgeskryf mag word;
- (b) vasstelbare prestasiedoelwitte vir inkomste uit elke bron, en vir elke begrotingspos in die begroting, met inagneming van die munisipaliteit se geïntegreerde ontwikkelingsplan;
- (c) 'n projeksie van kontantvloei per inkomstebron vir die begrotingsjaar, aangedui per maand;
- (d) enige voorgestelde wysigings van die munisipaliteit se geïntegreerde ontwikkelingsplan wat mag voortvloei uit die jaarlikse hersiening van die geïntegreerde ontwikkelingsplan ingevolge artikel 34 van die Wet op Munisipale Stelsels;
- (e) enige voorgestelde wysigings van die begrotingsverwante beleidsdokumente van die munisipaliteit;
- (f) besonderhede van die munisipaliteit se beleggings;
- (g) enige voorgeskrewe begrotingsinligting met betrekking tot munisipale entiteite onder die alleen- of gedeelde beheer van die munisipaliteit;
- (h) besonderhede van alle voorgestelde nuwe munisipale entiteite wat die munisipaliteit beoog om in te stel of waarin die munisipaliteit beoog om deel te neem;
- (i) besonderhede van enige voorgestelde diensleweringsooreenkomste, asook wesenlike wysigings aan bestaande diensleweringsooreenkomste;
- (j) besonderhede van enige voorgestelde toekennings of bydraes deur die munisipaliteit aan—
  - (i) ander munisipaliteite;
  - (ii) enige munisipale entiteite en ander eksterne meganismes wat die munisipaliteit bystaan met die uitoefening van sy funksies of bevoegdhede;
  - (iii) enige ander staatsorgane; en
  - (iv) enige organisasies of liggame in artikel 67 (1) beoog;
- (k) die voorgestelde koste vir die munisipaliteit vir die begrotingsjaar van die salaris, toelaes



en voordele van—

- (i) elke politieke ampsdraer van die munisipaliteit;
  - (ii) raadslede van die munisipaliteit; en
  - (iii) die munisipale bestuurder, die hoof- finansiële beampte, elke senior bestuurder van die munisipaliteit en elke ander beampte van die munisipaliteit wat 'n vergoedingspakket het wat groter of gelyk is aan dié van 'n senior bestuurder; en
- (l) die voorgestelde koste vir die begrotingsjaar vir 'n munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit van die salaris, toelaes en voordele van—
- (i) elke lid van die entiteit se direksie; en
  - (ii) die hoof- uitvoerende beampte en elke senior bestuurder van die entiteit; en
- (m) enige ander ondersteunende dokumente wat voorgeskryf mag word.

**18. Befondsing van bestedings.**—(1) 'n Jaarlikse begroting kan slegs befonds word uit—

- (a) realisties verwagte inkomste wat geïen staan te word;
- (b) kontant-gesteunde opgelope fondse van vorige jare se surplusse wat nie vir ander doeleindes geormerk is nie; en
- (c) geleende fondse, maar slegs vir die kapitaalbegroting in artikel 17 (2) bedoel.

(2) Inkomsteprojektsies in die begroting moet realisties wees, met inagneming van—

- (a) geprojekteerde inkomste vir die huidige jaar gebaseer op inkomstevlakke tot op datum; en
- (b) werklike inkomste in vorige finansiële jare geïen.

**19. Kapitaalprojekte.**—(1) 'n Munisipaliteit kan geld aan 'n kapitaalprojek bestee, slegs indien—

- (a) die geld vir die projek, uitgesonderd die koste van uitvoerbaarheidstudies deur of namens die munisipaliteit gedoen, in die kapitaalbegroting bedoel in artikel 17 (2) bewillig is;
- (b) die projek, met inbegrip van die totale koste, deur die raad goedgekeur is;
- (c) daar aan artikel 33 voldoen is, in soverre daardie artikel op die projek van toepassing is; en
- (d) die befondsingsbronne oorweeg is, beskikbaar is en nie vir ander doeleindes geormerk is nie.

(2) Voordat die raad van 'n munisipaliteit 'n kapitaalprojek ingevolge subartikel (1) (b) goedkeur, moet die raad oorweging skenk aan—

- (a) die geprojekteerde koste wat alle finansiële jare dek totdat die projek in werking is; en
- (b) die toekomstige bedryfskoste en inkomste op die projek, met inbegrip van belasting- en tarief-implikasies.

(3) 'n Munisipale raad kan ingevolge subartikel (1) (b) kapitaalprojekte met 'n waarde laer as 'n voorgeskrewe waarde, individueel of as deel van 'n gekonsolideerde kapitaalprogram goedkeur.

**20. Aangeleenthede voorgeskryf te word.**—(1) Die Minister, handelende met die instemming van die Kabinetslid verantwoordelik vir plaaslike regering—

- (a) moet die formaat van die jaarlikse begroting van munisipaliteite voorskryf; en
- (b) kan die volgende voorskryf:
  - (i) Die formaat van resolusies en ondersteunende dokumentasie met betrekking tot die jaarlikse begroting;
  - (ii) die aantal jare wat die begrotingsjaar voorafgaan en die wat daarop volg, waarvoor 'n inkomste- en bestedingsgeskiedenis of projeksies in die ondersteunende dokumentasie aangetoon moet word;
  - (iii) inflasieprojeksies wat met betrekking tot die begroting gebruik moet word;
  - (iv) eenvormige norme en standaarde met betrekking tot die vasstelling van munisipale tariewe, finansiële risiko's en ander aangeleenthede, waar 'n munisipaliteit 'n munisipale entiteit of ander eksterne meganisme vir die lewering van 'n munisipale diens of ander funksie gebruik;
  - (v) eenvormige norme en standaarde met betrekking tot die begrotings van munisipale entiteite; of
  - (vi) enige ander eenvormige norme en standaarde gemik op die bevordering van deursigtigheid en bestedingsbeheer.

(2) Die Minister kan gepaste stappe doen om te verseker dat 'n munisipaliteit nie by die uitoefening van sy fiskale bevoegdhede ingevolge artikel 229 van die Grondwet 'n wesentliche en onredelike benadeling veroorsaak nie van—

- (a) nasionale ekonomiese beleid, in besonder die beleid op inflasie, prysbeheer en billikheid;
- (b) ekonomiese bedrywighede oor munisipale grense heen; en
- (c) die nasionale beweeglikheid van goedere, dienste, kapitaal of arbeid.

**21. Begrotingsproseses.**—(1) Die burgemeester van 'n munisipaliteit moet—

- (a) die prosesse vir die opstel van die jaarlikse begroting en vir die hersiening van die munisipaliteit se geïntegreerde ontwikkelingsplan en begrotingsverwante beleidsdokumente koördineer ten einde te verseker dat die begroting wat ter tafel gelê word en enige hersienings van die geïntegreerde ontwikkelingsplan en begrotingsverwante beleidsdokumente onderling verenigbaar en geloofwaardig is;
- (b) ten minste 10 maande voor die aanvang van die begrotingsjaar 'n tydsrooster in die munisipale raad ter tafel lê wat sleutel-tydsgrense uitstip vir—
  - (i) die opstel, tertafellegging en goedkeuring van die jaarlikse begroting;
  - (ii) die jaarlikse hersiening van—
    - (aa) die geïntegreerde ontwikkelingsplan ingevolge artikel 34 van die Wet op Munisipale Stelsels; en
    - (bb) die begrotingsverwante beleidsdokumente;
  - (iii) die tertafellegging en aanname van enige wysigings van die geïntegreerde ontwikkelingsplan en die begrotingsverwante beleidsdokumente; en
  - (iv) enige oorlegplegingsprosesse wat deel vorm van die prosesse bedoel in subparagraawe

(i), (ii) en (iii).

(2) Wanneer die begroting opgestel word, moet die burgemeester van 'n munisipaliteit—

- (a) die munisipaliteit se geïntegreerde ontwikkelingsplan in ag neem;
- (b) alle redelike stappe doen om te verseker dat die munisipaliteit ingevolge artikel 34 van die Wet op Munisipale Stelsels sy geïntegreerde ontwikkelingsplan hersien, met inagneming van realistiese inkomste- en bestedingsprojeksies vir komende jare;
- (c) die nasionale begroting, die betrokke provinsiale begroting, die nasionale regering se fiskale en makro-ekonomiese beleid, die jaarlikse Wet op die Verdeling van Inkomste en enige ooreenkoms in die Begrotingsforum bereik, in ag neem;
- (d) oorleg pleeg met—
  - (i) die betrokke distriksmunisipaliteit en alle ander plaaslike munisipaliteite binne die gebied van die distriksmunisipaliteit, indien die munisipaliteit 'n plaaslike munisipaliteit is;
  - (ii) alle plaaslike munisipaliteite in sy gebied, indien die munisipaliteit 'n distriksmunisipaliteit is;
  - (iii) die betrokke provinsiale tesourie, en wanneer daartoe versoek, die Nasionale Tesourie; en
  - (iv) enige nasionale of provinsiale staatsorgane soos wat voorgeskryf mag word; en
- (e) op versoek, enige inligting met betrekking tot die begroting verskaf aan—
  - (i) die Nasionale Tesourie; en
  - (ii) behoudens beperkings wat voorgeskryf mag word, aan—
    - (aa) die nasionale departemente verantwoordelik vir water, sanitasie, 35 elektrisiteit en enige ander diens soos wat voorgeskryf mag word;
    - (bb) enige ander nasionale of provinsiale staatsorgane, soos wat voorgeskryf mag word; en
    - (cc) 'n ander munisipaliteit wat deur die begroting gemaak word.

**22. Bekendmaking van jaarlikse begrotings.**—Sodra 'n jaarlikse begroting in 'n munisipale raad ter tafel gelê word, moet die rekenpligtige beampte van die munisipaliteit—

- (a) ooreenkomstig Hoofstuk 4 van die Wet op Munisipale Stelsels—
  - (i) die jaarlikse begroting en die dokumente beoog in artikel 17 (3) openbaar maak; en
  - (ii) die plaaslike gemeenskap uitnooi om versoë in verband met die begroting voor te lê; en
- (b) die jaarlikse begroting—
  - (i) in beide gedrukte en elektroniese formaat aan die Nasionale Tesourie en die betrokke provinsiale tesourie voorlê; en
  - (ii) in enige van die formate aan enige voorgeskrewe nasionale of provinsiale staatsorgane en aan ander munisipaliteite wat deur die begroting geraak word, voorlê.

**23. Oorlegpleging met betrekking tot begrotings wat ter tafel gelê is.**—(1) Wanneer die jaarlikse begroting ter tafel gelê is, moet die munisipale raad enige sienswyses oorweeg van—

- (a) die plaaslike gemeenskap; en
- (b) die Nasionale Tesourie, die betrokke provinsiale tesourie en enige provinsiale of nasionale staatsorgane of munisipaliteite wat verstoë oor die begroting gerig het.

(2) Na oorweging van al die begrotingsverstoë, moet die raad die burgemeester 'n geleentheid gee om—

- (a) op die verstoë te reageer; en
- (b) indien nodig, die begroting te hersien en wysigings vir oorweging deur die raad ter tafel te lê.

(3) Die Nasionale Tesourie kan riglyne uitvaardig oor die wyse waarop munisipale rade halle jaarlikse begrotings moet prosessee, met inbegrip van riglyne oor die samestelling van 'n komitee van die raad om die begroting te oorweeg en openbare verhore te hou.

(4) Geen riglyne ingevolge subartikel (3) uitgevaardig, bind 'n munisipale raad nie tensy dit deur die raad aangeneem is.

**24. Goedkeuring van jaarlikse begrotings.**—(1) Die raad van 'n munisipaliteit moet ten minste 30 dae voor die aanvang van die begrotingsjaar goedkeuring van die jaarlikse begroting oorweeg.

(2) 'n Jaarlikse begroting—

- (a) moet voor die aanvang van die begrotingsjaar goedgekeur word;
- (b) word goedgekeur deur die aanname deur die raad van 'n resoluë in artikel 17 (3) (a) (i) beoog; en
- (c) moet goedgekeur word saam met die aanname van resoluë, soos nodig, wat—
  - (i) enige munisipale belastinge vir die begrotingsjaar hef;
  - (ii) enige tariewe vir die begrotingsjaar vasstel;
  - (iii) vasstelbare prestasie-doelwitte, vir inkomste uit elke bron, en vir elke begrotingspos in die begroting, goedkeur;
  - (iv) enige wysigings van die munisipaliteit se geïntegreerde ontwikkelingsplan goedkeur; en
  - (v) enige wysigings van die munisipaliteit se begrotingsverwante beleidsdokumente goedkeur.

(3) Die rekenpligtige beampte van 'n munisipaliteit moet die goedgekeurde jaarlikse begroting van die Nasionale Tesourie en die betrokke provinsiale tesourie voorlê.

**25. Versuim om begroting voor aanvang van begrotingsjaar goed te keur.**—(1) Indien 'n munisipale raad nie in staat is om 'n jaarlikse begroting, met inbegrip van inkomstegenererende maatreëls nodig vir uitvoering van die begroting, goed te keur nie, moet die raad die begroting heroorweeg en weer oor die begroting, of oor 'n gewysigde weergawe daarvan, stem binne sewe dae na die raadsvergadering wat nie in staat was om die begroting goed te keur nie.

(2) Die proses deur subartikel (1) bepaal, moet herhaal word totdat 'n begroting, met inbegrip van inkomstegenererende maatreëls nodig vir uitvoering van die begroting, goedgekeur word.

(3) Indien 'n munisipaliteit nie 'n jaarlikse begroting, met inbegrip van inkomstegenererende maatreëls nodig vir uitvoering van die begroting, teen die eerste dag van die begrotingsjaar goedgekeur het nie, moet die burgemeester onmiddellik aan artikel 55 voldoen.

**26. Gevolge van versuim om begroting voor aanvang van begrotingsjaar goed te keur.**—(1) Indien teen die aanvang van die begrotingsjaar 'n munisipale raad nie 'n jaarlikse begroting of enige inkomstegenererende maatreëls nodig vir uitvoering van die begroting goedgekeur het nie, moet die provinsiale uitvoerende gesag van die betrokke provinsie ingevolge artikel 139 (4) van die Grondwet in die munisipaliteit ingryp deur enige gepaste stappe te doen om te verseker dat die begroting of daardie inkomstegenererende maatreëls goedgekeur word, met inbegrip van ontbinding van die raad en—

- (a) die aanstelling van 'n administrateur totdat 'n nuutverkose raad as verkose verklaar is; en
- (b) die goedkeuring van 'n tydelike begroting of inkomstegenererende maatreëls om vir die voortgesette funksionering van die munisipaliteit voorsiening te maak.

(2) Artikels 34 (3) en (4) en 35 van die Wet op Munisipale Strukture is van toepassing wanneer 'n provinsiale uitvoerende gesag 'n munisipale raad ontbind.

(3) By goedkeuring van 'n tydelike begroting vir 'n munisipaliteit ingevolge subartikel (1) (b), is die provinsiale uitvoerende gesag nie gebind deur enige bepaling met betrekking tot die begrotingsproses wat ingevolge hierdie Wet of ander wetgewing op 'n munisipaliteit van toepassing is nie. So 'n begroting moet, nadat die ingryping tot 'n einde gekom het, deur 'n begroting vervang word wat deur die nuutverkose raad goedgekeur is, mits daar wesenlik aan die bepalings van hierdie Hoofstuk met betrekking tot jaarlikse begrotings voldoen word in lyn met enige hersiene tydsgrense goedgekeur deur die LUR vir finansies in die provinsie.

(4) Totdat 'n begroting vir die munisipaliteit ingevolge subartikel (1) goedgekeur is, kan fondse vir die behoeftes van die munisipaliteit, met die goedkeuring van die LUR vir finansies in die provinsie, uit die munisipaliteit se bankrekenings ooreenkomstig subartikel (5) onttrek word.

(5) Fondse wat ingevolge subartikel (4) uit 'n munisipaliteit se bankrekenings onttrek word—

- (a) kan slegs aangewend word om bedryfs- en kapitaalbestedings te dek in verband met begrotingsposte waarvoor daar fondse in die goedgekeurde begroting vir die vorige finansiële jaar bewillig was; en
- (b) mag nie—
  - (i) gedurende enige maand, agt persent oorskry nie van die totale bedrag wat in daardie vorige goedgekeurde begroting vir bedryfsbestedings bewillig was, welke persentasie proporsioneel afwaarts aangepas moet word indien inkomstevloei nie minstens op dieselfde vlak as die vorige finansiële jaar is nie; en
  - (ii) die bedrag oorskry wat werklik beskikbaar is nie.

(6) Die fondse waarvoor in subartikel (4) voorsiening gemaak word, is nie bykomend tot fondse bewillig vir die begrotingsjaar nie, en enige fondse wat ingevolge subartikel (5) onttrek is, moet geag word deel te vorm van die fondse bewillig in 'n jaarlikse begroting wat daarna vir die begrotingsjaar goedgekeur word.

**27. Nie-voldoening aan bepaling van hierdie Hoofstuk.**—(1) Wanneer die burgemeester van ’n munisipaliteit bewus word van enige dreigende nie-voldoening deur die munisipaliteit aan enige van die bepaling van hierdie Wet of enige ander wetgewing met betrekking tot die tertaaflegging of goedkeuring van ’n jaarlikse begroting of verpligte oorlegplegingsprosesse, moet die burgemeester die LUR vir finansies in die provinsie skriftelik van sodanige dreigende nie-voldoening in kennis stel.

(2) Indien die dreigende nie-voldoening betrekking het op ’n tydsbepaling, behalwe artikel 16 (1), kan die LUR vir finansies, op aansoek van die burgemeester en op goeie gronde, enige tydsbeperking of afsnytyd vervat in daardie bepaling verleng, mits so ’n verlenging nie voldoening aan artikel 16 (1) ondermyn nie. ’n LUR vir finansies moet—

- (a) die bevoegdheid in hierdie subartikel vervat ooreenkomstig ’n voorgeskrewe raamwerk uitoefen; en
- (b) die Nasionale Tesourie onverwyld skriftelik in kennis stel van enige verlengings ingevolge hierdie subartikel toegestaan, saam met die naam van die munisipaliteit en die redes daarvoor.

(3) Wanneer die burgemeester van ’n munisipaliteit bewus word van enige werklike nie-voldoening deur die munisipaliteit aan ’n bepaling van hierdie Hoofstuk, moet die burgemeester sonder versuim die raad, die LUR vir finansies en die Nasionale Tesourie skriftelik in kennis stel van—

- (a) sodanige nie-voldoening; en
- (b) enige remediërende of regstellende maatreëls wat die munisipaliteit beoog om te implementeer ten einde ’n herhaling te vermy.

(4) Nie-voldoening deur ’n munisipaliteit aan ’n bepaling van hierdie Hoofstuk met betrekking tot die begrotingsproses of ’n bepaling in enige wetgewing met betrekking tot die goedkeuring van ’n begrotingsverwante beleidsdokument, raak nie die geldigheid van ’n jaarlikse of aansuiweringsbegroting nie.

(5) Die provinsiale uitvoerende gesag kan ingevolge die toepaslike bepaling van artikel 139 van die Grondwet ingryp indien ’n munisipaliteit nie aan ’n bepaling van hierdie Hoofstuk, met inbegrip van ’n bepaling met betrekking tot proses, voldoen of kan voldoen nie.

**28. Munisipale aansuiweringsbegrotings.**—(1) ’n Munisipaliteit kan ’n goedgekeurde jaarlikse begroting deur middel van ’n aansuiweringsbegroting hersien.

(2) ’n Aansuiweringsbegroting—

- (a) moet die inkomste- en bestedingsprojeksies afwaarts aanpas indien daar gedurende die huidige jaar ’n wesenlike onder-insameling van inkomste was;
- (b) kan bykomende inkomstes wat beskikbaar geword het bo en behalwe daardie inkomste wat in die jaarlikse begroting geantisipeer is, bewillig maar slegs ten einde bestedingsprogramme waarvoor alreeds begroot is, te hersien of te versnel;
- (c) kan binne ’n voorgeskrewe raamwerk onvoorsiene en onvermydelike besteding magtig wat deur die burgemeester van die munisipaliteit aanbeveel is;
- (d) kan die aanwending van geprojekteerde besparings in een begrotingspos vir besteding onder ’n ander begrotingspos magtig;
- (e) kan besteding magtig van fondse wat onbestee was teen die einde van die vorige finansiële

jaar waar die onderbesteding op die tydstip toe die jaarlikse begroting vir die huidige jaar deur die raad goedgekeur is, nie redelikerwys voorsien kon word sodat geprojekteerde oorrolle in die begroting ingesluit kon word nie;

(f) kan enige foute in die jaarlikse begroting regstel; en

(g) kan binne 'n voorgeskrewe raamwerk voorsiening maak vir enige ander besteding.

(3) 'n Aansuiweringsbegroting moet in 'n voorgeskrewe formaat wees.

(4) Slegs die burgemeester kan 'n aansuiweringsbegroting in die munisipale raad ter tafel lê, maar 'n aansuiweringsbegroting ingevolge subartikel (2) (b) tot (g) kan slegs binne enige voorgeskrewe beperkings met betrekking tot tydsberekening of reëlmaat ter tafel gelê word.

(5) Wanneer 'n aansuiweringsbegroting ter tafel gelê word, moet dit vergesel word van—

(a) 'n verduideliking van hoe die aansuiweringsbegroting die jaarlikse begroting raak;

(b) 'n motivering van enige wesentlike veranderinge aan die jaarlikse begroting;

(c) 'n verduideliking van die uitwerking van enige verhoogde besteding op die jaarlikse begroting en die jaarlikse begrotings vir die volgende twee finansiële jare; en

(d) enige ander ondersteunende dokumentasie wat voorgeskryf mag word.

(6) Munisipale belasting en tariewe mag nie gedurende 'n finansiële jaar verhoog word nie, behalwe wanneer die verhoging ingevolge 'n finansiële herstelplan vereis word.

(7) Artikel 22 (b), 23 (3) en 24 (3) is van toepassing ten opsigte van 'n aansuiweringsbegroting, en by sodanige toepassing moet 'n verwysing in daardie artikels na 'n jaarlikse begroting as 'n verwysing na 'n aansuiweringsbegroting uitgelê word.

(Datum van inwerkingtreding van a. 28: 1 Julie 2005.)

**29. Onvoorsiene en onvermydelike besteding.**—(1) Die burgemeester van 'n munisipaliteit kan tydens nood- of ander buitengewone omstandighede onvoorsiene en onvermydelike besteding magtig waarvoor daar nie in 'n goedgekeurde begroting voorsiening gemaak was nie.

(2) Enige sodanige besteding—

(a) moet bestaanbaar wees met enige raamwerk wat voorgeskryf mag word;

(b) mag nie 'n voorgeskrewe persentasie van die goedgekeurde jaarlikse begroting oorskry nie;

(c) moet deur die burgemeester aan die munisipale raad gerapporteer word tydens die raad se volgende sifting; en

(d) moet in 'n aansuiweringsbegroting bewillig word.

(3) Indien sodanige aansuiweringsbegroting nie aangeneem word binne 60 dae nadat die bestedings aangegaan is nie, is die bestedings ongemagtig en word artikel 32 van toepassing.

**30. Onbestede fondse.**—Die bewilliging van fondse in 'n jaarlikse of aansuiweringsbegroting verval in soverre daardie fondse onbestee is teen die einde van die finansiële jaar waarop die begroting betrekking het, behalwe in die geval van 'n bewilliging vir bestedings ingevolge artikel 16 (3) vir 'n tydperk langer as daardie finansiële jaar.

**31. Verskuiwing van fondse tussen veeljarige bewilligings.**—Wanneer fondse vir 'n kapitaalprogram ingevolge artikel 16 (3) vir meer as een finansiële jaar bewillig word, mag bestedings vir daardie program gedurende 'n finansiële jaar die bedrag van daardie jaar se bewilliging vir daardie program oorskry, mits—

- (a) die oorskryding nie meer as 20 persent van daardie jaar se bewilliging vir daardie program is nie;
- (b) die oorskryding befonds word binne die daaropvolgende jaar se bewilliging vir daardie program;
- (c) die munisipale bestuurder sertifiseer dat—
  - (i) werklike inkomste vir die finansiële jaar na verwagting begrote inkomste sal oorskry; en
  - (ii) voldoende fondse vir die oorskryding beskikbaar is sonder om bykomende lenings verby die jaarlikse begrotingsperk aan te gaan;
- (d) voorafgaande skriftelike goedkeuring vir die oorskryding van die burgemeester verkry is; en
- (e) die dokumente in paragraaf (c) en (d) bedoel aan die betrokke provinsiale tesourie en die Ouditeur-generaal voorgelê word.

**32. Ongemagtigde, onreëlmatige of vrugtelose en verkwiste bestedings.**—(1) Sonder beperking van aanspreeklikheid ingevolge die gemenerereg of ander wetgewing is—

- (a) 'n politieke ampsdraer van 'n munisipaliteit aanspreeklik vir ongemagtigde besteding indien daardie ampsdraer 'n beampte van die munisipaliteit bewustelik of nadat hy of sy deur die rekenpligtige beampte van die munisipaliteit geadviseer is dat die besteding waarskynlik sal neerkom op ongemagtigde besteding, opdrag gegee het om die bestedings aan te gaan;
- (b) die rekenpligtige beampte aanspreeklik vir ongemagtigde besteding wat opsetlik of nalatig deur die rekenpligtige beampte aangegaan is, behoudens subartikel (3);
- (c) enige politieke ampsdraer of beampte van 'n munisipaliteit wat opsetlik of nalatig 'n onreëlmatige besteding begaan, aangegaan of gemagtig het, vir daardie besteding aanspreeklik; of
- (d) enige politieke ampsdraer of beampte van 'n munisipaliteit wat opsetlik of nalatig 'n vrugtelose en verkwiste besteding aangegaan of gemagtig het, vir daardie besteding aanspreeklik.

(2) 'n Munisipaliteit moet 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding verhaal van die persoon wat vir daardie besteding aanspreeklik is, tensy die besteding—

- (a) in die geval van 'n ongemagtigde besteding—
  - (i) in 'n aansuiweringsbegroting gemagtig is; of
  - (ii) deur die munisipale raad, na afloop van 'n ondersoek deur 'n raadskomitee, as onverhaalbaar gesertifiseer en afgeskryf is; en
- (b) in die geval van 'n onreëlmatige of vrugtelose en verkwiste besteding, na 'n ondersoek



deur 'n raadskomitee, deur die raad as onverhaalbaar gesertifiseer en afgeskryf is.

(3) Indien die rekenpligtige beampte bewus word dat die raad, die burgemeester of die uitvoerende komitee van die munisipaliteit, na gelang van wat toepaslik mag wees, 'n besluit geneem het wat, indien dit uitgevoer word, waarskynlik 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding tot gevolg sou hê, is die rekenpligtige beampte nie aanspreeklik vir enige gevolglike ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding nie, mits die rekenpligtige beampte die raad, die burgemeester of die uitvoerende komitee skriftelik in kennis gestel het dat die besteding waarskynlik 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding sal wees.

(4) Die rekenpligtige beampte moet onverwyld die burgemeester, die LUR vir plaaslike regering in die provinsie en die Ouditeur-generaal skriftelik in kennis stel—

- (a) van enige ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding deur die munisipaliteit aangegaan;
- (b) of enige persoon verantwoordelik is vir, of onderhewig is aan 'n ondersoek aangaande, sodanige ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding; en
- (c) van die stappe wat gedoen is—
  - (i) om sodanige besteding te verhaal of reg te stel; en
  - (ii) om 'n herhaling van sodanige besteding te voorkom.

(5) Die afskryf as onverhaalbaar van enige ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding ingevolge subartikel (2), is geen verontskuldiging in strafregtelike of dissiplinêre verrigtinge teen 'n persoon wat aangekla is van die pleging van 'n misdryf of 'n verbreking van hierdie Wet met betrekking tot sodanige ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding nie.

(6) Die rekenpligtige beampte moet by die Suid-Afrikaanse Polisie diens alle gevalle aanmeld van—

- (a) onreëlmatige besteding wat 'n strafregtelike oortreding daarstel; en
- (b) diefstal en bedrog wat in die munisipaliteit voorgekom het.

(7) Die raad van 'n munisipaliteit moet alle redelike stappe doen om te verseker dat alle gevalle bedoel in subartikel (6) by die Suid-Afrikaanse Polisie diens aangemeld word indien—

- (a) die klag teen die rekenpligtige beampte is; of
- (b) die rekenpligtige beampte versuim om aan daardie subartikel te voldoen.

(8) Die Minister, handelende met die instemming van die Kabinetslid verantwoordelik vir plaaslike regering, kan die toepassing van hierdie artikel ingevolge artikel 168 by regulasie reguleer.

**33. Kontrakte met toekomstige begrotingsimplikasies.**—(1) 'n Munisipaliteit kan 'n kontrak sluit wat finansiële verpligtinge op die munisipaliteit sal lê na die einde van 'n finansiële jaar, maar indien die kontrak finansiële verpligtinge op die munisipaliteit sal lê na die einde van die drie jaar wat deur die jaarlikse begroting vir daardie finansiële jaar gedek word, kan die munisipaliteit so kontrak sluit slegs indien—

- (a) die munisipale bestuurder, minstens 60 dae voor die vergadering van die munisipale raad waarop die kontrak goedgekeur staan te word—
  - (i) ooreenkomstig artikel 21A van die Wet op Munisipale Stelsels—

- (aa) die konsepkontrak en 'n inligtingstaat wat 'n opsomming verskaf van die munisipaliteit se verpligtinge ingevolge die voorgestelde kontrak openbaar gemaak het; en
    - (bb) die plaaslike gemeenskap en ander belanghebbende persone uitgenooi het om kommentaar of verhoë oor die voorgestelde kontrak aan die munisipaliteit voor te lê; en
  - (ii) die sienswyses en aanbevelings aangevra het van—
    - (aa) die Nasionale Tesourie en die betrokke provinsiale tesourie;
    - (bb) die nasionale departement verantwoordelik vir plaaslike regering; en
    - (cc) indien die kontrak betrekking het op die verskaffing van water, sanitasie, elektrisiteit of enige ander diens wat voorgeskryf mag word, die verantwoordelike nasionale departement;
  - (b) die munisipale raad in ag geneem het—
    - (i) die munisipaliteit se geprojekteerde finansiële verpligtinge ingevolge die voorgestelde kontrak vir elke finansiële jaar wat deur die kontrak gedek word;
    - (ii) die uitwerking van daardie finansiële verpligtinge op die munisipaliteit se toekomstige munisipale tariewe en inkomste;
    - (iii) enige kommentaar of verhoë oor die voorgestelde kontrak wat van die plaaslike gemeenskap en ander belanghebbende persone ontvang is; en
    - (iv) enige skriftelike sienswyses en aanbevelings oor die voorgestelde kontrak deur die Nasionale Tesourie, die betrokke provinsiale tesourie, die nasionale departement verantwoordelik vir plaaslike regering en enige nasionale departement in paragraaf (a) (ii) (cc) bedoel; en
  - (c) die munisipale raad 'n resoluë aangeëem het waarin die raad—
    - (i) bepaal dat die munisipaliteit 'n wesenlike kapitaalbelegging sal verseker of wesenlike finansiële ekonomiese of finansiële voordeel uit die kontrak sal trek;
    - (ii) die hele kontrak goedkeur presies soos wat dit uitgevoer moet word; en
    - (iii) die munisipale bestuurder magtig om die kontrak namens die munisipaliteit te onderteken.
- (2) Die proses in subartikel (1) uiteengesit, is nie van toepassing nie op—
- (a) kontrakte vir langtermynskuld wat ingevolge artikel 46 (3) gereguleer word;
  - (b) dienskontrakte; of
  - (c) kontrakte—
    - (i) vir kategorieë van goedere soos wat voorgeskryf mag word; of
    - (ii) ingevolge waarvan die waarde van die finansiële verpligting op die munisipaliteit laer is as—
      - (aa) 'n voorgeskrewe waarde; of
      - (bb) 'n voorgeskrewe persentasie van die munisipaliteit se goedgekeurde begroting

vir die jaar waarin die kontrak gesluit word.

(3) (a) Alle kontrakte in subartikel (1) bedoel en alle ander kontrakte wat 'n finansiële verpligting op 'n munisipaliteit lê—

(i) moet in die geheel aan die munisipale raad beskikbaar gestel word; en

(ii) mag nie van publieke insae weerhou word nie, behalwe soos ingevolge die Wet op die Bevordering van Toegang tot Inligting, 2000 (Wet No. 2 van 2000), bepaal.

(b) Paragraaf (a) (i) is nie van toepassing op kontrakte ingevolge waarvan die waarde van die finansiële verpligting op die munisipaliteit laer is as 'n voorgeskrewe waarde nie.

(4) Hierdie artikel mag nie uitgelê word as sou dit die munisipaliteit van die bepalings van Hoofstuk 11 onthef in soverre daardie bepalings op 'n besondere geval van toepassing is nie.

## HOOFSTUK 5 REGERING VAN SAMEWERKING

**34. Bou van kapasiteit.**—(1) Die nasionale en provinsiale regerings moet, by ooreenkoms, munisipaliteite bystaan in die uitbou van die kapasiteit van munisipaliteite vir doeltreffende, effektiewe en deursigtige finansiële bestuur.

(2) Die nasionale en provinsiale regerings moet pogings van munisipaliteite ondersteun om hul finansiële probleme te identifiseer en op te los.

(3) By die verrigting van sy moniteringsfunksie ingevolge artikel 155 (6) van die Grondwet—

(a) moet 'n provinsiale regering die resultate van sy monitering aan 'n munisipaliteit bekendmaak in soverre daardie resultate die munisipaliteit kan help om sy finansiële bestuur te verbeter;

(b) moet 'n provinsiale regering, by bespeuring van enige naderende of dreigende finansiële probleme in 'n munisipaliteit, die munisipaliteit van daardie probleme attent maak; en

(c) kan 'n provinsiale regering die munisipaliteit help om daardie finansiële probleme te vermy of op te los.

(Datum van inwerkingtreding van sub-a. (3): 1 Julie 2005.)

(4) Nie-voldoening deur die nasionale of 'n provinsiale regering aan hierdie artikel of enige ander bepaling van hierdie Wet, doen nie afbreuk aan die verantwoordelikheid van 'n munisipaliteit, sy politieke strukture, politieke ampsdraers en beamptes om aan hierdie Wet te voldoen nie.

**35. Bevordering van regering van samewerking deur nasionale en provinsiale instellings.**—Nasionale en provinsiale departemente en openbare entiteite moet—

(a) in hul fiskale en finansiële betrekkinge met die plaaslike regeringsfeer, regering van samewerking ooreenkomstig Hoofstuk 3 van die Grondwet bevorder;

(b) onverwyld hul finansiële verpligtinge teenoor munisipaliteite nakom;

(c) tydige inligting en bystand aan munisipaliteite bied om munisipaliteite in staat te stel—

(i) om behoorlike beplanning te doen, met inbegrip van beplanning ten opsigte van die ontwikkeling en hersiening van hul geïntegreerde ontwikkelingsplanne; en

- (ii) om hul begrotings ooreenkomstig die prosesse vermeld in Hoofstuk 4 van hierdie Wet op te stel; en
- (d) voldoen aan die Wet op Openbare Finansiële Bestuur, die jaarlikse Wet op die Verdeling van Inkomste en die Wet op Interregerings- Fiskale Betrekkinge, 1997 (Wet No. 97 van 1997), in soverre daardie Wette inter-regeringsbetrekkinge met die plaaslike regeringsfeer reguleer.

**36. Nasionale en provinsiale toekennings aan munisipaliteite.**—(1) Ten einde voorspelbaarheid en sekerheid oor die bronne en vlakke van interregeringsbefondsing vir munisipaliteite te bied, moet die rekenpligtige beampte van 'n nasionale of provinsiale departement en die rekenpligtige gesag van 'n nasionale of provinsiale openbare entiteit verantwoordelik vir die oordrag van enige voorgestelde toekennings aan 'n munisipaliteit, teen nie later nie as 20 Januarie van elke jaar die Nasionale Tesourie of die betrokke provinsiale tesourie, na gelang van wat toepaslik mag wees, in kennis stel van alle voorgestelde toekennings, asook die geprojekteerde bedrae van daardie toekennings wat gedurende elk van die volgende drie finansiële jare aan elke munisipaliteit oorgedra staan te word.

(2) Die Minister of die LUR verantwoordelik vir finansies in 'n provinsie moet, sover moontlik, tydens die tertafellegging van die nasionale jaarlikse begroting in die Nasionale Vergadering of die provinsiale jaarlikse begroting in die provinsiale wetgewer, besonderhede openbaar maak van alle toekennings wat elke munisipaliteit ingevolge daardie begroting toekom, met inbegrip van die bedrag wat gedurende elk van die volgende drie finansiële jare aan die munisipaliteit oorgedra staan te word.

**37. Bevordering van regering van samewerking deur munisipaliteite.**—(1) Munisipaliteite moet—

- (a) in hul fiskale en finansiële betrekkinge met die nasionale en provinsiale regeringsfere en ander munisipaliteite regering van samewerking ooreenkomstig Hoofstuk 3 van die Grondwet en die Wet op Interregerings- Fiskale Betrekkinge bevorder;
- (b) begrotings- en ander finansiële inligting aan betrokke munisipaliteite en nasionale en provinsiale staatsorgane verskaf; en
- (c) onverwyld alle finansiële verpligtinge teenoor ander munisipaliteite of nasionale en provinsiale staatsorgane nakom.

(2) Ten einde munisipaliteite in staat te stel om toekennings van ander munisipaliteite in hul begrotings in te sluit en om effektiewelik te beplan vir die besteding van sodanige toekennings, moet die rekenpligtige beampte van 'n munisipaliteit verantwoordelik vir die oordrag van enige toekenning aan 'n ander munisipaliteit, teen nie later nie as 120 dae voor die aanvang van sy begrotingsjaar, die ontvangende munisipaliteit in kennis stel van die geprojekteerde bedrag van enige toekenning wat gedurende elk van die volgende drie finansiële jare voorgestel word om aan daardie munisipaliteit oorgedra te word.

**38. Staking van fondse aan munisipaliteite.**—(1) Die Nasionale Tesourie kan—

- (a) die oordrag van fondse staak wat aan 'n munisipaliteit verskuldig is as synde daardie munisipaliteit se deel van plaaslike regering se billike deel bedoel in artikel 214 (1) (a) van die Grondwet, maar slegs as die munisipaliteit 'n ernstige of volgehoue breuk begaan van die maatreëls ingestel ingevolge artikel 216 (1) van die Grondwet; of
- (b) die oordrag van fondse staak wat aan 'n munisipaliteit verskuldig is as synde 'n

toekenning beoog in artikel 214 (1) (c) van die Grondwet, maar slegs as die munisipaliteit of die munisipale entiteit vir wie die fondse bestem is—

- (i) 'n ernstige of volgehoue breuk begaan van die maatreëls ingestel ingevolge artikel 216 (1) van die Grondwet; of
- (ii) enige voorwaardes onderworpe waaraan die toekenning gedoen is, verbreek of versuim om daaraan te voldoen.

(2) Voordat die Nasionale Tesourie die oordrag van fondse aan 'n munisipaliteit ingevolge subartikel (1) (a) of (b) staak, moet die Nasionale Tesourie—

- (a) die munisipaliteit 'n geleentheid bied om skriftelike verhoër voor te lê met betrekking tot die voorgestelde staking van fondse;
- (b) die LUR vir plaaslike regering in die provinsie in kennis stel; en
- (c) die Kabinetslid verantwoordelik vir die nasionale departement wat die oordrag doen, raadpleeg.

(3) Indien die staking van fondse ingevolge subartikel (1) (a) of (b) die verskaffing van basiese munisipale dienste in die munisipaliteit raak, moet die provinsiale uitvoerende gesag die voortsetting van daardie dienste monitor. Artikel 139 van die Grondwet is van toepassing indien die munisipaliteit nie sy verpligtinge met betrekking tot die verskaffing van daardie dienste nakom of kan nakom nie.

(4) Wanneer die staking van die oordrag van fondse aan 'n munisipaliteit ingevolge subartikel (1) (a) of (b) (i) oorweeg word, moet die Nasionale Tesourie alle tersaaklike feite in ag neem, met inbegrip van—

- (a) die munisipaliteit se voldoening aan die vereistes van hierdie Wet, in besonder daardie vereistes met betrekking tot—
  - (i) jaarlikse finansiële state, met inbegrip van die voorlegging van sy jaarlikse finansiële state aan die Ouditeur-generaal; en
  - (ii) begrotings, met inbegrip van die voorlegging van inligting oor die begroting en implementering van die begroting aan die Nasionale Tesourie en die betrokke provinsiale tesourie; en
- (b) die munisipaliteit se samewerking met ander munisipaliteite met betrekking tot fiskale en finansiële sake, in die geval van distriks- en plaaslike munisipaliteite.

(Datum van inwerkingtreding van a. 38: 1 April 2005.)

**39. Staking van billike deel toekennings aan munisipaliteite.**—(1) 'n Besluit deur die Nasionale Tesourie om die oordrag van fondse beoog in artikel 38 (1) (a) aan 'n munisipaliteit te staak—

- (a) verval na die verloop van 120 dae, behoudens goedkeuring van die besluit ingevolge paragraaf (b) van hierdie subartikel en hernuwing van die besluit ingevolge subartikel (2); en
- (b) kan onmiddellik uitgevoer word, maar verval met terugwerkende krag tensy die Parlement dit goedkeur na voldoening aan 'n proses wat wesenlik ooreenstem met dié wat ingevolge artikel 75 van die Grondwet ingestel is, en deur die gesamentlike reëls en orders van die Parlement voorgeskryf is. Hierdie proses moet afgehandel word binne 30 dae na die besluit van die Nasionale Tesourie om die oordrag van die fondse te staak.

(2) Die Parlement kan ná voldoening aan die proses wat ingevolge subartikel (1) (b) van hierdie artikel ingestel is, 'n besluit om die oordrag van fondse bedoel in artikel 38 (1) (a) te staak vir hoogstens 120 dae op 'n keer hernieu.

(3) Voordat die Parlement 'n besluit goedkeur of hernieu om die oordrag van fondse aan 'n munisipaliteit te staak—

- (a) moet die Ouditeur-generaal aan die Parlement verslag doen, indien aldus deur die Parlement daartoe versoek; en
- (b) moet die munisipaliteit die geleentheid gebied word om voor 'n komitee op die bewerings teen hom te antwoord en om sy saak te stel.

(Datum van inwerkingtreding van a. 39: 1 April 2005.)

**40. Staking van ander toekennings aan munisipaliteite.**—Indien die oordrag van fondse aan 'n munisipaliteit ingevolge artikel 38 (1) (b) vir die oorblywende deel van die betrokke finansiële jaar gestaak word, moet die rekenpligtige beampte van die nasionale of provinsiale departement verantwoordelik vir die oordrag, sodanige staking van fondse saam met redes in die jaarlikse finansiële state van die departement vermeld.

(Datum van inwerkingtreding: 1 April 2005.)

**41. Monitering van pryse en betalings vir hulpbronne in grootmaat.**—(1) Die Nasionale Tesourie moet—

- (a) die prysstruktuur van staatsorgane vir die voorsiening van elektrisiteit, water of ander grootmaat hulpbronne wat voorgeskryf mag word, aan munisipaliteite en munisipale entiteite vir die verskaffing van munisipale dienste, moniteer; en
- (b) betalings gemaak deur munisipaliteite en munisipale entiteite vir sodanige grootmaat hulpbronne moniteer.

(2) Elke staatsorgaan wat sodanige grootmaat hulpbronne aan 'n munisipaliteit verskaf, moet binne 15 dae na die einde van elke maand aan die Nasionale Tesourie 'n skriftelike staat verskaf wat ten opsigte van elke munisipaliteit of ten opsigte van elke munisipale entiteit wat munisipale dienste namens sodanige munisipaliteite verskaf, uiteensit—

- (a) die bedrag betaalbaar deur die munisipaliteit of munisipale entiteit ten opsigte van sodanige grootmaat hulpbronne vir daardie maand, en vir die finansiële jaar tot aan die einde van daardie maand;
- (b) die agterstallige betalings verskuldig en die tydsprofiel van sodanige agterstallige betalings; en
- (c) enige stappe deur daardie staatsorgaan gedoen om agterstallige betalings te verhaal.

(Datum van inwerkingtreding van a. 41: 1 April 2005.)

**42. Prysverhogings van grootmaat hulpbronne vir verskaffing van munisipale dienste.**—(1) Indien 'n nasionale of provinsiale staatsorgaan wat water, elektrisiteit of enige ander grootmaat hulpbron wat voorgeskryf mag word, voorsien aan 'n munisipaliteit of munisipale entiteit vir die verskaffing van 'n munisipale diens, voornemens is om die prys van sodanige hulpbron vir die munisipaliteit of munisipale entiteit te verhoog, moet daardie staatsorgaan eers die voorgestelde wysiging van sy prysstruktuur voorlê—

- (a) aan sy uitvoerende gesag, soos omskryf in die Wet op Openbare Finansiële Bestuur; en
- (b) aan enige reguleringsagentskap vir goedkeuring, indien nasionale wetgewing sodanige goedkeuring vereis.

(2) Die staatsorgaan bedoel in subartikel (1) moet, ten minste 40 dae voordat 'n voorlegging ingevolge subartikel (1) (a) of (b) gedoen word, die Nasionale Tesourie en georganiseerde plaaslike regering versoek om skriftelik op die voorgestelde wysiging kommentaar te lewer.

(3) Enige voorlegging ingevolge subartikel (1) (a) of (b) moet vergesel wees van—

- (a) 'n motivering van die redes vir die voorgestelde wysiging;
- (b) 'n verduideliking van hoe die wysiging die volgende in ag neem:
  - (i) Die nasionale regering se inflasieteikens en ander makro-ekonomiese beleidsdoelwitte;
  - (ii) stappe deur die staatsorgaan gedoen om sy mededingendheid en doeltreffendheid te verbeter ten einde koste te besnoei; en
  - (iii) enige doelwitte of teikens soos uitgespel in enige korporatiewe of ander bestuursplan wat op daardie staatsorgaan van toepassing is;
- (c) enige skriftelike kommentaar wat van die Nasionale Tesourie, georganiseerde plaaslike regering of enige munisipaliteite ontvang is; en
- (d) 'n verduideliking van hoe sodanige kommentaar in ag geneem is.

(4) Die uitvoerende gesag van die staatsorgaan moet die wysiging en die dokumente in subartikel (3) bedoel in die Parlement of die betrokke provinsiale wetgewer, na gelang van wat toepaslik mag wees, ter tafel lê.

(5) Tensy anders deur die Minister goedgekeur, tree 'n wysiging van 'n prysstruktuur wat in die Parlement of die betrokke provinsiale wetgewer—

- (a) voor of op 15 Maart van enige jaar ter tafel gelê is, nie vir die munisipaliteite of munisipale entiteite wat daardeur geraak word in werking voor 1 Julie van daardie jaar nie; of
- (b) na 15 Maart van enige jaar ter tafel gelê is, nie vir die munisipaliteite of munisipale entiteite wat daardeur geraak word in werking voor 1 Julie van die volgende jaar nie.

(Datum van inwerkingtreding van a. 42: 1 April 2005.)

**43. Toepasbaarheid van belasting- en tariefbepelings op munisipaliteite.**—(1) Indien 'n nasionale of provinsiale staatsorgaan ingevolge 'n bevoegdheid in enige nasionale of provinsiale wetgewing vervat die bo-perke van 'n munisipale belasting of tarief vasstel, tree sodanige vasstelling vir munisipaliteite in werking op 'n datum in die vasstelling vermeld.

(2) Tensy die Minister op goeie gronde anders goedkeur, mag die datum vermeld in 'n vasstelling in subartikel (1) bedoel—

- (a) indien die vasstelling op of voor 15 Maart van 'n jaar uitgevaardig is, nie 'n datum voor 1 Julie van daardie jaar wees nie; of
- (b) indien die vasstelling na 15 Maart van 'n jaar uitgevaardig is, nie 'n datum voor 1 Julie van die volgende jaar wees nie.

(3) Indien 'n munisipaliteit ooreenkomstig artikel 33 of 46 (3) 'n kontrak aangegaan het wat voorsiening maak vir 'n jaarlikse of ander periodieke verhoging van betalings wat ingevolge die kontrak deur die munisipaliteit gemaak moet word, is geen vasstelling ingevolge 'n bevoegdheid in subartikel (1) bedoel van die bo-perke van 'n munisipale belasting of tarief van toepassing op daardie munisipaliteit nie in soverre sodanige bo-perke die munisipaliteit se vermoë verydel om aan die verhoging van sy betalings ingevolge die kontrak te voldoen.

**44. Dispute tussen staatsorgane.**—(1) Wanneer daar ook al 'n dispuut van 'n finansiële aard tussen staatsorgane ontstaan, moet die betrokke partye so spoedig moontlik alle redelike stappe doen wat nodig mag wees om die aangeleentheid buite die hof te skik.

(2) Indien die Nasionale Tesourie nie 'n party is tot die dispuut nie—

- (a) moet die partye die aangeleentheid by die Nasionale Tesourie aanmeld; en
- (b) kan die partye die Nasionale Tesourie versoek om as bemiddelaar tussen die partye te bemiddel of om 'n persoon as bemiddelaar tussen hulle aan te wys.

(3) Indien die Nasionale Tesourie toestem tot 'n versoek ingevolge subartikel (2), kan die Nasionale Tesourie die bemiddelingsproses bepaal.

(4) Hierdie artikel is slegs van toepassing indien ten minste een van die staatsorgane in subartikel (1) beoog 'n munisipaliteit of munisipale entiteit is.

## HOOFSTUK 6 SKULD

**45. Korttermynskuld.**—(1) 'n Munisipaliteit kan korttermynskuld slegs ooreenkomstig en behoudens die bepalinge van hierdie Wet aangaan, en slegs wanneer dit nodig is ten oorbrugging van—

- (a) tekorte tydens 'n finansiële jaar waarbinne die skuld aangegaan is, in afwagting van spesifieke en realisties verwagte inkomste wat tydens daardie finansiële jaar ontvang staan te word; of
- (b) kapitaalbehoefte tydens 'n finansiële jaar, wat terugbetaal moet word uit spesifieke fondse wat uit afdwingbare toekennings of langtermynskuldverpligtinge ontvang staan te word.

(2) 'n Munisipaliteit mag korttermynskuld aangaan slegs indien—

- (a) 'n resolusie van die munisipale raad, onderteken deur die burgemeester, die skuldooreenkoms goedgekeur het; en
- (b) die rekenpligtige beampte die ooreenkoms of ander dokument wat die skuld skep of erken, onderteken het.

(3) Vir doeleindes van subartikel (2) (a), kan 'n munisipale raad—

- (a) 'n korttermynskuld-transaksie individueel goedkeur; of
- (b) 'n ooreenkoms met 'n uitlener goedkeur vir 'n korttermyn kredietfasiliteit, met inbegrip van 'n krediet- of bankoortrekkingsfasiliteit, wat gebruik kan word soos en wanneer benodig, op voorwaarde dat—
  - (i) die kredietperk in die resolusie van die raad vermeld moet word;



- (ii) die bepalings van die ooreenkoms, asook die kredietperk, slegs deur 'n resolusie van die raad gewysig kan word; en
- (iii) indien die raad 'n kredietfasiliteit goedkeur wat tot noodgebruik beperk is, die rekenpligtige beampte die raad so gou prakties moontlik skriftelik in kennis moet stel van die bedrag, tydsduur en koste van enige skuld ingevolge sodanige kredietfasiliteit aangegaan, sowel as van opsies vir die terugbetaling van sodanige skuld.

(4) 'n Munisipaliteit—

- (a) moet korttermynskuld binne die finansiële jaar afbetaal; en  
(Datum van inwerkingtreding van par. (a): 1 Julie 2008.)
- (b) mag nie korttermynskuld, hetsy sy eie of dié van enige ander entiteit, hernieu of herfinansier waar sodanige hernuwing of herfinansiering die uitwerking sal hê om die korttermynskuld tot in 'n nuwe finansiële jaar te verleng nie.

(5) (a) Geen uitlener mag willens en wetens krediet aan 'n munisipaliteit verleen met die doel om korttermynskuld wat ingevolge subartikel (4) (a) afbetaal moet word, te hernieu of te herfinansier nie.

(b) Indien 'n uitlener willens en wetens strydig met paragraaf (a) krediet aan 'n munisipaliteit verleen, is die munisipaliteit nie verplig om die lening of rente op die lening terug te betaal nie.

(6) Subartikel (5) (b) is nie van toepassing nie as die uitlener—

- (a) te goeder trou op skriftelike voorstellings van die munisipaliteit met betrekking tot die doel van die lening staatgemaak het; en
- (b) nie geweet het en geen rede gehad het om te glo dat die lening vir die doel van die hernuwing of herfinansiering van korttermynskuld aangegaan was nie.

**46. Langtermynskuld.**—(1) 'n Munisipaliteit kan langtermynskuld slegs ooreenkomstig en behoudens enige toepaslike bepalings van hierdie Wet, met inbegrip van artikel 19, aangaan, en slegs vir—

- (a) kapitaalbesteding op eiendom, aanleg of toerusting wat gebruik staan te word ten einde die oogmerke van plaaslike regering soos in artikel 152 van die Grondwet vermeld, met inbegrip van kostes bedoel in subartikel (4), te bereik; of
- (b) die herfinansiering van bestaande langtermynskuld, behoudens subartikel (5).

(2) 'n Munisipaliteit kan langtermynskuld aangaan slegs indien—

- (a) 'n resolusie van die munisipale raad, onderteken deur die burgemeester, die skuldooreenkoms goedgekeur het; en
- (b) die rekenpligtige beampte die ooreenkoms of ander dokument wat die skuld skep of erken, onderteken het.

(3) 'n Munisipaliteit kan langtermynskuld aangaan slegs indien die rekenpligtige beampte van die munisipaliteit—

- (a) ooreenkomstig artikel 21A van die Wet op Munisipale Stelsels—
  - (i) ten minste 14 dae voor die vergadering van die raad waarop goedkeuring vir die skuld oorweeg staan te word, 'n inligtingstaat openbaar gemaak het wat besonderhede van die voorgestelde skuld uiteensit, met inbegrip van die bedrag van die voorgestelde

skuld, die doeleindes waarvoor die skuld aangegaan word en besonderhede van enige sekuriteit wat verskaf moet word; en

(ii) die publiek, die Nasionale Tesourie en die betrokke provinsiale tesourie uitgenooi het om skriftelike kommentaar of vertoë met betrekking tot die voorgestelde skuld aan die raad voor te lê; en

(b) ten minste 21 dae voor die vergadering van die raad 'n afskrif van die inligtingstaat aan die munisipale raad voorgelê het, saam met besonderhede van—

(i) die wesenlike terugbetalingsbepalings, met inbegrip van die verwagte skuldterugbetalingsrooster; en

(ii) die verwagte totale koste verbonde aan sodanige skuld oor die terugbetalingsperiode heen.

(4) Kapitaalbesteding bedoel in subartikel (1) (a) kan insluit—

(a) finansieringskoste, met inbegrip van—

(i) gekapitaliseerde rente vir 'n redelike aanvangsperiode;

(ii) kostes verbonde aan sekuriteitsreëlings ooreenkomstig artikel 48;

(iii) kortings en fooie in verband met die finansiering;

(iv) fooie vir regs-, finansiële, advies-, trustee-, kredietbeoordelings- en ander dienste wat direk met die finansiering in verband staan; en

(v) kostes verbonde aan die verkoop of plasing van skuld, en druk- en publikasiekoste wat direk met die finansiering in verband staan;

(b) kostes van professionele dienste wat direk met die kapitaalbesteding in verband staan; en

(c) sodanige ander kostes wat voorgeskryf mag word.

(5) 'n Munisipaliteit kan geld leen met die doel om bestaande langtermynskuld te herfinansier, mits—

(a) die bestaande langtermynskuld wettiglik aangegaan is;

(b) die herfinansiering nie die termyn van die skuld verlaag vir 'n tydperk langer as die nutsleefyd van die eiendom, aanleg of toerusting waarvoor die geld oorspronklik geleen is nie;

(c) die netto huidige waarde van geprojekteerde toekomstige betalings (met inbegrip van kapitaal- en rentebetalings) ná herfinansiering minder is as die netto huidige waarde van geprojekteerde toekomstige betalings voor herfinansiering; en

(d) die kortingskoers wat gebruik word tydens projektering van die netto huidige waarde in paragraaf (c) bedoel, asook enige aannames met betrekking tot die berekenings, redelik is en in ooreenstemming is met maatstawwe vermeld in 'n raamwerk wat voorgeskryf mag word.

(6) 'n Munisipaliteit se langtermynskuld moet bestaanbaar wees met sy kapitaalbegroting in artikel 17 (2) bedoel.

**47. Voorwaardes van toepassing op beide kort- en langtermynskuld.**—(1) 'n Munisipaliteit kan skuld aangaan slegs indien—

- (a) die skuld in Rand gedenomineer is en nie gekoppel is aan, of geraak word deur, skommelings in die waarde van die Rand teenoor enige buitelandse geldeenheid nie; en
- (b) daar aan artikel 48 (3) voldoen is, indien sekuriteit deur die munisipaliteit gestel moet word.

**48. Sekuriteit.**—(1) 'n Munisipaliteit kan, by resoluție van sy raad, sekuriteit stel vir—

- (a) enige van sy skuldverpligtinge;
- (b) enige skuldverpligtinge van 'n munisipale entiteit onder sy alleenbeheer; of
- (c) kontraktuele verpligtinge van die munisipaliteit wat onderneem is in verband met kapitaalbesteding deur ander persone op eiendom, aanleg of toerusting wat deur die munisipaliteit of sodanige ander persoon gebruik sal word met die doel om die oogmerke van plaaslike regering ingevolge artikel 152 van die Grondwet te bereik.

(2) 'n Munisipaliteit kan ingevolge subartikel (1) enige gepaste sekuriteit stel, ook deur—

- (a) 'n retensiereg te gee oor 'n bate of 'n reg, of 'n bate of 'n reg te verpand, te sedgeer of andersins te verhipotekeer, of enige ander vorm van aanvullende sekuriteit te stel;
- (b) te onderneem om betaling direk te laat geskied uit gelde of middele wat beskikbaar mag word, en om die uitlener of belegger direkte toegang tot daardie bronne te magtig, ten einde betaling van die gesekureerde skuld of nakoming van die gesekureerde verpligtinge te verseker, maar hierdie vorm van sekuriteit mag nie voldoening van artikel 8 (2) beïnvloed nie;
- (c) te onderneem om fondse as sekuriteit by die uitlener, belegger of 'n derde party in te betaal;
- (d) ooreen te kom op spesifieke betalingsmeganismes of -prosedures ten einde eksklusiewe of geormerkte betalings aan uitleners of beleggers te verseker, met inbegrip van inkomste-onderskeppings, betalings in geormerkte rekenings of ander betalingsmeganismes of -prosedures;
- (e) enige kategorie van inkomste of regte op toekomstige inkomste as sekuriteit te sedgeer;
- (f) te onderneem om dispute deur middel van bemiddeling, arbitrasie of ander dispuutbeslegtingsmeganismes te laat besleg;
- (g) te onderneem om inkomstes of spesifieke munisipale tariewe of ander gelde, fooie of fondse op 'n spesifieke vlak te hou of op 'n vlak wat voldoende is om sy finansiële verpligtinge te dek;
- (h) te onderneem om in sy begrotings vir die betaling van sy finansiële verpligtinge, met inbegrip van kapitaal en rente, voorsiening te maak;
- (i) ooreen te kom op beperkings op skuld wat die munisipaliteit in die toekoms mag aangaan totdat die gesekureerde skuld afbetaal is of die gesekureerde verpligtinge nagekom is; en
- (j) ooreen te kom op sodanige ander reëlings wat die munisipaliteit nodig en verstandig ag.

(3) 'n Raadsresoluție wat die verskaffing van sekuriteit ingevolge subartikel (2) (a) magtig—

- (a) moet bepaal of die bate of reg met betrekking waartoe die sekuriteit gestel word, vir die verskaffing van die minimum vlak van basiese munisipale dienste benodig word; en

- (b) indien wel, moet die wyse aandui waarop die beskikbaarheid van die bate of reg met die oog op die verskaffing van daardie minimum vlak van basiese munisipale dienste beskerm sal word.

(4) Indien die resoluëie bepaal het dat die bate of reg benodig word vir die verskaffing van die minimum vlak van basiese munisipale dienste, mag nóg die party aan wie die munisipale sekuriteit verskaf word, nóg enige opvolger of gevolmagtigde van sodanige party, in die geval van wanprestasie deur die munisipaliteit, met die bate of reg handel op 'n wyse wat die voortsetting van daardie minimum vlak van basiese munisipale dienste sal verhinder of belemmer.

(5) 'n Bepaling ingevolge subartikel (3) dat 'n bate of reg nie benodig word vir die verskaffing van die minimum vlak van basiese munisipale dienste nie, is bindend op die munisipaliteit totdat die gesekureerde skuld ten volle afbetaal is of die gesekureerde verpligtinge ten volle nagekom is, na gelang van wat toepaslik mag wees.

**49. Openbaarmaking.**—(1) Enige persoon wat by die leen van geld deur 'n munisipaliteit betrokke is, moet, wanneer daardie persoon met 'n voornemende uitlener kommunikeer of dokumentasie vir oorweging deur 'n voornemende uitlener voorberei—

- (a) alle inligting in daardie persoon se besit of aan daardie persoon bekend openbaar wat wesenlik mag wees vir die besluit van daardie voornemende uitlener of belegger; en
- (b) redelike sorg aan die dag lê om die korrektheid te verseker van enige inligting wat geopenbaar word.

(2) 'n Uitlener of belegger kan op skriftelike voorstellings van die munisipaliteit wat onderteken is deur die rekenpligtige beampte steun, indien die uitlener of belegger nie geweet het en geen rede gehad het om te glo dat daardie voorstellings vals of misleidend is nie.

**50. Munisipale waarborge.**—'n Munisipaliteit mag geen waarborg vir enige verpligting of skuld van enige staatsorgaan of persoon uitreik nie, behalwe op die volgende voorwaardes:

- (a) Die waarborg moet binne perke wees van wat in die munisipaliteit se goedgekeurde begroting gespesifiseer is;
- (b) 'n munisipaliteit kan die skuld van 'n munisipale entiteit onder sy alleenbeheer waarborg slegs indien die waarborg deur die raad gemagtig is op dieselfde wyse en behoudens dieselfde voorwaardes wat ingevolge hierdie Hoofstuk op die munisipaliteit van toepassing sou wees indien die munisipaliteit skuld sou aangaan; en
- (c) 'n munisipaliteit kan die skuld van 'n munisipale entiteit onder sy gedeelde beheer of van enige ander persoon waarborg, maar slegs met die goedkeuring van die Nasionale Tesourie, en dan slegs indien—
  - (i) die munisipaliteit vir die duur van die waarborg 'n kontant-gesteunde reserwefonds skep en in stand hou wat gelykwaardig is aan die som van sy potensiële finansiële blootstelling as gevolg van sodanige waarborg; of
  - (ii) die munisipaliteit vir die duur van die waarborg, 'n versekeringspolis uitneem en in stand hou wat uitgereik is deur 'n geregistreerde versekeraar en wat die volle bedrag van die munisipaliteit se potensiële finansiële blootstelling as gevolg van sodanige waarborg dek.

**51. Nasionale en provinsiale waarborge.**—Nóg die nasionale nóg 'n provinsiale regering mag die skuld van 'n munisipaliteit of 'n munisipale entiteit waarborg, behalwe in soverre Hoofstuk 8 van die Wet op Openbare Finansiële Bestuur vir sodanige waarborge voorsiening maak.

## HOOFSTUK 7 VERANTWOORDELIKHEDE VAN BURGEMEESTERS

**52. Algemene verantwoordelikhede.**—Die burgemeester van 'n munisipaliteit—

- (a) moet algemene politieke leiding verskaf oor die fiskale en finansiële sake van die munisipaliteit;
- (b) kan by die verskaffing van sodanige algemene politieke leiding, die uitoefening van die verantwoordelikhede wat ingevolge hierdie Wet opgedra word aan die rekenpligtige beampte en hoof- finansiële beampte moniteer en, in soverre daar in hierdie Wet voorsiening daarvoor gemaak is, daarvoor toesig hou, maar mag nie met die uitoefening van daardie verantwoordelikhede inmeng nie;
- (c) moet alle redelike stappe doen om te verseker dat die munisipaliteit sy grondwetlike en statutêre funksies binne die beperkinge van die munisipaliteit se goedgekeurde begroting verrig;
- (d) moet binne 30 dae na die einde van elke kwartaal 'n verslag aan die raad oor die implementering van die begroting en die stand van die finansiële sake van die munisipaliteit voorlê; en
- (e) moet die ander bevoegdhede uitoefen en die ander pligte verrig wat ingevolge hierdie Wet aan die burgemeester opgedra is of deur die raad aan die burgemeester gedelegeer is.

**53. Begrotingsproses en aangeleenthede wat daarmee verband hou.**—(1) Die burgemeester van 'n munisipaliteit moet—

- (a) algemene politieke leiding verskaf oor die begrotingsproses en die prioriteite wat rigting aan die opstel van 'n begroting moet gee;
- (b) die jaarlikse hersiening van die geïntegreerde ontwikkelingsplan ingevolge artikel 34 van die Wet op Munisipale Stelsels en die opstel van die jaarlikse begroting koördineer, en bepaal hoe die geïntegreerde ontwikkelingsplan vir doeleindes van die begroting in aanmerking geneem of hersien moet word;
- (c) alle redelike stappe doen om te verseker—
  - (i) dat die munisipaliteit sy jaarlikse begroting voor die aanvang van die begrotingsjaar goedkeur;
  - (ii) dat die munisipaliteit se dienslewering- en begrotingsimplementeringsplan binne 28 dae na die goedkeuring van die begroting deur die burgemeester goedgekeur word; en
  - (iii) dat die jaarlikse prestasie-ooreenkomste soos ingevolge artikel 57 (1) (b) van die Wet op Munisipale Stelsels vir die munisipale bestuurder sowel as alle senior bestuurders vereis—
    - (aa) aan hierdie Wet voldoen ten einde deeglike finansiële bestuur te bevorder;

(bb) aan die meetbare prestasiedoelwitte, wat saam met die begroting goedgekeur moet word, en die dienslewerings- en begrotingsimplementeringsplan gekoppel is; en

(cc) ooreenkomstig artikel 57 (2) van die Wet op Munisipale Stelsels aangeaan is.

(2) Die burgemeester moet onverwyld enige vertraging in die tertafellegging van 'n jaarlikse begroting, die goedkeuring van die dienslewerings- en begrotingsimplementeringsplan of die ondertekening van die jaarlikse prestasie-ooreenkomste aan die munisipale raad en die LUR vir finansies in die provinsie rapporteer.

(3) Die burgemeester moet verseker—

(a) dat die inkomste- en bestedingsprojeksies vir elke maand en die diensleweringsteikens en prestasie-aanwysers vir elke kwartaal, soos vermeld in die dienslewerings- en begrotingsimplementeringsplan, teen nie later nie as 14 dae na die goedkeuring van die dienslewerings- en begrotingsimplementeringsplan openbaar gemaak word; en

(b) dat die prestasie-ooreenkomste van die munisipale bestuurder, senior bestuurders en enige ander kategorie beamptes wat voorgeskryf mag word, teen nie later nie as 14 dae na die goedkeuring van die munisipaliteit se dienslewerings- en begrotingsimplementeringsplan openbaar gemaak word. Afskrifte van sodanige prestasie-ooreenkomste moet aan die raad en die LUR vir plaaslike regering in die provinsie voorgelê word.

**54. Begrotingsbeheer en vroeë identifisering van finansiële probleme.**—(1) By ontvangs van 'n staat of verslag wat ingevolge artikel 71 of 72 deur die rekenpligtige beampte van die munisipaliteit voorgelê is, moet die burgemeester—

(a) oorweging skenk aan die staat of verslag;

(b) bepaal of die munisipaliteit se goedgekeurde begroting ooreenkomstig die dienslewerings- en begrotingsimplementeringsplan geïmplementeer word;

(c) die dienslewerings- en begrotingsimplementeringsplan oorweeg en, indien nodig, wysigings daaraan aanbring, op voorwaarde dat wysigings van die diensleweringsteikens en prestasie-aanwysers in die plan slegs met die goedkeuring van die raad aangebring mag word nadat 'n aansuiweringsbegroting goedgekeur is;

(d) enige gepaste instruksies aan die rekenpligtige beampte uitreik om te verseker—

(i) dat die begroting ooreenkomstig die dienslewerings- en begrotingsimplementeringsplan geïmplementeer word; en

(ii) dat besteding van fondse en insameling van inkomste ooreenkomstig die begroting geskied;

(e) enige finansiële probleme identifiseer wat die munisipaliteit konfronteer, met inbegrip van enige naderende of dreigende finansiële probleme; en

(f) in geval van die artikel 72-verslag, die verslag teen 31 Januarie van elke jaar aan die raad voorlê.

(2) Indien die munisipaliteit met enige ernstige finansiële probleme gekonfronteer word, moet die burgemeester—

(a) onverwyld reageer op enige remediërende of regstellende stappe wat deur die

rekenpligtige beampte voorgestel word om met sodanige probleme te handel, en sodanige stappe onverwyld in werking stel, welke stappe kan insluit—

- (i) stappe om besteding te besnoei wanneer daar verwag word dat inkomste minder sal wees as wat in die munisipaliteit se goedgekeurde begroting geprojekteer is;
  - (ii) die tertafellegging van 'n aansuiweringsbegroting; of
  - (iii) stappe ingevolge Hoofstuk 13; en
- (b) sodanige probleme onder die aandag van die raad en die LUR vir plaaslike regering in die provinsie bring.

(3) Die burgemeester moet verseker dat enige wysigings van die dienslewering- en begrotingsimplémenteringsplan onverwyld openbaar gemaak word.

**55. Verslag aan provinsiale uitvoerende gesag indien voorwaardes vir provinsiale ingryping bestaan.**—Indien 'n munisipaliteit nie 'n jaarlikse begroting teen die eerste dag van die begrotingsjaar goedgekeur het nie of indien die munisipaliteit 'n finansiële probleem bedoel in artikel 136 ondervind—

- (a) moet die burgemeester van die munisipaliteit die aangeleentheid dadelik by die LUR vir plaaslike regering in die provinsie aanmeld; en
- (b) kan die burgemeester 'n toepaslike provinsiale ingryping ingevolge artikel 139 van die Grondwet by die LUR aanbeveel.

**56. Uitoefening van regte en bevoegdhede oor munisipale entiteite.**—(1) Die burgemeester van 'n munisipaliteit wat alleen- of gedeelde beheer oor 'n munisipale entiteit het, moet leiding aan die munisipaliteit gee by die uitoefening van die munisipaliteit se regte en bevoegdhede oor die munisipale entiteit op 'n wyse—

- (a) wat redelikerwys sal verseker dat die munisipale entiteit aan hierdie Wet voldoen en te alle tye verantwoordbaar aan die munisipaliteit bly; en
- (b) wat nie die entiteit in die verrigting van sy bedryfspligte sal strem nie.

(2) Wanneer die burgemeester by die uitoefening van die munisipaliteit se regte en bevoegdhede oor 'n munisipale entiteit leiding aan die munisipaliteit gee, kan die burgemeester die bedryfsfunksies van die entiteit moniteer, maar mag nie met die verrigting van daardie funksies inmeng nie.

**57. Munisipaliteite wat nie burgemeesters het nie.**—(1) Die raad van 'n munisipaliteit wat nie 'n burgemeester het nie, moet 'n raadslid aanwys om die bevoegdhede en pligte uit te oefen wat deur hierdie Wet aan 'n burgemeester opgedra word.

(2) 'n Verwysing in hierdie Wet na die burgemeester van 'n munisipaliteit moet, in die geval van 'n munisipaliteit wat nie 'n burgemeester het nie, uitgelê word as 'n verwysing na 'n raadslid wat ingevolge subartikel (1) deur die raad van die munisipaliteit aangewys is.

**58. Munisipaliteite met uitvoerende komitees.**—Die bevoegdhede en funksies wat deur hierdie Wet opgedra is aan 'n burgemeester moet, in die geval van 'n munisipaliteit wat 'n uitvoerende komitee bedoel in artikel 43 van die Wet op Munisipale Strukture het, deur die burgemeester in oorleg met die uitvoerende komitee uitgeoefen word.

**59. Delegering van bevoegdhede en pligte van burgemeesters.**—(1) Die bevoegdhede en pligte

ingevolge hierdie Wet aan die burgemeester van 'n munisipaliteit opgedra, kan—

- (a) in die geval van 'n munisipaliteit wat 'n uitvoerende burgemeester bedoel in artikel 55 van die Wet op Munisipale Strukture het, deur die uitvoerende burgemeester ingevolge artikel 60 (1) van daardie Wet aan 'n ander lid van die munisipaliteit se burgemeesterskomitee gedelegeer word;
- (b) in die geval van 'n munisipaliteit wat 'n uitvoerende komitee bedoel in artikel 43 van daardie Wet het, deur die raad van die munisipaliteit aan 'n ander lid van die uitvoerende komitee gedelegeer word; of
- (c) in die geval van 'n munisipaliteit wat ingevolge artikel 57 (1) 'n raadslid aangewys het, deur die raad aan enige ander raadslid gedelegeer word.

(2) 'n Delegasie ingevolge subartikel (1)—

- (a) moet op skrif wees;
- (b) is onderworpe aan enige beperkings of voorwaardes wat die uitvoerende burgemeester of raad, na gelang van wat toepaslik mag wees, mag oplê; en
- (c) ontdoen nie die burgemeester van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die uitvoer van die gedelegeerde plig nie.

(3) Die burgemeester kan enige besluit geneem uit hoofde van 'n delegasie ingevolge hierdie artikel, bekragtig, wysig of herroep, maar so 'n wysiging of herroeping van 'n besluit mag nie afbreuk doen aan enige regte wat as gevolg van die besluit kon ontstaan het nie.

## HOOFSTUK 8 VERANTWOORDELIKHEDE VAN MUNISIPALE BEAMPTES

### *Deel 1: Rekenpligtige beamptes*

**60. Munisipale bestuurders moet rekenpligtige beamptes wees.**—Die munisipale bestuurder van 'n munisipaliteit is die rekenpligtige beampte van die munisipaliteit vir doeleindes van hierdie Wet, en moet as rekenpligtige beampte—

- (a) die funksies en bevoegdhede uitoefen wat ingevolge hierdie Wet aan 'n rekenpligtige beampte opgedra word; en
- (b) leiding en advies met betrekking tot voldoening aan hierdie Wet gee aan—
  - (i) die politieke strukture, politieke ampsdraers en beamptes van die munisipaliteit; en
  - (ii) enige munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit.

**61. Fidusiêre verantwoordelikhede van rekenpligtige beamptes.**—(1) Die rekenpligtige beampte van 'n munisipaliteit moet—

- (a) by die bestuur van die munisipaliteit se finansiële sake met betroubaarheid, eerlikheid, integriteit en in die beste belang van die munisipaliteit optree;
- (b) alle wesentlike feite wat tot die rekenpligtige beampte se beskikking is of wat redelikerwys vasstelbaar is, en wat op enige wyse die besluite of aksies van die raad of die



burgemeester mag beïnvloed, aan die munisipale raad en die burgemeester bekendmaak; en

- (c) poog om, binne die invloedssfeer van die rekenpligtige beampte. enige nadeel vir die finansiële belange van die munisipaliteit te verhoed.

(2) 'n Rekenpligtige beampte mag nie—

- (a) op 'n wyse optree wat onbestaanbaar is met die pligte wat ingevolge hierdie Wet aan rekenpligtige beamptes van munisipaliteite opgedra word nie; of
- (b) die posisie en voorregte van, of vertroulike inligting bekom as, rekenpligtige beampte vir persoonlike gewin gebruik of om 'n ander persoon onbehoorlik te bevoordeel nie.

#### *Finansiële bestuur*

**62. Algemene finansiële bestuursfunksies.**—(1) Die rekenpligtige beampte van 'n munisipaliteit is verantwoordelik vir die bestuur van die finansiële administrasie van die munisipaliteit, en moet vir hierdie doel alle redelike stappe doen om te verseker—

- (a) dat die hulpbronne van die munisipaliteit effektief, doeltreffend en ekonomies gebruik word;
- (b) dat volledige en behoorlike rekord van die finansiële sake van die munisipaliteit ooreenkomstig enige voorgeskrewe norme en standaarde gehou word;
- (c) dat die munisipaliteit effektiewe, doeltreffende en deursigtige stelsels het en in stand hou betreffende—
  - (i) finansiële en risikobestuur en interne beheer; en
  - (ii) interne oudit wat ooreenkomstig enige voorgeskrewe norme en standaarde bedryf word;
- (d) dat ongemagtigde, onreëlmatige of vrugtelose en verkwiste bestedings, asook ander verliese, voorkom word; en
- (e) dat dissiplinêre of, wanneer gepas, strafregtelike verrigtinge ingestel werd teen enige beampte van die munisipaliteit wat ná bewering 'n daad van finansiële wangedrag of 'n oortreding ingevolge Hoofstuk 15 begaan het; en
- (f) dat die munisipaliteit beskik oor en in stand hou—
  - (i) 'n tariefbeleid in artikel 74 van die Wet op Munisipale Stelsels bedoel;
  - (ii) 'n eiendomsbelastingbeleid wat ingevolge enige toepaslike nasionale wetgewing vereis mag word;
  - (iii) 'n kredietbeheer- en skuldinvorderingsbeleid in artikel 96 (b) van die Wet op Munisipale Stelsels bedoel; en
  - (iv) 'n voorsieningskanaal-bestuursbeleid ooreenkomstig Hoofstuk 11.

(Datum van inwerkingtreding van sub-par. (iv): 1 Desember 2004.)

(2) Die rekenpligtige beampte is verantwoordelik vir, en moet rekenskap gee van, alle bankrekenings van die munisipaliteit, met inbegrip van enige bankrekening geopen vir—

- (a) enige noodlenigings-, liefdadigheids-, trust- of ander fonds wat ingevolge artikel 12 deur

die munisipaliteit ingestel is; of

(b) 'n doel in artikel 48 (2) (d) beoog.

**63. Bestuur van bates en laste.**—(1) Die rekenpligtige beampte van 'n munisipaliteit is verantwoordelik vir die bestuur van—

(a) die bates van die munisipaliteit, met inbegrip van die beveiliging en instandhouding van daardie bates; en

(b) die laste van die munisipaliteit.

(2) Die rekenpligtige beampte moet vir doeleindes van subartikel (1) alle redelike stappe doen om te verseker—

(a) dat die munisipaliteit 'n bestuurs-, rekenkundige en inligtingstelsel wat rekenskap gee van die bates en laste van die munisipaliteit, het en in stand hou;

(b) dat die munisipaliteit se bates en laste gewaardeer word ooreenkomstig standarde van algemeen erkende rekenkundige praktyk; en

(c) dat die munisipaliteit beskik oor en die instandhouding behartig van 'n stelsel van interne beheer oor bates en laste, met inbegrip van 'n register van bates en laste, soos wat voorgeskryf mag word.

**64. Bestuur van inkomste.**—(1) Die rekenpligtige beampte van 'n munisipaliteit is verantwoordelik vir die bestuur van die inkomste van die munisipaliteit.

(2) Die rekenpligtige beampte moet vir doeleindes van subartikel (1) alle redelike stappe doen om te verseker—

(a) dat die munisipaliteit beskik oor effektiewe inkomste-insamelingstelsels wat bestaanbaar is met artikel 95 van die Wet op Munisipale Stelsels en die munisipaliteit se kredietbeheer- en invorderingsbeleid;

(b) dat inkomste wat aan die munisipaliteit verskuldig is, op 'n maandelikse basis bereken word;

(c) dat rekeninge vir munisipale belasting en gelde vir munisipale dienste op 'n maandelikse basis opgestel word, of minder gereeld soos voorgeskryf mag word waar maandelikse rekeninge onekonomies is;

(d) dat alle geld wat ontvang word onverwyld ooreenkomstig hierdie Wet in die munisipaliteit se primêre en ander bankrekenings inbetaal word;

(e) dat die munisipaliteit 'n bestuurs-, rekenkundige en inligtingstelsel het en in stand hou wat—

(i) inkomste eien wanneer dit verdien word;

(ii) rekening hou van debiteure; en

(iii) rekening hou van ontvangstes van inkomste;

(f) dat die munisipaliteit 'n stelsel van interne beheer met betrekking tot debiteure en inkomste, soos voorgeskryf mag word, het en in stand hou;

(g) dat die munisipaliteit rente hef op agterstallige betalings, behalwe waar die raad

ooreenkomstig sy begrotingsverwante beleidsdokumente, en binne 'n voorgeskrewe raamwerk, vrystellings verleen het; en

- (h) dat alle inkomste ontvang deur die munisipaliteit, met inbegrip van inkomste namens die munisipaliteit deur enige insamelingsagent ontvang, ten minste op 'n weeklikse basis gerekonsilieer word.

(3) Die rekenpligtige beampte moet die Nasionale Tesourie dadelik in kennis stel van enige betalings deur 'n staatsorgaan aan die munisipaliteit verskuldig vir munisipale belasting of vir munisipale dienste, indien sodanige betalings gereeld vir tydperke van meer as 30 dae agterstallig is.

(4) Die rekenpligtige beampte moet alle redelike stappe doen om te verseker—

- (a) dat enige fondse namens 'n ander staatsorgaan deur die munisipaliteit geïen, ten minste op 'n weeklikse basis aan daardie staatsorgaan oorgedra word; en
- (b) dat sodanige fondse nie vir doeleindes van die munisipaliteit gebruik word nie.

**65. Bestedingsbestuur.**—(1) Die rekenpligtige beampte van 'n munisipaliteit is verantwoordelik vir die bestuur van die munisipaliteit se besteding.

(2) Die rekenpligtige beampte moet vir doeleindes van subartikel (1) alle redelike stappe doen om te verseker—

- (a) dat die munisipaliteit 'n doeltreffende stelsel van bestedingsbeheer, met inbegrip van prosedures vir die goedkeuring, magtiging, onttrekking en betaling van fondse, het en in stand hou;
- (b) dat die munisipaliteit beskik oor, en die instandhouding behartig van, 'n bestuurs-, rekenkundige en inligtingstelsel wat—
  - (i) besteding eien sodra dit aangegaan word;
  - (ii) rekening hou van skuldeisers van die munisipaliteit; en
  - (iii) rekening hou van betalings gemaak deur die munisipaliteit;
- (c) dat die munisipaliteit 'n stelsel van interne beheer met betrekking tot skuldeisers en betalings het en in stand hou;
- (d) dat betalings deur die munisipaliteit gemaak word—
  - (i) direk aan die persoon aan wie dit verskuldig is, tensy anders ooreengekom vir redes wat voorgeskryf mag word; en
  - (ii) óf elektronies óf deur middel van nie-oordraagbare tjeks, met dien verstande dat kontantbetalings en betalings deur middel van kontanttjeks slegs weens uitsonderlike redes gemaak mag word, en slegs tot op 'n voorgeskrewe perk;
- (e) dat alle gelde deur die munisipaliteit verskuldig binne 30 dae na ontvangs van die betrokke faktuur of staat betaal word, tensy anders voorgeskryf vir sekere kategorieë bestedings;
- (f) dat die munisipaliteit aan sy verpligtinge met betrekking tot belasting, heffings, regte, pensioen, mediese bystandsfondse, ouditfooie en ander statutêre verpligtinge voldoen;
- (g) dat enige dispuut rakende betalings deur die munisipaliteit verskuldig aan 'n ander staatsorgaan bygelê word ingevolge wetgewing wat dispute tussen staatsorgane reguleer;

- (h) dat die munisipaliteit se beskikbare bedryfskapitaal doeltreffend en ekonomies ingevolge die voorgeskrewe kontantbestuurs- en beleggingsraamwerk bestuur word;
- (i) dat die munisipaliteit se voorsieningskanaal-bestuursbeleid bedoel in artikel 111 geïmplementeer word op 'n wyse wat regverdig, billik, deursigtig, kompetend en koste-effektief is; en
- (j) dat alle finansiële rekeninge van die munisipaliteit teen die einde van elke maand afgesluit word en met die munisipaliteit se rekords gerekonsilieer word.

**66. Besteding ten opsigte van personeelvoordele.**—Die rekenpligtige beampte van 'n munisipaliteit moet, in 'n formaat en vir tydperke wat voorgeskryf mag word, aan die raad verslag doen oor alle besteding deur die munisipaliteit ten opsigte van salarisse, lone, toelaes en voordele van personeel, en op 'n wyse wat sodanige besteding per tipe besteding aantoon, naamlik—

- (a) salarisse en lone;
- (b) bydraes ten opsigte van pensioene en mediese bystand;
- (c) reis-, motorvoertuig-, verblyf-, onderhouds- en ander toelaes;
- (d) behuisingsvoordele en -toelaes;
- (e) oortydbetalings;
- (f) lenings en voorskotte; en
- (g) enige ander tipe voordeel of toelaag in verband met personeel.

**67. Fondse oorgedra aan organisasies en liggame buite regering.**—(1) Voordat fondse van die munisipaliteit aan 'n organisasie of liggaam buite enige regeringsfeer behalwe ter voldoening aan 'n kommersiële of ander besigheidstransaksie oorgedra word, moet die rekenpligtige beampte tevrede wees dat die organisasie of liggaam—

Sien Raad se Beleid

- (a) beskik oor die kapasiteit en ingestem het—
  - (i) om aan enige ooreenkoms met die munisipaliteit te voldoen;
  - (ii) om vir die termyn van die ooreenkoms te voldoen aan alle verslaggewings-, finansiële bestuurs- en ouditvereistes wat in die ooreenkoms gestipuleer mag word;
  - (iii) om ten minste maandeliks aan die rekenpligtige beampte verslag te doen oor werklike bestedings teen sodanige oordrag; en
  - (iv) om onverwyld sy geouditeerde finansiële state vir sy finansiële jaar aan die rekenpligtige beampte voor te lê;
- (b) effektiewe, doeltreffende en deursigtige finansiële bestuur- en interne beheerstelsels implementeer om teen bedrog, diefstal en finansiële wanbestuur te waak; en
- (c) met betrekking tot vorige soortgelyke oordragte aan al die vereistes van hierdie artikel voldoen het.

(2) Indien daar 'n versuim was deur 'n organisasie of liggaam om met betrekking tot 'n vorige oordrag te voldoen aan die vereistes van subartikel (1), kan die munisipaliteit ten spyte van subartikel (1) (c) 'n verdere oordrag aan daardie organisasie of liggaam maak mits—

- (a) daar aan subartikel (1) (a) en (b) voldoen word; en

(b) die betrokke provinsiale tesourie die oordrag goedgekeur het.

(3) Die rekenpligtige beampte moet deur middel van kontraktuele en ander gepaste meganismes nakoming van subartikel (1) afdwing.

(4) Subartikel (1) (a) is nie van toepassing op 'n organisasie of liggaam wat omsien na behoeftiges of wat deur die regering gebruik word as 'n agentskap om na behoeftiges om te sien nie, mits—

(a) die oordrag nie 'n voorgeskrewe perk oorskry nie; en

(b) die rekenpligtige beampte—

(i) alle redelike stappe doen om te verseker dat die geteikende begunstigdes die voordeel ontvang van die fondse wat oorgedra word; en

(ii) teenoor die Ouditeur-generaal sertifiseer dat voldoening aan subartikel (1) (a) deur daardie organisasie of liggaam onekonomies of onredelik is.

**68. Opstel van begroting.**—Die rekenpligtige beampte van 'n munisipaliteit moet—

(a) die burgemeester bystaan by die verrigting van die begrotingsfunksies wat ingevolge Hoofstukke 4 en 7 aan die burgemeester opgedra is; en

(b) die burgemeester voorsien van die administratiewe ondersteuning, hulpbronne en inligting wat nodig is om daardie funksies te verrig.

**69. Implementering van begroting.**—(1) Die rekenpligtige beampte van 'n munisipaliteit is verantwoordelik vir die implementering van die munisipaliteit se goedgekeurde begroting, asook om alle redelike stappe te doen om te verseker—

(a) dat die besteding van fondse ooreenkomstig die begroting geskied en besnoei word soos nodig wanneer inkomste na verwagting laer sal wees as wat in die begroting of in die dienslewering- en begrotingsimplementeringsplan geprojekteer is; en

(b) dat inkomste en besteding behoorlik gemoniteer word.

(2) Wanneer nodig, moet die rekenpligtige beampte 'n aansuiweringsbegroting opstel en dit aan die burgemeester vir oorweging en tertafellegging in die raad voorlê.

(3) Die rekenpligtige beampte moet nie later nie as 14 dae na die goedkeuring van 'n jaarlikse begroting aan die burgemeester—

(a) 'n konsep dienslewering- en begrotingsimplementeringsplan vir die begrotingsjaar voorlê; en

(b) konsepte voorlê van die jaarlikse prestasie-ooreenkomste wat ingevolge artikel 57 (1) (b) van die Wet op Munisipale Stelsels ten opsigte van die munisipale bestuurder en alle senior bestuurders vereis word.

**70. Dreigende tekorte, oorbesteding en oortrekkings.**—(1) Die rekenpligtige beampte van 'n munisipaliteit moet skriftelik aan die munisipale raad verslag doen oor—

(a) enige dreigende—

(i) tekorte in begrote inkomste; en

(ii) oorbesteding van die munisipaliteit se begroting; en

(b) enige stappe gedoen om sodanige tekorte of oorbesteding te vermy of reg te stel.

(2) Indien 'n munisipaliteit se bankrekening, of indien die munisipaliteit meer as een bankrekening het, die gekonsolideerde saldo van daardie bankrekenings, 'n netto oortrokke stand toon vir 'n tydperk wat 'n voorgeskrewe tydperk oorskry, moet die rekenpligtige beampte van die munisipaliteit die Nasionale Tesourie, in die voorgeskrewe formaat, onverwyld in kennis stel van—

(a) die bedrag waarmee die rekening of rekenings oortrokke is;

(b) die redes vir die oortrokke rekening of rekenings; en

(c) die stappe gedoen of wat gedoen staan te word om die aangeleentheid reg te stel.

(3) Wanneer by die toepassing van subartikel (2) die netto oortrokke stand bepaal word, moet die rekenpligtige beampte enige bedrae uitsluit wat vir enige spesifieke doel geormerk of verbind is of wat op enige ander wyse beswaar is.

### *Verslae en aanmeldbare aangeleenthede*

**71. Maandelikse begrotingstate.**—(1) Die rekenpligtige beampte van 'n munisipaliteit moet teen nie later nie as 10 werksdae na die einde van elke maand aan die burgemeester van die munisipaliteit en die betrokke provinsiale tesourie 'n staat in die voorgeskrewe formaat voorlê oor die stand van die munisipaliteit se begroting, wat die volgende besonderhede vir daardie maand en vir die finansiële jaar tot en met die einde van daardie maand moet aantoon:

(a) Werklike inkomste, per inkomstebron;

(b) werklike lenings;

(c) werklike besteding, per begrotingspos;

(d) werklike kapitaalbesteding, per begrotingspos;

(e) die bedrag van enige toekennings ontvang;

(f) werklike besteding teen daardie toekennings, behalwe besteding met betrekking tot—

(i) die munisipaliteit se deel van plaaslike regering se billike deel; en

(ii) toekennings wat deur die jaarlikse Wet op die Verdeling van Inkomste vrygestel is van voldoening aan hierdie paragraaf; en

(g) wanneer nodig, 'n verduideliking van—

(i) enige wesentliche afwykings van die munisipaliteit se geprojekteerde inkomste per bron, en van die munisipaliteit se bestedingsprojeksies per begrotingspos;

(ii) enige wesentliche afwykings van die dienslewerings- en begrotingsimplementeringsplan; en

(iii) enige remediërende of regstellende stappe gedoen of beoog om te verseker dat geprojekteerde inkomste en besteding binne die munisipaliteit se goedgekeurde begroting bly.

(2) Die staat moet insluit—

(a) 'n projeksie van die betrokke munisipaliteit se inkomste en besteding vir die oorblywende deel van die finansiële jaar, asook enige hersienings van aanvanklike projeksies; en

(b) die voorgeskrewe inligting met betrekking tot die stand van die begroting van elke munisipale entiteit soos ingevolge artikel 87 (10) aan die munisipaliteit verskaf.

(3) Die bedrae in die staat aangetoon, moet in elke geval vergelyk word met die ooreenstemmende bedrae waarvoor in die munisipaliteit se goedgekeurde begroting begroot is.

(4) Die staat aan die provinsiale tesourie moet in die formaat van 'n ondertekende dokument asook in elektroniese formaat wees.

(5) Die rekenpligtige beampte van 'n munisipaliteit wat 'n toekenning bedoel in subartikel (1) (e) gedurende enige besondere maand ontvang het, moet, teen nie later nie as 10 werksdae na die einde van daardie maand, daardie deel van die staat wat die besonderhede bedoel in subartikel (1) (e) en (f) aantoon, voorlê aan die nasionale of provinsiale staatsorgaan of munisipaliteit wat die toekenning oorgedra het.

(6) Die provinsiale tesourie moet teen nie later nie as 22 werksdae na die einde van elke maand 'n gekonsolideerde staat in die voorgeskrewe formaat aan die Nasionale Tesourie voorlê oor die stand van die munisipaliteite se begrotings, per munisipaliteit en per munisipale entiteit.

(7) Die provinsiale tesourie moet, binne 30 dae na die einde van elke kwartaal, 'n gekonsolideerde staat in die voorgeskrewe formaat openbaar maak, soos voorgeskryf mag word, oor die stand van munisipaliteite se begrotings, per munisipaliteit en per munisipale entiteit. Die LUR vir finansies moet die gekonsolideerde staat aan die provinsiale wetgewer voorlê nie later nie as 45 dae na die einde van elke kwartaal.

(Datum van inwerkingtreding van a. 71: 1 Desember 2004.)

**72. Halfjaarlikse begrotings- en prestasie-evaluasie.**—(1) Die rekenpligtige beampte van 'n munisipaliteit moet teen 25 Januarie van elke jaar—

(a) die prestasie van die munisipaliteit gedurende die eerste helfte van die finansiële jaar evalueer, met inagneming van—

(i) die maandelikse state in artikel 71 bedoel vir die eerste helfte van die finansiële jaar;

(ii) die munisipaliteit se dienslewingsprestasie gedurende die eerste helfte van die finansiële jaar, en die dienslewingssteikens en prestasie-aanwysers in die dienslewings- en begrotingsimplementeringsplan gestel;

(iii) die vorige jaar se jaarverslag, en vordering met die oplossing van probleme wat in die jaarverslag geïdentifiseer is; en

(iv) die prestasie van elke munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit, met inagneming van verslae ingevolge artikel 88 van enige sodanige entiteite ontvang; en

(b) 'n verslag oor sodanige evaluasie voorlê aan—

(i) die burgemeester van die munisipaliteit;

(ii) die Nasionale Tesourie; en

(iii) die betrokke provinsiale tesourie.

(2) Die staat in artikel 71 (1) bedoel vir die sesde maand van 'n finansiële jaar kan in die verslag bedoel in subartikel (1) (b) van hierdie artikel ingelyf word.

(3) Die rekenpligtige beampte moet, as deel van die evaluasie—

- (a) aanbevelings doen oor die vraag of 'n aansuiweringsbegroting nodig is; en
- (b) hersiene projeksies vir inkomste en besteding aanbeveel in soverre dit nodig mag wees.

**73. Rapportering van versuim om begrotingsverwante en ander beleidsdokumente aan te neem of te implementeer.**—Die rekenpligtige beampte moet die provinsiale tesourie skriftelik in kennis stel van—

- (a) enige versuim deur die raad van die munisipaliteit om 'n begrotingsverwante beleid of 'n voorsieningskanaal-bestuursbeleid bedoel in artikel 111 aan te neem of te implementeer; of
- (b) enige nie-voldoening aan enige sodanige beleid deur 'n politieke struktuur of ampsdraer van die munisipaliteit.

(Datum van inwerkingtreding van a. 73: 1 Julie 2005.)

**74. Algemene verpligting om verslag te doen.**—(1) Die rekenpligtige beampte van 'n munisipaliteit moet aan die Nasionale Tesourie, die provinsiale tesourie, die departement van plaaslike regering in die provinsie of die Ouditeur-generaal dié inligting, opgawes, dokumente, verduidelikings en motiverings voorlê wat voorgeskryf of vereis mag word.

(2) Indien die rekenpligtige beampte van 'n munisipaliteit nie in staat is om aan enige van die verantwoordelikhede ingevolge hierdie Wet te voldoen nie, moet hy of sy onverwyld die onvermoë, saam met redes, aan die burgemeester en die provinsiale tesourie rapporteer.

**75. Inligting wat op webtuistes van munisipaliteite geplaas moet word.**—(1) Die rekenpligtige beampte van 'n munisipaliteit moet die volgende dokumente van die munisipaliteit op die webtuiste bedoel in artikel 21A van die Wet op Munisipale Stelsels plaas:

- (a) Die jaarlikse en enige aansuiweringsbegrotings en alle begrotingsverwante dokumente;
- (b) alle begrotingsverwante beleidsdokumente;
- (c) die jaarverslag;
- (d) alle prestasie-ooreenkomste wat ingevolge artikel 57 (1) (b) van die Wet op Munisipale Stelsels vereis word;
- (e) alle diensleweringsooreenkomste;
- (f) alle langtermyn leningskontrakte;
- (g) alle voorsieningskanaal-bestuurskontrakte bo 'n voorgeskrewe waarde;
- (h) 'n inligtingstaat wat 'n lys bevat van bates met 'n waarde van meer as 'n voorgeskrewe waarde wat ingevolge artikel 14 (2) of (4) gedurende die vorige kwartaal van die hand gesit is;
- (i) kontrakte waarop subartikel (1) van artikel 33 behoudens subartikel (3) van daardie artikel van toepassing is;
- (j) publiek-privaat vennootskapsooreenkomste in artikel 120 bedoel;
- (k) alle kwartaallikse verslae wat ingevolge artikel 52 (d) in die raad ter tafel gelê is; en



- (l) enige ander dokumente wat ingevolge hierdie Wet of enige ander wetgewing wat van toepassing is, op die webtuiste geplaas moet word, of soos wat voorgeskryf mag word.

(2) 'n Dokument in subartikel (1) bedoel, moet teen nie later nie as vyf dae na die tertaaflegging daarvan in die raad of op die datum waarop dit openbaar gemaak moet word, na gelang van wat eerste plaasvind, op die webtuiste geplaas word.

**76. Beskerming van rekenpligtige beampte.**—Enige stappe deur 'n politieke struktuur of ampsdraer van 'n munisipaliteit teen die rekenpligtige beampte van die munisipaliteit gedoen bloot vanweë daardie rekenpligtige beampte se voldoening aan 'n bepaling van hierdie Wet, is 'n onbillike arbeidspraktyk vir doeleindes van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995).

*Deel 2: Finansiële administrasie*

**77. Topbestuur van munisipaliteite.**—(1) Die topbestuur van 'n munisipaliteit se administrasie bestaan uit—

- (a) die rekenpligtige beampte;
- (b) die hoof- finansiële beampte;
- (c) alle senior bestuurders wat vir die bestuur van die onderskeie begrotingsposte van die munisipaliteit verantwoordelik is en aan wie bevoegdhede en pligte vir hierdie doel ingevolge artikel 79 gedelegeer is; en
- (d) enige ander senior beamptes wat deur die rekenpligtige beampte aangewys is.

(2) Die topbestuur moet die rekenpligtige beampte bystaan met die bestuur en koördinerings van die finansiële administrasie van die munisipaliteit.

**78. Senior bestuurders en ander beamptes van munisipaliteite.**—(1) Elke senior bestuurder van 'n munisipaliteit en elke beampte van 'n munisipaliteit wat finansiële bestuursverantwoordelikhede uitoefen, moet binne hul onderskeie verantwoordelikhedsgebiede alle redelike stappe doen om te verseker—

- (a) dat die stelsel van finansiële bestuur en interne beheer wat vir die munisipaliteit ingestel is met die nodige toewyding uitgevoer word;
- (b) dat die finansiële en ander hulpbronne van die munisipaliteit op 'n effektiewe, doeltreffende, ekonomiese en deursigtige wyse gebruik word;
- (c) dat enige ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding, en enige ander verliese, voorkom word;
- (d) dat alle inkomste wat verskuldig is aan die munisipaliteit, geïen word;
- (e) dat die bates en verpligtinge van die munisipaliteit effektief bestuur word en dat bates beveilig en in stand gehou word in soverre dit nodig is;
- (f) dat alle inligting wat deur die rekenpligtige beampte benodig word vir voldoening aan die bepalings van hierdie Wet tydig aan die rekenpligtige beampte voorgelê word; en
- (g) dat daar aan die bepalings van hierdie Wet, met inbegrip van enige delegasies ingevolge artikel 79, voldoen word in soverre dit op daardie senior bestuurder of beampte van toepassing is.

(2) 'n Senior bestuurder of so 'n beampte moet die funksies in subartikel (1) bedoel behoudens die voorskrifte van die rekenpligtige beampte van die munisipaliteit verrig.

**79. Delegasies.**—(1) Die rekenpligtige beampte van 'n munisipaliteit—

- (a) moet, met die oog op die behoorlike toepassing van hierdie Wet in die administrasie van die munisipaliteit, 'n gepaste delegasiestelsel ontwikkel wat beide administratiewe en bestuursvaardigheid sal maksimaliseer, asook toereikende wigte en teenwigte in die munisipaliteit se finansiële administrasie sal verskaf;
- (b) kan, ooreenkomstig daardie stelsel, aan 'n lid van die munisipaliteit se topstruktuur in artikel 77 bedoel of enige ander beampte van die munisipaliteit—
  - (i) enige van die bevoegdhede of pligte delegeer wat ingevolge hierdie Wet aan 'n rekenpligtige beampte opgedra word; of
  - (ii) enige bevoegdhede of pligte delegeer wat redelikerwys nodig is om die rekenpligtige beampte in staat te stel om 'n plig na te kom wat van die rekenpligtige beampte vereis om redelike of gepaste stappe te doen om die bereiking van die oogmerke van 'n spesifieke bepaling van hierdie Wet te verseker; en
- (c) moet gereeld delegasies uitgereik ingevolge paragraaf (b) hersien en, indien nodig, enige van daardie delegasies wysig of intrek.

(2) Die rekenpligtige beampte mag nie enige van die bevoegdhede of pligte ingevolge hierdie Wet aan rekenpligtige beamptes opgedra, aan enige politieke struktuur of politieke ampsdraer van die munisipaliteit delegeer nie.

(3) 'n Delegasie ingevolge subartikel (1)—

- (a) moet skriftelik wees;
- (b) is onderworpe aan sodanige beperkings en voorwaardes wat die rekenpligtige beampte in 'n besondere geval mag oplê;
- (c) kan óf verleen word aan 'n spesifieke persoon óf aan die bekleër van 'n spesifieke pos in die munisipaliteit;
- (d) kan, in die geval van 'n delegasie aan 'n lid van die munisipaliteit se topbestuur ingevolge subartikel (1) (b), daardie lid magtig om die gedelegeerde bevoegdheid of plig te subdelegeer aan 'n beampte of die bekleër van 'n spesifieke pos binne daardie lid se verantwoordelikhedsgebied; en
- (e) ont doen nie die rekenpligtige beampte van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die gedelegeerde plig nie.

(4) Die rekenpligtige beampte kan enige besluit geneem uit hoofde van 'n delegasie of subdelegasie ingevolge hierdie artikel bevestig, wysig of intrek, maar so 'n wysiging of intrekking van 'n besluit mag nie afbreuk doen aan enige regte wat as gevolg van die besluit kon ontstaan het nie.

HOOFSTUK 9  
MUNISIPALE BEGROTINGS- EN TESOURIEKANTORE

**80. Instelling.**—(1) Elke munisipaliteit moet ’n begrotings- en tesouriekantoor hê.

(2) ’n Begrotings- en tesouriekantoor bestaan uit—

- (a) ’n hoof- finansiële beampte deur die rekenpligtige beampte van die munisipaliteit aangewys;
- (b) beamptes van die munisipaliteit deur die rekenpligtige beampte aan die hoof- finansiële beampte toegewys; en
- (c) enige ander persone wat vir die werk van die kantoor deur die munisipaliteit gekontrakteer word.

**81. Rol van hoof- finansiële beampte.**—(1) Die hoof- finansiële beampte van ’n munisipaliteit—

- (a) is administratiewelik in beheer van die begrotings- en tesouriekantoor;
- (b) moet die rekenpligtige beampte adviseer met betrekking tot die uitoefening van bevoegdhede en pligte wat ingevolge hierdie Wet aan die rekenpligtige beampte opgedra word;
- (c) moet die rekenpligtige beampte bystaan met die bestuur van die munisipaliteit se bankrekenings en met die opstel en implementering van die munisipaliteit se begroting;
- (d) moet senior bestuurders en ander senior beamptes adviseer met betrekking tot die uitoefening van bevoegdhede en pligte wat ingevolge artikel 78 aan hulle opgedra word of ingevolge artikel 79 aan hulle gedelegeer is; en
- (e) moet sodanige begrotings-, rekenkundige, ontledings-, finansiële verslaggewings-, kontantbestuurs-, skuldbestuurs-, voorsieningskanaal-bestuurs-, finansiële bestuurs-, hersienings- en ander pligte uitvoer wat ingevolge artikel 79 deur die rekenpligtige beampte aan die hoof- finansiële beampte gedelegeer mag word.

(2) Die hoof- finansiële beampte van ’n munisipaliteit is met betrekking tot die verrigting van die pligte in subartikel (1) bedoel aan die rekenpligtige beampte verantwoordingspligtig.

**82. Delegasies.**—(1) Die hoof- finansiële beampte van ’n munisipaliteit kan enige van die pligte bedoel in artikel 81 (1) (b), (d) en (e) subdelegeer—

- (a) aan ’n beampte in die begrotings- en tesouriekantoor;
- (b) aan die bekleër van ’n spesifieke pos in daardie kantoor; of
- (c) met die instemming van die rekenpligtige beampte, aan—
  - (i) enige ander beampte van die munisipaliteit; of
  - (ii) enige persoon wat vir die werk van die kantoor deur die munisipaliteit gekontrakteer is.

(2) Indien die hoof- finansiële beampte enige pligte ingevolge subartikel (1) subdelegeer aan ’n persoon wat nie ’n werknemer van die munisipaliteit is nie, moet die hoof- finansiële beampte tevrede

wees dat effektiewe stelsels en prosedures daargestel is om beheer en verantwoordingspligtigheid te verseker.

(3) 'n Subdelegasie ingevolge subartikel (1)—

- (a) moet skriftelik wees;
- (b) is onderworpe aan sodanige beperkings en voorwaardes wat die hoof- finansiële beampte mag oplê; en
- (c) ontdoen nie die hoof- finansiële beampte van die verantwoordelikheid met betrekking tot die gedelegeerde plig nie.

(4) Die hoof- finansiële beampte kan enige besluit geneem uit hoofde van 'n subdelegasie ingevolge subartikel (1), bevestig, wysig of intrek, maar so 'n wysiging of intrekking van 'n besluit mag nie afbreuk doen aan enige regte wat as gevolg van die besluit kon ontstaan het nie.

**83. Bekwaamheidsvlakke van professionele finansiële beamptes.**—(1) Die rekenpligtige beampte, senior bestuurders, die hoof- finansiële beampte en ander finansiële beamptes van 'n munisipaliteit moet aan die voorgeskrewe finansiële bestuursbekwaamheidsvlakke voldoen.

(2) 'n Munisipaliteit moet vir doeleindes van subartikel (1) hulpbronne en geleentede verskaf vir die opleiding van beamptes in daardie subartikel bedoel om aan die voorgeskrewe bekwaamheidsvlakke te voldoen.

(3) Die Nasionale Tesourie of 'n provinsiale tesourie kan munisipaliteite met die opleiding van beamptes bedoel in subartikel (1) bystaan.

(Datum van inwerkingtreding van a. 83: 1 Julie 2006.)

## HOOFSTUK 10 MUNISIPALE ENTITEITE

### *Deel 1: Instelling*

**84. Finansiële implikasies vir munisipaliteite.**—(1) Wanneer 'n munisipaliteit oorweeg om 'n munisipale entiteit in te stel of aan die instelling daarvan mee te doen, moet die munisipaliteit eers—

- (a) presies bepaal watter funksie of diens sodanige entiteit namens die munisipaliteit sal verrig; en
- (b) die impak bepaal wat die oordrag van daardie funksie of diens na die entiteit op die munisipaliteit se personeel, bates en laste sal hê, met inbegrip van 'n bepaling van—
  - (i) die aantal personeellede van die munisipaliteit wat na die entiteit oorgeplaas sal moet word;
  - (ii) die aantal personeellede van die munisipaliteit wat as gevolg van die oordrag van daardie funksie of diens oorbodig sal raak;
  - (iii) die koste vir die munisipaliteit van enige personeelafdanings of die indienshouding van oorbodige personeel;
  - (iv) enige bates van die munisipaliteit wat na die entiteit oorgedra sal moet word;
  - (v) enige bates van die munisipaliteit wat as gevolg van die oordrag van daardie funksie

of diens in onbruik sal raak;

- (vi) enige laste van die munisipaliteit wat aan die entiteit gesedeer sal moet word; en
- (vii) enige skuld van die munisipaliteit toeskryfbaar aan daardie funksie of diens, wat die munisipaliteit sal behou.

(2) 'n Munisipaliteit kan 'n entiteit instel of aan die instelling daarvan meedoen slegs indien—

- (a) die munisipale bestuurder, ten minste 90 dae voor die vergadering van die munisipale raad waarop die voorgestelde instelling van die entiteit, of die munisipaliteit se voorgestelde deelname in die entiteit, goedgekeur sal word—
  - (i) ooreenkomstig artikel 21A van die Wet op Munisipale Stelsels—
    - (aa) 'n inligtingstaat wat die munisipaliteit se planne vir die munisipale entiteit uiteensit, saam met die bepaling wat die munisipaliteit moet doen ingevolge subartikel (1), openbaar gemaak het; en
    - (bb) die plaaslike gemeenskap, georganiseerde arbeid en ander belanghebbende persone uitgenooi het om kommentaar of verhoër met betrekking tot die aangeleentheid aan die munisipaliteit voor te lê; en
  - (ii) die menings en aanbevelings aangevra het van—
    - (aa) die Nasionale Tesourie en die betrokke provinsiale tesourie;
    - (bb) die nasionale en provinsiale departemente verantwoordelik vir plaaslike regering; en
    - (cc) die LUR vir plaaslike regering in die provinsie; en
- (b) die munisipale raad in ag geneem het—
  - (i) die bepaling in subartikel (1) bedoel;
  - (ii) enige kommentaar of verhoër wat met betrekking tot die aangeleentheid van die plaaslike gemeenskap, georganiseerde arbeid of ander belanghebbende persone ontvang is; en
  - (iii) enige skriftelike menings en aanbevelings wat met betrekking tot die aangeleentheid van die Nasionale Tesourie, die betrokke provinsiale tesourie, die nasionale departement verantwoordelik vir plaaslike regering of die LUR vir plaaslike regering in die provinsie ontvang is.

(3) Vir die doeleindes van hierdie artikel beteken „instel” ook die verkryging van 'n belang in 'n privaatsaatskappy wat tot gevolg het dat die privaatsaatskappy 'n munisipale entiteit word.

## *Deel 2: Finansiële bestuur*

**85. Bankrekenings.**—(1) 'n Munisipale entiteit moet ten minste een bankrekening in die naam van die entiteit open en in stand hou.

(2) Alle geld ontvang deur 'n munisipale entiteit moet in sy bankrekening of rekenings inbetaal word, en dit moet onverwyld gedoen word en ooreenkomstig enige vereistes wat voorgeskryf mag word.

(3) 'n Munisipale entiteit mag nie 'n bankrekening open—

- (a) in die buiteland nie;

- (b) by 'n instelling wat nie ingevolge die Bankwet, 1990 (Wet No. 94 van 1990), geregistreer is nie;
- (c) andersins as in die naam van die entiteit nie; en
- (d) sonder die goedkeuring van sy direksie nie.

(4) Geld kan uit 'n munisipale entiteit se bankrekening onttrek word slegs ooreenkomstig vereistes wat voorgeskryf mag word.

(5) Die rekenpligtige beampte van 'n munisipale entiteit—

- (a) moet al die entiteit se bankrekenings bestuur;
- (b) is met betrekking tot die entiteit se bankrekenings aan die direksie van die entiteit verantwoordingspligtig; en
- (c) moet enige vereistes wat ingevolge subartikel (4) voorgeskryf mag word, afdwing.

**86. Bankrekeningbesonderhede.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit moet skriftelik aan die entiteit se moedermunisipaliteit verstrek—

- (a) binne 90 dae nadat die entiteit 'n nuwe bankrekening geopen het, die naam van die bank waar die rekening geopen is, en die tipe en nommer van die rekening; en
- (b) jaarliks voor die aanvang van 'n finansiële jaar, die naam van elke bank waar die entiteit 'n bankrekening het, en die tipe en nommer van elke rekening.

(2) Die rekenpligtige beampte van die munisipale entiteit se moedermunisipaliteit, of indien daar meer as een moedermunisipaliteit is, enige van die rekenpligtige beamptes van daardie munisipaliteite soos tussen hulle ooreengekom mag word, moet by ontvangs van die inligting in subartikel (1) bedoel, daardie inligting skriftelik aan die Ouditeur-generaal, die Nasionale Tesourie en die betrokke provinsiale tesourie verstrek.

**87. Begrotings.**—(1) Die direksie van 'n munisipale entiteit moet vir elke finansiële jaar 'n voorgestelde begroting vir die entiteit aan sy moedermunisipaliteit voorlê, teen nie later nie as 150 dae voor die aanvang van die entiteit se finansiële jaar of vroeër indien aldus deur die moedermunisipaliteit versoek.

(2) Die moedermunisipaliteit moet die voorgestelde begroting van die entiteit oorweeg en die entiteit se prioriteite en doelwitte oorweeg. Indien die moedermunisipaliteit enige aanbevelings oor die voorgestelde begroting doen, moet die direksie van die entiteit daardie aanbevelings oorweeg en, indien nodig, 'n hersiene begroting teen nie later nie as 100 dae voor die aanvang van die finansiële jaar aan die moedermunisipaliteit voorlê.

(3) Die burgemeester van die moedermunisipaliteit moet die voorgestelde begroting van die munisipale entiteit in die raad ter tafel lê wanneer die jaarlikse begroting van die munisipaliteit vir die betrokke jaar ter tafel gelê word.

(4) Die direksie van 'n munisipale entiteit moet die begroting van die munisipale entiteit teen nie later nie as 30 dae voor die aanvang van die finansiële jaar goedkeur, met inagneming van enige verhoor of aanbevelings van die raad van die moedermunisipaliteit.

(5) Die begroting van 'n munisipale entiteit moet—

- (a) gebalanseerd wees;

- (b) bestaanbaar wees met enige dienslewering- of ander ooreenkoms tussen die entiteit en die entiteit se moedermunisipaliteit;
- (c) binne enige perke wees wat deur die entiteit se moedermunisipaliteit vasgestel is, met inbegrip van enige perke op tariewe, inkomste, besteding en lenings;
- (d) 'n veeljarige besigheidsplan vir die entiteit insluit wat—
  - (i) sleutel finansiële en- nie-finansiële prestasiedoelwitte en metingsmaatstawwe vasstel soos met die moedermunisipaliteit ooreengekom;
  - (ii) bestaanbaar is met die begroting en geïntegreerde ontwikkelingsplan van die entiteit se moedermunisipaliteit;
  - (iii) bestaanbaar is met enige dienslewering- of ander ooreenkoms tussen die entiteit en die entiteit se moedermunisipaliteit; en
  - (iv) werklike en potensiële laste en verpligtinge reflekteer, met inbegrip van besonderhede van enige voorgestelde geldlenings gedurende die tydperk waarop die plan betrekking het; en
- (e) andersins aan die vereistes van artikel 17 (1) en (2) voldoen in soverre sodanige vereistes redelikerwys op die entiteit toegepas kan word.

(6) Die direksie van 'n munisipale entiteit kan, met die goedkeuring van die burgemeester, die begroting van die munisipale entiteit hersien, maar slegs om die volgende redes:

- (a) Om die inkomste- en bestedingsprojeksies afwaarts aan te pas indien daar gedurende die huidige jaar wesenlike onder-insameling van inkomste voorkom;
- (b) om die besteding van enige bykomende toekennings aan die munisipale entiteit te magtig wat van sy moedermunisipaliteit ontvang word;
- (c) om enige onvoorsiene en onvermydelike besteding goedgekeur deur die burgemeester van die moedermunisipaliteit, binne 'n voorgeskrewe raamwerk te magtig; en
- (d) om enige ander besteding binne 'n voorgeskrewe raamwerk te magtig.

(7) Enige geprojekteerde toekenning aan 'n munisipale entiteit vanaf sy moedermunisipaliteit moet in die jaarlikse begroting van die moedermunisipaliteit voorsiening voor gemaak word, en, in soverre daar nie aldus voorsiening gemaak word nie, moet die entiteit se begroting aangepas word.

(8) 'n Munisipale entiteit kan besteding slegs ooreenkomstig sy goedgekeurde begroting of 'n aansuiweringsbegroting aangaan.

(9) Die burgemeester moet die begroting en enige aansuiweringsbegroting van 'n munisipale entiteit soos deur sy direksie goedgekeur, tydens die volgende raadsvergadering van die munisipaliteit ter tafel lê.

(10) 'n Munisipale entiteit se goedgekeurde begroting of aansuiweringsbegroting moet op wesenlik dieselfde wyse openbaar gemaak word as wat die begroting van 'n munisipaliteit openbaar gemaak moet word.

(11) Die rekenpligtige beampte van 'n munisipale entiteit moet teen nie later nie as sewe werksdae na die einde van elke maand aan die rekenpligtige beampte van die moedermunisipaliteit 'n staat in die voorgeskrewe formaat voorlê omtrent die stand van die entiteit se begroting, wat die volgende besonderhede ten opsigte van daardie maand en ten opsigte van die finansiële jaar tot en met die einde

van daardie maand aantoon:

- (a) Werklike inkomste, per inkomstebron;
- (b) werklike lenings;
- (c) werklike besteding;
- (d) werklike kapitaalbesteding;
- (e) die bedrag van enige toekennings ontvang;
- (f) werklike besteding teen daardie toekennings, behalwe besteding teen toekennings deur die jaarlikse Wet op die Verdeling van Inkomste van voldoening aan hierdie paragraaf vrygestel; en
- (g) wanneer nodig, 'n verduideliking van—
  - (i) enige wesentliche afwykings van die entiteit se geprojekteerde inkomste per bron, en van die entiteit se bestedingsprojeksies;
  - (ii) enige wesentliche afwykings van die dienslewingssooreenkoms en die besigheidsplan; en
  - (iii) enige remediërende of regstellende stappe gedoen of beoog om te verseker dat geprojekteerde inkomste en besteding binne die entiteit se goedgekeurde begroting bly.

(12) Die staat moet 'n projeksie van inkomste en besteding vir die res van die finansiële jaar insluit, asook enige hersienings van aanvanklike projeksies.

(13) Die bedrae in die staat aangetoon, moet in elke geval vergelyk word met die ooreenstemmende bedrae waarvoor in die entiteit se goedgekeurde begroting of aansuiweringsbegroting begroot is.

(14) Die staat aan die rekenpligtige beampte van die munisipaliteit moet in die formaat van 'n ondertekende dokument asook in elektroniese formaat wees.

**88. Halfjaarlikse begroting- en prestasie-evaluasie.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit moet teen 20 Januarie van elke jaar—

- (a) die prestasie van die entiteit gedurende die eerste helfte van die finansiële jaar evalueer, met inagneming van—
  - (i) die maandelikse state in artikel 87 bedoel vir die eerste helfte van die finansiële jaar en die doelwitte wat in die dienslewings-besigheidsplan of ander ooreenkoms met die entiteit se moedermunisipaliteit gestel word; en
  - (ii) die entiteit se jaarverslag vir die vorige jaar, asook vordering met die oplossing van probleme wat in die jaarverslag geïdentifiseer is; en
- (b) 'n verslag oor sodanige evaluasie voorlê aan—
  - (i) die direksie van die entiteit; en
  - (ii) die moedermunisipaliteit van die entiteit.

(2) 'n Verslag bedoel in subartikel (1) moet openbaar gemaak word.



**89. Vergoedingspakkette.**—Die moedermunisipaliteit van ’n munisipale entiteit moet—

- (a) die bo-perke van die salaris, toelaes en ander voordele van die hoof- uitvoerende beampte en senior bestuurders van die entiteit vasstel; en
- (b) moniteer en verseker dat die munisipale entiteit verslag doen aan die raad oor alle besteding deur daardie munisipale entiteit aangegaan ten opsigte van direkteurs- en personeelvergoedingsaangeleenthede, en op ’n wyse wat sodanige besteding per tipe besteding openbaar, naamlik:
  - (i) Salarisse en lone;
  - (ii) bydraes vir pensioene en mediese bystand;
  - (iii) reis-, motor-, akkommodasie-, onderhouds- en ander toelaes;
  - (iv) behuisingsvoordele en -toelaes;
  - (v) oortydbetalings;
  - (vi) lenings en voorskotte; en
  - (vii) enige ander tipe voordeel of toelaag wat met direkteure en personeel verband hou.

**90. Beskikking oor kapitale bates.**—(1) ’n Munisipale entiteit mag nie eiendomsreg in ’n kapitale bate wat benodig word vir die verskaffing van die minimum vlak van basiese munisipale dienste na aanleiding van ’n verkoping of ander transaksie oordra of so ’n bate andersins permanent van die hand sit nie.

(2) ’n Munisipale entiteit kan eiendomsreg oordra van, of andersins beskik oor, ’n kapitale bate uitgesonderd ’n bate in subartikel (1) beoog, maar slegs nadat die raad van sy moedermunisipaliteit tydens ’n vergadering wat vir die publiek oopgestel was—

- (a) op redelike gronde besluit het dat die bate nie benodig word vir die verskaffing van die minimum vlak van basiese munisipale dienste nie; en
- (b) die billike markwaarde van die bate en die ekonomiese en gemeenskapswaarde wat in ruil daarvoor ontvang staan te word, oorweeg het.

(3) ’n Besluit deur ’n munisipale raad dat ’n spesifieke kapitale bate nie vir die verskaffing van die minimum vlak van basiese munisipale dienste benodig word nie, kan nie deur die munisipaliteit of munisipale entiteit ingetrek word nadat die bate verkoop, oorgedra of andersins van die hand gesit is nie.

(4) ’n Munisipale raad kan aan die rekenpligtige beampte van die munisipale entiteit sy bevoegdheid delegeer om die bepalinge bedoel in subartikel (2) (a) en (b) te maak met betrekking tot roerende kapitale bates van die entiteit met ’n waarde laer as ’n waarde deur die raad vasgestel.

(5) Enige oordrag van eiendomsreg van ’n kapitale bate ingevolge subartikel (2) of (4) moet regverdig, billik, deursigtig, kompetend en in ooreenstemming wees met die voorsieningskanaal-bestuursbeleid wat die munisipale entiteit ingevolge artikel 111 moet hê en in stand hou.

(6) Hierdie artikel is nie van toepassing op die oordrag van ’n kapitale bate aan ’n munisipaliteit of ’n ander munisipale entiteit of aan ’n nasionale of provinsiale staatsorgaan in omstandighede en met betrekking tot kategorieë van bates wat deur die Nasionale Tesourie goedgekeur is nie, mits sodanige oordragte in ooreenstemming met ’n voorgeskrewe raamwerk is.

**91. Finansiële jaar.**—Die finansiële jaar van ’n munisipale entiteit moet dieselfde wees as dié van munisipaliteite.

(Datum van inwerkingtreding: 1 Julie 2005.)

**92. Oudit.**—Die Ouditeur-generaal moet die rekeninge, finansiële state en finansiële bestuur van elke munisipale entiteit ouditeer en daarvoor verslag doen.

*Deel 3: Rekenpligtige beamptes*

**93. Hoof- uitvoerende beampte moet rekenpligtige beampte wees.**—Die hoof- uitvoerende beampte van ’n munisipale entiteit aangestel ingevolge artikel 93J van die Wet op Munisipale Stelsels, is die rekenpligtige beampte van die entiteit.

**94. Fidusiêre pligte van rekenpligtige beamptes.**—(1) Die rekenpligtige beampte van ’n munisipale entiteit moet—

- (a) die hoogste sorg aan die dag lê om die redelike beveiliging van die bates en rekords van die entiteit te verseker;
- (b) by die bestuur van die finansiële sake van die entiteit, met betroubaarheid, eerlikheid, integriteit en in die beste belang van die entiteit optree;
- (c) alle wesenlike feite, met inbegrip van daardie feite wat redelikerwys vasstelbaar is, wat enigsins die besluite of optrede van die moedermunisipaliteit of die direksie mag beïnvloed, aan die entiteit se moedermunisipaliteit en die entiteit se direksie bekendmaak; en
- (d) poog om binne die invloedssfeer van daardie rekenpligtige beampte, enige nadeel vir die finansiële belange van die moedermunisipaliteit of die munisipale entiteit te verhoed.

(2) Die rekenpligtige beampte mag nie—

- (a) op ’n wyse optree wat onbestaanbaar is met die pligte wat ingevolge hierdie Wet aan rekenpligtige beamptes van munisipale entiteite opgedra word nie; of
- (b) die posisie of voorregte van, of vertroulike inligting bekom as, rekenpligtige beampte, vir persoonlike gewin gebruik of om ’n ander persoon onbehoorlik te bevoordeel nie.

**95. Algemene finansiële bestuursfunksies van rekenpligtige beamptes.**—Die rekenpligtige beampte van ’n munisipale entiteit is verantwoordelik vir die bestuur van die finansiële administrasie van die entiteit, en moet vir hierdie doel alle redelike stappe doen om te verseker—

- (a) dat die hulpbronne van die entiteit effektief, doeltreffend, ekonomies en deursigtig gebruik word;
- (b) dat volledige en behoorlike rekord van die finansiële sake van die entiteit gehou word;
- (c) dat die entiteit effektiewe, doeltreffende en deursigtige stelsels het en in stand hou betreffende—
  - (i) finansiële en risikobestuur en interne beheer; en
  - (ii) interne oudit wat voldoen aan, en bedryf word ooreenkomstig, enige voorgeskrewe

norme en standarde;

- (d) dat onreëlmatige of vrugtelose en verkwiste besteding en ander verliese voorkom word;
- (e) dat besteding in ooreenstemming is met die bedryfsbeleid van die entiteit; en
- (f) dat dissiplinêre of, wanneer gepas, strafregtelike verrigtinge ingestel word teen enige beampte van die entiteit wat na bewering 'n daad van finansiële wangedrag of 'n oortreding ingevolge Hoofstuk 15 begaan het.

**96. Bestuur van bates en laste.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit is verantwoordelik vir die bestuur van—

- (a) die bates van die entiteit, met inbegrip van die beveiliging en instandhouding van daardie bates; en
- (b) die laste van die entiteit.

(2) Die rekenpligtige beampte moet, vir doeleindes van subartikel (1), alle redelike stappe doen om te verseker dat die entiteit beskik oor en die instandhouding behartig van—

- (a) 'n bestuurs-, rekenkundige en inligtingstelsel wat rekenskap gee van behoorlike bates en laste van die bestuurstelsels van die munisipale entiteit; en
- (b) 'n stelsel van interne beheer oor bates en laste, met inbegrip van 'n register van bates en laste, soos wat voorgeskryf mag word.

**97. Bestuur van inkomste.**—Die rekenpligtige beampte van 'n munisipale entiteit moet alle redelike stappe doen om te verseker—

- (a) dat die entiteit effektiewe inkomste-insamelingstelsels het en implementeer om uitvoering aan sy begroting te gee;
- (b) dat alle inkomste verskuldig aan die entiteit geïen word;
- (c) dat enige fondse wat namens 'n munisipaliteit deur die entiteit geïen word—
  - (i) aan daardie munisipaliteit oorgedra word streng ooreenkomstig die ooreenkoms tussen die entiteit en die munisipaliteit; en
  - (ii) nie vir doeleindes van die entiteit gebruik word nie;
- (d) dat die munisipale entiteit oor doeltreffende inkomste-insamelingstelsels bestaanbaar met dié van die moedermunisipaliteit beskik;
- (e) dat inkomste wat aan die entiteit verskuldig is op 'n maandelikse basis bereken word;
- (f) dat rekeninge vir dienstegelde op 'n maandelikse basis opgestel word, of minder gereeld soos voorgeskryf mag word waar maandelikse rekeninge onekonomies is;
- (g) dat alle geld wat ontvang word onverwyld ooreenkomstig hierdie Wet in die munisipale entiteit se bankrekenings inbetaal word;
- (h) dat die munisipale entiteit 'n bestuurs-, rekenkundige en inligtingstelsel het en in stand hou wat—
  - (i) inkomste eien wanneer dit verdien word;
  - (ii) rekening hou van debiteure; en

(iii) rekening hou van ontvangstes van inkomste;

- (i) dat die munisipale entiteit 'n stelsel van interne beheer met betrekking tot debiteure en inkomste, soos voorgeskryf mag word, het en in stand hou; en
- (j) dat alle inkomste ontvang deur die munisipale entiteit, met inbegrip van inkomste namens die entiteit deur enige insamelingsagent ontvang, op ten minste 'n weeklikse basis gerekonsilieer word.

(3) Die rekenpligtige beampte moet die moedermunisipaliteit dadelik in kennis stel van enige betalings deur 'n staatsorgaan aan die entiteit verskuldig vir dienstegelde, indien sodanige betalings gereeld vir tydperke van meer as 30 dae agterstallig is.

**98. Maandelikse rekonsiliasie van inkomstes en rekeninge.**—Die rekenpligtige beampte van 'n munisipale entiteit moet alle redelike stappe doen om te verseker dat—

- (a) alle inkomste deur die entiteit geïen, met inbegrip van inkomste deur enige insamelingsagent namens die entiteit geïen, op 'n maandelikse of meer gereelde grondslag gerekonsilieer word; en
- (b) alle rekenings van die entiteit elke maand gerekonsilieer word.

**99. Bestedingsbestuur.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit is verantwoordelik vir die bestuur van die entiteit se besteding.

(2) Die rekenpligtige beampte moet vir doeleindes van subartikel (1) alle redelike stappe doen om te verseker—

- (a) dat die entiteit 'n doeltreffende stelsel van bestedingsbeheer, met inbegrip van prosedures vir die goedkeuring, magtiging, onttrekking en betaling van fondse, het en in stand hou;
- (b) dat alle geld deur die entiteit verskuldig binne 30 dae na ontvangs van die betrokke faktuur of staat betaal word, tensy anders voorgeskryf vir sekere kategorieë van bestedings;
- (c) dat die entiteit 'n bestuurs-, rekenkundige en inligtingstelsel het en in stand hou wat—
  - (i) besteding eien sodra dit aangegaan word;
  - (ii) rekening hou van skuldeisers van die entiteit; en
  - (iii) rekening hou van betalings gemaak deur die entiteit;
- (d) dat die entiteit 'n stelsel van interne beheer met betrekking tot skuldeisers en betalings het en in stand hou;
- (e) dat betalings deur die entiteit gemaak word—
  - (i) direk aan die persoon aan wie dit verskuldig is, tensy anders ooreengekom vir redes wat voorgeskryf mag word; en
  - (ii) óf elektronies óf deur middel van nie-oordraagbare tjeks, met dien verstande dat kontantbetalings en betalings deur middel van kontantjeks slegs weens uitsonderlike redes gemaak mag word, en slegs tot op 'n voorgeskrewe perk;
- (f) dat die entiteit aan sy verpligtinge met betrekking tot belasting, heffings, pensioen, mediese bystandsfondse, ouditfooie en ander statutêre verpligtinge voldoen;

- (g) dat die entiteit se beskikbare bedryfskapitaal doeltreffend en ekonomies ingevolge enige voorgeskrewe kontantbestuurs- en beleggingsraamwerk bestuur word; en
- (h) dat die entiteit 'n voorsieningskanaal-bestuursbeleid ooreenkomstig artikel 111 het en implementeer op 'n wyse wat regverdig, billik, deursigtig en koste-effektief is.

**100. Implementering van begroting.**—Die rekenpligtige beampte van 'n munisipale entiteit is verantwoordelik vir die implementering van die entiteit se begroting, asook om effektiewe en gepaste stappe te doen om te verseker dat—

- (a) die besteding van fondse ooreenkomstig die begroting geskied;
- (b) inkomste en besteding behoorlik gemoniteer word; en
- (c) besteding besnoei word soos nodig wanneer inkomste na verwagting laer sal wees as wat in die begroting geprojekteer is.

*Deel 4: Verslae en aanmeldbare aangeleenthede*

**101. Dreigende onder-insameling, tekorte, oorbesteding, oortrekkings en nie-betalings.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit moet skriftelik aan die direksie van die entiteit, by sy volgende vergadering, en aan die rekenpligtige beampte van die entiteit se moedermunisipaliteit verslag doen oor enige finansiële probleme van die entiteit, met inbegrip van—

- (a) enige dreigende of werklike—
  - (i) onder-insameling van inkomste wat betaalbaar is;
  - (ii) tekorte in begrote inkomste;
  - (iii) oorbesteding van die entiteit se begroting;
  - (iv) vertraging in die entiteit se betalings aan enige skuldeisers; of
  - (v) oortrekking van enige bankrekening van die entiteit vir 'n tydperk van langer as 21 dae; en
- (b) enige stappe gedoen om sodanige finansiële probleme reg te stel.

(2) Die rekenpligtige beampte van die munisipaliteit moet 'n verslag in subartikel (1) bedoel, in die munisipale raad by sy volgende vergadering ter tafel lê.

**102. Onreëlmatige of vrugtelose en verkwiste bestedings.**—(1) Wanneer enige onreëlmatige besteding of enige vrugtelose en verkwiste besteding aan die lig kom, moet die direksie van 'n munisipale entiteit onverwyld skriftelik aan die burgemeester en die munisipale bestuurder van die entiteit se moedermunisipaliteit en die Ouditeur-generaal—

- (a) besonderhede van die besteding rapporteer; en
- (b) enige stappe rapporteer wat gedoen is—
  - (i) om die besteding te verhaal; en
  - (ii) om 'n herhaling van die besteding te voorkom.

(2) Die direksie van 'n munisipale entiteit moet onverwyld aan die Suid-Afrikaanse Polisie diens rapporteer enige—

- (a) onreëlmatige besteding wat moontlik 'n misdryf mag daarstel; en
- (b) ander verliese gely deur die munisipale entiteit wat die gevolg was van vermeende strafregtelike optrede.

**103. Rapportering van onbehoorlike inmenging deur raadslede.**—Die rekenpligtige beampte van 'n munisipale entiteit moet onverwyld aan die speaker van die raad van die entiteit se moedermunisipaliteit enige inmenging deur 'n raadslid buite die bestek van daardie raadslid se opgedraagde pligte in—

- (a) die finansiële sake van die munisipale entiteit rapporteer; of
- (b) die verantwoordelikhede van die direksie van die munisipale entiteit rapporteer.

**104. Algemene verslagdoeningsverpligtings.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit—

- (a) is, behalwe waar anders in hierdie Wet bepaal, verantwoordelik vir die voorlegging deur die entiteit aan die entiteit se moedermunisipaliteit van alle verslae, opgawes, kennisgewings en ander inligting deur hierdie Wet vereis; en
- (b) moet aan die rekenpligtige beampte van die entiteit se moedermunisipaliteit, die Nasionale Tesourie, die betrokke provinsiale tesourie, die departement van plaaslike regering in die provinsie of die Ouditeur-generaal die inligting, opgawes, dokumente, verduidelikings en motiverings voorlê wat voorgeskryf of vereis mag word.

(2) Indien die rekenpligtige beampte van 'n munisipale entiteit nie in staat is om aan enige van die verantwoordelikhede ingevolge hierdie Wet te voldoen nie, moet hy of sy onverwyld die onvermoë, saam met redes, aan die raad van die entiteit se moedermunisipaliteit rapporteer.

*Deel 5: Ander beamptes van munisipale entiteite*

**105. Pligte van ander beamptes.**—(1) Elke beampte van 'n munisipale entiteit wat finansiële bestuursverantwoordelikhede uitoefen, moet binne daardie beampte se verantwoordelikhedsgebied alle redelike stappe doen om te verseker—

- (a) dat die stelsel van finansiële bestuur en interne beheer wat vir die entiteit ingestel is, met die nodige toewyding uitgevoer word;
- (b) dat die finansiële en ander hulpbronne van die entiteit op 'n effektiewe, doeltreffende, ekonomiese en deursigtige wyse gebruik word;
- (c) dat enige onreëlmatige besteding, vrugtelose en verkwiste besteding en ander verliese voorkom word;
- (d) dat alle inkomste wat verskuldig is aan die entiteit, geïen word;
- (e) dat daar aan die bepalings van hierdie Wet, met inbegrip van enige delegasies ingevolge artikel 106, voldoen word in soverre dit op daardie beampte van toepassing is; en
- (f) dat die bates en laste van die entiteit effektief bestuur word en dat die bates beveilig en in stand gehou word in soverre dit nodig is.

(2) 'n Beampte van 'n munisipale entiteit moet die funksies bedoel in subartikel (1) behoudens die voorskrifte van die rekenpligtige beampte van die entiteit verrig.

**106. Delegasie van bevoegdhe en pligte deur rekenpligtige beamptes.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit—

- (a) kan aan 'n beampte van daardie entiteit—
  - (i) enige van die bevoegdhe of pligte delegeer wat ingevolge hierdie Wet aan die rekenpligtige beampte opgedra of gedelegeer is; of
  - (ii) enige bevoegdhe of pligte delegeer wat redelikerwys nodig is om die rekenpligtige beampte in staat te stel om 'n plig na te kom wat van die rekenpligtige beampte vereis om redelike of gepaste stappe te doen om die bereiking van die oogmerke van 'n spesifieke bepaling van hierdie Wet te verseker; en
- (b) moet gereeld delegasies uitgereik ingevolge paragraaf (a) hersien en, indien nodig, enige van daardie delegasies wysig of intrek.

(2) 'n Delegasie ingevolge subartikel (1)—

- (a) moet skriftelik wees;
- (b) is onderworpe aan enige beperkings en voorwaardes wat die rekenpligtige beampte mag ophê;
- (c) kan óf verleen word aan 'n spesifieke individu óf aan die bekleër van 'n spesifieke pos in die munisipale entiteit; en
- (d) ontdoen nie die rekenpligtige beampte van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die verrigting van die gedelegeerde plig nie.

(3) 'n Rekenpligtige beampte kan enige besluit geneem deur 'n beampte uit hoofde van 'n delegasie ingevolge subartikel (1), bevestig, wysig of intrek, maar 'n wysiging of intrekking van 'n besluit mag nie afbreuk doen aan enige regte wat as gevolg van die besluit kon ontstaan het nie.

**107. Bekwaamheidsvlakke van professionele finansiële beamptes.**—Die rekenpligtige beampte, senior bestuurders, enige hoof- finansiële beampte en alle ander finansiële beamptes van 'n munisipale entiteit moet aan die voorgeskrewe finansiële bestuursbekwaamheidsvlakke voldoen.

(Datum van inwerkingtreding: 1 Julie 2006.)

*Deel 6: Algemeen*

**108. Geldlenings.**—(1) 'n Munisipale entiteit kan geld leen, maar slegs ooreenkomstig—

- (a) die entiteit se veeljarige besigheidsplan in artikel 87 (5) (d) bedoel; en
- (b) die bepalings van Hoofstuk 6 in soverre daardie bepalings op 'n munisipale entiteit toegepas kan word.

(2) By die toepassing van Hoofstuk 6 op 'n munisipale entiteit, moet 'n verwysing in daardie Hoofstuk na 'n munisipaliteit, 'n munisipale raad of 'n rekenpligtige beampte uitgelê word as 'n verwysing onderskeidelik na 'n munisipale entiteit, die direksie van 'n munisipale entiteit of die rekenpligtige beampte van 'n munisipale entiteit.

**109. Finansiële probleme in munisipale entiteite.**—Indien 'n munisipale entiteit ernstige of

aanhoudende finansiële probleme ondervind, en die direksie van die entiteit versuim om daadwerklik op te tree, moet die moedermunisipaliteit óf—

- (a) gepaste stappe ingevolge sy regte en bevoegdhede oor daardie entiteit doen, met inbegrip van sy regte en bevoegdhede ingevolge enige tersaaklike dienslewings- of ander ooreenkoms;
- (b) ’n finansiële herstelplan in werking stel, wat moet voldoen aan dieselfde maatstawwe in artikel 142 vir ’n munisipale herstelplan uiteengesit; of
- (c) die entiteit likwideer en ontbind.

## HOOFSTUK 11 GOEDERE EN DIENSTE

### *Deel 1: Voorsieningskanaal-bestuur*

**110. Toepassing van hierdie Deel.**—(1) Hierdie Deel is, behoudens subartikel (2), van toepassing op—

- (a) die verkryging deur ’n munisipaliteit of munisipale entiteit van goedere en dienste;
- (b) die beskikking deur ’n munisipaliteit of munisipale entiteit oor goedere wat nie meer benodig word nie;
- (c) die keuring van kontrakteurs om hulp te verleen met betrekking tot die verskaffing van munisipale dienste onder omstandighede waar Hoofstuk 8 van die Wet op Munisipale Stelsels nie van toepassing is nie; en
- (d) die keuring van eksterne meganismes in artikel 80 (1) (b) van die Wet op Munisipale Stelsels bedoel vir die verskaffing van munisipale dienste onder omstandighede in artikel 83 van daardie Wet beoog.

(2) Hierdie Deel, behalwe waar uitdruklik anders bepaal, is nie van toepassing nie indien ’n munisipaliteit of munisipale entiteit met ’n ander staatsorgaan kontrakteer vir—

- (a) die verskaffing van goedere of dienste aan die munisipaliteit of munisipale entiteit;
- (b) die verskaffing van ’n munisipale diens of hulp met betrekking tot die verskaffing van ’n munisipale diens; of
- (c) die verkryging van goedere en dienste ingevolge ’n kontrak deur daardie ander staatsorgaan beding, mits die betrokke verskaffer tot sodanige verkryging ingestem het.

(3) Die beskikking oor goedere deur ’n munisipaliteit of munisipale entiteit ingevolge hierdie Deel moet saamgelees word met artikels 14 en 90.

(Datum van inwerkingtreding van a. 110: 1 Desember 2004.)

**111. Voorsieningskanaal-bestuursbeleid.**—Elke munisipaliteit en elke munisipale entiteit moet oor ’n voorsieningskanaal-bestuursbeleid beskik wat aan die bepalings van hierdie Deel uitvoering gee, en daardie bestuursbeleid implementeer.

(Datum van inwerkingtreding: 1 Desember 2004.)



**112. Voorsieningskanaal-bestuursbeleid moet voldoen aan voorgeskrewe raamwerk.**—(1) Die voorsieningskanaal-bestuursbeleid van 'n munisipaliteit of munisipale entiteit moet regverdig, billik, deursigtig, mededingend en koste-effektief wees en voldoen aan 'n voorgeskrewe reguleringsraamwerk vir munisipale voorsieningskanaalbestuur, wat ten minste die volgende moet dek:

- (a) Die reeks voorsieningskanaal-bestuursprosesse wat munisipaliteite en munisipale entiteite mag gebruik, met inbegrip van tenders, kwotasie, veilings en ander tipes mededingende bodstelsels;
- (b) wanneer 'n munisipaliteit of munisipale entiteit 'n spesifieke tipe proses kan of moet gebruik;
- (c) prosedures en meganismes vir elke tipe proses;
- (d) prosedures en meganismes vir meer buigsame prosesse waar die waarde van 'n kontrak minder as 'n voorgeskrewe bedrag is;
- (e) oop en deursigte vooraf-kwalifikasieprosesse vir tenders of ander tipes van aanbiedinge;
- (f) kompeterende bodstelsels waaraan slegs vooraf-geselekteerde persone mag deelneem;
- (g) nie-dokumentasie, advertering en uitnodigings vir kontrakte;
- (h) prosedures en meganismes vir—
  - (i) die opening, registrasie en dokumentering van aanbiedinge in die teenwoordigheid van belanghebbende persone;
  - (ii) die beoordeling van aanbiedinge om die beste waarde vir geld te verseker;
  - (iii) onderhandeling van die finale terme van kontrakte; en
  - (iv) die goedkeuring van aanbiedinge;
- (i) siftingsprosesse en veiligheidsklarings vir voorgenome kontrakteurs vir tenders of ander tipes van aanbiedinge met 'n waarde hoër as 'n voorgeskrewe waarde;
- (j) verpligte openbaarmaking van botsing van belange wat voorgenome kontrakteurs met betrekking tot spesifieke tenders mag hê, en die uitsluiting van sodanige voorgenome kontrakteurs van daardie tenders of aanbiedinge;
- (k) deelname aan die voorsieningskanaal-bestuurstelsel van persone wat nie beamptes van die munisipaliteit of munisipale entiteit is nie, behoudens artikel 117;
- (l) die uitsluiting van persone van deelname aan tender- of ander tipes van aanbiedingsprosesse, met inbegrip van persone—
  - (i) wat skuldig bevind is aan bedrog of korrupsie gedurende die voorafgaande vyf jaar;
  - (ii) wat gedurende die voorafgaande vyf jaar opsetlik 'n staatskontrak afgeskep het, teruggetree het uit 'n staatskontrak of versuim het om aan 'n staatskontrak te voldoen; of
  - (iii) wie se belastingsake nie deur die Suid-Afrikaanse Inkomstediens uitgeklaar is nie;
- (m) maatreëls ter—
  - (i) bestryding van bedrog, korrupsie, begunstiging en onbillike en onreëlmatige praktyke in munisipale voorsieningskanaal-bestuur; en

- (ii) bevordering van etiese optrede deur beamptes en ander rolspelers betrokke by munisipale voorsieningskanaal-bestuur;
- (n) die ongeldigverklaring van aanbevelings of besluite wat onwettig of onbehoorlik gemaak, geneem of beïnvloed is, met inbegrip van aanbevelings of besluite wat gemaak, geneem of op enige manier beïnvloed is deur—
  - (i) raadslede strydig met item 5 of 6 van die Gedragskode vir Raadslede in Bylae 1 van die Wet op Munisipale Stelsels uiteengesit; of
  - (ii) munisipale beamptes strydig met item 4 of 5 van die Gedragskode vir Munisipale Personeellede in Bylae 2 van daardie Wet uiteengesit;
- (o) die verkryging van goedere en dienste deur munisipaliteite of munisipale entiteite deur middel van kontrakte deur ander staatsorgane beding;
- (p) bestuur van kontrakte en dispuutbeslegtingsprosedures; en
- (q) die delegasie van munisipale voorsieningskanaal-bestuursbevoegdheid en -pligte, met inbegrip van delegasie aan beamptes.

(2) Die reguleringsraamwerk vir munisipale voorsieningskanaal-bestuur moet regverdig, billik, deursigtig, mededingend en koste-effektief wees.

(Datum van inwerkingtreding van a. 112: 1 Desember 2004.)

**113. Ongevraagde aansoeke.**—(1) 'n Munisipaliteit of munisipale entiteit is nie verplig om 'n ongevraagde aansoek te oorweeg wat buite die bestek van sy normale aanbiedingsproses ontvang word nie.

(2) Indien 'n munisipaliteit of munisipale entiteit besluit om 'n ongevraagde aansoek te oorweeg wat buite die bestek van 'n normale aanbiedingsproses ontvang is, kan daardie munisipaliteit of munisipale entiteit dit slegs ooreenkomstig 'n voorgeskrewe raamwerk doen.

(3) Die raamwerk moet die bevoegdheid van munisipaliteite en munisipale entiteite om ongevraagde aansoeke te oorweeg wat buite die bestek van hul normale tender- of ander aanbiedingsprosesse ontvang word, streng reguleer en beperk.

(Datum van inwerkingtreding van a. 113: 1 Desember 2004.)

**114. Goedkeuring van tenders wat nie aanbeveel is nie.**—(1) Indien 'n ander tender goedgekeur word as die een wat in die gewone loop van die implementering van die voorsieningskanaal-bestuursbeleid van 'n munisipaliteit of munisipale entiteit aanbeveel is, moet die rekenpligtige beampte van die munisipaliteit of munisipale entiteit die Ouditeur-generaal, die betrokke provinsiale tesourie en die Nasionale Tesourie asook, in die geval van 'n munisipale entiteit, die moedermunisipaliteit, skriftelik van die redes in kennis stel waarom van sodanige aanbeveling afgewyk is.

(2) Subartikel (1) is nie van toepassing nie indien 'n ander tender goedgekeur is ten einde 'n onreëlmatigheid reg te stel.

(Datum van inwerkingtreding van a. 114: 1 Desember 2004.)

**115. Implementering van stelsel.**—(1) Die rekenpligtige beampte van 'n munisipaliteit of munisipale entiteit moet—

- (a) die voorsieningskanaal-bestuursbeleid van die munisipaliteit of munisipale entiteit implementeer; en
- (b) alle redelike stappe doen om te verseker dat behoorlike meganismes en skeiding van pligte in die voorsieningskanaal-bestuurstelsel bestaan ten einde die waarskynlikheid van bedrog, korrupsie, begunstiging en onbillike en onreëlmatige praktyke te minimaliseer.

(2) Niemand mag die rekenpligtige beampte verhinder om aan hierdie verantwoordelikheid uitvoering te gee nie.

(Datum van inwerkingtreding van a. 115: 1 Desember 2004.)

**116. Kontrakte en bestuur van kontrakte.**—(1) 'n Kontrak of ooreenkoms deur middel van die voorsieningskanaal-bestuursbeleid van 'n munisipaliteit of munisipale entiteit beding, moet—

- (a) op skrif wees;
- (b) die bedinge en voorwaardes van die kontrak of ooreenkoms stipuleer, wat bepalinge moet insluit wat voorsiening maak vir—
  - (i) die beëindiging van die kontrak of ooreenkoms in geval van wan- of gebrekkige prestasie;
  - (ii) dispuutbeslegtingsmeganismes om dispute tussen die partye by te lê;
  - (iii) 'n periodieke hersiening van die kontrak of ooreenkoms een keer elke drie jaar, in geval van 'n kontrak of ooreenkoms vir langer as drie jaar; en
  - (iv) enige ander aangeleenthede wat voorgeskryf mag word.

(2) Die rekenpligtige beampte van 'n munisipaliteit of munisipale entiteit moet—

- (a) alle redelike stappe doen om te verseker dat 'n kontrak of ooreenkoms deur middel van die voorsieningskanaal-bestuursbeleid van die munisipaliteit of munisipale entiteit beding, behoorlik afgedwing word;
- (b) op 'n maandelikse grondslag die prestasie van die kontrakteur ingevolge die kontrak of ooreenkoms moniteer;
- (c) kapasiteit in die administrasie van die munisipaliteit of munisipale entiteit bou—
  - (i) om die rekenpligtige beampte by te staan in die verrigting van die pligte vermeld in paragrawe (a) en (b); en
  - (ii) om toesig te hou oor die dag-tot-dag bestuur van die kontrak of ooreenkoms; en
- (d) gereeld verslag doen aan die raad van die munisipaliteit of die direksie van die entiteit, na gelang van wat toepaslik mag wees, oor die bestuur van die kontrak of ooreenkoms en die prestasie van die kontrakteur.

(3) 'n Kontrak of ooreenkoms deur middel van die voorsieningskanaal-bestuursbeleid van 'n munisipaliteit of munisipale entiteit beding, kan deur die partye gewysig word, maar slegs nadat—

- (a) die redes vir die voorgestelde wysiging in die raad van die munisipaliteit, of in geval van 'n munisipale entiteit, in die raad van sy moedermunisipaliteit, ter tafel gelê is; en
- (b) die plaaslike gemeenskap—
  - (i) redelike kennis gegee is van die voorneme om die kontrak of ooreenkoms te wysig;

en

(ii) uitgenooi is om vertoë tot die munisipaliteit of entiteit te rig.

(Datum van inwerkingtreding van a. 116: 1 Desember 2004.)

**117. Raadslede uitgesluit van diening in munisipale tenderkomitees.**—Geen raadslid van enige munisipaliteit mag 'n lid van 'n munisipale bodkomitee of enige ander komitee wees wat tenders, kwotasies, kontrakte of ander aanbiedinge beoordeel of goedkeur nie, of enige so 'n vergadering as 'n waarnemer bywoon nie.

**118. Inmenging.**—Niemand mag—

- (a) met die voorsieningskanaal-bestuurstelsel van 'n munisipaliteit of munisipale entiteit inmeng nie; of
- (b) enige tenders, kwotasies, kontrakte of aanbiedinge na die indiening daarvan wysig of daarmee peuter nie.

**119. Bekwaamheidsvlakke van beamptes betrokke by munisipale voorsieningskanaal-bestuur.**—(1) Die rekenpligtige beampte en alle ander beamptes van 'n munisipaliteit of munisipale entiteit wat betrokke is by die implementering van die voorsieningskanaal-bestuursbeleid van die munisipaliteit of munisipale entiteit moet aan die voorgeskrewe bekwaamheidsvlakke voldoen.

(2) 'n Munisipaliteit of munisipale entiteit moet vir doeleindes van subartikel (1) middele of geleenthede verskaf vir die opleiding van beamptes in daardie subartikel bedoel om aan die voorgeskrewe bekwaamheidsvlakke te voldoen.

(3) Die Nasionale Tesourie of 'n provinsiale tesourie kan munisipaliteite en munisipale entiteite bystaan met die opleiding van beamptes in subartikel (1) bedoel.

(Datum van inwerkingtreding van a. 119: 1 Julie 2006.)

#### *Deel 2: Publiek-privaat vennootskappe*

**120. Voorwaardes en proses vir publiek-privaat vennootskappe.**—(1) 'n Munisipaliteit kan 'n publiek-privaat vennootskapsooreenkoms aangaan, maar slegs as die munisipaliteit kan aantoon dat die ooreenkoms—

- (a) waarde vir geld vir die munisipaliteit sal bied;
- (b) bekostigbaar vir die munisipaliteit sal wees; en
- (c) gepaste tegniese, operasionele en finansiële risiko's aan die private party sal oordra.

(2) 'n Publiek-privaat vennootskapsooreenkoms moet aan enige voorgeskrewe reguleringsraamwerk vir publiek-privaat vennootskappe voldoen.

(3) Indien die publiek-privaat vennootskap die verskaffing van 'n munisipale diens behels, moet daar ook aan Hoofstuk 8 van die Wet op Munisipale Stelsels voldoen word.

(4) Voordat 'n publiek-privaat vennootskap aangegaan word, moet die munisipaliteit 'n uitvoerbaarheidstudie doen wat—

- (a) die strategiese en operasionele voordele van die publiek-privaat vennootskap vir die

munisipaliteit verduidelik insoverre dit sy doelwitte betref;

- (b) in spesifieke terme beskryf—
  - (i) die aard van die private party se rol in die publiek-privaat vennootskap;
  - (ii) die mate waarin hierdie rol, beide regtens en na die aard daarvan, deur 'n private party vervul kan word; en
  - (iii) hoe die voorgestelde ooreenkoms—
    - (aa) waarde vir geld vir die munisipaliteit sal bied;
    - (bb) bekostigbaar vir die munisipaliteit sal wees;
    - (cc) gepaste tegniese, operasionele en finansiële risiko's aan die private party sal oordra; en
    - (dd) 'n impak sal hê op die munisipaliteit se inkomstevloei en sy huidige en toekomstige begrotings;
- (c) alle tersaaklike inligting in ag neem; en
- (d) die kapasiteit van die munisipaliteit verduidelik om die ooreenkoms doeltreffend te monitor, te bestuur en af te dwing.

(5) Die nasionale regering kan munisipaliteite bystaan om uitvoerbaarheidstudies bedoel in subartikel (4) te doen en te beoordeel.

(6) Wanneer 'n uitvoerbaarheidstudie voltooi is, moet die rekenpligtige beampte van die munisipaliteit—

- (a) die verslag oor die uitvoerbaarheidstudie saam met alle ander tersaaklike dokumente aan die raad voorlê vir 'n beginselbesluit oor die vraag of die munisipaliteit met die voorgestelde publiek-privaat vennootskap moet voortgaan;
- (b) ten minste 60 dae voor die vergadering van die raad waarop die saak oorweeg sal word, ooreenkomstig artikel 21A van die Wet op Munisipale Stelsels—
  - (i) besonderhede van die voorgestelde publiek-privaat vennootskap, asook die verslag oor die uitvoerbaarheidstudie, openbaar maak; en
  - (ii) die plaaslike gemeenskap en ander belanghebbendes uitnooi om aan die munisipaliteit kommentaar of verhoër met betrekking tot die voorgestelde publiek-privaat vennootskap voor te lê; en
- (c) die menings en aanbevelings aanvra van—
  - (i) die Nasionale Tesourie;
  - (ii) die nasionale departement verantwoordelik vir plaaslike regering;
  - (iii) indien die publiek-privaat vennootskap die verskaffing behels van water, sanitasie, elektrisiteit of enige ander diens wat voorgeskryf mag word, die verantwoordelike departement; en
  - (iv) enige ander nasionale of provinsiale staatsorgaan wat voorgeskryf mag word.

(7) Deel 1 van hierdie Hoofstuk is van toepassing op die bedinging van publiek-privaat vennootskapsooreenkomste. Artikel 33 is ook van toepassing as die ooreenkoms, in die konteks van daardie artikel, meerjarige begrotingsgevolge vir die munisipaliteit sal inhou.

(Datum van inwerkingtreding van a. 120: 1 Desember 2004.)

## HOOFSTUK 12 FINANSIËLE VERSLAGDOENING EN OUDITERING

**121. Opstel en aanneming van jaarverslae.**—(1) Elke munisipaliteit en elke munisipale entiteit moet vir elke finansiële jaar 'n jaarverslag ooreenkomstig hierdie Hoofstuk opstel. Die raad van 'n munisipaliteit moet, binne nege maande na die einde van 'n finansiële jaar, ooreenkomstig artikel 129 met die jaarverslag van die munisipaliteit en van enige munisipale entiteit onder die munisipaliteit se alleen- of gedeelde beheer handel.

(2) Die doel van 'n jaarverslag is—

- (a) om as 'n rekord te dien van die aktiwiteite van die munisipaliteit of die munisipale entiteit gedurende die finansiële jaar waarop die verslag betrekking het;
- (b) om 'n verslag te gee oor die munisipaliteit of munisipale entiteit se prestasie teen sy begroting vir daardie finansiële jaar; en
- (c) om verantwoordbaarheid teenoor die plaaslike gemeenskap te bevorder vir die besluite wat gedurende die jaar deur die munisipaliteit of munisipale entiteit geneem is.

(3) Die jaarverslag van 'n munisipaliteit moet insluit—

- (a) die jaarlikse finansiële state van die munisipaliteit, asook, indien artikel 122 (2) van toepassing is, gekonsolideerde jaarlikse finansiële state, soos ingevolge artikel 126 (1) vir ouditering aan die Ouditeur-generaal voorgelê;
- (b) die Ouditeur-generaal se ouditverslag ingevolge artikel 126 (3) op daardie finansiële state;
- (c) die jaarlikse prestasieverslag van die munisipaliteit wat ingevolge artikel 46 van die Wet op Munisipale Stelsels deur die munisipaliteit opgestel moet word;
- (d) die Ouditeur-generaal se ouditverslag ingevolge artikel 45 (b) van die Wet op Munisipale Stelsels;
- (e) 'n evaluering deur die munisipaliteit se rekenpligtige beampte van enige agterstalliges op munisipale belastings en diensgelde;
- (f) 'n evaluering deur die munisipaliteit se rekenpligtige beampte van die munisipaliteit se prestasie teen die meetbare prestasiedoelwitte bedoel in artikel 17 (3) (b) vir inkomste-insameling uit elke inkomstebron en vir elke begrotingspos in die munisipaliteit se goedgekeurde begroting vir die betrokke finansiële jaar;
- (g) besonderhede van enige regstellende stappe wat gedoen is of beoog word na aanleiding van kwessies geopper in die ouditverslae in paragrawe (b) en (d) bedoel;
- (h) enige verduidelikings wat nodig mag wees om kwessies met betrekking tot die finansiële state op te klaar;
- (i) enige inligting soos deur die munisipaliteit bepaal;
- (j) enige aanbevelings van die munisipaliteit se ouditkomitee; en
- (k) enige ander inligting wat voorgeskryf mag word.

(4) Die jaarverslag van 'n munisipale entiteit moet insluit—

- (a) die jaarlikse finansiële state van die entiteit soos ingevolge artikel 126 (2) vir ouditering aan die Ouditeur-generaal voorgelê;
- (b) die Ouditeur-generaal se auditverslag ingevolge artikel 126 (3) op daardie finansiële state;
- (c) 'n evaluering deur die entiteit se rekenpligtige beampte van enige agterstalliges op munisipale belastings en diensgelde;
- (d) 'n evaluering deur die entiteit se rekenpligtige beampte van die entiteit se prestasie teen enige meetbare prestasiedoelwitte ingevolge die dienslewering- of ander ooreenkoms tussen die entiteit en sy moedermunisipaliteit gestel;
- (e) besonderhede van enige regstellende stappe wat gedoen is of beoog word na aanleiding van kwessies geopper in die auditverslag in paragraaf (b) bedoel;
- (f) enige inligting soos deur die entiteit of sy moedermunisipaliteit bepaal;
- (g) enige aabeveeiings van die ouditkemie van die entiteit of van sy moedermunisipaliteit; en
- (h) enige ander inligting wat voorgeskryf mag word.

**122. Opstel van finansiële state.**—(1) Elke munisipaliteit en elke munisipale entiteit moet vir elke finansiële jaar jaarlikse finansiële state opstel wat—

- (a) die stand van die munisipaliteit of entiteit se sake, sy prestasie teen sy begroting, sy bestuur van inkomste, besteding, bates en laste, sy besigheidsaktiwiteite, sy finansiële resultate, en sy finansiële posisie soos teen die einde van die finansiële jaar op 'n billike wyse aantoon; en
- (b) die inligting openbaar wat ingevolge artikels 123, 124 en 125 vereis word.

(2) 'n Munisipaliteit wat alleenbeheer oor 'n munisipale entiteit het, of wat effektiewe beheer ooreenkomstig die bedoeling van die Wet op Munisipale Stelsels het oor 'n munisipale entiteit wat 'n privaat maatskappy is, moet benewens voldoening aan subartikel (1), gekonsolideerde jaarlikse finansiële state opstel wat die jaarlikse finansiële state van die munisipaliteit en van so 'n entiteit inkorporeer. Sodanige gekonsolideerde jaarlikse finansiële state moet voldoen aan enige vereistes wat voorgeskryf mag word.

(3) Beide jaarlikse finansiële state en gekonsolideerde jaarlikse finansiële state moet opgestel word ooreenkomstig algemeen erkende rekeningkundige praktyk, voorgeskryf ingevolge artikel 91 (1) (b) van die Wet op Openbare Finansiële Bestuur.

**123. Openbaarmaking van interregerings- en ander toekennings.**—(1) Die jaarlikse finansiële state van 'n munisipaliteit moet inligting openbaar van—

- (a) enige toekennings deur die munisipaliteit ontvang vanaf—
  - (i) 'n staatsorgaan in die nasionale of provinsiale regeringsfeer; of
  - (ii) 'n munisipale entiteit of 'n ander munisipaliteit;
- (b) enige toekennings deur die munisipaliteit gemaak aan—
  - (i) 'n munisipale entiteit of 'n ander munisipaliteit; of
  - (ii) enige staatsorgaan;

- (c) hoe enige toekennings bedoel in paragraaf (a) bestee is, per begrotingspos, uitgesonderd toekennings deur die munisipaliteit ontvang as sy deel van die billike deel of waar anders voorgeskryf vanweë die aard van die toekenning;
  - (d) die vraag of die munisipaliteit voldoen het aan die voorwaardes van—
    - (i) enige toekennings aan die munisipaliteit ingevolge artikel 214 (1) (c) van die Grondwet gemaak; en
    - (ii) enige toekennings aan die munisipaliteit gemaak behalwe toekennings deur nasionale staatsorgane;
  - (e) die redes vir enige nie-voldoening aan voorwaardes in paragraaf (d) bedoel; en
  - (f) die vraag of fondse bestem vir die munisipaliteit ingevolge die jaarlikse Wet op die Verdeling van Inkomste vertraag of teruggehou is, en die redes wat aan die munisipaliteit vir sodanige vertraging of terughouding verskaf is.
- (2) Die jaarlikse finansiële state van 'n munisipale entiteit moet inligting openbaar van—
- (a) enige toekennings deur die entiteit vanaf enige munisipaliteit of ander staatsorgaan ontvang;
  - (b) enige toekennings deur die entiteit aan 'n munisipaliteit of ander staatsorgaan gemaak; en
  - (c) enige ander inligting wat voorgeskryf mag word.

(Datum van inwerkingtreding van a. 123: 1 Julie 2005.)

**124. Openbaarmaking met betrekking tot raadslede, direkteure en beamptes.**—(1) Die aantekeninge by die jaarlikse finansiële state van 'n munisipaliteit moet besonderhede insluit van—

- (a) die salarisse, toelaes en voordele van politieke ampsdraers en raadslede van die munisipaliteit, hetsy finansiëel of in goedere, en 'n verklaring deur die rekenpligtige beampte insluit of daardie salarisse, toelaes en voordele binne die bo-perke van die raamwerk beoog in artikel 219 van die Grondwet val, al dan nie;
- (b) enige agterstallige gelde wat deur individuele raadslede aan die munisipaliteit, of 'n munisipale entiteit onder sy alleen- of gedeelde beheer, verskuldig is ten opsigte van eiendomsbelasting of dienste en wat te eniger tyd gedurende die betrokke finansiële jaar vir meer as 90 dae uitstaande was, asook die name van daardie raadslede; en
- (c) die salarisse, toelaes en voordele van die munisipale bestuurder, die hoof- finansiële beampte, elke senior bestuurder en sodanige kategorieë van ander beamptes wat voorgeskryf mag word.

(2) Die aantekeninge by die jaarlikse finansiële state van 'n munisipale entiteit moet besonderhede insluit van die salarisse, toelaes en voordele van—

- (a) die lede van die direksie van die entiteit; en
- (b) die hoof- uitvoerende beampte van die entiteit, elke senior bestuurder en sodanige kategorieë van ander beamptes wat voorgeskryf mag word.

**125. Ander verpligte openbaarmakings.**—(1) Die aantekeninge by die finansiële state van 'n munisipaliteit moet insluit—



- (a) 'n lys van alle munisipale entiteite onder die alleen- of gedeelde beheer van die munisipaliteit gedurende die finansiële jaar en soos op die laaste dag van die finansiële jaar;
- (b) die totale bedrag van bydraes aan georganiseerde plaaslike regering vir die finansiële jaar, en die bedrag van enige bydraes wat teen die einde van die finansiële jaar uitstaande is; en
- (c) die totale bedrae betaal ten opsigte van ouditfooie, belastings, heffings, regte, en pensioen- en mediese fonds bydraes, en of daar enige bedrae teen die einde van die finansiële jaar uitstaande was.

(2) Die aantekeninge by die jaarlikse finansiële state van 'n munisipaliteit of munisipale entiteit moet die volgende inligting openbaar:

- (a) Met betrekking tot elke bankrekening wat die munisipaliteit of entiteit gedurende die betrokke finansiële jaar gehou het—
  - (i) die naam van die bank waar die rekening gehou word of gehou is, en die tipe rekening; en
  - (ii) die jaar-aanvangs- en jaar-eindsaldo's van elk van hierdie rekenings;
- (b) 'n opsomming van alle beleggings van die munisipaliteit of munisipale entiteit soos teen die einde van die finansiële jaar;
- (c) besonderhede van alle gebeurlikheidsverpligtinge van die munisipaliteit of entiteit soos teen die einde van die finansiële jaar;
- (d) besonderhede van—
  - (i) enige wesentliche verliese en enige wesentliche onreëlmatige of vrugtelose en verkwiste besteding, met inbegrip van, in die geval van 'n munisipaliteit, enige wesentliche ongemagtigde besteding wat gedurende die finansiële jaar voorgekom het, en of hierdie besteding verhaalbaar is;
  - (ii) enige strafregtelike of dissiplinêre stappe wat as gevolg van sodanige verliese of sodanige ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding gedoen is; en
  - (iii) enige wesentliche verliese verhaal of afgeskryf;
- (e) besonderhede van nie-voldoening aan hierdie Wet; en
- (f) enige ander aangeleenthede wat voorgeskryf mag word.

**126. Voorlegging en ouditering van jaarlikse finansiële state.**—(1) Die rekenpligtige beampte van 'n munisipaliteit—

- (a) moet die jaarlikse finansiële state van die munisipaliteit opstel en, binne twee maande na die einde van die finansiële jaar waarop daardie state betrekking het, aan die Ouditeur-generaal vir ouditering voorlê; en
- (b) moet daarbenewens, in die geval van 'n munisipaliteit in artikel 122 (2) bedoel, gekonsolideerde jaarlikse finansiële state ingevolge daardie artikel opstel, en binne drie maande na die einde van die finansiële jaar waarop daardie state betrekking het, aan die Ouditeur-generaal vir ouditering voorlê.

(2) Die rekenpligtige beampte van 'n munisipale entiteit moet die jaarlikse finansiële state van die entiteit opstel en, binne twee maande na die einde van die finansiële jaar waarop die state betrekking het, voorlê aan—

- (a) die moedermunisipaliteit van die entiteit; en
- (b) die Ouditeur-generaal, vir ouditering.

(3) Die Ouditeur-generaal moet—

- (a) daardie finansiële state ouditeer; en
- (b) binne drie maande na ontvangs van die state 'n auditverslag op daardie state aan die rekenpligtige beampte van die munisipaliteit of entiteit voorlê.

(4) Indien die Ouditeur-generaal nie binne drie maande na ontvangs van die finansiële state vanaf 'n rekenpligtige beampte 'n audit kan voltooi nie, moet die Ouditeur-generaal onverwyld 'n verslag wat die redes vir die vertraging uiteensit, aan die betrokke munisipaliteit of munisipale entiteit asook aan die betrokke provinsiale wetgewer en die Parlement voorlê.

(5) Sodra die Ouditeur-generaal 'n auditverslag aan die rekenpligtige beampte voorgelê het, mag niemand behalwe die Ouditeur-generaal die auditverslag of die finansiële state waarop die auditverslag betrekking het, wysig nie.

(Datum van inwerkingtreding van a. 126: 1 Julie 2005.)

**127. Voorlegging en tertafellegging van jaarverslae.**—(1) Die rekenpligtige beampte van 'n munisipale entiteit moet, binne ses maande na die einde van 'n finansiële jaar, of op sodanige vroeër datum as waarop tussen die entiteit en sy moedermunisipaliteit ooreengekom mag word, die entiteit se jaarverslag vir daardie finansiële jaar aan die munisipale bestuurder van die entiteit se moedermunisipaliteit voorlê.

(2) Die burgemeester van 'n munisipaliteit moet, binne sewe maande na die einde van 'n finansiële jaar, die jaarverslag van die munisipaliteit en van enige munisipale entiteit onder die munisipaliteit se alleen- of gedeelde beheer in die munisipale raad ter tafel lê.

(3) Indien die burgemeester, om watter rede ook al, nie in staat is om die jaarverslag van die munisipaliteit, of die jaarverslag van enige munisipale entiteit onder die munisipaliteit se alleen- of gedeelde beheer, binne sewe maande na die einde van die finansiële jaar waarop daardie verslag betrekking het in die raad ter tafel te lê nie, moet die burgemeester—

- (a) onverwyld 'n skriftelike verduideliking in artikel 133 (1) (a) bedoel wat die redes vir die vertraging vermeld aan die raad voorlê, saam met enige komponente van die jaarverslag vermeld in artikel 121 (3) of (4) wat wel gereed is; en
- (b) die uitstaande jaarverslag of die uitstaande komponente van die jaarverslag so gou as moontlik aan die raad voorlê.

(4) Die Ouditeur-generaal kan die finansiële state en auditverslag—

- (a) van 'n munisipaliteit direk aan die munisipale raad, die Nasionale Tesourie, die betrokke provinsiale tesourie, die LUR verantwoordelik vir plaaslike regering in die provinsie en enige voorgeskrewe staatsorgaan voorlê, indien die burgemeester versuim om aan subartikel (2) of (3) te voldoen; of
- (b) van 'n munisipale entiteit direk aan die moedermunisipaliteit, die Nasionale Tesourie, die

betrokke provinsiale tesourie, die LUR verantwoordelik vir plaaslike regering in die provinsie en enige voorgeskrewe staatsorgaan voorlê, indien die rekenpligtige beampte van die entiteit versuim om aan subartikel (1) te voldoen.

(5) Onmiddellik nadat 'n jaarverslag ingevolge subartikel (2) in die raad ter tafel gelê is, moet die rekenpligtige beampte van die munisipaliteit—

- (a) ooreenkomstig artikel 21A van die Wet op Munisipale Stelsels—
  - (i) die jaarverslag openbaar maak; en
  - (ii) die plaaslike gemeenskap uitnooi om vertoë met betrekking tot die jaarverslag voor te lê; en
- (b) die jaarverslag aan die Ouditeur-generaal, die betrokke provinsiale tesourie en die provinsiale departement verantwoordelik vir plaaslike regering in die provinsie voorlê.

(6) Subartikel (5), met die nodige aanpassings soos wat die samehang mag vereis, is ook van toepassing indien slegs komponente van die jaarverslag ingevolge subartikel (3) ter tafel gelê word.

(Datum van inwerkingtreding van a. 127: 1 Julie 2005.)

**128. Voldoening moet gemoniteer word.**—Die rekenpligtige beampte van 'n moedermunisipaliteit moet—

- (a) monitor of die rekenpligtige beampte van enige munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit aan artikels 121 (1) en 126 (2) voldoen het;
- (b) vasstel wat die redes vir enige nie-voldoening is; en
- (c) onverwyld enige nie-voldoening, saam met die redes vir sodanige nie-voldoening, aan die raad van die moedermunisipaliteit, die betrokke provinsiale tesourie en die Ouditeur-generaal rapporteer.

(Datum van inwerkingtreding van a. 128: 1 Julie 2005.)

**129. Oorsigverslae met betrekking tot jaarverslae.**—(1) Die raad van 'n munisipaliteit moet die jaarverslag van die munisipaliteit en van enige munisipale entiteit onder die munisipaliteit se alleen- of gedeelde beheer oorweeg, en teen nie later nie as twee maande vanaf die datum waarop die jaarverslag ingevolge artikel 127 in die raad ter tafel gelê is, 'n oorsigverslag aanneem wat die raad se kommentaar op die jaarverslag bevat, wat 'n verklaring moet insluit van of die raad—

- (a) die jaarverslag met of sonder voorbehoud goedgekeur het;
- (b) die jaarverslag verwerp het; of
- (c) die jaarverslag terugverwys het vir die hersiening van daardie komponente wat hersien kan word.

(2) Die rekenpligtige beampte moet—

- (a) met die doel om te antwoord op vrae wat op die verslag betrekking het, raads- en raadskomiteevergaderings waarop die jaarverslag bespreek word, bywoon; en
- (b) afskrifte van die notules van daardie vergaderings voorlê aan die Ouditeur-generaal, die betrokke provinsiale tesourie en die provinsiale departement verantwoordelik vir plaaslike regering in die provinsie.

(3) Die rekenpligtige beampte moet ooreenkomstig artikel 21A van die Wet op Munisipale

Stelsels 'n oorsigverslae in subartikel (1) bedoel binne sewe dae na die aanname daarvan openbaar maak.

(4) Die Nasionale Tesourie kan riglyne uitreik met betrekking tot—

- (a) die wyse waarop munisipale rade jaarverslae moet oorweeg en openbare verhore moet hou; en
- (b) die werking en samestelling van enige openbare rekenings- of oorsigkomitees wat deur die raad ingestel word om hom by die oorweging van 'n jaarverslag by te staan.

(5) Geen riglyne ingevolge subartikel (4) uitgereik, is bindend op 'n munisipale raad nie tensy daardie riglyne deur die raad aangeneem is.

(6) Hierdie artikel, met die nodige aanpassings wat die samehang mag vereis, is ook van toepassing indien slegs komponente van die jaarverslag ingevolge artikel 127 (3) ter tafel gelê is.

(Datum van inwerkingtreding van a. 129: 1 Julie 2005.)

**130. Raadsvergaderings oop vir publiek en sekere openbare beamptes.**—(1) Die vergadering van 'n munisipale raad waarop 'n jaarverslag bespreek word of waarop besluite met betrekking tot 'n jaarverslag geneem word, is oop vir die publiek en enige staatsorgane, en 'n redelike tyd moet toegelaat word—

- (a) vir die bespreking van enige skriftelike voorleggings oor die jaarverslag wat van die plaaslike gemeenskap of staatsorgane ontvang is; en
- (b) vir lede van die plaaslike gemeenskap of enige staatsorgane om die raad toe te spreek.

(2) Verteenwoordigers van die Ouditeur-generaal het die reg om enige raadsvergadering bedoel in subartikel (1) by te woon en toe te spreek.

(3) Hierdie artikel, met die nodige aanpassings wat die samehang mag vereis, is ook van toepassing indien slegs komponente van die jaarverslag ingevolge artikel 127 (3) ter tafel gelê is.

(Datum van inwerkingtreding van a. 130: 1 Julie 2005.)

**131. Kwessies deur Ouditeur-generaal in auditverslae geopper.**—(1) 'n Munisipaliteit moet enige kwessies aanspreek wat deur die Ouditeur-generaal in 'n auditverslag geopper is. Die burgemeester van 'n munisipaliteit moet toesien dat die munisipaliteit aan hierdie subartikel voldoen.

(2) Die LUR vir plaaslike regering in die provinsie moet—

- (a) alle jaarlikse finansiële state van munisipaliteite in die provinsie, die auditverslae op sodanige state en enige reaksies van munisipaliteite op sodanige auditverslae evalueer, en bepaal of munisipaliteite na behore enige kwessies wat deur die Ouditeur-generaal in auditverslae geopper is, aangespreek het; en
- (b) enige versuim deur 'n munisipaliteit om daardie kwessies binne 60 dae na behore aan te spreek aan die provinsiale wetgewer rapporteer.

(Datum van inwerkingtreding van a. 131: 1 Julie 2005.)

**132. Voorleggings aan provinsiale wetgewers.**—(1) Die volgende dokumente moet aan die provinsiale wetgewer voorgelê word:

- (a) Die jaarverslag van elke munisipaliteit en elke munisipale entiteit in die provinsie, of indien slegs komponente van 'n jaarverslag ingevolge artikel 127 (3) ter tafel gelê is, daardie komponente; en

(b) alle oorsigverslae met betrekking tot daardie jaarverslae ingevolge artikel 129 (1) aangeneem.

(2) Die rekenpligtige beampte van 'n munisipaliteit moet die dokumente in subartikel (1) (a) en (b) bedoel binne sewe dae nadat die munisipale raad die betrokke oorsigverslae ingevolge artikel 129 (1) aangeneem het, aan die provinsiale wetgewer voorlê.

(3) Die LUR vir plaaslike regering in 'n provinsie moet moniteer of munisipaliteite in die provinsie aan subartikel (2) voldoen.

(4) 'n Provinsiale wetgewer kan met die dokumente wat ingevolge subartikel (1) aan hom ter tafel gelê is, ooreenkomstig sy grondwetlike bevoegdhede handel.

(5) Die Nasionale Tesourie kan riglyne uitvaardig oor die wyse waarop provinsiale wetgewers die jaarverslae van munisipaliteite behoort te oorweeg. Geen riglyne wat ingevolge hierdie subartikel uitgereik is, is bindend op 'n provinsiale wetgewer nie tensy daardie riglyne deur die wetgewer aangeneem is.

(Datum van inwerkingtreding van a. 132: 1 Julie 2005.)

**133. Gevolge van nie-voldoening aan sekere bepalinge.**—(1) Indien die rekenpligtige beampte van 'n munisipaliteit of munisipale entiteit versuim om finansiële state ooreenkomstig artikel 126 (1) of (2) aan die Ouditeur-generaal voor te lê, of indien die burgemeester versuim om die jaarverslag van die munisipaliteit of 'n munisipale entiteit ooreenkomstig artikel 127 (2) in die raad ter tafel te lê—

(a) moet die burgemeester onverwyld 'n skriftelike verduideliking wat die redes vir die versuim vermeld, in die raad ter tafel lê;

(b) moet die Ouditeur-generaal, in die geval van enige versuim om finansiële state vir ouditering voor te lê, onverwyld—

(i) die speaker van die raad, die Nasionale Tesourie en die LUR vir plaaslike regering en die LUR vir finansies in die provinsie van sodanige versuim in kennis stel; en

(ii) 'n spesiale verslag aangaande die versuim aan die provinsiale wetgewer uitreik;

(c) (i) moet die munisipale raad die speaker of enige ander raadslid versoek om die redes vir die versuim te ondersoek en aan die raad verslag te doen;

(ii) moet die raad gepaste stappe doen om te verseker dat die finansiële state aan die Ouditeur-generaal voorgelê word, of dat die jaarverslag, met inbegrip van die finansiële state en die auditverslag oor daardie state, in die raad ter tafel gelê word, na gelang van wat toepaslik mag wees; en

(iii) kan die raad gelas dat dissiplinêre stappe gedoen word teen die rekenpligtige beampte of ander persoon wat vir die versuim verantwoordelik is;

(d) kan die provinsiale uitvoerende gesag ingevolge artikel 139 van die Grondwet in die munisipaliteit ingryp;

(e) kan die Nasionale Tesourie ingevolge artikel 5 (2) (e) gepaste stappe teen die munisipaliteit doen; en

(f) kan die provinsiale tesourie ingevolge artikel 5 (4) (d) gepaste stappe teen die munisipaliteit doen.

(2) Die Ouditeur-generaal moet aan die Parlement en die provinsiale wetgewers—

- (a) teen nie later nie as 31 Oktober van elke jaar, die name van enige munisipaliteite of munisipale entiteite voorlê wat versuim het om hulle finansiële state ingevolge artikel 126 aan die Ouditeur-generaal voor te lê; en
- (b) kwartaalliks daarna, die name van enige munisipaliteite of munisipale entiteite voorlê wie se finansiële state teen die einde van elke kwartaal steeds uitstaande is.

(Datum van inwerkingtreding van a. 133: 1 Julie 2005.)

**134. Jaarverslag aan Parlement.**—Die Kabinetslid verantwoordelik vir plaaslike regering moet, as deel van die verslag bedoel in artikel 48 van die Wet op Munisipale Stelsels, jaarliks aan die Parlement verslag doen oor stappe wat deur LUR'e vir plaaslike regering gedoen is om kwessies aan te spreek wat deur die Ouditeur-generaal in ouditverslae op finansiële state van munisipaliteite en munisipale entiteite geopper is.

(Datum van inwerkingtreding: 1 Julie 2005.)

## HOOFSTUK 13 OPLOSSING VAN FINANSIËLE PROBLEME

### *Deel 1: Identifisering van finansiële probleme*

**135. Primêre verantwoordelikheid vir oplossing van finansiële probleme.**—(1) Die primêre verantwoordelikheid om finansiële probleme in 'n munisipaliteit te vermy, te identifiseer en op te los, berus by die munisipaliteit self.

(2) 'n Munisipaliteit moet sy finansiële verpligtinge nakom.

(3) Indien 'n munisipaliteit met 'n ernstige finansiële probleem te kampe kry of probleme voorsien om sy finansiële verpligtinge na te kom, moet die munisipaliteit onverwyld—

- (a) oplossings vir die probleem soek;
- (b) die LUR vir plaaslike regering en die LUR vir finansies in die provinsie in kennis stel; en
- (c) georganiseerde plaaslike regering in kennis stel.

(Datum van inwerkingtreding van a. 135: 1 Julie 2005.)

### *Deel 2: Provinsiale ingrypings*

**136. Soorte provinsiale ingrypings.**—(1) Indien dit onder die LUR vir plaaslike regering in 'n provinsie se aandag kom dat daar 'n ernstige finansiële probleem in 'n munisipaliteit bestaan, moet die LUR onverwyld—

- (a) die burgemeester van die munisipaliteit raadpleeg om die feite vas te stel;
- (b) die erns van die situasie en die munisipaliteit se reaksie op die situasie evalueer; en
- (c) bepaal of die situasie 'n ingryping ingevolge artikel 139 van die Grondwet regverdig of vereis.

(2) Indien die finansiële probleem veroorsaak is deur, of uitgeloop het op, 'n versuim deur die munisipaliteit om 'n uitvoerende verpligting ingevolge wetgewing of die Grondwet na te kom, en die voorwaardes vir 'n ingryping ingevolge artikel 139 (1) van die Grondwet tot stand gekom het, moet die

provinsiale uitvoerende gesag onverwyld besluit of daar in die munisipaliteit ingegryp moet word, al dan nie. Indien die provinsiale uitvoerende gesag besluit om in te gryp, is artikel 137 van toepassing.

(3) Indien die munisipaliteit versuim het om 'n begroting of enige inkomstegenererende maatreëls wat nodig is vir die uitvoering van die begroting goed te keur, as gevolg waarvan die voorwaardes vir 'n ingryping ingevolge artikel 139 (4) van die Grondwet tot stand gekom het, moet die provinsiale uitvoerende gesag ooreenkomstig artikel 26 in die munisipaliteit ingryp.

(4) Indien die munisipaliteit, as gevolg van 'n krisis in sy finansiële sake, in 'n ernstige of volgehoue wesenlike verbreking van sy verpligtinge is om basiese dienste te verskaf of om sy finansiële verbintenisse na te kom, of erken het dat hy nie sy verpligtinge of finansiële verbintenisse kan nakom nie, as gevolg waarvan die voorwaardes vir 'n ingryping ingevolge artikel 139 (5) van die Grondwet tot stand gekom het, moet die provinsiale uitvoerende gesag ooreenkomstig artikel 139 in die munisipaliteit ingryp.

(Datum van inwerkingtreding van a. 136: 1 Julie 2005.)

**137. Diskresionêre provinsiale ingrypings.**—(1) Indien die voorwaardes vir 'n provinsiale ingryping in 'n munisipaliteit ingevolge artikel 139 (1) van die Grondwet tot stand gekom het en die provinsiale uitvoerende gesag besluit om ingevolge artikel 136 (2) van hierdie Wet in die munisipaliteit in te gryp, kan die provinsiale uitvoerende gesag enige gepaste stappe bedoel in artikel 139 (1) van die Grondwet doen, met inbegrip daarvan—

- (a) om die erns van die finansiële probleem in die munisipaliteit te evalueer;
- (b) om oplossings te vind om die finansiële probleem by te lê op 'n manier wat volhoubaar sal wees en wat die munisipaliteit se kapasiteit sal bou om sy eie finansiële belange te behartig;
- (c) om te bepaal of die finansiële probleem, afsonderlik of saam met ander probleme, ernstig of volhoudend genoeg is dat die munisipaliteit baat sal vind by 'n finansiële herstelplan en, indien wel, om enige behoorlik gekwalifiseerde persoon te versoek—
  - (i) om 'n gepaste finansiële herstelplan vir die munisipaliteit op te stel;
  - (ii) om gepaste veranderings aan die munisipaliteit se begroting en inkomstegenererende maatreëls aan te beveel wat uitvoering aan die herstelplan sal gee; en
  - (iii) om die herstelplan en enige aanbevelings in subparagraaf (i) en (ii) bedoel aan die LUR vir plaaslike regering in die provinsie voor te lê binne 'n tydperk deur die LUR bepaal; en
- (d) om die burgemeester van die munisipaliteit te raadpleeg ten einde die munisipaliteit se samewerking met betrekking tot die oplossing van die finansiële probleem, en indien toepaslik, die implementering van die finansiële herstelplan, te bekom.

(2) Die LUR moet enige evaluering ingevolge subartikel (1) (a), enige bepaling ingevolge subartikel (1) (c) asook 'n afskrif van enige versoek ingevolge subartikel (1) (c), aan die munisipaliteit en die Kabinetslid verantwoordelik vir plaaslike regering voorlê.

(3) Hierdie artikel is nie van toepassing op 'n provinsiale ingryping wat nie met 'n finansiële probleem in 'n munisipaliteit verband hou nie.

(Datum van inwerkingtreding van a. 137: 1 Julie 2005.)

**138. Maatstawwe vir bepaling van ernstige finansiële probleme.**—Wanneer die erns van 'n finansiële probleem vir doeleindes van artikel 137 bepaal moet word, moet alle tersaaklike feite oorweeg

word, en die volgende faktore kan, afsonderlik of gesamentlik, aanduidend wees van 'n ernstige finansiële probleem:

- (a) Die munisipaliteit het versuim om betalings te maak soos en wanneer verskuldig;
- (b) die munisipaliteit het weens finansiële redes nie aan sy finansiële verpligtinge voldoen nie;
- (c) die werklike bedryfsbesteding van die munisipaliteit het die totaal van sy werklike bedryfsinkomste plus beskikbare surplusse vir ten minste twee agtereenvolgende finansiële jare oorskry;
- (d) die munisipaliteit het 'n bedryfstekort van meer as vyf persent van inkomste in die mees onlangse finansiële jaar waarvoor finansiële inligting beskikbaar is;
- (e) die munisipaliteit is meer as 60 dae laat met die voorlegging van sy jaarlikse finansiële state aan die Ouditeur-generaal ooreenkomstig artikel 126;
- (f) die Ouditeur-generaal het 'n opinie weerhou of as gevolg van onvoldoende gegewens in die finansiële state of rekords van die munisipaliteit 'n weiering uitgereik om 'n opinie te verstrek, of het 'n opinie verskaf wat 'n ernstige finansiële probleem in die munisipaliteit identifiseer;
- (g) enige van bogenoemde omstandighede bestaan in 'n munisipale entiteit onder die munisipaliteit se alleenbeheer, of in 'n munisipale entiteit vir wie se skulde die munisipaliteit aanspreeklik mag wees, en die munisipaliteit het versuim om doeltreffend in te gryp; of
- (h) enige ander wesenlike omstandigheid bestaan wat aanduidend daarvan is dat die munisipaliteit, of 'n munisipale entiteit onder die munisipaliteit se alleenbeheer, om finansiële redes waarskynlik nie in staat sal wees om sy verpligtinge na te kom nie.

(Datum van inwerkingtreding van a. 138: 1 Julie 2005.)

**139. Verpligte provinsiale ingrypings voortspruitend uit finansiële krisis.**—(1) Indien 'n munisipaliteit, as gevolg van 'n krisis in sy finansiële sake, in ernstige of volgehoue wesenlike verbreking van sy verpligtinge is om basiese dienste te verskaf of om sy finansiële verbintenisse na te kom, of erken het dat hy nie sy verpligtinge of finansiële verbintenisse kan nakom nie, moet die provinsiale uitvoerende gesag onverwyld—

- (a) die Munisipale Finansiële Hersteldiens versoek—
  - (i) om die redes vir die krisis in die munisipaliteit se finansiële sake te bepaal;
  - (ii) om die munisipaliteit se finansiële toestand te evalueer;
  - (iii) om 'n gepaste herstelplan vir die munisipaliteit op te stel;
  - (iv) om gepaste veranderings aan te beveel aan die munisipaliteit se begroting en inkomstegenererende maatreëls wat uitvoering sal gee aan die herstelplan; en
  - (v) om aan die LUR vir finansies in die provinsie voor te lê—
    - (aa) die bepaling en evaluering in subparagrafe (i) en (ii) bedoel, as saak van dringendheid; en
    - (bb) die herstelplan en aanbevelings in subparagraaf (iii) en (iv) bedoel binne 'n tydperk deur die LUR vir finansies bepaal, wat nie meer as 90 dae mag wees



nie; en

- (b) die burgemeester van die munisipaliteit raadpleeg ten einde die munisipaliteit se samewerking te bekom met betrekking tot die implementering van die herstelplan, asook die goedkeuring van 'n begroting en wetgewende maatreëls wat aan die herstelplan uitvoering sal gee.

(2) Die LUR vir finansies in die provinsie moet 'n afskrif van enige versoek ingevolge subartikel (1) (a) asook van enige bepaling of evaluering ontvang ingevolge subartikel (1) (a) (v) (aa) voorlê aan—

- (a) die munisipaliteit;
- (b) die Kabinetslid verantwoordelik vir plaaslike regering; en
- (c) die Minister.

(3) 'n Ingryping bedoel in subartikel (1), vervang enige diskresionêre provinsiale ingryping in artikel 137 bedoel, met dien verstande dat enige finansiële herstelplan wat opgestel is vir die diskresionêre ingryping bly voortbestaan totdat dit deur 'n herstelplan vir die verpligte ingryping vervang word.

(Datum van inwerkingtreding van a. 139: 1 Julie 2005.)

**140. Maatstawwe vir bepaling van ernstige of volgehoue wesenlike verbreking van finansiële verbintenis.**—(1) Wanneer daar bepaal moet word of die voorwaardes vir 'n verpligte ingryping bedoel in artikel 139 tot stand gekom het, moet alle tersaaklike feite oorweeg word.

(2) Die volgende faktore kan, afsonderlik of gesamentlik, aanduidend daarvan wees dat 'n munisipaliteit in ernstige wesenlike verbreking van sy finansiële verbintenis is:

- (a) Die munisipaliteit het versuim om enige betaling aan 'n uitlener of belegger te maak soos en wanneer verskuldig;
- (b) die munisipaliteit het versuim om 'n kontraktuele verpligting na te kom wat ingevolge artikel 48 sekuriteit stel;
- (c) die munisipaliteit het versuim om enige ander betaling soos en wanneer verskuldig, te maak, wat afsonderlik of gesamentlik meer is as 'n bedrag wat voorgeskryf mag word of, indien geen bedrag voorgeskryf is nie, wat meer is as twee persent van die munisipaliteit se begrote bedryfsbesteding; of
- (d) die munisipaliteit se versuim om sy finansiële verpligtinge na te kom 'n uitwerking gehad het, of waarskynlik sal hê, op die beskikbaarheid of koste van krediet aan ander munisipaliteite.

(3) Enige herhalende of voortgesette versuim deur 'n munisipaliteit om sy finansiële verbintenis na te kom wat die munisipaliteit se vermoë om goedere, dienste of krediet op gewone kommersiële voorwaardes te verkry wesenlik aan bande lê, kan aanduidend daarvan wees dat die munisipaliteit in volgehoue wesenlike verbreking van sy finansiële verbintenis is.

(4) Subartikels (2) en (3) is nie van toepassing nie op—

- (a) betwiste verpligtinge ten opsigte waarvan daar regsaksies tussen die munisipaliteit en die skuldeiser hangend is, mits sodanige aksies nie ingestel is om 'n ingryping te vermy nie; of
- (b) verpligtinge waarvan daar uitdruklik deur die skuldeiser afstand gedoen is.

(Datum van inwerkingtreding van a. 140: 1 Julie 2005.)

**141. Opstel van finansiële herstelplanne.**—(1) Enige behoorlik gekwalifiseerde persoon kan, op versoek van die provinsiale uitvoerende gesag, ’n finansiële herstelplan vir ’n diskresionêre provinsiale ingryping bedoel in artikel 137 opstel.

(2) Slegs die Munisipale Finansiële Hersteldiens mag ’n finansiële herstelplan vir ’n verpligte ingryping bedoel in artikel 139 opstel.

(3) By die opstel van ’n finansiële herstelplan, moet die persoon in subartikel (1) bedoel of die Munisipale Finansiële Hersteldiens—

- (a) oorleg pleeg met—
  - (i) die betrokke munisipaliteit;
  - (ii) die munisipaliteit se belangrikste verskaffers en skuldeisers, in soverre hulle redelikerwys gekontak kan word;
  - (iii) die LUR vir finansies en die LUR vir plaaslike regering in die provinsie; en
  - (iv) georganiseerde arbeid;
- (b) in ag neem—
  - (i) enige finansiële herstelplan wat voorheen vir die munisipaliteit opgestel is; en
  - (ii) enige voorgestelde finansiële herstelplan, of voorstelle vir ’n finansiële herstelplan, wat deur die munisipaliteit of enige skuldeiser van die munisipaliteit voorgestel mag wees; en
- (c) ten minste 14 dae voor finalisering van die plan—
  - (i) die plan vir kommentaar voorlê aan—
    - (aa) die munisipaliteit;
    - (bb) die LUR vir finansies en die LUR vir plaaslike regering in die provinsie;
    - (cc) georganiseerde plaaslike regering in die provinsie;
    - (dd) georganiseerde arbeid in die provinsie; en
    - (ee) enige verskaffer of skuldeiser van die munisipaliteit, op versoek; en
  - (ii) ’n kennisgewing in ’n koerant wat algemeen in omloop is in die munisipaliteit publiseer wat—
    - (aa) die plek aandui, met inbegrip van enige webwerf adres, waar afskrifte van die plan gratis of teen ’n redelike fooi vir die publiek beskikbaar sal wees; en
    - (bb) die plaaslike gemeenskap uitnooi om skriftelike kommentaar met betrekking tot die plan voor te lê.

(4) Die persoon wat verantwoordelik is vir die opstel van die finansiële herstelplan of die Munisipale Finansiële Hersteldiens moet—

- (a) enige kommentaar na aanleiding van subartikel (3) (c) ontvang, in ag neem;
- (b) die finansiële herstelplan finaliseer; en
- (c) die finale plan aan die LUR vir finansies in die provinsie vir goedkeuring ingevolge artikel 143 voorlê.

(Datum van inwerkingtreding van a. 141: 1 Julie 2005.)

**142. Maatstawwe vir finansiële herstelplanne.**—(1) 'n Finansiële herstelplan moet daarop gemik wees om te verseker dat die munisipaliteit oor die vermoë beskik om te voldoen aan sy verpligtinge om basiese dienste te verskaf of sy finansiële verbintenisse na te kom, en so 'n plan, hetsy vir 'n verpligte of 'n diskresionêre ingryping—

(a) moet—

- (i) die finansiële probleme van die munisipaliteit identifiseer;
- (ii) beoog om die munisipaliteit so gou moontlik in 'n gesonde en volhoubare finansiële toestand te plaas;
- (iii) die belangrikste strategiese doelwitte van die plan uiteensit, asook maniere en middele om daardie doelwitte te bereik;
- (iv) 'n spesifieke strategie uiteensit om die munisipaliteit se finansiële probleme op te los, met inbegrip van 'n strategie om onnodige besteding te besnoei en om die insameling van inkomste te verhoog, na gelang van wat nodig mag wees;
- (v) die menslike en finansiële hulpbronne identifiseer wat nodig is om te help om finansiële probleme op te los, en waarvandaan daardie hulpbronne verkry staan te word;
- (vi) die verwagte tydskaal vir finansiële herstel vermeld, asook mylpale wat bereik moet word; en
- (vii) identifiseer watter optrede nodig is vir die implementering van die plan, met 'n aanduiding van stappe wat deur die munisipaliteit en dié wat deur ander partye gedoen moet word; en

(b) kan—

- (i) voorsiening maak vir die te gelde making van spesifieke bates, behalwe daardie wat vir die verskaffing van die minimum vlak van basiese munisipale dienste benodig word;
- (ii) voorsiening maak vir skuldherstrukturering ooreenkomstig Deel 3 van hierdie Hoofstuk;
- (iii) voorsiening maak vir spesiale maatreëls om ongemagtigde, onreëlmatige en vrugtelose en verkwiste besteding en ander verliese te verhoed; en
- (iv) enige werklike en potensiele inkomstebronne identifiseer.

(2) Hierbenewens—

(a) moet 'n finansiële herstelplan vir 'n verpligte ingryping—

- (i) bestedingsperke en inkomsteteikens vasstel;
- (ii) begrotingsparameters stel wat die munisipaliteit bind vir 'n gespesifiseerde tydperk of totdat daar voldoen is aan vasgestelde voorwaardes; en
- (iii) spesifieke inkomstegenererende maatreëls identifiseer wat vir finansiële herstel nodig is, met inbegrip van die koers waarteen enige munisipale belastings en tariewe vasgestel moet word om finansiële herstel te bewerkstellig; en

- (b) kan 'n finansiële herstelplan vir 'n diskresionêre ingryping vir aanname deur die munisipaliteit—
- (i) bestedingsperke en inkomsteteikens voorstel;
  - (ii) begrotingsparameters voorstel vir 'n gespesifiseerde tydperk of totdat daar aan vasgestelde voorwaardes voldoen is; en
  - (iii) spesifieke inkomstegenererende maatreëls voorstel wat vir finansiële herstel nodig is.

(Datum van inwerkingtreding van a. 142: 1 Julie 2005.)

**143. Goedkeuring van finansiële herstelplanne.**—(1) By ontvangs van 'n finansiële herstelplan na aanleiding van 'n diskresionêre ingryping bedoel in artikel 137, kan die LUR vir plaaslike regering in die provinsie die herstelplan met of sonder wysigings, wat die LUR toepaslik beskou, goedkeur.

(2) By ontvangs van 'n finansiële herstelplan na aanleiding van 'n verpligte ingryping bedoel in artikel 139, moet die LUR vir finansies bepaal of die proses soos vermeld in artikel 141 gevolg is en of daar voldoen is aan die maatstawwe vervat in artikel 142, en—

- (a) indien wel, die herstelplan goedkeur; of
  - (b) indien nie, aandui watter gebreke reggestel moet word.
- (3) Die verantwoordelike LUR moet 'n goedgekeurde herstelplan voorlê aan—
- (a) die munisipaliteit;
  - (b) die Minister en die Kabinetslid verantwoordelik vir plaaslike regering;
  - (c) die Ouditeur-generaal; en
  - (d) georganiseerde plaaslike regering in die provisie.

(Datum van inwerkingtreding van a. 143: 1 Julie 2005.)

**144. Wysiging van finansiële herstelplanne.**—(1) Die LUR vir plaaslike regering en die LUR vir finansies in die provinsie kan te eniger tyd, maar behoudens artikel 141 (1) en (2), enige behoorlik gekwalifiseerde persoon of die Munisipale Finansiële Hersteldiens versoek om 'n gewysigde finansiële herstelplan ooreenkomstig die voorskrifte van die LUR op te stel.

(2) Artikel 141, gelees met sodanige aanpassings as wat die samehang mag vereis, is van toepassing op die wysiging van 'n finansiële herstelplan ingevolge hierdie artikel.

(3) Geen wysiging van 'n herstelplan mag die implementering van enige hofbevel wat gemaak is of ooreenkoms wat aangegaan is ingevolge die plan voor die wysiging, verhinder nie.

(Datum van inwerkingtreding van a. 144: 1 Julie 2005.)

**145. Implementering van finansiële herstelplanne tydens diskresionêre provinsiale ingrypings.**—(1) Indien die finansiële herstelplan opgestel is vir 'n diskresionêre provinsiale ingryping bedoel in artikel 137, moet die munisipaliteit—

- (a) die goedgekeurde herstelplan implementeer; en
- (b) maandeliks aan die LUR vir plaaslike regering in die provinsie verslag doen oor die implementering van die plan, op die wyse wat die plan mag bepaal.

(2) Die finansiële herstelplan bind die munisipaliteit by die uitoefening van sy uitvoerende gesag,

maar slegs in soverre dit nodig is om die finansiële probleme van die munisipaliteit op te los.

(3) Indien die munisipaliteit nie die goedgekeurde herstelplan kan implementeer nie of dit nie implementeer nie, kan die provinsiale uitvoerende gesag ingevolge artikel 139 (1) of (4) van die Grondwet verdere gepaste stappe doen om implementering van die plan te verseker.

(4) Artikels 34 (3) en (4) en 35 van die Wet op Munisipale Strukture is van toepassing indien die provinsiale uitvoerende gesag 'n munisipale raad ingevolge subartikel (3) ontbind.

(Datum van inwerkingtreding van a. 145: 1 Julie 2005.)

**146. Implementering van finansiële herstelplanne tydens verpligte provinsiale ingrypings.**—(1) Indien die herstelplan opgestel is vir 'n verpligte provinsiale ingryping in artikel 139 bedoel—

- (a) moet die munisipaliteit die goedgekeurde herstelplan implementeer;
- (b) moet alle inkomste-, bestedings- en begrotingsbesluite binne die raamwerk van, en behoudens die beperkings van, die herstelplan geneem word; en
- (c) moet die munisipaliteit maandeliks verslag doen aan die LUR vir finansies in die provinsie oor die implementering van die plan, op die wyse wat die plan mag bepaal.

(2) Die finansiële herstelplan bind die munisipaliteit by die uitoefening van beide sy wetgewende en uitvoerende gesag, met inbegrip van die goedkeuring van 'n begroting en wetgewende maatreëls wat aan die begroting uitvoering gee, maar slegs in soverre dit nodig is om die oogmerke van die herstelplan te bereik.

(3) Die provinsiale uitvoerende gesag moet ingevolge artikel 139 (5) van die Grondwet—

- (a) óf die raad van die munisipaliteit ontbind, indien die munisipaliteit nie wetgewende maatreëls, met inbegrip van 'n begroting of enige inkomstegenererende maatreëls, wat nodig is om uitvoering te gee aan die herstelplan binne die tydskaal in die plan bepaal, kan goedkeur nie of nie goedkeur nie, en—
  - (i) 'n administrateur aanstel totdat 'n nuutverkose raad as verkose verklaar is; en
  - (ii) 'n tydelike begroting en inkomstegenererende maatreëls, asook ander maatreëls wat uitvoering gee aan die herstelplan en wat voorsiening maak vir die voortgesette funksionering van die munisipaliteit, goedkeur;
- (b) óf verantwoordelikheid vir die implementering van die finansiële herstelplan aanvaar, in soverre die munisipaliteit nie uitvoerende maatreëls om uitvoering te gee aan die finansiële herstelplan kan tref of nie tref nie.

(4) Artikels 34 (3) en (4) en 35 van die Wet op Munisipale Strukture is van toepassing wanneer 'n provinsiale uitvoerende gesag 'n munisipale raad ingevolge artikel 139 (5) (b) (i) van die Grondwet ontbind.

(Datum van inwerkingtreding van a. 146: 1 Julie 2005.)

**147. Gereelde hersiening van provinsiale ingrypings.**—(1) Die LUR vir plaaslike regering of die LUR vir finansies in 'n provinsie moet ten minste elke drie maande—

- (a) enige diskresionêre provinsiale ingryping bedoel in artikel 137 of enige verpligte provinsiale ingryping bedoel in artikel 139, hersien, met inbegrip van—

- (i) vordering met die oplossing van die munisipaliteit se finansiële probleme en sy finansiële herstel; en
- (ii) die doeltreffendheid van enige finansiële herstelplan; en
- (b) vorderingsverslae en 'n finale verslag oor die ingryping voorlê aan—
  - (i) die munisipaliteit;
  - (ii) die Minister;
  - (iii) die Kabinetslid verantwoordelik vir plaaslike regering;
  - (iv) die provinsiale wetgewer; en
  - (v) georganiseerde plaaslike regering in die provinsie.

(2) Die LUR vir plaaslike regering of die LUR vir finansies kan die persoon wat die herstelplan opgestel het, of die Munisipale Finansiële Hersteldiens, versoek om die LUR met voldoening aan subartikel (1) by te staan.

(Datum van inwerkingtreding van a. 147: 1 Julie 2005.)

**148. Beëindiging van provinsiale ingrypings.**—(1) 'n Diskresionêre ingryping bedoel in artikel 137, kom tot 'n einde—

- (a) indien dit ingevolge artikel 139 (2) (b) van die Grondwet beëindig word; of
- (b) wanneer—
  - (i) die munisipaliteit in staat en gewillig is om te voldoen aan die uitvoerende verpligting ingevolge wetgewing of die Grondwet wat tot die ingryping aanleiding gegee het; en
  - (ii) die finansiële probleem wat veroorsaak is deur die versuim van die munisipaliteit om aan daardie verpligting te voldoen, of wat daardie versuim veroorsaak het, opgelos is.

(2) 'n Verpligte ingryping bedoel in artikel 139, kom tot 'n einde wanneer—

- (a) die krisis in die munisipaliteit se finansiële sake opgelos is; en
- (b) die munisipaliteit se vermoë om sy verpligtinge om basiese dienste te verskaf of om sy finansiële verbintenisse na te kom, verseker is.

(3) Wanneer 'n provinsiale ingryping tot 'n einde kom, moet die LUR vir plaaslike regering of die LUR vir finansies in die provinsie kennis gee aan—

- (a) die munisipaliteit;
- (b) die Minister, in die geval van 'n verpligte ingryping;
- (c) die Kabinetslid verantwoordelik vir plaaslike regering;
- (d) enige skuldeisers wat 'n regsgeding teen die munisipaliteit hangend het;
- (e) die provinsiale wetgewer; en
- (f) georganiseerde plaaslike regering in die provinsie.

(Datum van inwerkingtreding van a. 148: 1 Julie 2005.)

**149. Toegang tot inligting, rekords en dokumente van munisipaliteite.**—Indien 'n provinsiale

uitvoerende gesag ingevolge artikel 139 van die Grondwet in 'n munisipaliteit ingryp, het die provinsiale uitvoerende gesag en sy verteenwoordigers toegang tot sodanige inligting, rekords en dokumente van die munisipaliteit of van enige munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit wat vir die ingryping nodig mag wees, asook vir die identifisering of oplossing van die finansiële probleem van die munisipaliteit.

(Datum van inwerkingtreding: 1 Julie 2005.)

**150. Nasionale ingrypings.**—(1) Indien die voorwaardes vir 'n provinsiale ingryping in 'n munisipaliteit ingevolge artikel 139 (4) of (5) van die Grondwet tot stand kom en die provinsiale uitvoerende gesag nie die bevoegdheid kan uitoefen of die funksies kan verrig waarna in daardie artikel verwys word nie, of dit nie uitoefen of verrig nie, of dit nie na behore uitoefen of verrig nie, moet die nasionale uitvoerende gesag—

- (a) die betrokke provinsiale uitvoerende gesag raadpleeg; en
- (b) in die plek van die provinsiale uitvoerende gesag ingevolge daardie artikel optree of ingryp.

(2) Indien die nasionale uitvoerende gesag in 'n munisipaliteit ingevolge subartikel (1) ingryp—

- (a) aanvaar die nasionale uitvoerende gesag vir doeleindes van die ingryping die funksies en bevoegdheid van 'n provinsiale uitvoerende gesag ingevolge hierdie Hoofstuk;
- (b) aanvaar die Minister vir doeleindes van die ingryping die funksies en bevoegdheid van 'n LUR vir finansies ingevolge hierdie Hoofstuk; en
- (c) moet 'n verwysing in hierdie Hoofstuk—
  - (i) na 'n provinsiale uitvoerende gesag as 'n verwysing na die nasionale uitvoerende gesag uitgelê word;
  - (ii) na 'n LUR vir finansies as 'n verwysing na die Minister uitgelê word; en
  - (iii) na 'n provinsiale ingryping as 'n verwysing na 'n nasionale ingryping uitgelê word.

(Datum van inwerkingtreding van a. 150: 1 Julie 2005.)

### *Deel 3: Skuldverligting en -herstrukturering*

**151. Wetlike regte.**—Behalwe waar uitdruklik daarvoor voorsiening gemaak in hierdie Deel, beperk of raak niks in hierdie Hoofstuk—

- (a) die regte van enige skuldeiser of ander persoon wat 'n eis teen 'n munisipaliteit het nie;
- (b) enige persoon se toegang tot die gewone regsproses ingevolge die gemenerereg en tersaaklike wetgewing nie; of
- (c) die regte van 'n munisipaliteit of 'n munisipale entiteit, of van die partye tot 'n kontrak met 'n munisipaliteit of munisipale entiteit, om van alternatiewe dispuutbeslegtingsmeganismes, kennisgewingprosedures en ander remedies, prosesse of prosedures gebruik te maak nie.

(Datum van inwerkingtreding van a. 151: 1 Julie 2005.)

**152. Aansoek om opskorting van regsverrigtinge.**—(1) Indien 'n munisipaliteit nie in staat is om sy finansiële verbintenisse na te kom nie, kan die munisipaliteit by die Hooggeregshof aansoek doen om

'n bevel vir die stuiting, vir 'n tydperk van hoogstens 90 dae, van alle regsverrigtinge, met inbegrip van die tenuitvoerlegging van regsproses, deur persone wat geld van die munisipaliteit of 'n munisipale entiteit onder die alleenbeheer van die munisipaliteit eis.

(2) Kennis van 'n aansoek ingevolge subartikel (1) moet gegee word aan—

- (a) die LUR vir plaaslike regering en die LUR vir finansies in die provinsie;
- (b) die Minister;
- (c) die Kabinetslid verantwoordelik vir plaaslike regering;
- (d) georganiseerde plaaslike regering; en
- (e) in soverre hulle redelikerwys gekontak kan word, alle persone aan wie die munisipaliteit of die munisipale entiteit 'n bedrag verskuldig is wat 'n voorgeskrewe bedrag oorskry, of indien geen bedrag voorgeskryf is nie, wat R100 000 oorskry.

(3) 'n Aansoek ingevolge subartikel (1) kan vir doeleindes van artikel 139 (5) van die Grondwet beskou word as 'n erkenning deur die munisipaliteit dat hy nie in staat is om sy finansiële verbintenisse na te kom nie.

(Datum van inwerkingtreding van a. 152: 1 Julie 2005.)

**153. Aansoek om buitengewone regshulp.**—(1) 'n Munisipaliteit kan by die Hooggeregshof aansoek doen om 'n bevel—

- (a) vir die stuiting, vir 'n tydperk van hoogstens 90 dae op 'n keer, van alle regsverrigtinge, met inbegrip van die tenuitvoerlegging van regsproses, deur persone wat geld van die munisipaliteit eis;
- (b) om die munisipaliteit se finansiële verpligtinge teenoor skuldeisers, of enige deel van daardie verpligtinge, op te skort totdat die munisipaliteit in staat is om daardie verpligtinge na te kom; of
- (c) om die munisipaliteit se finansiële verpligtinge teenoor skuldeisers te beëindig, en om eise ooreenkomstig 'n distribusieskema bedoel in artikel 155 te vereffen.

(2) Die Hof kan 'n bevel ingevolge subartikel (1) maak slegs indien—

- (a) die provinsiale uitvoerende gesag ingevolge artikel 139 ingegryp het en daar 'n finansiële herstelplan om die munisipaliteit se finansiële toestand te herstel vir die munisipaliteit goedgekeur is;
- (b) die finansiële herstelplan waarskynlik sonder die beskerming van so 'n bevel sal misluk;
- (c) daar aan artikel 154 voldoen is, in die geval van 'n aansoek om 'n bevel in subartikel (1) (b) bedoel; en
- (d) daar aan artikel 155 voldoen is, in die geval van 'n aansoek om 'n bevel in subartikel (1) (c) bedoel.

(3) Kennis van 'n aansoek ingevolge subartikel (1) moet gegee word aan—

- (a) alle skuldeisers aan wie die munisipaliteit 'n bedrag verskuldig is wat 'n voorgeskrewe bedrag oorskry, of indien geen bedrag voorgeskryf is nie, wat R100 000 oorskry, in soverre daardie skuldeisers redelikerwys gekontak kan word;
- (b) die LUR vir finansies en die LUR vir plaaslike regering in die provinsie;



- (c) die Minister;
- (d) die Kabinetslid verantwoordelik vir plaaslike regering; en
- (e) georganiseerde arbeid.

(Datum van inwerkingtreding van a. 153: 1 Julie 2005.)

**154. Opskorting van finansiële verpligtinge.**—Voordat 'n bevel ingevolge artikel 153 (1) (b) vir die opskorting van 'n munisipaliteit se finansiële verpligtinge teenoor skuldeisers uitgereik word, moet die Hof tevrede wees dat—

- (a) die munisipaliteit nie huidiglik sy finansiële verpligtinge teenoor sy skuldeisers kan nakom nie; en
- (b) alle bates wat nie redelikerwys benodig word om effektiewe administrasie te handhaaf of om die minimum vlak van basiese munisipale dienste te verskaf nie, ooreenkomstig die goedgekeurde finansiële herstelplan met die oog op die betaling van skuldeisers se eise te gelde gemaak is of sal word.

(Datum van inwerkingtreding van a. 154: 1 Julie 2005.)

**155. Beëindiging van finansiële verpligtinge en skikking van eise.**—(1) Voordat 'n bevel ingevolge artikel 153 (1) (c) vir die beëindiging van 'n munisipaliteit se finansiële verpligtinge teenoor skuldeisers uitgereik word, moet die Hof tevrede wees dat—

- (a) die munisipaliteit nie sy finansiële verpligtinge teenoor sy skuldeisers kan nakom nie en vir die afsienbare toekoms waarskynlik nie in staat sal wees om dit te doen nie;
- (b) alle bates wat nie redelikerwys benodig word om effektiewe administrasie te handhaaf of om die minimum vlak van basiese munisipale dienste te verskaf nie, ooreenkomstig die goedgekeurde finansiële herstelplan met die oog op die betaling van skuldeisers se eise te gelde gemaak is; en
- (c) alle werknemers ontslaan is behalwe diegene wat bekostigbaar is ingevolge redelikerwys geprojekteerde inkomste soos in die goedgekeurde finansiële herstelplan uiteengesit.

(2) Indien die Hof 'n bevel bedoel in subartikel (1) uitreik, moet die LUR vir finansies in die provinsie 'n trustee aanstel om 'n distribusieskema op te stel vir die proporsionele betaling van alle wettige eise teen die munisipaliteit soos op die datum van die bevel. Daardie eise moet betaal word uit die bedrag wat gerealiseer word uit die te gelde making van bates in subartikel (1) (b) bedoel.

(3) 'n Distribusieskema moet—

- (a) die bedrag bepaal wat vir verdeling beskikbaar is;
- (b) 'n lys bevat van alle skuldeisers met eise wat kwalifiseer vir doeleindes van die distribusieskema, en aandui watter van daardie eise versekerde eise is asook die manier waarop die eise verseker is; en
- (c) voorsiening maak vir die verdeling van die beskikbare bedrag tussen skuldeisers in die volgende voorkeurorde:
  - (i) Eerste voorkeur moet gegee word aan die regte van versekerde skuldeisers ten opsigte van die bates waarmee hulle eise ingevolge artikel 48 verseker is, mits die betrokke sekuriteit te goeder trou gegee is en ten minste ses maande voordat die verpligte

provinsiale ingryping ingevolge artikel 139 'n aanvang geneem het;

- (ii) daarna moet die voorkeure waarvoor voorsiening gemaak word in die Insolvensiewet, 1936 (Wet No. 24 van 1936), gelees met die nodige aanpassings vereis deur die samehang, toegepas word; en
- (iii) daarna moet nie-voorkeureise betaal word in verhouding tot die bedrag van die verskillende eise.

(4) 'n Distribusieskema mag nie geïmplementeer word tensy dit deur die Hof goedgekeur is nie.

(Datum van inwerkingtreding van a. 155: 1 Julie 2005.)

**156. Aangeleentede wat voorgeskryf moet word.**—Die Minister, handelende met die instemming van die Kabinetslid verantwoordelik vir plaaslike regering, moet by regulasie ingevolge artikel 168—

- (a) voorsiening maak vir 'n billike proses vir die erkenning van eise teen 'n munisipaliteit met die oog op deelname aan 'n distribusieskema, met dien verstande dat die afwys van enige eis nie 'n skuldeiser daarvan weerhou om die eis in 'n hof te bewys nie; en
- (b) voorsiening maak vir openbare insae in 'n distribusieskema.

(Datum van inwerkingtreding van a. 156: 1 Julie 2005.)

#### *Deel 4: Munisipale Finansiële Hersteldiens*

**157. Instelling.**—(1) 'n Munisipale Finansiële Hersteldiens word hierby as 'n instelling binne die staatsdiens ingestel.

(2) Die Munisipale Finansiële Hersteldiens vorm deel van, en funksioneer binne, die Nasionale Tesourie.

(Datum van inwerkingtreding van a. 157: 1 Julie 2005.)

**158. Funksies en bevoegdhede.**—Die Munisipale Finansiële Hersteldiens—

- (a) moet die pligte uitvoer en kan die bevoegdhede uitoefen wat ingevolge hierdie Wet aan die Diens opgedra word;
- (b) kan, op versoek van die LUR vir finansies in 'n provinsie, 'n finansiële herstelplan vir 'n munisipaliteit opstel of, met die goedkeuring van die Direkteur-generaal van die Nasionale Tesourie, enige toepaslike gekwalifiseerde persoon opdrag gee om die plan ooreenkomstig die voorskrifte van die Diens op te stel;
- (c) kan, op versoek van die LUR vir finansies in die provinsie, die implementering van enige finansiële herstelplanne monitor wat die Diens opgestel het, en kan sodanige wysigings en hersienings aanbeveel wat toepaslik is;
- (d) kan, op versoek van enige munisipaliteit wat finansiële probleme ervaar, en in koördinasie met enige ander provinsiale of nasionale stappe, die munisipaliteit help om die oorsake van, en moontlike oplossings vir, hierdie finansiële probleme te identifiseer;
- (e) kan, met die goedkeuring van die Direkteur-generaal van die Nasionale Tesourie, die dienste van enige finansiële deskundige bekom om enige spesifieke werk vir die Diens te verrig; en

- (f) kan inligting insamel oor munisipale finansiële probleme en oor beste praktyke met betrekking tot die oplossing van sodanige probleme.

(Datum van inwerkingtreding van a. 158: 1 Julie 2005.)

**159. Aanstelling van Hoof.**—(1) Die Minister moet 'n persoon as die Hoof van die Diens aanstel, behoudens subartikel (2) en wetgewing wat die staatsdiens beheers.

(2) 'n Persoon wat aangestel is as die Hoof van die Diens beklee 'n amp in die Nasionale Tesourie behoudens die bedinge en voorwaardes uiteengesit in 'n skriftelike dienskontrak, wat bedinge en voorwaardes moet insluit wat prestasiestandaarde vasstel.

(Datum van inwerkingtreding van a. 159: 1 Julie 2005.)

**160. Verantwoordelikhede van Hoof.**—(1) Die Hoof van die Diens—

- (a) is verantwoordelik vir die verrigting deur die Diens van sy funksies en die uitoefening van sy bevoegdhede; en
- (b) neem alle besluite van die Diens by die verrigting van sy funksies en die uitoefening van sy bevoegdhede, behalwe daardie besluite van die Diens wat uit hoofde van 'n delegasie ingevolge artikel 162 geneem word.

(2) Die Hoof van die Diens verrig sy of haar ampsfunksies behoudens die voorskrifte van die Direkteur-generaal van die Nasionale Tesourie.

(Datum van inwerkingtreding van a. 160: 1 Julie 2005.)

**161. Personeel.**—Die personeel van die Munisipale Finansiële Hersteldiens bestaan uit—

- (a) die Hoof van die Diens;
- (b) persone in diens van, of gekontrakteer deur, die Nasionale Tesourie en deur die Direkteur-generaal van die Nasionale Tesourie vir die werk van die Diens aangewys; en
- (c) persone wat vanaf 'n staatsorgaan of organisasie, by ooreenkoms tussen die Direkteur-generaal en daardie staatsorgaan of organisasie, na die Diens gesekeundeer is.

(Datum van inwerkingtreding van a. 161: 1 Julie 2005.)

**162. Delegasies.**—(1) Die Hoof van die Diens kan enige van die bevoegdhede of pligte van die Diens skriftelik aan 'n lid van die Diens se personeel delegeer.

(2) 'n Delegasie ingevolge subartikel (1)—

- (a) moet skriftelik wees;
- (b) is onderworpe aan die beperkinge of voorwaardes wat die Hoof van die Diens mag oplê; en
- (c) ontdoen nie die Hoof van die Diens van die verantwoordelikheid met betrekking tot die uitoefening van die gedelegeerde bevoegdheid of die uitvoer van die gedelegeerde plig nie.

(3) Die Hoof van die Diens kan enige besluit geneem uit hoofde van 'n delegasie ingevolge subartikel (1), bevestig, wysig of intrek, maar so 'n wysiging of intrekking van 'n besluit mag nie afbreuk doen aan enige regte wat as gevolg van die besluit kon ontstaan het nie.

(Datum van inwerkingtreding van a. 162: 1 Julie 2005.)

HOOFSTUK 14  
ALGEMENE TESOURIE-AANGELEENTHEDE

**163. Laste en risiko's betaalbaar in buitelandse geldeenhede.**—(1) Geen munisipaliteit of munisipale entiteit mag 'n las of 'n risiko op hom neem wat in 'n buitelandse geldeenhede betaalbaar is nie.

(2) Subartikel (1) is nie van toepassing nie—

- (a) op skuld wat ingevolge artikel 47 gereguleer word; of
- (b) op die verkryging van goedere of dienste in 'n buitelandse geldeenhede gedenomineer, maar waarvan die Randwaarde op die tydstip van verkryging bepaal is, of waar dit nie moontlik is nie en die risiko laag is, op die tydstip van betaling.

**164. Verbode aktiwiteite.**—(1) Geen munisipaliteit of munisipale entiteit mag—

- (a) handelsaktiwiteite bedryf—
  - (i) andersins as by die uitoefening van die bevoegdhede en funksies wat ingevolge die Grondwet of nasionale of provinsiale wetgewing aan hom opgedra is nie; of
  - (ii) buite die grense van die Republiek nie;
- (b) 'n munisipale diens verskaf in 'n gebied buite sy jurisdiksie nie, behalwe met die goedkeuring van die raad van die munisipaliteit wat jurisdiksie in daardie gebied het; of
- (c) lenings maak aan—
  - (i) raadslede of beamptes van die munisipaliteit nie;
  - (ii) direkteure of beamptes van die entiteit nie; of
  - (iii) lede van die publiek nie.

(2) Indien 'n munisipaliteit of munisipale entiteit op die datum waarop hierdie artikel in werking tree, betrokke is by enige aktiwiteit wat deur subartikel (1) (a) of (b) verbied word en wat andersins wettig is, moet die munisipaliteit of entiteit alle redelike stappe doen om, so gou as wat onder die omstandighede redelik mag wees, sy posisie reg te stel en om aan daardie subartikel te voldoen.

**165. Interne oudit-eenheid.**—(1) Elke munisipaliteit en elke munisipale entiteit moet 'n interne oudit-eenheid, behoudens subartikel (3), instel.

(2) Die interne oudit-eenheid van 'n munisipaliteit of munisipale entiteit moet—

- (a) 'n risiko-gebaseerde ouditplan en 'n interne ouditprogram vir elke finansiële jaar opstel;
- (b) die rekenpligtige beampte adviseer en aan die ouditkomitee verslag doen oor die implementering van die interne ouditplan en aangeleenthede met betrekking tot—
  - (i) interne oudit;
  - (ii) interne beheermaatreëls;
  - (iii) rekenkundige prosedures en praktyke;

- (iv) risiko en risikobestuur;
- (v) prestasiebestuur;
- (vi) beheer van verliese; en
- (vii) voldoening aan hierdie Wet, die jaarlikse Wet op die Verdeling van Inkomste en enige ander wetgewing wat van toepassing mag wees; en
- (c) sodanige ander pligte uitvoer wat deur die rekenpligtige beampte aan die eenheid opgedra word.

(3) Die interne ouditfunksie bedoel in subartikel (2) kan uitgekonnekteer word indien die munisipaliteit bystand nodig het om sy interne kapasiteit te ontwikkel en die raad van die munisipaliteit of die direksie van die entiteit bepaal het dat uitkontraktering uitvoerbaar of koste-effektief is.

**166. Ouditkomitees.**—(1) Elke munisipaliteit en elke munisipale entiteit moet, behoudens subartikel (6), 'n ouditkomitee hê.

(2) 'n Ouditkomitee is 'n onafhanklike adviserende liggaam wat—

- (a) die munisipale raad, die politieke ampsdraers, die rekenpligtige beampte en die bestuurspersoneel van die munisipaliteit, of die direksie, die rekenpligtige beampte en die bestuurspersoneel van die munisipale entiteit, moet adviseer oor aangeleenthede wat betrekking het op—
  - (i) interne finansiële beheer en interne audits;
  - (ii) risikobestuur;
  - (iii) rekenkundige beleid;
  - (iv) die toereikendheid, betroubaarheid en akkuraatheid van finansiële verslagdoening en inligting;
  - (v) prestasiebestuur;
  - (vi) doeltreffende bestuur;
  - (vii) voldoening aan hierdie Wet, die jaarlikse Wet op die Verdeling van Inkomste en enige ander wetgewing wat van toepassing mag wees;
  - (viii) prestasie-evaluasie; en
  - (ix) enige ander kwessies wat deur die munisipaliteit of munisipale entiteit na die komitee verwys word;
- (b) die jaarlikse finansiële state moet beoordeel ten einde die raad van die munisipaliteit of, in die geval van 'n munisipale entiteit, die raad van die moedermunisipaliteit en die direksie van die entiteit, te voorsien van 'n gesaghebbende en geloofwaardige mening oor die finansiële posisie van die munisipaliteit of munisipale entiteit, sy doeltreffendheid en effektiwiteit en sy algehele vlak van voldoening aan hierdie Wet, die jaarlikse Wet op die Verdeling van Inkomste en enige ander wetgewing wat van toepassing mag wees;
- (c) terugvoering aan die raad moet gee oor enige kwessies wat deur die Ouditeur-generaal in die ouditverslag geopper is;
- (d) sodanige ondersoeke moet instel na die finansiële sake van die munisipaliteit of

munisipale entiteit wat die raad, of in die geval van 'n munisipale entiteit, die raad van die moedermunisipaliteit of die direksie van die entiteit, mag versoek; en

(e) sodanige ander funksies moet verrig wat voorgeskryf mag word.

(3) By die verrigting van sy funksies—

(a) het 'n ouditkomitee toegang tot die finansiële rekords en ander tersaaklike inligting van die munisipaliteit of munisipale entiteit; en

(b) moet 'n ouditkomitee skakel met—

(i) die interne audit-eenheid van die munisipaliteit; en

(ii) die persoon wat deur die Ouditeur-generaal aangewys is om die finansiële state van die munisipaliteit of munisipale entiteit te auditeer.

(4) 'n Ouditkomitee moet—

(a) bestaan uit ten minste drie persone met gepaste ondervinding, waarvan die meerderheid nie in diens van die munisipaliteit of munisipale entiteit, na gelang van die geval, mag wees nie; en

(b) so dikwels vergader as wat nodig is om sy funksies te verrig, maar ten minste vier keer per jaar.

(5) Die lede van 'n ouditkomitee moet deur die raad van die munisipaliteit of, in die geval van 'n munisipale entiteit, deur die raad van die moedermunisipaliteit, aangestel word. Een van die lede wat nie in diens van die munisipaliteit of munisipale entiteit is nie, moet as die voorsitter van die komitee aangestel word. Geen raadslid mag 'n lid van 'n ouditkomitee wees nie.

(6) 'n Enkele ouditkomitee kan ingestel word vir—

(a) 'n distriksmunisipaliteit en die plaaslike munisipaliteite binne die gebied van die distriksmunisipaliteit; en

(b) 'n munisipaliteit en munisipale entiteite onder sy alleenbeheer.

**167. Vergoeding van raadslede.**—(1) 'n Munisipaliteit kan sy politieke ampsdraers en lede van sy politieke strukture vergoed, maar slegs—

(a) binne die raamwerk van die Wet op Openbare Ampsdraers, 1998 (Wet No. 20 van 1998), wat die bo-grense van die salarisse, toelaes en voordele van daardie politieke ampsdraers en lede bepaal; en

(b) ooreenkomstig artikel 219 (4) van die Grondwet.

(2) Enige vergoeding wat andersins as ooreenkomstig subartikel (1) aan 'n persoon in sy hoedanigheid as politieke ampsdraer of as 'n lid van 'n politieke struktuur van 'n munisipaliteit in kontant of in goedere betaal of gegee word, met inbegrip van enige bonus, beurs, lening, voorskot of ander voordeel, is 'n onreëlmatige besteding, en die munisipaliteit—

(a) moet daardie vergoeding verhaal, en het die reg om dit te verhaal, van die politieke ampsdraer of lid; en

(b) mag geen besteding afskryf wat deur die munisipaliteit aangegaan is om daardie vergoeding te betaal of te gee nie.

(3) Die LUR vir plaaslike regering in 'n provinsie moet aan die provinsiale wetgewer—

- (a) enige oortredings van subartikel (1) rapporteer; en
- (b) enige nie-voldoening aan artikels 17 (3) (k) (i) en (ii) en 124 (1) (a) rapporteer.

**168. Tesourie regulasies en -riglyne.**—(1) Die Minister, handelende met die instemming van die Kabinetslid verantwoordelik vir plaaslike regering, kan regulasies of riglyne uitvaardig wat van toepassing is op munisipaliteite en munisipale entiteite, aangaande—

- (a) enige aangeleentheid wat ingevolge hierdie Wet voorgeskryf kan word;
  - (b) finansiële bestuur en interne beheer;
  - (c) ’n raamwerk vir die regulering van die uitoefening van munisipale fiskale en tariefvasstellingsbevoegdhede;
  - (d) ’n raamwerk wat die finansiële verpligtinge van munisipaliteite en munisipale entiteite ingevolge publiek-privaat vennootskapsooreenkomste reguleer;
  - (e) die instelling deur munisipaliteite van, en beheer oor—
    - (i) munisipale entiteite; en
    - (ii) besigbeidseenhede in artikel 76 (a) (ii) van die Wet op Munisipale Stelsels beoog;
  - (f) die beveiliging van die finansiële sake van munisipaliteite en van munisipale entiteite wanneer bates, laste of personeel vanaf of na ’n munisipaliteit of munisipale entiteit oorgeplaas word;
  - (g) die vervreemding, verbeuring of beskikking oor bates deur munisipaliteite of munisipale entiteite;
  - (h) interne oudit-eenhede en hulle werking;
  - (i) die inligting wat openbaar moet word wanneer munisipaliteite of munisipale entiteite skuld uitreik of aangaan en die wyse waarop sodanige inligting openbaar moet word, met inbegrip van deur middel van ’n prospektus of ander dokument;
  - (j) die omstandighede waaronder verdere of spesifieke openbaarmakings vereis word nadat geld deur ’n munisipaliteit of munisipale entiteit geleen is;
  - (k) die omstandighede waaronder dokumentasie of inligting wat betrekking het op munisipale skuld voorgelê of geregistreer moet word;
  - (l) die instelling van ’n registrasiekantoor vir die registrasie van dokumentasie en inligting met betrekking tot munisipale lenings;
  - (m) die skikking van eise teen ’n munisipaliteit na aanleiding van ’n hofbevel ingevolge artikel 153;
  - (n) die inligting wat op webwerwe van munisipaliteite geplaas moet word; en
  - (o) enige ander aangeleentheid wat die afdwinging en administrasie van hierdie Wet mag vergemaklik. (Redakteursnota: Daar is ’n verskil in die *Staatskoerant* tussen die Engelse en Afrikaanse teks van hierdie artikel. Ons neem aan dat die Engelse teks korrek is.)
- (2) ’n Regulasie of riglyn ingevolge hierdie artikel kan—
- (a) differensieer tussen verskillende—

- (i) soorte munisipaliteite, wat, vir die doeleindes van hierdie artikel, omskryf kan word of met verwysing na kategorieë, tipes of die begrotingsgrootte van munisipaliteite, of op enige ander wyse;
  - (ii) kategorieë van munisipale entiteite;
  - (iii) kategorieë van rekenpligtige beamptes; of
  - (iv) kategorieë van beamptes; of
- (b) beperk word in die toepassing daarvan tot 'n besondere—
- (i) soort munisipaliteit, wat, vir doeleindes van hierdie artikel, omskryf kan word óf met verwysing na 'n kategorie, tipe of die begrotingsgrootte van munisipaliteit, óf op enige ander wyse;
  - (ii) kategorie van munisipale entiteite;
  - (iii) kategorie van rekenpligtige beamptes; of
  - (iv) kategorie van beamptes.
- (3) Geen riglyne uitgereik ingevolge subartikel (1) is bindend op—
- (a) 'n munisipaliteit nie tensy dit deur die munisipaliteit se raad aangeneem is; of
  - (b) 'n munisipale entiteit nie tensy dit deur die raad van die entiteit se moedermunisipaliteit aangeneem is.

**169. Raadplegende prosesse voor afkondiging van regulasies.**—(1) Voordat regulasies ingevolge artikel 168 afgekondig word, moet die Minister—

- (a) georganiseerde plaaslike regering oor die inhoud van daardie regulasies raadpleeg; en
- (b) die konsepregulasies in die *Staatskoerant* publiseer vir openbare kommentaar.

(2) Regulasies ingevolge artikel 168 uitgevaardig, moet ten minste 30 dae voor die afkondiging daarvan aan die Parlement vir parlementêre oorsig voorgelê word.

**170. Afwyking van tesourie regulasies of -voorwaardes.**—(1) Die Nasionale Tesourie kan 'n afwyking van 'n tesourieregulasie of -voorwaarde ingevolge hierdie Wet opgelê, op goeie gronde goedkeur.

(2) Nie-voldoening aan 'n regulasie ingevolge artikel 168 uitgevaardig, of aan 'n voorwaarde ingevolge hierdie Wet deur die Nasionale Tesourie opgelê, kan op goeie gronde deur die Nasionale Tesourie gekondoneer word.

## HOOFSTUK 15 FINANSIËLE WANGEDRAG

### *Deel 1: Dissiplinêre verrigtinge*

**171. Finansiële wangedrag deur munisipale beamptes.**—(1) Die rekenpligtige beampte van 'n munisipaliteit pleeg 'n daad van finansiële wangedrag indien daardie rekenpligtige beampte opsetlik of nalatiglik—



- (a) 'n bepaling van hierdie Wet oortree;
- (b) versuim om aan 'n plig te voldoen wat deur 'n bepaling van hierdie Wet aan die rekenpligtige beampte van 'n munisipaliteit opgedra is;
- (c) 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding aangaan of magtig, of 'n ander beampte van die munisipaliteit gelas om 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding aan te gaan; of
- (d) verkeerde of misleidende inligting verskaf in enige dokument wat ingevolge 'n vereiste van hierdie Wet—
  - (i) aan die burgemeester of die raad van die munisipaliteit, of aan die Ouditeur-generaal, die Nasionale Tesourie of 'n ander staatsorgaan voorgelê moet word; of
  - (ii) openbaar gemaak moet word.

(2) Die hoof- finansiële beampte van 'n munisipaliteit pleeg 'n daad van finansiële wangedrag indien daardie beampte opsetlik of nalatiglik—

- (a) versuim om 'n plig uit te voer wat ingevolge artikel 79 of 81 (1) (e) aan daardie beampte gedelegeer is;
- (b) 'n voorwaarde van enige delegasie van 'n bevoegdheid of plig ingevolge artikel 79 of 81 (1) (e) oortree of versuim om daaraan te voldoen;
- (c) 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding aangaan of magtig of 'n ander beampte van die munisipaliteit gelas om 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding aan te gaan; of
- (d) verkeerde of misleidende inligting aan die rekenpligtige beampte verskaf vir doeleindes van 'n dokument in subartikel (1) (d) bedoel.

(3) 'n Senior bestuurder of ander beampte van 'n munisipaliteit wat finansiële bestuursverantwoordelikhede uitoefen en aan wie 'n bevoegdheid of plig ingevolge artikel 79 gedelegeer is, pleeg 'n daad van finansiële wangedrag indien daardie senior bestuurder of beampte opsetlik of nalatiglik—

- (a) versuim om die gedelegeerde plig uit te voer;
- (b) 'n voorwaarde van die gedelegeerde bevoegdheid of plig oortree of versuim om daaraan te voldoen;
- (c) 'n ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding aangaan; of
- (d) verkeerde of misleidende inligting aan die rekenpligtige beampte verskaf vir doeleindes van 'n dokument in subartikel (1) (d) bedoel.

(4) 'n Munisipaliteit moet—

- (a) bewerings van finansiële wangedrag teen die rekenpligtige beampte, die hoof- finansiële beampte, 'n senior bestuurder of ander beampte van die munisipaliteit ondersoek, tensy daardie bewerings beuselagtig, kwelsugtig, spekulatief of klaarblyklik ongegrond is; en
- (b) indien die ondersoek sodanige stap regverdig, dissiplinêre verrigtinge instel teen die rekenpligtige beampte, hoof- finansiële beampte of daardie senior bestuurder of ander beampte ooreenkomstig stelsels en prosedures bedoel in artikel 67 van die Wet op Munisipale Stelsels, gelees met Bylae 2 tot daardie Wet.

**172. Finansiële wangedrag deur beamptes van munisipale entiteite.**—(1) Die rekenpligtige beampte van ’n munisipale entiteit pleeg ’n daad van finansiële wangedrag indien daardie rekenpligtige beampte opsetlik of nalatiglik—

- (a) ’n bepaling van hierdie Wet oortree;
- (b) versuim om aan ’n plig te voldoen wat deur ’n bepaling van hierdie Wet aan die rekenpligtige beampte van ’n munisipale entiteit opgedra word;
- (c) ’n onreëlmatige of vrugtelose en verkwiste besteding aangaan of magtig, of ’n ander beampte van die munisipale entiteit gelas om ’n onreëlmatige of vrugtelose en verkwiste besteding aan te gaan; of
- (d) verkeerde of misleidende inligting verskaf in enige dokument wat ingevolge hierdie Wet—
  - (i) aan die entiteit se direksie of moedermunisipaliteit of aan die Ouditeur-generaal voorgelê moet word; of
  - (ii) openbaar gemaak moet word.

(2) ’n Senior bestuurder of ander beampte van ’n munisipale entiteit wat finansiële bestuursverantwoordelikhede uitoefen en aan wie ’n bevoegdheid of plig ingevolge artikel 106 gedelegeer is, pleeg ’n daad van finansiële wangedrag indien daardie senior bestuurder of beampte opsetlik of nalatiglik—

- (a) versuim om die gedelegeerde plig uit te voer;
- (b) ’n voorwaarde van die gedelegeerde bevoegdheid of plig oortree of versuim om daaraan te voldoen;
- (c) ’n onreëlmatige of vrugtelose en verkwiste besteding aangaan; of
- (d) verkeerde of misleidende inligting aan die rekenpligtige beampte verskaf vir doeleindes van ’n dokument in subartikel (1) (d) bedoel.

(3) ’n Munisipale entiteit moet—

- (a) bewerings van finansiële wangedrag teen die rekenpligtige beampte, ’n senior bestuurder of ander beampte van die entiteit ondersoek, tensy daardie bewerings beuselagtig, kwelsugtig, spekulatief of klaarblyklik ongegrond is; en
- (b) indien die ondersoek sodanige stap regverdig, ingevolge Bylae 3 tot die Wet op Munisipale Stelsels dissiplinêre verrigtinge teen die rekenpligtige beampte, senior bestuurder of beampte instel.

#### *Deel 2: Strafregtelike verrigtinge*

**173. Oortredings.**—(1) Die rekenpligtige beampte van ’n munisipaliteit is aan ’n misdryf skuldig indien daardie rekenpligtige beampte—

- (a) opsetlik of op ’n grof nalatige wyse—
  - (i) ’n bepaling van artikel 61 (2) (b), 62 (1), 63 (2) (a) of (c), 64 (2) (a) of (d) of 65 (2) (a), (b), (c), (d), (f) of (i) oortree of versuim om daaraan te voldoen;
  - (ii) versuim om alle redelike stappe te doen om die munisipaliteit se

voorsieningskanaal-bestuursbeleid bedoel in artikel 111 te implementeer;

- (iii) versuim om alle redelike stappe te doen om ongemagtigde, onreëlmatige of vrugtelose en verkwiste besteding te voorkom; of
- (iv) versuim om alle redelike stappe te doen om korruptiewe praktyke te voorkom—
  - (aa) in die bestuur van die munisipaliteit se bates of geldontvangste; of
  - (bb) in die implementering van die munisipaliteit se voorsieningskanaal-bestuursbeleid;
- (b) opsetlik die Ouditeur-generaal mislei of inligting van die Ouditeur-generaal weerhou omtrent enige bankrekenings van die munisipaliteit of omtrent geld wat deur die munisipaliteit ontvang of bestee is; of
- (c) opsetlik vals of misleidende inligting verskaf in enige dokument wat ingevolge 'n vereiste van hierdie Wet—
  - (i) aan die Ouditeur-generaal, die Nasionale Tesourie of enige ander staatsorgaan voorgelê moet word; of
  - (ii) openbaar gemaak moet word.

(2) Die rekenpligtige beampte van 'n munisipale entiteit is aan 'n misdryf skuldig indien daardie rekenpligtige beampte—

- (a) opsetlik of op 'n grof nalatige wyse—
  - (i) 'n bepaling van artikel 94 (2) (b), 95 (1), 96 (2), 97 (a) of 99 (2) (a), (c) of (e) oortree of versuim om daaraan te voldoen;
  - (ii) versuim om alle redelike stappe te doen om onreëlmatige of vrugtelose en verkwiste besteding te voorkom; of
  - (iii) versuim om alle redelike stappe te doen om korruptiewe praktyke in die bestuur van die entiteit se bates, geldontvangste of voorsieningskanaal-bestuurstelsel te voorkom;
- (b) opsetlik die Ouditeur-generaal mislei of inligting van die Ouditeur-generaal of die entiteit se moedermunisipaliteit weerhou omtrent enige bankrekenings van die entiteit of omtrent geld wat deur die entiteit ontvang of bestee is; of
- (c) opsetlik vals of misleidende inligting verskaf in enige dokument wat ingevolge 'n vereiste van hierdie Wet—
  - (aa) aan die entiteit se moedermunisipaliteit, die Ouditeur-generaal, die Nasionale Tesourie of enige ander staatsorgaan voorgelê moet word; of
  - (bb) openbaar gemaak moet word.

(3) 'n Senior bestuurder of ander beampte van 'n munisipaliteit of munisipale entiteit wat finansiële bestuursverantwoordelikhede uitoefen en aan wie 'n bevoegdheid of plig ingevolge artikel 79 of 106 gedelegeer is, is aan 'n misdryf skuldig indien daardie senior bestuurder of beampte opsetlik of op 'n grof nalatige wyse 'n voorwaarde van die delegasie oortree of versuim om daaraan te voldoen.

(4) 'n Raadslid van 'n munisipaliteit is aan 'n misdryf skuldig indien daardie raadslid—

- (a) opsetlik die rekenpligtige beampte, die hoof- finansiële beampte, 'n senior bestuurder of enige ander beampte van die munisipaliteit beïnvloed, of poog om so 'n persoon te beïnvloed, om 'n bepaling van hierdie Wet te oortree of om nie aan 'n vereiste van hierdie

Wet te voldoen nie;

- (b) inmeng in die finansiële bestuursverantwoordelikhede of funksies ingevolge hierdie Wet aan die rekenpligtige beampte van die munisipaliteit opgedra of ingevolge hierdie Wet aan die hoof- finansiële beampte gedelegeer;
- (c) inmeng in die finansiële bestuursverantwoordelikhede of funksies ingevolge hierdie Wet opgedra aan die rekenpligtige beampte van 'n munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit; of
- (d) inmeng in die bestuurs- of bedryfsaktiwiteite van 'n munisipale entiteit onder die alleen- of gedeelde beheer van die munisipaliteit.

(5) 'n Raadslid, 'n beampte van 'n munisipaliteit of munisipale entiteit, 'n lid van die direksie van 'n munisipale entiteit of enige ander persoon is aan 'n misdryf skuldig indien daardie persoon opsetlik of op 'n grof nalatige wyse—

- (a) 'n rekenpligtige beampte verhinder om aan 'n bepaling van hierdie Wet te voldoen;
- (b) verkeerde, onware of misleidende inligting verskaf wat wesenlik is vir 'n beleggingsbesluit met betrekking tot die leen van geld deur 'n munisipaliteit of munisipale entiteit;
- (c) 'n onttrekking strydig met artikel 11 maak;
- (d) versuim om aan artikel 49 te voldoen;
- (e) 'n bepaling van artikel 115 (2), 118, of 126 (5) oortree; of
- (f) vals of misleidende inligting verskaf vir doeleindes van enige dokument wat ingevolge 'n vereiste van hierdie Wet—
  - (i) aan die raad, burgemeester of rekenpligtige beampte van 'n munisipaliteit of aan die Ouditeur-generaal of die Nasionale Tesourie voorgelê moet word; of
  - (ii) openbaar gemaak moet word.

**174. Strawwe.**—'n Persoon is by skuldigbevinding aan 'n misdryf ingevolge artikel 173 strafbaar met gevangenisstraf vir 'n tydperk van hoogstens vyf jaar of met 'n gepaste boete bepaal ingevolge wetgewing wat van toepassing is.

### *Deel 3: Algemeen*

**175. Regulasies oor finansiële wangedragprosedures en strafregtelike verrigtinge.**—Die Minister, handelende met die instemming van die Kabinetslid verantwoordelik vir plaaslike regering, kan regulasies uitvaardig wat voorskryf—

- (a) die wyse waarop, die formaat van en omstandighede waarin bewerings, en dissiplinêre en strafregtelike aanklagte, van finansiële wangedrag aan die Nasionale Tesourie, die LUR vir plaaslike regering in die provinsie en die Ouditeur-generaal gerapporteer moet word, met inbegrip van—
  - (i) besonderhede van die beweerde finansiële wangedrag; en
  - (ii) stappe gedoen in verband met sodanige finansiële wangedrag;
- (b) aangeleenthede met betrekking tot interne ondersoeke deur munisipaliteite en munisipale

- entiteite na bewerings van finansiële wangedrag;
- (c) die omstandighede waarin die Nasionale Tesourie of die LUR vir plaaslike regering in die provinsie kan gelas dat dissiplinêre stappe gedoen of strafregtelike aanklagte teen 'n persoon vir finansiële wangedrag gelê moet word;
  - (d) die maatstawwe vir die samestelling en funksionering van 'n dissiplinêre raad wat 'n aanklag van finansiële wangedrag aanhoor;
  - (e) die omstandighede waarin die bevindings van 'n dissiplinêre raad en enige strawwe deur die raad opgelê, aan die Nasionale Tesourie, die LUR vir plaaslike regering in die provinsie en die Ouditeur-generaal gerapporteer moet word; en
  - (f) enige ander aangeleenthede in soverre dit nodig is om die bepalings van hierdie Wet af te dwing.
- (2) 'n Regulasie ingevolge subartikel (1) kan—
- (a) differensieer tussen verskillende—
    - (i) soorte munisipaliteite, wat, vir doeleindes van hierdie artikel, omskryf kan word óf met betrekking tot kategorieë, tipes of die begrotingsgrootte van munisipaliteite, óf op enige ander wyse;
    - (ii) kategorieë van munisipale entiteite;
    - (iii) kategorieë van rekenpligtige beamptes; of
    - (iv) kategorieë van ander beamptes; of
  - (b) beperk word in die toepassing daarvan tot 'n besondere—
    - (i) soort munisipaliteit, wat, vir doeleindes van hierdie artikel, omskryf kan word óf met betrekking tot 'n kategorie, tipe of die begrotingsgrootte van munisipaliteit, óf op enige ander wyse;
    - (ii) kategorie van munisipale entiteite;
    - (iii) kategorie van rekenpligtige beamptes;
    - (iv) kategorie van ander beamptes.

## HOOFSTUK 16 DIVERSE AANGELEENTHEDE

**176. Aanspreeklikheid van funksionarisse wat ingevolge hierdie Wet bevoegdhede en funksies uitoefen.**—(1) Geen munisipaliteit, of enige van sy politieke strukture, politieke ampsdraers of beamptes, en geen munisipale entiteit of sy direksie of enige van sy direkteure of beamptes, en geen ander staatsorgaan of persoon wat ingevolge hierdie Wet 'n bevoegdheid uitoefen of 'n funksie verrig, is aanspreeklik vir enige verlies of skade wat voortspruit uit die uitoefening van daardie bevoegdheid of die verrigting van daardie funksie te goeder trou nie.

(2) Sonder om aanspreeklikheid ingevolge die gemenerereg of ander wetgewing te beperk, kan 'n munisipaliteit van 'n politieke ampsdraer of beampte van die munisipaliteit, en kan 'n munisipale entiteit van 'n direkteur of beampte van die entiteit, enige verlies of skade verhaal wat deur die munisipaliteit of entiteit gely is as gevolg van die opsetlike of nalatige onregmatige optredes van daardie politieke

ampsdraer of beampte by die verrigting van 'n ampsfunksie.

**177. Uitstelle en vrystellings.**—(1) Die Minister kan by kennisgewing in die *Staatskoerant*—

- (a) die implementering van 'n bepaling van hierdie Wet uitstel vir 'n oorgangsperiode van hoogstens vyf jaar vanaf die datum waarop hierdie artikel in werking tree; of
- (b) waar praktiese oorwegings die streng toepassing van 'n spesifieke bepaling van hierdie Wet bemoeilik, enige munisipaliteit of munisipale entiteit vrystel van, of met betrekking tot, so 'n bepaling vir 'n tydperk en op voorwaardes wat in die kennisgewing bepaal word.

(2) 'n Uitstel of vrystelling ingevolge subartikel (1) kan—

- (a) van toepassing wees op—
  - (i) munisipaliteite in die algemeen; of
  - (ii) munisipale entiteite in die algemeen; of
- (b) beperk wees in die toepassing daarvan tot 'n besondere—
  - (i) munisipaliteit;
  - (ii) soort munisipaliteit, wat, vir die doeleindes van hierdie artikel, omskryf kan word óf met verwysing na 'n kategorie, tipe of die begrotingsgrootte van munisipaliteit, óf op enige ander wyse;
  - (iii) munisipale entiteit; of
  - (iv) kategorie van munisipale entiteite.

(3) Ten einde die herstrukturering van die elektrisiteitsbedryf, soos gemagtig deur die Kabinetslid verantwoordelik vir sodanige herstrukturering, te vergemaklik, kan die Minister, handelende met die instemming van die Kabinetslid vir plaaslike regering en na oorlegpleging met georganiseerde plaaslike regering, by kennisgewing in die *Staatskoerant*, enige munisipaliteit of munisipale entiteit vrystel van enige spesifieke bepaling van hierdie Wet vir 'n tydperk van hoogstens vier jaar en op voorwaardes in die kennisgewing bepaal, met dien verstande dat so 'n vrystelling nie verstaan mag word as sou dit 'n verpligting op 'n munisipaliteit plaas om enige personeel, bates of laste oor te dra nie.

[Algemene Kennisgewing: Uitstelle en vrystellings is gepubliseer onder Goewermentskennisgewing No. 773 in *Staatskoerant* 26511 van 1 Julie 2004 (slegs in Engels).]

**178. Oorgangsbepalings.**—(1) Enigiets gedoen ingevolge 'n bepaling deur artikel 179 (1) herroep wat ingevolge 'n bepaling van hierdie Wet gedoen kan word, word geag ingevolge hierdie Wet gedoen te gewees het.

(2) Alle munisipaliteite moet binne drie maande na die datum waarop hierdie artikel in werking tree, 'n lys aan die Nasionale Tesourie voorlê van—

- (a) alle regspersone waarin die munisipaliteit of 'n munisipale entiteit onder sy alleen- of gedeelde beheer 'n belang het, met vermelding van—
  - (i) die naam en adres van die regspersoon;
  - (ii) die doel, omvang en ander besonderhede van die belang;
  - (iii) indien sodanige regspersoon 'n munisipale entiteit is, of die entiteit onder die alleenbeheer of die gedeelde beheer van die munisipaliteit is; en

- (iv) die ander inligting wat deur die Nasionale Tesourie vereis mag word; en
- (b) alle publiek-privaat vennootskappe waarby die munisipaliteit 'n party is, met 'n waarde van meer as een miljoen Rand in totaal of per jaar, met vermelding van—
  - (i) die naam en fisiese adres van die private party wat aan die publiek-privaat vennootskap meedoen;
  - (ii) die doel en ander besonderhede van die publiek-privaat vennootskap;
  - (iii) dié ander inligting wat deur die Nasionale Tesourie vereis mag word; en
- (c) alle ander soorte kontrakte van die munisipaliteit wat voortduur vir 'n tydperk verby 1 Januarie 2007 en met 'n waarde van meer as eenmiljoen Rand in totaal of per jaar.

**179. Herroeping en wysiging van wetgewing.**—(1) Die wetgewing genoem in die tweede kolom van die Bylae word hierby gewysig of herroep in die mate in die derde kolom van die Bylae aangedui.

(2) Ondanks die herroeping van artikel 10G van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), deur subartikel (1) van hierdie artikel, bly die bepalings vervat in subartikels (6), (6A) en (7) van artikel 10G van krag totdat die wetgewing beoog in artikel 229 (2) (b) van die Grondwet verorden word.

(3) Die herroeping van die Wet op Munisipale Rekenmeesters, 1988 (Wet No. 21 van 1988(1)), tree in werking op 'n datum wat by kennisgewing in die *Staatskoerant* deur die Minister bepaal word.

(Datum van inwerkingtreding van a. 179 en datum van herroeping van die Wet op Munisipale Rekenmeesters, No. 21 van 1988(2): 1 Julie 2005.)

**180. Kort titel en inwerkingtreding.**—(1) Hierdie Wet heet die Wet op Plaaslike Regering: Munisipale Finansiële Bestuur, 2003, en tree in werking op 'n datum wat by kennisgewing in die *Staatskoerant* deur die Minister bepaal word.

(2) Verskillende datums kan ingevolge subartikel (1) vir verskillende bepalings van die Wet bepaal word.

#### INWERKINGTREDING VAN HIERDIE WET

<i>Datum van inwerkingtreding</i>	<i>Die Wet in geheel/ Artikels</i>	<i>Goewermements-kennisgewing No.</i>	<i>Staatskoerant</i>	<i>Datum van Staatskoerant</i>
1 Julie 2004	Die Wet in geheel, tensy anders vermeld	772	26510	25 Junie 2004
1 Desember 2004	Aa. 62 (1) (f) (iv), 71, 110-116 en 120	772	26510	25 Junie 2004
1 April 2005	Aa. 9 en 38-42	772	26510	25 Junie 2004
1 Julie 2005	Aa. 5 (3), (4), (8), 28, 34 (3), 73, 91, 123, 126-134, Hoofstuk 13 en a. 179	772	26510	25 Junie 2004
1 Julie 2006	Aa. 83, 107 and 119	772	26510	25 Junie 2004

1 Julie 2008	A. 45 (4) (a)	772	26510	25 Junie 2004
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**Bylae**  
**HERROEPING EN WYSIGING VAN WETGEWING**  
**(Artikel 179)**

<i>No. en jaar van Wet</i>	<i>Kort titel van Wet</i>	<i>In hoeverre herroep of gewysig</i>
Wet No. 91 van 1983	Wet op die Bevordering van Plaaslike Owerheidsaangeleent-hed 1983	<i>Herroep artikel 17D.</i>
Wet No. 21 van 1988(3)	Wet op Munisipale Rekenmeesters, 1988	<i>Herroep die geheel.</i>
Wet No. 209 van 1993	Oorgangswet op Plaaslike Regering, 1993	<i>Herroep artikel 10G.</i>

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# AFRIKAANS ?

## LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT NO. 56 OF 2003

[View Regulation]

[ASSENTED TO 9 FEBRUARY, 2004]  
[DATE OF COMMENCEMENT: 1 JULY, 2004]

(Unless otherwise indicated)

(English text signed by the President)



This Act is published in *Government Gazette* 27748 dated 30 June, 2005.

**Investment Regulations**

**Public-Private Partnership Regulations**

**Supply Chain Management Regulations**

Preferential Procurement Policy Framework Act, 2000 (No 5 of 2000) & Regulations No. R. 32 of 20 January 2017

**Municipal Budget and Reporting Regulations**

**ACT**

**Municipal Asset Transfer Regulations**

**To secure sound and sustainable management of the financial affairs of municipalities and other institutions in the local sphere of government; to establish treasury norms and standards for the local sphere of government; and to provide for matters connected therewith.**

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BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

CHAPTER 1  
INTERPRETATION, OBJECT, APPLICATION AND AMENDMENT OF ACT

**1. Definitions.**—(1) In this Act, unless the context indicates otherwise—

**“accounting officer”**—

- (a) in relation to a municipality, means the municipal official referred to in section 60; or  
(b) in relation to a municipal entity, means the official of the entity referred to in section 93,

and includes a person acting as the accounting officer;

**“allocation”**, in relation to a municipality, means—

- (a) a municipality’s share of the local government’s equitable share referred to in section 214 (1) (a) of the Constitution;  
(b) an allocation of money to a municipality in terms of section 214 (1) (c) of the Constitution;  
(c) an allocation of money to a municipality in terms of a provincial budget; or  
(d) any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business



transaction;

**“annual Division of Revenue Act”** means the Act of Parliament which must be enacted annually in terms of section 214 (1) of the Constitution;

**“annual report”**, in relation to a municipality or municipal entity, means an annual report contemplated in section 121;

**“approved budget”** means an annual budget—

- (a) approved by a municipal council; or
- (b) approved by a provincial or the national executive following an intervention in terms of section 139 of the Constitution,

and includes such an annual budget as revised by an adjustments budget in terms of section 28;

**“Auditor-General”** means the person appointed as Auditor-General in terms of section 193 of the Constitution, and includes a person—

- (a) acting as Auditor-General;
- (b) acting in terms of a delegation by the Auditor-General; or
- (c) designated by the Auditor-General to exercise a power or perform a duty of the Auditor-General;

**“basic municipal service”** means a municipal service that is necessary to ensure an acceptable and reasonable quality of life and which, if not provided, would endanger public health or safety or the environment;

**“board of directors”**, in relation to a municipal entity, has the meaning assigned to it in section 1 of the Municipal Systems Act;

**“Budget Forum”** has the meaning assigned in section 1 of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997);

**“budget-related policy”** means a policy of a municipality affecting or affected by the annual budget of the municipality, including—

- (a) the tariffs policy which the municipality must adopt in terms of section 74 of the Municipal Systems Act;
- (b) the rates policy which the municipality must adopt in terms of legislation regulating municipal property rates; or
- (c) the credit control and debt collection policy which the municipality must adopt in terms of section 96 of the Municipal Systems Act;

**“budget year”** means the financial year for which an annual budget is to be approved in terms of section 16 (1);

**“category”**, in relation to municipalities, means a category A, B or C municipality referred to in section 155 (1) of the Constitution;

**“chief financial officer”** means a person designated in terms of section 80 (2) (a);

**“councillor”** means a member of a municipal council;

**“creditor”**, in relation to a municipality, means a person to whom money is owing by the municipality;

**“current year”** means the financial year which has already commenced, but not yet ended;

**“debt”** means—

- (a) a monetary liability or obligation created by a financing agreement, note, debenture, bond or overdraft, or by the issuance of municipal debt instruments; or
- (b) a contingent liability such as that created by guaranteeing a monetary liability or obligation of another;

**“delegation”**, in relation to a duty, includes an instruction or request to perform or to assist in performing the duty;

**“district municipality”** means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155 (1) of the Constitution as a category C municipality;

**“financial recovery plan”** means a plan prepared in terms of section 141;

**“financial statements”**, in relation to municipality or municipal entity, means statements consisting of at least—

- (a) a statement of financial position;
- (b) a statement of financial performance;
- (c) a cash-flow statement;
- (d) any other statements that may be prescribed; and
- (e) any notes to these statements;

**“financial year”** means a year ending on 30 June;

**“financing agreement”** includes any loan agreement, lease, instalment purchase contract or hire purchase arrangement under which a municipality undertakes to repay a long-term debt over a period of time;

**“fruitless and wasteful expenditure”** means expenditure that was made in vain and would have been avoided had reasonable care been exercised;

**“Head”**, in relation to the Municipal Finance Recovery Service, means a person—

- (a) appointed in terms of section 159 as the Head of the Service; or
- (b) acting as the Head of the Service;

**“irregular expenditure”**, in relation to a municipality or municipal entity, means—

- (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;

- (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
- (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or
- (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law,

but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure";

**"investment"**, in relation to funds of a municipality, means—

- (a) the placing on deposit of funds of a municipality with a financial institution; or
- (b) the acquisition of assets with funds of a municipality not immediately required, with the primary aim of preserving those funds;

**"lender"**, in relation to a municipality, means a person who provides debt finance to a municipality;

**"local community"** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**"local municipality"** means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155 (1) of the Constitution as a category B municipality;

**"long-term debt"** means debt repayable over a period exceeding one year;

**"mayor"**, in relation to—

- (a) a municipality with an executive mayor, means the councillor elected as the executive mayor of the municipality in terms of section 55 of the Municipal Structures Act; or
- (b) a municipality with an executive committee, means the councillor elected as the mayor of the municipality in terms of section 48 of that Act;

**"MEC for finance"** means the member of the Executive Council of a province who is responsible for finance in that province;

**"MEC for local government"** means the member of the Executive Council of a province who is responsible for local government in that province;

**"Minister"** means the Cabinet member responsible for finance;

**"month"** means one of the 12 months of a calendar year;

**"multi-jurisdictional service utility"** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**"municipal council" or "council"** means the council of a municipality referred to in section 18 of the Municipal Structures Act;

**“municipal debt instrument”** means any note, bond, debenture or other evidence of indebtedness issued by a municipality, including dematerialised or electronic evidence of indebtedness intended to be used in trade;

**“municipal entity”** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**“Municipal Financial Recovery Service”** means the Municipal Financial Recovery Service established by section 157;

**“municipality”**—

- (a) when referred to as a corporate body, means a municipality as described in section 2 of the Municipal Systems Act; or
- (b) when referred to as a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998);

**“municipal manager”** means a person appointed in terms of section 82 (1) (a) or (b) of the Municipal Structures Act;

**“municipal service”** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**“Municipal Structures Act”** means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

**“municipal tariff”** means a tariff for services which a municipality may set for the provision of a service to the local community, and includes a surcharge on such tariff;

**“municipal tax”** means property rates or other taxes, levies or duties that a municipality may impose;

**“National Treasury”** means the National Treasury established by section 5 of the Public Finance Management Act;

**“official”**, in relation to a municipality or municipal entity, means—

- (a) an employee of a municipality or municipal entity;
- (b) a person seconded to a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity; or
- (c) a person contracted by a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity otherwise than as an employee;

**“organised local government”** means an organisation recognised in terms of section 2 (1) of the Organised Local Government Act, 1997 (Act No. 52 of 1997), to represent local government nationally or provincially;

**“overspending”**—

- (a) in relation to the budget of a municipality, means causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total

amount appropriated in that year's budget for its operational or capital expenditure, as the case may be;

- (b) in relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or
- (c) in relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5) of that section;

**“parent municipality”** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**“past financial year”** means the financial year preceding the current year;

**“political office-bearer”**, in relation to a municipality, means—

- (a) the speaker, executive mayor, deputy executive mayor, mayor, deputy mayor or a member of the executive or mayoral committee of a municipality elected, designated or appointed in terms of a specific provision of the Municipal Structures Act; or
- (b) a councillor referred to in section 57 (1) of this Act;

**“political structure”**, in relation to a municipality, means—

- (a) the council of a municipality; or
- (b) any committee or other collective structure of a municipality elected, designated or appointed in terms of a specific provision of the Municipal Structures Act;

**“prescribe”** means prescribe by regulation in terms of section 168;

**“primary bank account”** means a bank account referred to in section 8 (1);

**“private company”** means a company referred to in sections 19 and 20 of the Companies Act, 1973 (Act No. 61 of 1973);

**“provincial department”** means a department listed in Schedule 2 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), which falls within a provincial administration listed in Schedule 1 to that Act;

**“provincial treasury”** means a treasury established in terms of section 17 of the Public Finance Management Act;

**“Public Finance Management Act”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“quarter”** means any of the following periods in a financial year:

- (a) 1 July to 30 September;
- (b) 1 October to 31 December;
- (c) 1 January to 31 March; or
- (d) 1 April to 30 June;

**“senior manager”**—

- (a) in relation to a municipality, means a manager referred to in section 56 of the Municipal

Systems Act; or

- (b) in relation to a municipal entity, means a manager directly accountable to the chief executive officer of the entity;

**“security”** means any mechanism intended to secure the interest of a lender or investor, and includes any of the mechanisms mentioned in section 48 (2);

**“service delivery agreement”** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**“service delivery and budget implementation plan”** means a detailed plan approved by the mayor of a municipality in terms of section 53 (1) (c) (ii) for implementing the municipality’s delivery of municipal services and its annual budget, and which must indicate—

- (a) projections for each month of—
  - (i) revenue to be collected, by source; and
  - (ii) operational and capital expenditure, by vote;
- (b) service delivery targets and performance indicators for each quarter; and
- (c) any other matters that may be prescribed,

and includes any revisions of such plan by the mayor in terms of section 54 (1) (c);

**“service utility”** has the meaning assigned to it in section 1 of the Municipal Systems Act;

**“shared control”**, in relation to a municipal entity, means the rights and powers a municipality has over a municipal entity which is—

- (a) a private company in which effective control as defined in section 1 of the Municipal Systems Act is vested in that municipality and one or more other municipalities collectively; or
- (b) a multi-jurisdictional service utility in which that municipality participates;

**“short-term debt”** means debt repayable over a period not exceeding one year;

**“sole control”**, in relation to a municipal entity, means the rights and powers a municipality has over a municipal entity which is—

- (a) a private company in which effective control as defined in section 1 of the Municipal Systems Act is vested in that municipality alone; or
- (b) a service utility established by the municipality;

**“standards of generally recognised accounting practice”** means an accounting practice complying with standards applicable to municipalities or municipal entities and issued in terms of Chapter 11 of the Public Finance Management Act;

**“this Act”** includes regulations made in terms of section 168 or 175;

**“unauthorised expenditure”**, in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3), and includes—

- (a) overspending of the total amount appropriated in the municipality’s approved budget;

- (b) overspending of the total amount appropriated for a vote in the approved budget;
- (c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- (e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of “allocation” otherwise than in accordance with any conditions of the allocation; or
- (f) a grant by the municipality otherwise than in accordance with this Act;

“**vote**” means—

- (a) one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
- (b) which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

(2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

**2. Object of Act.**—The object of this Act is to secure sound and sustainable management of the fiscal and financial affairs of municipalities and municipal entities by establishing norms and standards and other requirements for—

- (a) ensuring transparency, accountability and appropriate lines of responsibility in the fiscal and financial affairs of municipalities and municipal entities;
- (b) the management of their revenues, expenditures, assets and liabilities and the handling of their financial dealings;
- (c) budgetary and financial planning processes and the co-ordination of those processes with the processes of organs of state in other spheres of government;
- (d) borrowing;
- (e) the handling of financial problems in municipalities;
- (f) supply chain management; and
- (g) other financial matters.

**3. Institutions to which Act applies.**—(1) This Act applies to—

- (a) all municipalities;
- (b) all municipal entities; and
- (c) national and provincial organs of state to the extent of their financial dealings with municipalities.

(2) In the event of any inconsistency between a provision of this Act and any other legislation in force when this Act takes effect and which regulates any aspect of the fiscal and financial affairs of municipalities or municipal entities, the provision of this Act prevails.

**4. Amendments to Act.**—Draft national legislation directly or indirectly amending this Act, or providing for the enactment of subordinate legislation that may conflict with this Act, may be introduced in Parliament only after the Minister and the Financial and Fiscal Commission have been consulted in writing on the contents of the draft legislation, and have responded in writing.

## CHAPTER 2 SUPERVISION OVER LOCAL GOVERNMENT FINANCE MANAGEMENT

**5. General functions of National Treasury and provincial treasuries.**—(1) The National Treasury must—

- (a) fulfil its responsibilities in terms of Chapter 13 of the Constitution and this Act;
- (b) promote the object of this Act as stated in section 2—
  - (i) within the framework of co-operative government set out in Chapter 3 of the Constitution; and
  - (ii) when coordinating intergovernmental financial and fiscal relations in terms of the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997), the annual Division of Revenue Act and the Public Finance Management Act; and
- (c) enforce compliance with the measures established in terms of section 216 (1) of the Constitution, including those established in terms of this Act.

(2) To the extent necessary to comply with subsection (1), the National Treasury may—

- (a) monitor the budgets of municipalities to establish whether they—
  - (i) are consistent with the national government's fiscal and macro-economic policy; and
  - (ii) comply with Chapter 4;
- (b) promote good budget and fiscal management by municipalities, and for this purpose monitor the implementation of municipal budgets, including their expenditure, revenue collection and borrowing;
- (c) monitor and assess compliance by municipalities and municipal entities with—
  - (i) this Act; and
  - (ii) any applicable standards of generally recognised accounting practice and uniform expenditure and revenue classification systems;
- (d) investigate any system of financial management and internal control in any municipality or municipal entity and recommend improvements;
- (e) take appropriate steps if a municipality or municipal entity commits a breach of this Act, including the stopping of funds to a municipality in terms of section 216 (2) of the Constitution if the municipality, or a municipal entity under the sole or shared control of that municipality, commits a serious or persistent material breach of any measures referred to in that section; and
- (f) take any other appropriate steps necessary to perform its functions effectively.

(3) A provincial treasury must in accordance with a prescribed framework—



- (a) fulfil its responsibilities in terms of this Act;
- (b) promote the object of this Act as stated in section 2 within the framework of co-operative government set out in Chapter 3 of the Constitution; and
- (c) assist the National Treasury in enforcing compliance with the measures established in terms of section 216 (1) of the Constitution, including those established in terms of this Act.

(Date of commencement of sub-s. (3): 1 July, 2005.)

(4) To the extent necessary to comply with subsection (3), a provincial treasury—

- (a) must monitor—
  - (i) compliance with this Act by municipalities and municipal entities in the province;
  - (ii) the preparation by municipalities in the province of their budgets;
  - (iii) the monthly outcome of those budgets; and
  - (iv) the submission of reports by municipalities in the province as required in terms of this Act;
- (b) may assist municipalities in the province in the preparation of their budgets;
- (c) may exercise any powers and must perform any duties delegated to it by the National Treasury in terms of this Act; and
- (d) may take appropriate steps if a municipality or municipal entity in the province commits a breach of this Act.

(Date of commencement of sub-s. (4): 1 July, 2005.)

(5) The functions assigned to the National Treasury or a provincial treasury in terms of this Act are additional to those assigned to the National Treasury or a provincial treasury in terms of the Public Finance Management Act.

(6) The Minister, as the head of the National Treasury, takes all decisions of the National Treasury in terms of this Act, except those decisions taken as a result of a delegation in terms of section 6 (1).

(7) The MEC for finance in a province, as the head of the provincial treasury, takes all decisions of the provincial treasury in terms of this Act, except those decisions taken as a result of a delegation in terms of section 6 (4).

(8) A provincial treasury must submit all information submitted to it in terms of this Act to the National Treasury on a quarterly basis, or when requested.

(Date of commencement of sub-s. (8): 1 July, 2005.)

**6. Delegations by National Treasury.**—(1) The Minister may delegate any of the powers or duties assigned to the National Treasury in terms of this Act to—

- (a) the Director-General of the National Treasury; or
- (b) the MEC responsible for a provincial department, as the Minister and the MEC may agree.

(2) The Minister may not delegate the National Treasury's power to stop funds to a municipality in terms of section 5 (2) (e).

(3) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to any limitations or conditions which the Minister may impose;
- (c) may, subject to any such limitations or conditions, authorise—
  - (i) the Director-General of the National Treasury to sub-delegate a delegated power or duty to a staff member of the National Treasury; and
  - (ii) the MEC responsible for the relevant provincial department to sub-delegate a delegated power or duty to a staff member of that department; and
- (d) does not divest the National Treasury of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(4) The MEC for finance in a province may delegate any of the powers or duties assigned to a provincial treasury in terms of this Act to the head of the relevant provincial department of which the provincial treasury forms part.

(5) A delegation in terms of subsection (4)—

- (a) must be in writing;
- (b) is subject to any limitations or conditions which the MEC for finance in the province may impose;
- (c) may, subject to any such limitations or conditions, authorise the relevant head of the provincial department to sub-delegate a delegated power or duty to a staff member of that treasury; and
- (d) does not divest the provincial treasury of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(6) The Minister or MEC for finance in a province, as may be appropriate, may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

## CHAPTER 3 MUNICIPAL REVENUE

### *Part 1: Municipal bank accounts*

**7. Opening of bank accounts.**—(1) Every municipality must open and maintain at least one bank account in the name of the municipality.

(2) All money received by a municipality must be paid into its bank account or accounts, and this must be done promptly and in accordance with this Chapter and any requirements that may be prescribed.

(3) A municipality may not open a bank account—

- (a) abroad;
- (b) with an institution not registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990); or
- (c) otherwise than in the name of the municipality.

(4) Money may be withdrawn from a municipal bank account only in terms of section 11 (1).

**8. Primary bank account.**—(1) A municipality must have a primary bank account. If a municipality—

- (a) has only one bank account, that account is its primary bank account; or
- (b) has more than one bank account, it must designate one of those bank accounts as its primary bank account.

(2) The following moneys must be paid into a municipality's primary bank account:

- (a) All allocations to the municipality, including those made to the municipality for transmission to a municipal entity or other external mechanism assisting the municipality in the performance of its functions;
- (b) all income received by the municipality on its investments;
- (c) all income received by the municipality in connection with its interest in any municipal entity, including dividends;
- (d) all money collected by a municipal entity or other external mechanism on behalf of the municipality; and
- (e) any other moneys as may be prescribed.

(3) A municipality must take all reasonable steps to ensure that all moneys referred to in subsection (2) are paid into its primary bank account.

(4) No organ of state in the national, provincial or local sphere of government may transfer an allocation of money referred to in subsection (2) to a municipality except through the municipality's primary bank account. All allocations due by an organ of state to a municipal entity must be made through the parent municipality, or if there are more than one parent municipality, any of those parent municipalities as may be agreed between the parent municipalities.

(5) The accounting officer of a municipality must submit to the National Treasury, the relevant provincial treasury and the Auditor-General, in writing, the name of the bank where the primary bank account of the municipality is held, and the type and number of the account. If a municipality wants to change its primary bank account, it may do so only after the accounting officer has informed the National Treasury and the Auditor-General, in writing, at least 30 days before effecting the change.

**9. Bank account details to be submitted to provincial treasuries and Auditor-General.**—The accounting officer of a municipality must submit to the relevant provincial treasury and the Auditor-General, in writing—

- (a) within 90 days after the municipality has opened a new bank account, the name of the bank where the account has been opened, and the type and number of the account; and
- (b) annually before the start of a financial year, the name of each bank where the municipality holds a bank account, and the type and number of each account.

(Date of commencement of s. 9: 1 April, 2005.)

**10. Control of municipal bank accounts.**—(1) The accounting officer of a municipality—

- (a) must administer all the municipality's bank accounts, including a bank account referred to

in section 12 or 48 (2) (d);

- (b) is accountable to the municipal council for the municipality's bank accounts; and
- (c) must enforce compliance with sections 7, 8 and 11.

(2) The accounting officer may delegate the duties referred to in subsection (1) (c) to the municipality's chief financial officer only.

**11. Withdrawals from municipal bank accounts.**—(1) Only the accounting officer or the chief financial officer of a municipality, or any other senior financial official of the municipality acting on the written authority of the accounting officer, may withdraw money or authorise the withdrawal of money from any of the municipality's bank accounts, and may do so only—

- (a) to defray expenditure appropriated in terms of an approved budget;
- (b) to defray expenditure authorised in terms of section 26 (4);
- (c) to defray unforeseeable and unavoidable expenditure authorised in terms of section 29 (1);
- (d) in the case of a bank account opened in terms of section 12, to make payments from the account in accordance with subsection (4) of that section;
- (e) to pay over to a person or organ of state money received by the municipality on behalf of that person or organ of state, including—
  - (i) money collected by the municipality on behalf of that person or organ of state by agreement; or
  - (ii) any insurance or other payments received by the municipality for that person or organ of state;
- (f) to refund money incorrectly paid into a bank account;
- (g) to refund guarantees, sureties and security deposits;
- (h) for cash management and investment purposes in accordance with section 13;
- (i) to defray increased expenditure in terms of section 31; or
- (j) for such other purposes as may be prescribed.

(2) Any authorisation in terms of subsection (1) to a senior financial official to withdraw money or to authorise the withdrawal of money from a bank account must be in accordance with a framework as may be prescribed. The accounting officer may not authorise any official other than the chief financial officer to withdraw money or to authorise the withdrawal of money from the municipality's primary bank account if the municipality has a primary bank account which is separate from its other bank accounts.

(3) Money may be withdrawn from a bank account in terms of subsection (1) (b) to (j) without appropriation in terms of an approved budget.

(4) The accounting officer must within 30 days after the end of each quarter—

- (a) table in the municipal council a consolidated report of all withdrawals made in terms of subsection (1) (b) to (j) during that quarter; and
- (b) submit a copy of the report to the relevant provincial treasury and the Auditor-General.

**12. Relief, charitable, trust or other funds.**—(1) No political structure or office-bearer of a

municipality may set up a relief, charitable, trust or other fund of whatever description except in the name of the municipality. Only the municipal manager may be the accounting officer of any such fund.

(2) A municipality may in terms of section 7 open a separate bank account in the name of the municipality for the purpose of a relief, charitable, trust or other fund.

(3) Money received by the municipality for the purpose of a relief, charitable, trust or other fund must be paid into a bank account of the municipality, or if a separate bank account has been opened in terms of subsection (2), into that account.

(4) Money in a separate account opened in terms of subsection (2) may be withdrawn from the account without appropriation in terms of an approved budget, but only—

- (a) by or on the written authority of the accounting officer acting in accordance with decisions of the municipal council; and
- (b) for the purposes for which, and subject to any conditions on which, the fund was established or the money in the fund was donated.

#### *Part 2: Cash, investment and asset management*

**13. Cash management and investments.**—(1) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may prescribe a framework within which municipalities must—

- (a) conduct their cash management and investments; and
- (b) invest money not immediately required.

(2) A municipality must establish an appropriate and effective cash management and investment policy in accordance with any framework that may be prescribed in terms of subsection (1).

(3) A bank where a municipality at the end of a financial year holds a bank account, or held a bank account at any time during a financial year, must—

- (a) within 30 days after the end of that financial year notify the Auditor-General, in writing, of such bank account, including—
  - (i) the type and number of the account; and
  - (ii) the opening and closing balances of that bank account in that financial year; and
- (b) promptly disclose information regarding the account when so requested by the National Treasury or the Auditor-General.

(4) A bank, insurance company or other financial institution which at the end of a financial year holds, or at any time during a financial year held, an investment for a municipality, must—

- (a) within 30 days after the end of that financial year, notify the Auditor-General, in writing, of that investment, including the opening and closing balances of that investment in that financial year; and
- (b) promptly disclose information regarding the investment when so requested by the National Treasury or the Auditor-General.

**14. Disposal of capital assets.**—(1) A municipality may not transfer ownership as a result of a sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum

level of basic municipal services.

(2) A municipality may transfer ownership or otherwise dispose of a capital asset other than one contemplated in subsection (1), but only after the municipal council, in a meeting open to the public—

- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
- (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

(3) A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services, may not be reversed by the municipality after that asset has been sold, transferred or otherwise disposed of.

(4) A municipal council may delegate to the accounting officer of the municipality its power to make the determinations referred to in subsection (2) (a) and (b) in respect of movable capital assets below a value determined by the council.

(5) Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent, competitive and consistent with the supply chain management policy which the municipality must have and maintain in terms of section 111.

(6) This section does not apply to the transfer of a capital asset to another municipality or to a municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury, provided that such transfers are in accordance with a prescribed framework.

## CHAPTER 4 MUNICIPAL BUDGETS

**15. Appropriation of funds for expenditure.**—A municipality may, except where otherwise provided in this Act, incur expenditure only—

- (a) in terms of an approved budget; and
- (b) within the limits of the amounts appropriated for the different votes in an approved budget.

**16. Annual budgets.**—(1) The council of a municipality must for each financial year approve an annual budget for the municipality before the start of that financial year.

(2) In order for a municipality to comply with subsection (1), the mayor of the municipality must table the annual budget at a council meeting at least 90 days before the start of the budget year.

(3) Subsection (1) does not preclude the appropriation of money for capital expenditure for a period not exceeding three financial years, provided a separate appropriation is made for each of those financial years.

**17. Contents of annual budgets and supporting documents.**—(1) An annual budget of a municipality must be a schedule in the prescribed format—

- (a) setting out realistically anticipated revenue for the budget year from each revenue source;

- (b) appropriating expenditure for the budget year under the different votes of the municipality;
- (c) setting out indicative revenue per revenue source and projected expenditure by vote for the two financial years following the budget year;
- (d) setting out—
  - (i) estimated revenue and expenditure by vote for the current year; and
  - (ii) actual revenue and expenditure by vote for the financial year preceding the current year; and
- (e) a statement containing any other information required by section 215 (3) of the Constitution or as may be prescribed.

(2) An annual budget must generally be divided into a capital and an operating budget in accordance with international best practice, as may be prescribed.

(3) When an annual budget is tabled in terms of section 16 (2), it must be accompanied by the following documents:

- (a) Draft resolutions—
  - (i) approving the budget of the municipality;
  - (ii) imposing any municipal tax and setting any municipal tariffs as may be required for the budget year; and
  - (iii) approving any other matter that may be prescribed;
- (b) measurable performance objectives for revenue from each source and for each vote in the budget, taking into account the municipality's integrated development plan;
- (c) a projection of cash flow for the budget year by revenue source, broken down per month;
- (d) any proposed amendments to the municipality's integrated development plan following the annual review of the integrated development plan in terms of section 34 of the Municipal Systems Act;
- (e) any proposed amendments to the budget-related policies of the municipality;
- (f) particulars of the municipality's investments;
- (g) any prescribed budget information on municipal entities under the sole or shared control of the municipality;
- (h) particulars of all proposed new municipal entities which the municipality intends to establish or in which the municipality intends to participate;
- (i) particulars of any proposed service delivery agreements, including material amendments to existing service delivery agreements;
- (j) particulars of any proposed allocations or grants by the municipality to—
  - (i) other municipalities;
  - (ii) any municipal entities and other external mechanisms assisting the municipality in the exercise of its functions or powers;
  - (iii) any other organs of state;

- (iv) any organisations or bodies referred to in section 67 (1);
- (k) the proposed cost to the municipality for the budget year of the salary, allowances and benefits of—
  - (i) each political office-bearer of the municipality;
  - (ii) councillors of the municipality; and
  - (iii) the municipal manager, the chief financial officer, each senior manager of the municipality and any other official of the municipality having a remuneration package greater than or equal to that of a senior manager;
- (l) the proposed cost for the budget year to a municipal entity under the sole or shared control of the municipality of the salary, allowances and benefits of—
  - (i) each member of the entity’s board of directors; and
  - (ii) the chief executive officer and each senior manager of the entity; and
- (m) any other supporting documentation as may be prescribed.

**18. Funding of expenditure.**—(1) An annual budget may only be funded from—

- (a) realistically anticipated revenues to be collected;
  - (b) cash-backed accumulated funds from previous years’ surpluses not committed for other purposes; and
  - (c) borrowed funds, but only for the capital budget referred to in section 17 (2).
- (2) Revenue projections in the budget must be realistic, taking into account—
- (a) projected revenue for the current year based on collection levels to date; and
  - (b) actual revenue collected in previous financial years.

**19. Capital projects.**—(1) A municipality may spend money on a capital project only if—

- (a) the money for the project, excluding the cost of feasibility studies conducted by or on behalf of the municipality, has been appropriated in the capital budget referred to in section 17 (2);
- (b) the project, including the total cost, has been approved by the council;
- (c) section 33 has been complied with, to the extent that that section may be applicable to the project; and
- (d) the sources of funding have been considered, are available and have not been committed for other purposes.

(2) Before approving a capital project in terms of subsection (1) (b), the council of a municipality must consider—

- (a) the projected cost covering all financial years until the project is operational; and
- (b) the future operational costs and revenue on the project, including municipal tax and tariff implications.

(3) A municipal council may in terms of subsection (1) (b) approve capital projects below a



prescribed value either individually or as part of a consolidated capital programme.

**20. Matters to be prescribed.**—(1) The Minister, acting with the concurrence of the Cabinet member responsible for local government—

- (a) must prescribe the form of the annual budget of municipalities; and
- (b) may prescribe—
  - (i) the form of resolutions and supporting documentation relating to the annual budget;
  - (ii) the number of years preceding and following the budget year for which revenue and expenditure history or projections must be shown in the supporting documentation;
  - (iii) inflation projections to be used with regard to the budget;
  - (iv) uniform norms and standards concerning the setting of municipal tariffs, financial risks and other matters where a municipality uses a municipal entity or other external mechanism for the performance of a municipal service or other function;
  - (v) uniform norms and standards concerning the budgets of municipal entities; or
  - (vi) any other uniform norms and standards aimed at promoting transparency and expenditure control.

(2) The Minister may take appropriate steps to ensure that a municipality in the exercise of its fiscal powers in terms of section 229 of the Constitution does not materially and unreasonably prejudice—

- (a) national economic policies, particularly those on inflation, administered pricing and equity;
- (b) economic activities across municipal boundaries; and
- (c) the national mobility of goods, services, capital or labour.

**21. Budget preparation process.**—(1) The mayor of a municipality must—

- (a) co-ordinate the processes for preparing the annual budget and for reviewing the municipality's integrated development plan and budget-related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget-related policies are mutually consistent and credible;
- (b) at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for—
  - (i) the preparation, tabling and approval of the annual budget;
  - (ii) the annual review of—
    - (aa) the integrated development plan in terms of section 34 of the Municipal Systems Act; and
    - (bb) the budget-related policies;
  - (iii) the tabling and adoption of any amendments to the integrated development plan and the budget-related policies; and
  - (iv) any consultative processes forming part of the processes referred to in subparagraphs

(i), (ii) and (iii).

(2) When preparing the annual budget, the mayor of a municipality must—

- (a) take into account the municipality's integrated development plan;
- (b) take all reasonable steps to ensure that the municipality revises the integrated development plan in terms of section 34 of the Municipal Systems Act, taking into account realistic revenue and expenditure projections for future years;
- (c) take into account the national budget, the relevant provincial budget, the national government's fiscal and macro-economic policy, the annual Division of Revenue Act and any agreements reached in the Budget Forum;
- (d) consult—
  - (i) the relevant district municipality and all other local municipalities within the area of the district municipality, if the municipality is a local municipality;
  - (ii) all local municipalities within its area, if the municipality is a district municipality;
  - (iii) the relevant provincial treasury, and when requested, the National Treasury; and
  - (iv) any national or provincial organs of state, as may be prescribed; and
- (e) provide, on request, any information relating to the budget—
  - (i) to the National Treasury; and
  - (ii) subject to any limitations that may be prescribed, to—
    - (aa) the national departments responsible for water, sanitation, electricity and any other service as may be prescribed;
    - (bb) any other national and provincial organ of states, as may be prescribed; and
    - (cc) another municipality affected by the budget.

**22. Publication of annual budgets.**—Immediately after an annual budget is tabled in a municipal council, the accounting officer of the municipality must—

- (a) in accordance with Chapter 4 of the Municipal Systems Act—
  - (i) make public the annual budget and the documents referred to in section 17 (3); and
  - (ii) invite the local community to submit representations in connection with the budget; and
- (b) submit the annual budget—
  - (i) in both printed and electronic formats to the National Treasury and the relevant provincial treasury; and
  - (ii) in either format to any prescribed national or provincial organs of state and to other municipalities affected by the budget.

**23. Consultations on tabled budgets.**—(1) When the annual budget has been tabled, the municipal council must consider any views of—

- (a) the local community; and

(b) the National Treasury, the relevant provincial treasury and any provincial or national organs of state or municipalities which made submissions on the budget.

(2) After considering all budget submissions, the council must give the mayor an opportunity—

(a) to respond to the submissions; and

(b) if necessary, to revise the budget and table amendments for consideration by the council.

(3) The National Treasury may issue guidelines on the manner in which municipal councils should process their annual budgets, including guidelines on the formation of a committee of the council to consider the budget and to hold public hearings.

(4) No guidelines issued in terms of subsection (3) are binding on a municipal council unless adopted by the council.

**24. Approval of annual budgets.**—(1) The municipal council must at least 30 days before the start of the budget year consider approval of the annual budget.

(2) An annual budget—

(a) must be approved before the start of the budget year;

(b) is approved by the adoption by the council of a resolution referred to in section 17 (3) (a) (i); and

(c) must be approved together with the adoption of resolutions as may be necessary—

(i) imposing any municipal tax for the budget year;

(ii) setting any municipal tariffs for the budget year;

(iii) approving measurable performance objectives for revenue from each source and for each vote in the budget;

(iv) approving any changes to the municipality's integrated development plan; and

(v) approving any changes to the municipality's budget-related policies.

(3) The accounting officer of a municipality must submit the approved annual budget to the National Treasury and the relevant provincial treasury.

**25. Failure to approve budget before start of budget year.**—(1) If a municipal council fails to approve an annual budget, including revenue-raising measures necessary to give effect to the budget, the council must reconsider the budget and again vote on the budget, or on an amended version thereof, within seven days of the council meeting that failed to approve the budget.

(2) The process provided for in subsection (1) must be repeated until a budget, including revenue-raising measures necessary to give effect to the budget, is approved.

(3) If a municipality has not approved an annual budget, including revenue-raising measures necessary to give effect to the budget, by the first day of the budget year, the mayor must immediately comply with section 55.

**26. Consequences of failure to approve budget before start of budget year.**—(1) If by the start of the budget year a municipal council has not approved an annual budget or any revenue-raising measures necessary to give effect to the budget, the provincial executive of the relevant province must

intervene in the municipality in terms of section 139 (4) of the Constitution by taking any appropriate steps to ensure that the budget or those revenue-raising measures are approved, including dissolving the council and—

- (a) appointing an administrator until a newly elected council has been declared elected; and
- (b) approving a temporary budget or revenue-raising measures to provide for the continued functioning of the municipality.

(2) Sections 34 (3) and (4) and 35 of the Municipal Structures Act apply when a provincial executive dissolves a municipal council.

(3) When approving a temporary budget for a municipality in terms of subsection (1) (b), the provincial executive is not bound by any provision relating to the budget process applicable to a municipality in terms of this Act or other legislation. Such a budget must, after the intervention has ended, be replaced by a budget approved by the newly elected council, provided that the provisions of this Chapter relating to annual budgets are substantially complied with in line with any revised time frames approved by the MEC for finance in the province.

(4) Until a budget for the municipality is approved in terms of subsection (1), funds for the requirements of the municipality may, with the approval of the MEC for finance in the province, be withdrawn from the municipality's bank accounts in accordance with subsection (5).

(5) Funds withdrawn from a municipality's bank accounts in terms of subsection (4)—

- (a) may be used only to defray current and capital expenditure in connection with votes for which funds were appropriated in the approved budget for the previous financial year; and
- (b) may not—
  - (i) during any month, exceed eight per cent of the total amount appropriated in that approved budget for current expenditure, which percentage must be scaled down proportionately if revenue flows are not at least at the same level as the previous financial year; and
  - (ii) exceed the amount actually available.

(6) The funds provided for in subsection (4) are not additional to funds appropriated for the budget year, and any funds withdrawn in terms of subsection (5) must be regarded as forming part of the funds appropriated in a subsequently approved annual budget for the budget year.

**27. Non-compliance with provisions of this Chapter.**—(1) The mayor of a municipality must, upon becoming aware of any impending non-compliance by the municipality of any provisions of this Act or any other legislation pertaining to the tabling or approval of an annual budget or compulsory consultation processes, inform the MEC for finance in the province, in writing, of such impending non-compliance.

(2) If the impending non-compliance pertains to a time provision, except section 16 (1), the MEC for finance may, on application by the mayor and on good cause shown, extend any time limit or deadline contained in that provision, provided that no such extension may compromise compliance with section 16 (1). An MEC for finance must—

- (a) exercise the power contained in this subsection in accordance with a prescribed framework; and
- (b) promptly notify the National Treasury, in writing, of any extensions given in terms of this

subsection, together with the name of the municipality and the reasons.

(3) The mayor of a municipality must, upon becoming aware of any actual non-compliance by the municipality of a provision of this Chapter, inform the council, the MEC for finance and the National Treasury, in writing, of—

- (a) such non-compliance; and
- (b) any remedial or corrective measures the municipality intends to implement to avoid a recurrence.

(4) Non-compliance by a municipality with a provision of this Chapter relating to the budget process or a provision in any legislation relating to the approval of a budget-related policy, does not affect the validity of an annual or adjustments budget.

(5) The provincial executive may intervene in terms of the appropriate provision of section 139 of the Constitution if a municipality cannot or does not comply with a provision of this Chapter, including a provision relating to process.

**28. Municipal adjustments budgets.**—(1) A municipality may revise an approved annual budget through an adjustments budget.

(2) An adjustments budget—

- (a) must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
- (b) may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
- (c) may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the mayor of the municipality;
- (d) may authorise the utilisation of projected savings in one vote towards spending under another vote;
- (e) may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the council;
- (f) may correct any errors in the annual budget; and
- (g) may provide for any other expenditure within a prescribed framework.

(3) An adjustments budget must be in a prescribed form.

(4) Only the mayor may table an adjustments budget in the municipal council, but an adjustments budget in terms of subsection (2) (b) to (g) may only be tabled within any prescribed limitations as to timing or frequency.

(5) When an adjustments budget is tabled, it must be accompanied by—

- (a) an explanation how the adjustments budget affects the annual budget;
- (b) a motivation of any material changes to the annual budget;
- (c) an explanation of the impact of any increased spending on the annual budget and the

annual budgets for the next two financial years; and

(d) any other supporting documentation that may be prescribed.

(6) Municipal tax and tariffs may not be increased during a financial year except when required in terms of a financial recovery plan.

(7) Sections 22 (b), 23 (3) and 24 (3) apply in respect of an adjustments budget, and in such application a reference in those sections to an annual budget must be read as a reference to an adjustments budget.

(Date of commencement of s. 28: 1 July, 2005.)

**29. Unforeseen and unavoidable expenditure.**—(1) The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.

(2) Any such expenditure—

(a) must be in accordance with any framework that may be prescribed;

(b) may not exceed a prescribed percentage of the approved annual budget;

(c) must be reported by the mayor to the municipal council at its next meeting; and

(d) must be appropriated in an adjustments budget.

(3) If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

**30. Unspent funds.**—The appropriation of funds in an annual or adjustments budget lapses to the extent that those funds are unspent at the end of the financial year to which the budget relates, except in the case of an appropriation for expenditure made for a period longer than that financial year in terms of section 16 (3).

**31. Shifting of funds between multi-year appropriations.**—When funds for a capital programme are appropriated in terms of section 16 (3) for more than one financial year, expenditure for that programme during a financial year may exceed the amount of that year's appropriation for that programme, provided that—

(a) the increase does not exceed 20 per cent of that year's appropriation for the programme;

(b) the increase is funded within the following year's appropriation for that programme;

(c) the municipal manager certifies that—

(i) actual revenue for the financial year is expected to exceed budgeted revenue; and

(ii) sufficient funds are available for the increase without incurring further borrowing beyond the annual budget limit;

(d) prior written approval is obtained from the mayor for the increase; and

(e) the documents referred to in paragraphs (c) and (d) are submitted to the relevant provincial treasury and the Auditor-General.

**32. Unauthorised, irregular or fruitless and wasteful expenditure.**—(1) Without limiting

liability in terms of the common law or other legislation—

- (a) a political office-bearer of a municipality is liable for unauthorised expenditure if that office-bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;
- (b) the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);
- (c) any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or
- (d) any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

(2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—

- (a) in the case of unauthorised expenditure, is—
  - (i) authorised in an adjustments budget; or
  - (ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
- (b) in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

(3) If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

(4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—

- (a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
- (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
- (c) the steps that have been taken—
  - (i) to recover or rectify such expenditure; and
  - (ii) to prevent a recurrence of such expenditure.

(5) The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.

(6) The accounting officer must report to the South African Police Service all cases of alleged—

- (a) irregular expenditure that constitute a criminal offence; and

(b) theft and fraud that occurred in the municipality.

(7) The council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if—

(a) the charge is against the accounting officer; or

(b) the accounting officer fails to comply with that subsection.

(8) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may regulate the application of this section by regulation in terms of section 168.

**33. Contracts having future budgetary implications.**—(1) A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if—

(a) the municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved—

(i) has, in accordance with section 21A of the Municipal Systems Act—

(aa) made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract; and

(bb) invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and

(ii) has solicited the views and recommendations of—

(aa) the National Treasury and the relevant provincial treasury;

(bb) the national department responsible for local government; and

(cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;

(b) the municipal council has taken into account—

(i) the municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;

(ii) the impact of those financial obligations on the municipality's future municipal tariffs and revenue;

(iii) any comments or representations on the proposed contract received from the local community and other interested persons; and

(iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a) (ii) (cc); and

(c) the municipal council has adopted a resolution in which—

(i) it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;



- (ii) it approves the entire contract exactly as it is to be executed; and
  - (iii) it authorises the municipal manager to sign the contract on behalf of the municipality.
- (2) The process set out in subsection (1) does not apply to—
- (a) contracts for long-term debt regulated in terms of section 46 (3);
  - (b) employment contracts; or
  - (c) contracts—
    - (i) for categories of goods as may be prescribed; or
    - (ii) in terms of which the financial obligation on the municipality is below—
      - (aa) a prescribed value; or
      - (bb) a prescribed percentage of the municipality’s approved budget for the year in which the contract is concluded.
- (3) (a) All contracts referred to in subsection (1) and all other contracts that impose a financial obligation on a municipality—
- (i) must be made available in their entirety to the municipal council; and
  - (ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).
- (b) Paragraph (a) (i) does not apply to contracts in respect of which the financial obligation on the municipality is below a prescribed value.
- (Date of commencement of sub-s. (3): 1 July, 2005.)
- (4) This section may not be read as exempting the municipality from the provisions of Chapter 11 to the extent that those provisions are applicable in a particular case.

## CHAPTER 5 CO-OPERATIVE GOVERNMENT

**34. Capacity building.**—(1) The national and provincial governments must by agreement assist municipalities in building the capacity of municipalities for efficient, effective and transparent financial management.

(2) The national and provincial governments must support the efforts of municipalities to identify and resolve their financial problems.

(3) When performing its monitoring function in terms of section 155 (6) of the Constitution, a provincial government—

- (a) must share with a municipality the results of its monitoring to the extent that those results may assist the municipality in improving its financial management;
- (b) must, upon detecting any emerging or impending financial problems in a municipality, alert the municipality to those problems; and
- (c) may assist the municipality to avert or resolve financial problems.

(4) Non-compliance with this section or any other provision of this Act by the national or a

provincial government does not affect the responsibility of a municipality, its political structures, political office-bearers and officials to comply with this Act.

**35. Promotion of co-operative government by national and provincial institutions.**—National and provincial departments and public entities must—

- (a) in their fiscal and financial relations with the local sphere of government, promote co-operative government in accordance with Chapter 3 of the Constitution;
- (b) promptly meet their financial commitments towards municipalities;
- (c) provide timely information and assistance to municipalities to enable municipalities—
  - (i) to plan properly, including in developing and revising their integrated development plans; and
  - (ii) to prepare their budgets in accordance with the processes set out in Chapter 4 of this Act; and
- (d) comply with the Public Finance Management Act, the annual Division of Revenue Act and the Intergovernmental Fiscal Relations Act, 1997 (Act No. 97 of 1997), to the extent that those Acts regulate intergovernmental relations with the local sphere of government.

**36. National and provincial allocations to municipalities.**—(1) In order to provide predictability and certainty about the sources and levels of intergovernmental funding for municipalities, the accounting officer of a national or provincial department and the accounting authority of a national or provincial public entity responsible for the transfer of any proposed allocations to a municipality, must by no later than 20 January of each year notify the National Treasury or the relevant provincial treasury, as may be appropriate, of all proposed allocations, and the projected amounts of those allocations, to be transferred to each municipality during each of the next three financial years.

(2) The Minister or the MEC responsible for finance in a province must, to the extent possible, when tabling the national annual budget in the National Assembly or the provincial annual budget in the provincial legislature, make public particulars of any allocations due to each municipality in terms of that budget, including the amount to be transferred to the municipality during each of the next three financial years.

**37. Promotion of co-operative government by municipalities.**—(1) Municipalities must—

- (a) in their fiscal and financial relations with the national and provincial spheres of government and other municipalities, promote co-operative government in accordance with Chapter 3 of the Constitution and the Intergovernmental Fiscal Relations Act;
- (b) provide budgetary and other financial information to relevant municipalities and national and provincial organs of state; and
- (c) promptly meet all financial commitments towards other municipalities or national and provincial organs of state.

(2) In order to enable municipalities to include allocations from other municipalities in their budgets and to plan effectively for the spending of such allocations, the accounting officer of a municipality responsible for the transfer of any allocation to another municipality must, by no later than 120 days before the start of its budget year, notify the receiving municipality of the projected amount of any allocation proposed to be transferred to that municipality during each of the next three financial years.

**38. Stopping of funds to municipalities.**—(1) The National Treasury may stop—

- (a) the transfer of funds due to a municipality as its share of the local government's equitable share referred to in section 214 (1) (a) of the Constitution, but only if the municipality commits a serious or persistent breach of the measures established in terms of section 216 (1) of the Constitution; or
- (b) the transfer of funds due to a municipality as an allocation referred to in section 214 (1) (c) of the Constitution, but only if the municipality or the municipal entity for which the funds are destined—
  - (i) commits a serious or persistent breach of the measures established in terms of section 216 (1) of the Constitution; or
  - (ii) breaches or fails to comply with any conditions subject to which the allocation is made.

(2) Before the National Treasury stops the transfer of funds to a municipality in terms of subsection (1) (a) or (b), it must—

- (a) give the municipality an opportunity to submit written representations with regard to the proposed stopping of the funds;
- (b) inform the MEC for local government in the province; and
- (c) consult the Cabinet member responsible for the national department making the transfer.

(3) If the stopping of funds in terms of subsection (1) (a) or (b) affects the provision of basic municipal services in the municipality, the provincial executive must monitor the continuation of those services. Section 139 of the Constitution applies if the municipality cannot or does not fulfil its obligations with regard to the provision of those services.

(4) When considering whether to stop the transfer of funds to a municipality in terms of subsection (1) (a) or (b) (i), the National Treasury must take into account all relevant facts, including—

- (a) the municipality's compliance with the requirements of this Act, in particular those relating to—
  - (i) annual financial statements, including the submission to the Auditor-General of its annual financial statements; and
  - (ii) budgets, including the submission of information on the budget and implementation of the budget to the National Treasury and the relevant provincial treasury; and
- (b) the municipality's co-operation with other municipalities on fiscal and financial matters, in the case of district and local municipalities.

(Date of commencement of s. 38: 1 April, 2005.)

**39. Stopping of equitable share allocations to municipalities.**—(1) A decision by the National Treasury to stop the transfer to a municipality of funds referred to in section 38 (1) (a)—

- (a) lapses after the expiry of 120 days, subject to approval of the decision in terms of paragraph (b) of this subsection and renewal of the decision in terms of subsection (2); and
- (b) may be enforced immediately, but will lapse retrospectively unless Parliament approves it

following a process substantially the same as that established in terms of section 75 of the Constitution, and prescribed by the joint rules and orders of Parliament. This process must be completed within 30 days of the decision by the National Treasury to stop the transfer of the funds.

(2) Parliament may renew a decision to stop the transfer of funds referred to in section 38 (1) (a) for no more than 120 days at a time, following the process established in terms of subsection (1) (b) of this section.

(3) Before Parliament approves or renews a decision to stop the transfer of funds to a municipality—

- (a) the Auditor-General must report to Parliament, if requested to do so by Parliament; and
- (b) the municipality must be given an opportunity to answer the allegations against it, and to state its case, before a committee.

(Date of commencement of s. 39: 1 April, 2005.)

**40. Stopping of other allocations to municipalities.**—If the transfer of funds to a municipality has been stopped in terms of section 38 (1) (b) for the rest of the relevant financial year, the accounting officer of the national or provincial department responsible for the transfer must reflect such stopping of funds, together with reasons, in the annual financial statements of the department.

(Date of commencement: 1 April, 2005.)

**41. Monitoring of prices and payments for bulk resources.**—(1) The National Treasury must monitor—

- (a) the pricing structure of organs of state for the supply of electricity, water or any other bulk resources that may be prescribed, to municipalities and municipal entities for the provision of municipal services; and
- (b) payments made by municipalities and municipal entities for such bulk resources.

(2) Each organ of state providing such bulk resources to a municipality must within 15 days after the end of each month furnish the National Treasury with a written statement setting out, for each municipality or for each municipal entity providing municipal services on behalf of such municipalities—

- (a) the amount to be paid by the municipality or municipal entity for such bulk resources for that month, and for the financial year up to the end of that month;
- (b) the arrears owing and the age profile of such arrears; and
- (c) any actions taken by that organ of state to recover arrears.

(Date of commencement of s. 41: 1 April, 2005.)

**42. Price increases of bulk resources for provision of municipal services.**—(1) If a national or provincial organ of state which supplies water, electricity or any other bulk resource as may be prescribed, to a municipality or municipal entity for the provision of a municipal service, intends to increase the price of such resource for the municipality or municipal entity, it must first submit the proposed amendment to its pricing structure—

- (a) to its executive authority within the meaning of the Public Finance Management Act; and
- (b) to any regulatory agency for approval, if national legislation requires such approval.

(2) The organ of state referred to in subsection (1) must, at least 40 days before making a submission in terms of subsection (1) (a) or (b), request the National Treasury and organised local government to provide written comments on the proposed amendment.

(3) Any submission in terms of subsection (1) (a) or (b) must be accompanied by—

- (a) a motivation of the reasons for the proposed amendment;
- (b) an explanation of how the amendment takes account of—
  - (i) the national government's inflation targets and other macroeconomic policy objectives;
  - (ii) steps taken by the organ of state to improve its competitiveness or efficiency in order to reduce costs;
  - (iii) any objectives or targets as outlined in any corporate or other governance plan applicable to that organ of state;
- (c) any written comments received from the National Treasury, organised local government or any municipalities; and
- (d) an explanation of how such comments have been taken into account.

(4) The executive authority of the organ of state must table the amendment and the documents referred to in subsection (3) in Parliament or the relevant provincial legislature, as may be appropriate.

(5) Unless approved otherwise by the Minister, an amendment to a pricing structure which is tabled in Parliament or the relevant provincial legislature—

- (a) on or before 15 March in any year, does not take effect for the affected municipalities or municipal entities before 1 July in that year; or
- (b) after 15 March in any year, does not take effect for the affected municipalities or municipal entities before 1 July the next year.

(Date of commencement of s. 42: 1 April, 2005.)

**43. Applicability of tax and tariff capping on municipalities.**—(1) If a national or provincial organ of state in terms of a power contained in any national or provincial legislation determines the upper limits of a municipal tax or tariff, such determination takes effect for municipalities on a date specified in the determination.

(2) Unless the Minister on good grounds approves otherwise, the date specified in a determination referred to in subsection (1) may—

- (a) if the determination was promulgated on or before 15 March in a year, not be a date before 1 July in that year; or
- (b) if the determination was promulgated after 15 March in a year, not be a date before 1 July in the next year.

(3) If a municipality has in accordance with section 33 or 46 (3) entered into a contract which provides for an annual or other periodic escalation of payments to be made by the municipality under the contract, no determination in terms of a power referred to in subsection (1) of the upper limits of a municipal tax or tariff applies to that municipality in so far as such upper limits would impair the municipality's ability to meet the escalation of its payments under the contract.

**44. Disputes between organs of state.**—(1) Whenever a dispute of a financial nature arises between organs of state, the parties concerned must as promptly as possible take all reasonable steps that may be necessary to resolve the matter out of court.

(2) If the National Treasury is not a party to the dispute, the parties—

- (a) must report the matter to the National Treasury; and
- (b) may request the National Treasury to mediate between the parties or to designate a person to mediate between them.

(3) If the National Treasury accedes to a request in terms of subsection (2), the National Treasury may determine the mediation process.

(4) This section only applies if at least one of the organs of state referred to in subsection (1) is a municipality or municipal entity.

## CHAPTER 6 DEBT

**45. Short-term debt.**—(1) A municipality may incur short-term debt only in accordance with and subject to the provisions of this Act and only when necessary to bridge—

- (a) shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic anticipated income to be received within that financial year; or
- (b) capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

(2) A municipality may incur short-term debt only if—

- (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
- (b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

(3) For the purpose of subsection (2) (a), a municipal council may—

- (a) approve a short-term debt transaction individually; or
- (b) approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that—
  - (i) the credit limit must be specified in the resolution of the council;
  - (ii) the terms of the agreement, including the credit limit, may be changed only by a resolution of the council; and
  - (iii) if the council approves a credit facility that is limited to emergency use, the accounting officer must notify the council in writing as soon as practical of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as options for repaying such debt.

(4) A municipality—

- (a) must pay off short-term debt within the financial year; and  
(Date of commencement of para. (a): 1 July, 2008.)
- (b) may not renew or refinance short-term debt, whether its own debt or that of any other entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

(5) (a) No lender may wilfully extend credit to a municipality for the purpose of renewing or refinancing short-term debt that must be paid off in terms of subsection (4) (a).

(b) If a lender wilfully extends credit to a municipality in contravention of paragraph (a), the municipality is not bound to repay the loan or interest on the loan.

(6) Subsection (5) (b) does not apply if the lender—

- (a) relied in good faith on written representations of the municipality as to the purpose of the borrowing; and
- (b) did not know and had no reason to believe that the borrowing was for the purpose of renewing or refinancing short-term debt.

**46. Long-term debt.**—(1) A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of this Act, including section 19, and only for the purpose of—

- (a) capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of local government as set out in section 152 of the Constitution, including costs referred to in subsection (4); or
- (b) re-financing existing long-term debt subject to subsection (5).

(2) A municipality may incur long-term debt only if—

- (a) a resolution of the municipal council, signed by the mayor, has approved the debt agreement; and
- (b) the accounting officer has signed the agreement or other document which creates or acknowledges the debt.

(3) A municipality may incur long-term debt only if the accounting officer of the municipality—

- (a) has, in accordance with section 21A of the Municipal Systems Act—
  - (i) at least 21 days prior to the meeting of the council at which approval for the debt is to be considered, made public an information statement setting out particulars of the proposed debt, including the amount of the proposed debt, the purposes for which the debt is to be incurred and particulars of any security to be provided; and
  - (ii) invited the public, the National Treasury and the relevant provincial treasury to submit written comments or representations to the council in respect of the proposed debt; and
- (b) has submitted a copy of the information statement to the municipal council at least 21 days prior to the meeting of the council, together with particulars of—
  - (i) the essential repayment terms, including the anticipated debt repayment schedule; and
  - (ii) the anticipated total cost in connection with such debt over the repayment period.

(4) Capital expenditure contemplated in subsection (1) (a) may include—

- (a) financing costs, including—
  - (i) capitalised interest for a reasonable initial period;
  - (ii) costs associated with security arrangements in accordance with section 48;
  - (iii) discounts and fees in connection with the financing;
  - (iv) fees for legal, financial, advisory, trustee, credit rating and other services directly connected to the financing; and
  - (v) costs connected to the sale or placement of debt, and costs for printing and publication directly connected to the financing;
- (b) costs of professional services directly related to the capital expenditure; and
- (c) such other costs as may be prescribed.

(5) A municipality may borrow money for the purpose of re-financing existing long-term debt, provided that—

- (a) the existing long-term debt was lawfully incurred;
- (b) the re-financing does not extend the term of the debt beyond the useful life of the property, plant or equipment for which the money was originally borrowed;
- (c) the net present value of projected future payments (including principal and interest payments) after re-financing is less than the net present value of projected future payments before re-financing; and
- (d) the discount rate used in projecting net present value referred to in paragraph (c), and any assumptions in connection with the calculations, must be reasonable and in accordance with criteria set out in a framework that may be prescribed.

(6) A municipality's long-term debt must be consistent with its capital budget referred to in section 17 (2).

**47. Conditions applying to both short-term and long-term debt.**—A municipality may incur debt only if—

- (a) the debt is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency; and
- (b) section 48 (3) has been complied with, if security is to be provided by the municipality.

**48. Security.**—(1) A municipality may, by resolution of its council, provide security for—

- (a) any of its debt obligations;
- (b) any debt obligations of a municipal entity under its sole control; or
- (c) contractual obligations of the municipality undertaken in connection with capital expenditure by other persons on property, plant or equipment to be used by the municipality or such other person for the purpose of achieving the objects of local government in terms of section 152 of the Constitution.

(2) A municipality may in terms of subsection (1) provide any appropriate security, including



by—

- (a) giving a lien on, or pledging, mortgaging, ceding or otherwise hypothecating, an asset or right, or giving any other form of collateral;
- (b) undertaking to effect payment directly from money or sources that may become available and to authorise the lender or investor direct access to such sources to ensure payment of the secured debt or the performance of the secured obligations, but this form of security may not affect compliance with section 8 (2);
- (c) undertaking to deposit funds with the lender, investor or third party as security;
- (d) agreeing to specific payment mechanisms or procedures to ensure exclusive or dedicated payment to lenders or investors, including revenue intercepts, payments into dedicated accounts or other payment mechanisms or procedures;
- (e) ceding as security any category of revenue or rights to future revenue;
- (f) undertaking to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;
- (g) undertaking to retain revenues or specific municipal tariffs or other charges, fees or funds at a particular level or at a level sufficient to meet its financial obligations;
- (h) undertaking to make provision in its budgets for the payment of its financial obligations, including capital and interest;
- (i) agreeing to restrictions on debt that the municipality may incur in future until the secured debt is settled or the secured obligations are met; and
- (j) agreeing to such other arrangements as the municipality may consider necessary and prudent.

(3) A council resolution authorising the provision of security in terms of subsection (2) (a)—

- (a) must determine whether the asset or right with respect to which the security is provided, is necessary for providing the minimum level of basic municipal services; and
- (b) if so, must indicate the manner in which the availability of the asset or right for the provision of that minimum level of basic municipal services will be protected.

(4) If the resolution has determined that the asset or right is necessary for providing the minimum level of basic municipal services, neither the party to whom the municipal security is provided, nor any successor or assignee of such party, may, in the event of a default by the municipality, deal with the asset or right in a manner that would preclude or impede the continuation of that minimum level of basic municipal services.

(5) A determination in terms of subsection (3) that an asset or right is not necessary for providing the minimum level of basic municipal services is binding on the municipality until the secured debt has been paid in full or the secured obligations have been performed in full, as the case may be.

**49. Disclosure.**—(1) Any person involved in the borrowing of money by a municipality must, when interacting with a prospective lender or when preparing documentation for consideration by a prospective investor—

- (a) disclose all information in that person's possession or within that person's knowledge that may be material to the decision of that prospective lender or investor; and

(b) take reasonable care to ensure the accuracy of any information disclosed.

(2) A lender or investor may rely on written representations of the municipality signed by the accounting officer, if the lender or investor did not know and had no reason to believe that those representations were false or misleading.

**50. Municipal guarantees.**—A municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following conditions:

- (a) The guarantee must be within limits specified in the municipality's approved budget;
- (b) a municipality may guarantee the debt of a municipal entity under its sole control only if the guarantee is authorised by the council in the same manner and subject to the same conditions applicable to a municipality in terms of this Chapter if it incurs debt;
- (c) a municipality may guarantee the debt of a municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only if—
  - (i) the municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or
  - (ii) the municipality purchases and maintains in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the municipality's potential financial exposure as a result of such guarantee.

**51. National and provincial guarantees.**—Neither the national nor a provincial government may guarantee the debt of a municipality or municipal entity except to the extent that Chapter 8 of the Public Finance Management Act provides for such guarantees.

## CHAPTER 7 RESPONSIBILITIES OF MAYORS

**52. General responsibilities.**—The mayor of a municipality—

- (a) must provide general political guidance over the fiscal and financial affairs of the municipality;
- (b) in providing such general political guidance, may monitor and, to the extent provided in this Act, oversee the exercise of responsibilities assigned in terms of this Act to the accounting officer and the chief financial officer, but may not interfere in the exercise of those responsibilities;
- (c) must take all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;
- (d) must, within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality; and
- (e) must exercise the other powers and perform the other duties assigned to the mayor in terms of this Act or delegated by the council to the mayor.

**53. Budget processes and related matters.**—(1) The mayor of a municipality must—

- (a) provide general political guidance over the budget process and the priorities that must guide the preparation of a budget;
- (b) co-ordinate the annual revision of the integrated development plan in terms of section 34 of the Municipal Systems Act and the preparation of the annual budget, and determine how the integrated development plan is to be taken into account or revised for the purposes of the budget; and
- (c) take all reasonable steps to ensure—
  - (i) that the municipality approves its annual budget before the start of the budget year;
  - (ii) that the municipality’s service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget; and
  - (iii) that the annual performance agreements as required in terms of section 57 (1) (b) of the Municipal Systems Act for the municipal manager and all senior managers—
    - (aa) comply with this Act in order to promote sound financial management;
    - (bb) are linked to the measurable performance objectives approved with the budget and to the service delivery and budget implementation plan; and
    - (cc) are concluded in accordance with section 57 (2) of the Municipal Systems Act.

(2) The mayor must promptly report to the municipal council and the MEC for finance in the province any delay in the tabling of an annual budget, the approval of the service delivery and budget implementation plan or the signing of the annual performance agreements.

- (3) The mayor must ensure—
  - (a) that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the service delivery and budget implementation plan, are made public no later than 14 days after the approval of the service delivery and budget implementation plan; and
  - (b) that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the municipality’s service delivery and budget implementation plan. Copies of such performance agreements must be submitted to the council and the MEC for local government in the province.

**54. Budgetary control and early identification of financial problems.**—(1) On receipt of a statement or report submitted by the accounting officer of the municipality in terms of section 71 or 72, the mayor must—

- (a) consider the statement or report;
- (b) check whether the municipality’s approved budget is implemented in accordance with the service delivery and budget implementation plan;
- (c) consider and, if necessary, make any revisions to the service delivery and budget implementation plan, provided that revisions to the service delivery targets and performance indicators in the plan may only be made with the approval of the council following approval of an adjustments budget;
- (d) issue any appropriate instructions to the accounting officer to ensure—

- (i) that the budget is implemented in accordance with the service delivery and budget implementation plan; and
  - (ii) that spending of funds and revenue collection proceed in accordance with the budget;
  - (e) identify any financial problems facing the municipality, including any emerging or impending financial problems; and
  - (f) in the case of a section 72 report, submit the report to the council by 31 January of each year.
- (2) If the municipality faces any serious financial problems, the mayor must—
- (a) promptly respond to and initiate any remedial or corrective steps proposed by the accounting officer to deal with such problems, which may include—
    - (i) steps to reduce spending when revenue is anticipated to be less than projected in the municipality's approved budget;
    - (ii) the tabling of an adjustments budget; or
    - (iii) steps in terms of Chapter 13; and
  - (b) alert the council and the MEC for local government in the province to those problems.
- (3) The mayor must ensure that any revisions of the service delivery and budget implementation plan are made public promptly.

**55. Report to provincial executive if conditions for provincial intervention exist.**—If a municipality has not approved an annual budget by the first day of the budget year or if the municipality encounters a serious financial problem referred to in section 136, the mayor of the municipality—

- (a) must immediately report the matter to the MEC for local government in the province; and
- (b) may recommend to the MEC an appropriate provincial intervention in terms of section 139 of the Constitution.

**56. Exercise of rights and powers over municipal entities.**—(1) The mayor of a municipality which has sole or shared control over a municipal entity, must guide the municipality in exercising its rights and powers over the municipal entity in a way—

- (a) that would reasonably ensure that the municipal entity complies with this Act and at all times remains accountable to the municipality; and
- (b) that would not impede the entity from performing its operational responsibilities.

(2) In guiding the municipality in the exercise of its rights and powers over a municipal entity in accordance with subsection (1), the mayor may monitor the operational functions of the entity, but may not interfere in the performance of those functions.

**57. Municipalities which do not have mayors.**—(1) The council of a municipality which does not have a mayor, must designate a councillor to exercise the powers and duties assigned by this Act to a mayor.

(2) A reference in this Act to the mayor of a municipality must, in the case of a municipality which does not have a mayor, be construed as a reference to a councillor designated by the council of the

municipality in terms of subsection (1).

**58. Municipalities with executive committees.**—The powers and functions assigned by this Act to a mayor must, in the case of a municipality which has an executive committee referred to in section 43 of the Municipal Structures Act, be exercised by the mayor in consultation with the executive committee.

**59. Delegations of mayoral powers and duties.**—(1) The powers and duties assigned in terms of this Act to the mayor of a municipality, may—

- (a) in the case of a municipality which has an executive mayor referred to in section 55 of the Municipal Structures Act, be delegated by the executive mayor in terms of section 60 (1) of that Act to another member of the municipality’s mayoral committee;
- (b) in the case of a municipality which has an executive committee referred to in section 43 of that Act, be delegated by the council of the municipality to another member of the executive committee; or
- (c) in the case of a municipality which has designated a councillor in terms of section 57 (1) of this Act, be delegated by the council to any other councillor.

(2) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to any limitations or conditions that the executive mayor or council, as the case may be, may impose; and
- (c) does not divest the mayor of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) The mayor may confirm, vary or revoke any decision taken in consequence of a delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

## CHAPTER 8 RESPONSIBILITIES OF MUNICIPAL OFFICIALS

### *Part 1: Accounting officers*

**60. Municipal managers to be accounting officers.**—The municipal manager of a municipality is the accounting officer of the municipality for the purposes of this Act, and, as accounting officer, must—

- (a) exercise the functions and powers assigned to an accounting officer in terms of this Act; and
- (b) provide guidance and advice on compliance with this Act to—
  - (i) the political structures, political office-bearers and officials of the municipality; and
  - (ii) any municipal entity under the sole or shared control of the municipality.

**61. Fiduciary responsibilities of accounting officers.**—(1) The accounting officer of a municipality must—

- (a) act with fidelity, honesty, integrity and in the best interests of the municipality in managing its financial affairs;
- (b) disclose to the municipal council and the mayor all material facts which are available to the accounting officer or reasonably discoverable, and which in any way might influence the decisions or actions of the council or the mayor; and
- (c) seek, within the sphere of influence of the accounting officer, to prevent any prejudice to the financial interests of the municipality.

(2) An accounting officer may not—

- (a) act in a way that is inconsistent with the duties assigned to accounting officers of municipalities in terms of this Act; or
- (b) use the position or privileges of, or confidential information obtained as, accounting officer for personal gain or to improperly benefit another person.

*Financial management*

**62. General financial management functions.**—(1) The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure—

- (a) that the resources of the municipality are used effectively, efficiently and economically;
- (b) that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;
- (c) that the municipality has and maintains effective, efficient and transparent systems—
  - (i) of financial and risk management and internal control; and
  - (ii) of internal audit operating in accordance with any prescribed norms and standards;
- (d) that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented;
- (e) that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15; and
- (f) that the municipality has and implements—
  - (i) a tariff policy referred to in section 74 of the Municipal Systems Act;
  - (ii) a rates policy as may be required in terms of any applicable national legislation;
  - (iii) a credit control and debt collection policy referred to in section 96 (b) of the Municipal Systems Act; and
  - (iv) a supply chain management policy in accordance with Chapter 11.

(Date of commencement of sub-para. (iv): 1 December, 2004.)

(2) The accounting officer is responsible for and must account for all bank accounts of the municipality, including any bank account opened for—

- (a) any relief, charitable, trust or other fund set up by the municipality in terms of section 12;

or

- (b) a purpose referred to in section 48 (2) (d).

**63. Asset and liability management.**—(1) The accounting officer of a municipality is responsible for the management of—

- (a) the assets of the municipality, including the safeguarding and the maintenance of those assets; and
- (b) the liabilities of the municipality.

(2) The accounting officer must for the purposes of subsection (1) take all reasonable steps to ensure—

- (a) that the municipality has and maintains a management, accounting and information system that accounts for the assets and liabilities of the municipality;
- (b) that the municipality's assets and liabilities are valued in accordance with standards of generally recognised accounting practice; and
- (c) that the municipality has and maintains a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

**64. Revenue management.**—(1) The accounting officer of a municipality is responsible for the management of the revenue of the municipality.

(2) The accounting officer must for the purposes of subsection (1) take all reasonable steps to ensure—

- (a) that the municipality has effective revenue collection systems consistent with section 95 of the Municipal Systems Act and the municipality's credit control and debt collection policy;
- (b) that revenue due to the municipality is calculated on a monthly basis;
- (c) that accounts for municipal tax and charges for municipal services are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;
- (d) that all money received is promptly deposited in accordance with this Act into the municipality's primary and other bank accounts;
- (e) that the municipality has and maintains a management, accounting and information system which—
  - (i) recognises revenue when it is earned;
  - (ii) accounts for debtors; and
  - (iii) accounts for receipts of revenue;
- (f) that the municipality has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed;
- (g) that the municipality charges interest on arrears, except where the council has granted exemptions in accordance with its budget-related policies and within a prescribed framework; and

- (h) that all revenue received by the municipality, including revenue received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

(3) The accounting officer must immediately inform the National Treasury of any payments due by an organ of state to the municipality in respect of municipal tax or for municipal services, if such payments are regularly in arrears for periods of more than 30 days.

(4) The accounting officer must take all reasonable steps to ensure—

- (a) that any funds collected by the municipality on behalf of another organ of state is transferred to that organ of state at least on a weekly basis; and
- (b) that such funds are not used for purposes of the municipality.

**65. Expenditure management.**—(1) The accounting officer of a municipality is responsible for the management of the expenditure of the municipality.

(2) The accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure—

- (a) that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds;
- (b) that the municipality has and maintains a management, accounting and information system which—
  - (i) recognises expenditure when it is incurred;
  - (ii) accounts for creditors of the municipality; and
  - (iii) accounts for payments made by the municipality;
- (c) that the municipality has and maintains a system of internal control in respect of creditors and payments;
- (d) that payments by the municipality are made—
  - (i) directly to the person to whom it is due unless agreed otherwise for reasons as may be prescribed; and
  - (ii) either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit;
- (e) that all money owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure;
- (f) that the municipality complies with its tax, levy, duty, pension, medical aid, audit fees and other statutory commitments;
- (g) that any dispute concerning payments due by the municipality to another organ of state is disposed of in terms of legislation regulating disputes between organs of state;
- (h) that the municipality's available working capital is managed effectively and economically in terms of the prescribed cash management and investment framework;
- (i) that the municipality's supply chain management policy referred to in section 111 is implemented in a way that is fair, equitable, transparent, competitive and cost-effective;



and

- (j) that all financial accounts of the municipality are closed at the end of each month and reconciled with its records.

**66. Expenditure on staff benefits.**—The accounting officer of a municipality must, in a format and for periods as may be prescribed, report to the council on all expenditure incurred by the municipality on staff salaries, wages, allowances and benefits, and in a manner that discloses such expenditure per type of expenditure, namely—

- (a) salaries and wages;
- (b) contributions for pensions and medical aid;
- (c) travel, motor car, accommodation, subsistence and other allowances;
- (d) housing benefits and allowances;
- (e) overtime payments;
- (f) loans and advances; and
- (g) any other type of benefit or allowance related to staff.

**67. Funds transferred to organisations and bodies outside government.**—(1) Before transferring funds of the municipality to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organisation or body—

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- (a) has the capacity and has agreed—
  - (i) to comply with any agreement with the municipality;
  - (ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;
  - (iii) to report at least monthly to the accounting officer on actual expenditure against such transfer; and
  - (iv) to submit its audited financial statements for its financial year to the accounting officer promptly;
- (b) implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and
- (c) has in respect of previous similar transfers complied with all the requirements of this section.

(2) If there has been a failure by an organisation or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection (1) (c) make a further transfer to that organisation or body provided that—

- (a) subsection (1) (a) and (b) is complied with; and
- (b) the relevant provincial treasury has approved the transfer.

(3) The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).

(4) Subsection (1) (a) does not apply to an organisation or body serving the poor or used by government as an agency to serve the poor, provided—

- (a) that the transfer does not exceed a prescribed limit; and
- (b) that the accounting officer—
  - (i) takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and
  - (ii) certifies to the Auditor-General that compliance by that organisation or body with subsection (1) (a) is uneconomical or unreasonable.

**68. Budget preparation.**—The accounting officer of a municipality must—

- (a) assist the mayor in performing the budgetary functions assigned to the mayor in terms of Chapters 4 and 7; and
- (b) provide the mayor with the administrative support, resources and information necessary for the performance of those functions.

**69. Budget implementation.**—(1) The accounting officer of a municipality is responsible for implementing the municipality's approved budget, including taking all reasonable steps to ensure—

- (a) that the spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan; and
- (b) that revenue and expenditure are properly monitored.

(2) When necessary, the accounting officer must prepare an adjustments budget and submit it to the mayor for consideration and tabling in the municipal council.

(3) The accounting officer must no later than 14 days after the approval of an annual budget submit to the mayor—

- (a) a draft service delivery and budget implementation plan for the budget year; and
- (b) drafts of the annual performance agreements as required in terms of section 57 (1) (b) of the Municipal Systems Act for the municipal manager and all senior managers.

**70. Impending shortfalls, overspending and overdrafts.**—(1) The accounting officer of a municipality must report in writing to the municipal council—

- (a) any impending—
  - (i) shortfalls in budgeted revenue; and
  - (ii) overspending of the municipality's budget; and
- (b) any steps taken to prevent or rectify such shortfalls or overspending.

(2) If a municipality's bank account, or if the municipality has more than one bank account, the consolidated balance in those bank accounts, shows a net overdrawn position for a period exceeding a prescribed period, the accounting officer of the municipality must promptly notify the National Treasury in the prescribed format of—

- (a) the amount by which the account or accounts are overdrawn;
- (b) the reasons for the overdrawn account or accounts; and
- (c) the steps taken or to be taken to correct the matter.

(3) When determining the net overdrawn position for purposes of subsection (2), the accounting officer must exclude any amounts reserved or pledged for any specific purpose or encumbered in any other way.

#### *Reports and reportable matters*

**71. Monthly budget statements.**—(1) The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:

- (a) Actual revenue, per revenue source;
- (b) actual borrowings;
- (c) actual expenditure, per vote;
- (d) actual capital expenditure, per vote;
- (e) the amount of any allocations received;
- (f) actual expenditure on those allocations, excluding expenditure on—
  - (i) its share of the local government equitable share; and
  - (ii) allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and
- (g) when necessary, an explanation of—
  - (i) any material variances from the municipality's projected revenue by source, and from the municipality's expenditure projections per vote;
  - (ii) any material variances from the service delivery and budget implementation plan; and
  - (iii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget.

(2) The statement must include—

- (a) a projection of the relevant municipality's revenue and expenditure for the rest of the financial year, and any revisions from initial projections; and
- (b) the prescribed information relating to the state of the budget of each municipal entity as provided to the municipality in terms of section 87 (10).

(3) The amounts reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the municipality's approved budget.

(4) The statement to the provincial treasury must be in the format of a signed document and in electronic format.

(5) The accounting officer of a municipality which has received an allocation referred to in subsection (1) (e) during any particular month must, by no later than 10 working days after the end of that

month, submit that part of the statement reflecting the particulars referred to in subsection (1) (e) and (f) to the national or provincial organ of state or municipality which transferred the allocation.

(6) The provincial treasury must by no later than 22 working days after the end of each month submit to the National Treasury a consolidated statement in the prescribed format on the state of the municipalities' budgets, per municipality and per municipal entity.

(7) The provincial treasury must, within 30 days after the end of each quarter, make public as may be prescribed, a consolidated statement in the prescribed format on the state of municipalities' budgets per municipality and per municipal entity. The MEC for finance must submit such consolidated statement to the provincial legislature no later than 45 days after the end of each quarter.

(Date of commencement of s. 71: 1 December, 2004.)

**72. Mid-year budget and performance assessment.**—(1) The accounting officer of a municipality must by 25 January of each year—

- (a) assess the performance of the municipality during the first half of the financial year, taking into account—
  - (i) the monthly statements referred to in section 71 for the first half of the financial year;
  - (ii) the municipality's service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the service delivery and budget implementation plan;
  - (iii) the past year's annual report, and progress on resolving problems identified in the annual report; and
  - (iv) the performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities; and
- (b) submit a report on such assessment to—
  - (i) the mayor of the municipality;
  - (ii) the National Treasury; and
  - (iii) the relevant provincial treasury.

(2) The statement referred to in section 71 (1) for the sixth month of a financial year may be incorporated into the report referred to in subsection (1) (b) of this section.

(3) The accounting officer must, as part of the review—

- (a) make recommendations as to whether an adjustments budget is necessary; and
- (b) recommend revised projections for revenue and expenditure to the extent that this may be necessary.

**73. Reports on failure to adopt or implement budget-related and other policies.**—The accounting officer must inform the provincial treasury, in writing, of—

- (a) any failure by the council of the municipality to adopt or implement a budget-related policy or a supply chain management policy referred to in section 111; or
- (b) any non-compliance by a political structure or office-bearer of the municipality with any

such policy.

(Date of commencement of s. 73: 1 July, 2005.)

**74. General reporting obligation.**—(1) The accounting officer of a municipality must submit to the National Treasury, the provincial treasury, the department for local government in the province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required.

(2) If the accounting officer of a municipality is unable to comply with any of the responsibilities in terms of this Act, he or she must promptly report the inability, together with reasons, to the mayor and the provincial treasury.

**75. Information to be placed on websites of municipalities.**—(1) The accounting officer of a municipality must place on the website referred to in section 21A of the Municipal Systems Act the following documents of the municipality:

- (a) The annual and adjustments budgets and all budget-related documents;
- (b) all budget-related policies;
- (c) the annual report;
- (d) all performance agreements required in terms of section 57 (1) (b) of the Municipal Systems Act;
- (e) all service delivery agreements;
- (f) all long-term borrowing contracts;
- (g) all supply chain management contracts above a prescribed value;
- (h) an information statement containing a list of assets over a prescribed value that have been disposed of in terms of section 14 (2) or (4) during the previous quarter;
- (i) contracts to which subsection (1) of section 33 apply, subject to subsection (3) of that section;
- (j) public-private partnership agreements referred to in section 120;
- (k) all quarterly reports tabled in the council in terms of section 52 (d); and
- (l) any other documents that must be placed on the website in terms of this Act or any other applicable legislation, or as may be prescribed.

(2) A document referred to in subsection (1) must be placed on the website not later than five days after its tabling in the council or on the date on which it must be made public, whichever occurs first.

**76. Protection of accounting officer.**—Any action taken by a political structure or office-bearer of a municipality against the accounting officer of the municipality solely because of that accounting officer's compliance with a provision of this Act, is an unfair labour practice for the purposes of the Labour Relations Act, 1995 (Act No. 66 of 1995).

*Part 2: Financial administration*

**77. Top management of municipalities.**—(1) The top management of a municipality's

administration consists of—

- (a) the accounting officer;
- (b) the chief financial officer;
- (c) all senior managers who are responsible for managing the respective votes of the municipality and to whom powers and duties for this purpose have been delegated in terms of section 79; and
- (d) any other senior officials designated by the accounting officer.

(2) The top management must assist the accounting officer in managing and co-ordinating the financial administration of the municipality.

**78. Senior managers and other officials of municipalities.**—(1) Each senior manager of a municipality and each official of a municipality exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure—

- (a) that the system of financial management and internal control established for the municipality is carried out diligently;
- (b) that the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparently;
- (c) that any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented;
- (d) that all revenue due to the municipality is collected;
- (e) that the assets and liabilities of the municipality are managed effectively and that assets are safeguarded and maintained to the extent necessary;
- (f) that all information required by the accounting officer for compliance with the provisions of this Act is timeously submitted to the accounting officer; and
- (g) that the provisions of this Act, to the extent applicable to that senior manager or official, including any delegations in terms of section 79, are complied with.

(2) A senior manager or such official must perform the functions referred to in subsection (1) subject to the directions of the accounting officer of the municipality.

**79. Delegations.**—(1) The accounting officer of a municipality—

- (a) must, for the proper application of this Act in the municipality's administration, develop an appropriate system of delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration;
- (b) may, in accordance with that system, delegate to a member of the municipality's top management referred to in section 77 or any other official of the municipality—
  - (i) any of the powers or duties assigned to an accounting officer in terms of this Act; or
  - (ii) any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of this Act; and

(c) must regularly review delegations issued in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.

(2) The accounting officer may not delegate to any political structure or political office-bearer of the municipality any of the powers or duties assigned to accounting officers in terms of this Act.

(3) A delegation in terms of subsection (1)—

(a) must be in writing;

(b) is subject to such limitations and conditions as the accounting officer may impose in a specific case;

(c) may either be to a specific individual or to the holder of a specific post in the municipality;

(d) may, in the case of a delegation to a member of the municipality's top management in terms of subsection (1) (b), authorise that member to sub-delegate the delegated power or duty to an official or the holder of a specific post in that member's area of responsibility; and

(e) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(4) The accounting officer may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

## CHAPTER 9 MUNICIPAL BUDGET AND TREASURY OFFICES

**80. Establishment.**—(1) Every municipality must have a budget and treasury office.

(2) A budget and treasury office consists of—

(a) a chief financial officer designated by the accounting officer of the municipality;

(b) officials of the municipality allocated by the accounting officer to the chief financial officer; and

(c) any other persons contracted by the municipality for the work of the office.

**81. Role of chief financial officer.**—(1) The chief financial officer of a municipality—

(a) is administratively in charge of the budget and treasury office;

(b) must advise the accounting officer on the exercise of powers and duties assigned to the accounting officer in terms of this Act;

(c) must assist the accounting officer in the administration of the municipality's bank accounts and in the preparation and implementation of the municipality's budget;

(d) must advise senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of section 78 or delegated to them in terms of section 79; and

(e) must perform such budgeting, accounting, analysis, financial reporting, cash management,

debt management, supply chain management, financial management, review and other duties as may in terms of section 79 be delegated by the accounting officer to the chief financial officer.

(2) The chief financial officer of a municipality is accountable to the accounting officer for the performance of the duties referred to in subsection (1).

**82. Delegations.**—(1) The chief financial officer of a municipality may sub-delegate any of the duties referred to in section 81 (1) (b), (d) and (e)—

- (a) to an official in the budget and treasury office;
- (b) to the holder of a specific post in that office; or
- (c) with the concurrence of the accounting officer, to—
  - (i) any other official of the municipality; or
  - (ii) any person contracted by the municipality for the work of the office.

(2) If the chief financial officer sub-delegates any duties in terms of subsection (1) to a person who is not an employee of the municipality, the chief financial officer must be satisfied that effective systems and procedures are in place to ensure control and accountability.

(3) A sub-delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to such limitations or conditions as the chief financial officer may impose; and
- (c) does not divest the chief financial officer of the responsibility concerning the delegated duty.

(4) The chief financial officer may confirm, vary or revoke any decision taken in consequence of a sub-delegation in terms of subsection (1), but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

**83. Competency levels of professional financial officials.**—(1) The accounting officer, senior managers, the chief financial officer and other financial officials of a municipality must meet the prescribed financial management competency levels.

(2) A municipality must for the purposes of subsection (1) provide resources or opportunities for the training of officials referred to in that subsection to meet the prescribed competency levels.

(3) The National Treasury or a provincial treasury may assist municipalities in the training of officials referred to in subsection (1).

(Date of commencement of s. 83: 1 July, 2006.)

## CHAPTER 10 MUNICIPAL ENTITIES

### *Part 1: Establishment*

**84. Financial implications for municipalities.**—(1) When considering the establishment of, or participation in, a municipal entity, a municipality must first—



- (a) determine precisely the function or service that such entity would perform on behalf of the municipality; and
  - (b) make an assessment of the impact of the shifting of that function or service to the entity on the municipality's staff, assets and liabilities, including an assessment of—
    - (i) the number of staff of the municipality to be transferred to the entity;
    - (ii) the number of staff of the municipality that would become redundant because of the shifting of that function or service;
    - (iii) the cost to the municipality of any staff retrenchments or the retention of redundant staff;
    - (iv) any assets of the municipality to be transferred to the entity;
    - (v) any assets of the municipality that would become obsolete because of the shifting of that function or service;
    - (vi) any liabilities of the municipality to be ceded to the entity; and
    - (vii) any debt of the municipality attributed to that function or service which the municipality would retain.
- (2) A municipality may establish or participate in a municipal entity only if—
- (a) the municipal manager, at least 90 days before the meeting of the municipal council at which the proposed establishment of the entity, or the municipality's proposed participation in the entity, is to be approved—
    - (i) has, in accordance with section 21A of the Municipal Systems Act—
      - (aa) made public an information statement setting out the municipality's plans for the municipal entity together with the assessment which the municipality must conduct in terms of subsection (1); and
      - (bb) invited the local community, organised labour and other interested persons to submit to the municipality comments or representations in respect of the matter; and
    - (ii) has solicited the views and recommendations of—
      - (aa) the National Treasury and the relevant provincial treasury;
      - (bb) the national and provincial departments responsible for local government; and
      - (cc) the MEC for local government in the province; and
  - (b) the municipal council has taken into account—
    - (i) the assessment referred to in subsection (1);
    - (ii) any comments or representations on the matter received from the local community, organised labour and other interested persons;
    - (iii) any written views and recommendations on the matter received from the National Treasury, the relevant provincial treasury, the national department responsible for local government or the MEC for local government in the province.
- (3) For the purposes of this section, “**establish**” includes the acquisition of an interest in a private

company that would render that private company a municipal entity.

*Part 2: Financial governance*

**85. Bank accounts.**—(1) A municipal entity must open and maintain at least one bank account in the name of the entity.

(2) All money received by a municipal entity must be paid into its bank account or accounts, and this must be done promptly and in accordance with any requirements that may be prescribed.

(3) A municipal entity may not open a bank account—

- (a) abroad;
- (b) with an institution not registered as a bank in terms of the Banks Act, 1990 (Act No. 94 of 1990);
- (c) otherwise than in the name of the entity; and
- (d) without the approval of its board of directors.

(4) Money may be withdrawn from a municipal entity's bank account only in accordance with requirements that may be prescribed.

(5) The accounting officer of a municipal entity—

- (a) must administer all the entity's bank accounts;
- (b) is accountable to the board of directors of the entity for the entity's bank accounts; and
- (c) must enforce any requirements that may be prescribed in terms of subsection (4).

**86. Bank account details.**—(1) The accounting officer of a municipal entity must submit to the entity's parent municipality, in writing—

- (a) within 90 days after the entity has opened a new bank account, the name of the bank where the account has been opened, and the type and number of the account; and
- (b) annually before the start of a financial year, the name of each bank where the entity holds a bank account, and the type and number of each account.

(2) The accounting officer of the municipal entity's parent municipality, or if there are more than one parent municipality, any one of the accounting officers of those municipalities as may be agreed between them, must upon receipt of the information referred to in subsection (1), submit that information to the Auditor-General, the National Treasury and the relevant provincial treasury, in writing.

**87. Budgets.**—(1) The board of directors of a municipal entity must for each financial year submit a proposed budget for the entity to its parent municipality not later than 150 days before the start of the entity's financial year or earlier if requested by the parent municipality.

(2) The parent municipality must consider the proposed budget of the entity and assess the entity's priorities and objectives. If the parent municipality makes any recommendations on the proposed budget, the board of directors of the entity must consider those recommendations and, if necessary, submit a revised budget to the parent municipality not later than 100 days before the start of the financial year.

(3) The mayor of the parent municipality must table the proposed budget of the municipal entity in the council when the annual budget of the municipality for the relevant year is tabled.

(4) The board of directors of a municipal entity must approve the budget of the municipal entity not later than 30 days before the start of the financial year, taking into account any hearings or recommendations of the council of the parent municipality.

(5) The budget of a municipal entity must—

- (a) be balanced;
- (b) be consistent with any service delivery agreement or other agreement between the entity and the entity's parent municipality;
- (c) be within any limits determined by the entity's parent municipality, including any limits on tariffs, revenue, expenditure and borrowing;
- (d) include a multi-year business plan for the entity that—
  - (i) sets key financial and non-financial performance objectives and measurement criteria as agreed with the parent municipality;
  - (ii) is consistent with the budget and integrated development plan of the entity's parent municipality;
  - (iii) is consistent with any service delivery agreement or other agreement between the entity and the entity's parent municipality; and
  - (iv) reflects actual and potential liabilities and commitments, including particulars of any proposed borrowing of money during the period to which the plan relates; and
- (e) otherwise comply with the requirements of section 17 (1) and (2) to the extent that such requirements can reasonably be applied to the entity.

(6) The board of directors of a municipal entity may, with the approval of the mayor, revise the budget of the municipal entity, but only for the following reasons:

- (a) To adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
- (b) to authorise expenditure of any additional allocations to the municipal entity from its parent municipality;
- (c) to authorise, within a prescribed framework, any unforeseeable and unavoidable expenditure approved by the mayor of the parent municipality;
- (d) to authorise any other expenditure within a prescribed framework.

(7) Any projected allocation to a municipal entity from its parent municipality must be provided for in the annual budget of the parent municipality, and to the extent not so provided, the entity's budget must be adjusted.

(8) A municipal entity may incur expenditure only in accordance with its approved budget or an adjustments budget.

(9) The mayor must table the budget or adjusted budget and any adjustments budget of a municipal entity as approved by its board of directors, at the next council meeting of the municipality.

(10) A municipal entity's approved budget or adjusted budget must be made public in substantially the same way as the budget of a municipality must be made public.

(11) The accounting officer of a municipal entity must by no later than seven working days after

the end of each month submit to the accounting officer of the parent municipality a statement in the prescribed format on the state of the entity's budget reflecting the following particulars for that month and for the financial year up to the end of that month:

- (a) Actual revenue, per revenue source;
- (b) actual borrowings;
- (c) actual expenditure;
- (d) actual capital expenditure;
- (e) the amount of any allocations received;
- (f) actual expenditure on those allocations, excluding expenditure on allocations exempted by the annual Division of Revenue Act from compliance with this paragraph; and
- (g) when necessary, an explanation of—
  - (i) any material variances from the entity's projected revenue by source, and from the entity's expenditure projections;
  - (ii) any material variances from the service delivery agreement and the business plan; and
  - (iii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the entity's approved budget.

(12) The statement must include a projection of revenue and expenditure for the rest of the financial year, and any revisions from initial projections.

(13) The amounts reflected in the statement must in each case be compared with the corresponding amounts budgeted for in the entity's approved budget.

(14) The statement to the accounting officer of the municipality must be in the format of a signed document and in electronic format.

**88. Mid-year budget and performance assessment.**—(1) The accounting officer of a municipal entity must by 20 January of each year—

- (a) assess the performance of the entity during the first half of the financial year, taking into account—
  - (i) the monthly statements referred to in section 87 for the first half of the financial year and the targets set in the service delivery, business plan or other agreement with the entity's parent municipality; and
  - (ii) the entity's annual report for the past year, and progress on resolving problems identified in the annual report; and
- (b) submit a report on such assessment to—
  - (i) the board of directors of the entity; and
  - (ii) the parent municipality of the entity.

(2) A report referred to in subsection (1) must be made public.

**89. Remuneration packages.**—The parent municipality of a municipal entity must—

- (a) determine the upper limits of the salary, allowances and other benefits of the chief

executive officer and senior managers of the entity; and

- (b) monitor and ensure that the municipal entity reports to the council on all expenditure incurred by that municipal entity on directors and staff remuneration matters, and in a manner that discloses such expenditure per type of expenditure namely:
  - (i) Salaries and wages;
  - (ii) contributions for pensions and medical aid;
  - (iii) travel, motor car, accommodation, subsistence and other allowances;
  - (iv) housing benefits and allowances;
  - (v) overtime payments;
  - (vi) loans and advances; and
  - (vii) any other type of benefit or allowance related to directors and staff.

**90. Disposal of capital assets.**—(1) A municipal entity may not transfer ownership as a result of a sale or other transaction or otherwise dispose of a capital asset needed to provide the minimum level of basic municipal services.

(2) A municipal entity may transfer ownership or otherwise dispose of a capital asset other than an asset contemplated in subsection (1), but only after the council of its parent municipality, in a meeting open to the public—

- (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
- (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

(3) A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services may not be reversed by the municipality or municipal entity after that asset has been sold, transferred or otherwise disposed of.

(4) A municipal council may delegate to the accounting officer of a municipal entity its power to make the determinations referred to in subsection (2) (a) and (b) in respect of movable capital assets of the entity below a value determined by the council.

(5) Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent and competitive and consistent with the supply chain management policy which the municipal entity must have and maintain in terms of section 111.

(6) This section does not apply to the transfer of a capital asset to a municipality or another municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury provided that such transfers are in accordance with a prescribed framework.

**91. Financial year.**—The financial year of a municipal entity must be the same as that of municipalities.

(Date of commencement: 1 July, 2005.)

**92. Audit.**—The Auditor-General must audit and report on the accounts, financial statements and

financial management of each municipal entity.

*Part 3: Accounting officers*

**93. Chief executive officer to be accounting officer.**—The chief executive officer of a municipal entity appointed in terms of section 93J of the Municipal Systems Act is the accounting officer of the entity.

**94. Fiduciary duties of accounting officers.**—(1) The accounting officer of a municipal entity must—

- (a) exercise utmost care to ensure reasonable protection of the assets and records of the entity;
- (b) act with fidelity, honesty, integrity and in the best interest of the entity in managing the financial affairs of the entity;
- (c) disclose to the entity's parent municipality and the entity's board of directors all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the parent municipality or the board of directors; and
- (d) seek, within the sphere of influence of that accounting officer, to prevent any prejudice to the financial interests of the parent municipality or the municipal entity.

(2) The accounting officer may not—

- (a) act in a way that is inconsistent with the responsibilities assigned to accounting officers of municipal entities in terms of this Act; or
- (b) use the position or privileges of, or confidential information obtained as accounting officer, for personal gain or to improperly benefit another person.

**95. General financial management functions of accounting officers.**—The accounting officer of a municipal entity is responsible for managing the financial administration of the entity, and must for this purpose take all reasonable steps to ensure—

- (a) that the resources of the entity are used effectively, efficiently, economically and transparently;
- (b) that full and proper records of the financial affairs of the entity are kept;
- (c) that the entity has and maintains effective, efficient and transparent systems—
  - (i) of financial and risk management and internal control; and
  - (ii) of internal audit complying with and operating in accordance with any prescribed norms and standards;
- (d) that irregular and fruitless and wasteful expenditure and other losses are prevented;
- (e) that expenditure is in accordance with the operational policies of the entity; and
- (f) that disciplinary or, when appropriate, criminal proceedings, are instituted against any official of the entity who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15.

**96. Asset and liability management.**—(1) The accounting officer of a municipal entity is

responsible for the management of—

- (a) the assets of the entity, including the safeguarding and maintenance of those assets; and
- (b) the liabilities of the entity.

(2) The accounting officer must, for the purposes of subsection (1), take all reasonable steps to ensure that the entity has and maintains—

- (a) a management, accounting and information system that accounts for proper assets and liabilities of the management systems of the municipal entity; and
- (b) a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

**97. Revenue management.**—The accounting officer of a municipal entity must take all reasonable steps to ensure—

- (a) that the entity has and implements effective revenue collection systems to give effect to its budget;
- (b) that all revenue due to the entity is collected;
- (c) that any funds collected by the entity on behalf of a municipality—
  - (i) are transferred to that municipality strictly in accordance with the agreement between the entity the municipality; and
  - (ii) are not used for the purposes of the entity;
- (d) that the municipal entity has effective revenue collection systems consistent with those of the parent municipality;
- (e) that revenue due to the entity is calculated on a monthly basis;
- (f) that accounts for service charges are prepared on a monthly basis, or less often as may be prescribed where monthly accounts are uneconomical;
- (g) that all money received is promptly deposited in accordance with this Act into the municipal entity's bank accounts;
- (h) that the municipal entity has and maintains a management, accounting and information system which—
  - (i) recognises revenue when it is earned;
  - (ii) accounts for debtors; and
  - (iii) accounts for receipts of revenue;
- (i) that the municipal entity has and maintains a system of internal control in respect of debtors and revenue, as may be prescribed; and
- (j) that all revenue received by the municipal entity, including revenue received by any collecting agent on its behalf, is reconciled at least on a weekly basis.

(3) The accounting officer must immediately inform the parent municipality of any payments due by an organ of state to the entity in respect of service charges, if such payments are regularly in arrears for periods of more than 30 days.

**98. Monthly reconciliation of revenue and accounts.**—The accounting officer of a municipal entity must take all reasonable steps to ensure that—

- (a) all revenue received by the entity, including revenue received by any collecting agency on its behalf, is reconciled on a monthly or more regular basis; and
- (b) all accounts of the entity are reconciled each month.

**99. Expenditure management.**—(1) The accounting officer of a municipal entity is responsible for the management of the expenditure of the entity.

(2) The accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure—

- (a) that the entity has and maintains an effective system of expenditure control including procedures for the approval, authorisation, withdrawal and payment of funds;
- (b) that all money owing by the entity is paid within 30 days of receiving the relevant invoice or statement unless prescribed otherwise for certain categories of expenditure;
- (c) that the entity has and maintains a management, accounting and information system which—
  - (i) recognises expenditure when it is incurred;
  - (ii) accounts for creditors of the entity; and
  - (iii) accounts for payments made by the entity;
- (d) that the entity has and maintains a system of internal control in respect of creditors and payments;
- (e) that payments by the entity are made—
  - (i) directly to the person to whom it is due unless agreed otherwise only for reasons as may be prescribed; and
  - (ii) either electronically or by way of non-transferable cheques, provided that cash payments and payments by way of cash cheques may be made for exceptional reasons only, and only up to a prescribed limit;
- (f) that the entity complies with its tax, duty, pension, medical aid, audit fees and other statutory commitments;
- (g) that the entity's available working capital is managed effectively and economically in terms of any prescribed cash management and investment framework; and
- (h) that the entity has and implements a supply chain management policy in accordance with section 111 in a way that is fair, equitable, transparent and cost-effective.

**100. Budget implementation.**—The accounting officer of a municipal entity is responsible for implementing the entity's budget, including taking effective and appropriate steps to ensure that—

- (a) the spending of funds is in accordance with the budget;
- (b) revenue and expenditure are properly monitored; and



- (c) spending is reduced as necessary when revenue is anticipated to be less than projected in the budget.

*Part 4: Reports and reportable matters*

**101. Impending under collection, shortfalls, overspending, overdrafts, and non-payment.**—(1) The accounting officer of a municipal entity must report, in writing, to the board of directors of the entity, at its next meeting, and to the accounting officer of the entity's parent municipality any financial problems of the entity, including—

- (a) any impending or actual—
  - (i) under collection of revenue due;
  - (ii) shortfalls in budgeted revenue;
  - (iii) overspending of the entity's budget;
  - (iv) delay in the entity's payments to any creditors; or
  - (v) overdraft in any bank account of the entity for a period exceeding 21 days; and
- (b) any steps taken to rectify such financial problems.

(2) The accounting officer of the municipality must table a report referred to in subsection (1) in the municipal council at its next meeting.

**102. Irregular or fruitless and wasteful expenditure.**—(1) On discovery of any irregular expenditure or any fruitless and wasteful expenditure, the board of directors of a municipal entity must promptly report, in writing, to the mayor and municipal manager of the entity's parent municipality and the Auditor-General—

- (a) particulars of the expenditure; and
- (b) any steps that have been taken—
  - (i) to recover the expenditure; and
  - (ii) to prevent a recurrence of the expenditure.

(2) The board of directors of a municipal entity must promptly report to the South African Police Service any—

- (a) irregular expenditure that may constitute a criminal offence; and
- (b) other losses suffered by the municipal entity which resulted from suspected criminal conduct.

**103. Reporting of improper interference by councillors.**—The accounting officer of a municipal entity must promptly report to the speaker of the council of the entity's parent municipality any interference by a councillor outside that councillor's assigned duties, in—

- (a) the financial affairs of the municipal entity; or
- (b) the responsibilities of the board of directors of the municipal entity.

**104. General reporting obligations.**—(1) The accounting officer of a municipal entity—

- (a) is, except where otherwise provided in this Act, responsible for the submission by the entity of all reports, returns, notices and other information to the entity's parent municipality, as may be required by this Act; and
- (b) must submit to the accounting officer of the entity's parent municipality, the National Treasury, the relevant provincial treasury, the department of local government in the province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required.

(2) If the accounting officer of a municipal entity is unable to comply with any of the responsibilities in terms of this Act, he or she must promptly report the inability, together with reasons, to the council of the entity's parent municipality.

*Part 5: Other officials of municipal entities*

**105. Duties of other officials.**—(1) Each official of a municipal entity exercising financial management responsibilities must take all reasonable steps within that official's area of responsibility to ensure—

- (a) that the system of financial management and internal control established for the entity is carried out diligently;
- (b) that the financial and other resources of the entity are utilised effectively, efficiently, economically and transparently;
- (c) that any irregular expenditure, fruitless and wasteful expenditure and other losses are prevented;
- (d) that all revenue due to the entity is collected;
- (e) that the provisions of this Act to the extent applicable to that official, including any delegations in terms of section 106, are complied with; and
- (f) that the assets and liabilities of the entity are managed effectively, and that assets are safeguarded and maintained to the extent necessary.

(2) An official of a municipal entity must perform the functions referred to in subsection (1) subject to the directions of the accounting officer of the entity.

**106. Delegation of powers and duties by accounting officers.**—(1) The accounting officer of a municipal entity—

- (a) may delegate to an official of that entity—
  - (i) any of the powers or duties assigned or delegated to the accounting officer in terms of this Act; or
  - (ii) any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of this Act; and
- (b) must regularly review delegations issued in terms of paragraph (a) and, if necessary, amend or withdraw any of those delegations.

(2) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to any limitations and conditions the accounting officer may impose;
- (c) may be either to a specific individual or to the holder of a specific post in the municipal entity; and
- (d) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) An accounting officer may confirm, vary or revoke any decision taken by an official in consequence of a delegation in terms of subsection (1), but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

**107. Competency levels of professional financial officials.**—The accounting officer, senior managers, any chief financial officer and all other financial officials of a municipal entity must meet the prescribed financial management competency levels.

(Date of commencement: 1 July, 2006.)

*Part 6: General*

**108. Borrowing of money.**—(1) A municipal entity may borrow money, but only in accordance with—

- (a) the entity’s multi-year business plan referred to in section 87 (5) (d); and
- (b) the provisions of Chapter 6 to the extent that those provisions can be applied to a municipal entity.

(2) In applying Chapter 6 to a municipal entity, a reference in that Chapter to a municipality, a municipal council or an accounting officer must be read as referring to a municipal entity, the board of directors of a municipal entity or the accounting officer of a municipal entity, respectively.

**109. Financial problems in municipal entities.**—If a municipal entity experiences serious or persistent financial problems and the board of directors of the entity fails to act effectively, the parent municipality must either—

- (a) take appropriate steps in terms of its rights and powers over that entity, including its rights and powers in terms of any relevant service delivery or other agreement;
- (b) impose a financial recovery plan, which must meet the same criteria set out in section 142 for a municipal financial recovery plan; or
- (c) liquidate and disestablish the entity.

CHAPTER 11  
GOODS AND SERVICES

*Part 1: Supply chain management*

**110. Application of this Part.**—(1) This Part, subject to subsection (2), applies to—

- (a) the procurement by a municipality or municipal entity of goods and services;

- (b) the disposal by a municipality or municipal entity of goods no longer needed;
- (c) the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; and
- (d) the selection of external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(2) This Part, except where specifically provided otherwise, does not apply if a municipality or municipal entity contracts with another organ of state for—

- (a) the provision of goods or services to the municipality or municipal entity;
- (b) the provision of a municipal service or assistance in the provision of a municipal service; or
- (c) the procurement of goods and services under a contract secured by that other organ of state, provided that the relevant supplier has agreed to such procurement.

(3) The disposal of goods by a municipality or municipal entity in terms of this Part must be read with sections 14 and 90.

(Date of commencement of s. 110: 1 December, 2004.)

**111. Supply chain management policy.**—Each municipality and each municipal entity must have and implement a supply chain management policy which gives effect to the provisions of this Part.

(Date of commencement: 1 December, 2004.)

**112. Supply chain management policy to comply with prescribed framework.**—(1) The supply chain management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive and cost-effective and comply with a prescribed regulatory framework for municipal supply chain management, which must cover at least the following:

- (a) The range of supply chain management processes that municipalities and municipal entities may use, including tenders, quotations, auctions and other types of competitive bidding;
- (b) when a municipality or municipal entity may or must use a particular type of process;
- (c) procedures and mechanisms for each type of process;
- (d) procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount;
- (e) open and transparent pre-qualification processes for tenders or other bids;
- (f) competitive bidding processes in which only pre-qualified persons may participate;
- (g) bid documentation, advertising of and invitations for contracts;
- (h) procedures and mechanisms for—
  - (i) the opening, registering and recording of bids in the presence of interested persons;
  - (ii) the evaluation of bids to ensure best value for money;

- (iii) negotiating the final terms of contracts; and
- (iv) the approval of bids;
- (i) screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;
- (j) compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders and the exclusion of such prospective contractors from those tenders or bids;
- (k) participation in the supply chain management system of persons who are not officials of the municipality or municipal entity, subject to section 117;
- (l) the barring of persons from participating in tendering or other bidding processes, including persons—
  - (i) who were convicted for fraud or corruption during the past five years;
  - (ii) who wilfully neglected, reneged on or failed to comply with a government contract during the past five years; or
  - (iii) whose tax matters are not cleared by South African Revenue Service;
- (m) measures for—
  - (i) combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and
  - (ii) promoting ethics of officials and other role players involved in municipal supply chain management;
- (n) the invalidation of recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by—
  - (i) councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors set out in Schedule 1 to the Municipal Systems Act; or
  - (ii) municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 to that Act;
- (o) the procurement of goods and services by municipalities or municipal entities through contracts procured by other organs of state;
- (p) contract management and dispute settling procedures; and
- (q) the delegation of municipal supply chain management powers and duties, including to officials.

(2) The regulatory framework for municipal supply chain management must be fair, equitable, transparent, competitive and cost-effective.

(Date of commencement of s. 112: 1 December, 2004.)

**113. Unsolicited bids.**—(1) A municipality or municipal entity is not obliged to consider an unsolicited bid received outside its normal bidding process.

(2) If a municipality or municipal entity decides to consider an unsolicited bid received outside a

normal bidding process, it may do so only in accordance with a prescribed framework.

(3) The framework must strictly regulate and limit the power of municipalities and municipal entities to approve unsolicited bids received outside their normal tendering or other bidding processes.

(Date of commencement of s. 113: 1 December, 2004.)

**114. Approval of tenders not recommended.**—(1) If a tender other than the one recommended in the normal course of implementing the supply chain management policy of a municipality or municipal entity is approved, the accounting officer of the municipality or municipal entity must, in writing, notify the Auditor-General, the relevant provincial treasury and the National Treasury and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

(2) Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.

(Date of commencement of s. 114: 1 December, 2004.)

**115. Implementation of system.**—(1) The accounting officer of a municipality or municipal entity must—

- (a) implement the supply chain management policy of the municipality or municipal entity; and
- (b) take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.

(2) No person may impede the accounting officer in fulfilling this responsibility.

(Date of commencement of s. 115: 1 December, 2004.)

**116. Contracts and contract management.**—(1) A contract or agreement procured through the supply chain management system of a municipality or municipal entity must—

- (a) be in writing;
- (b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for—
  - (i) the termination of the contract or agreement in the case of non- or under-performance;
  - (ii) dispute resolution mechanisms to settle disputes between the parties;
  - (iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
  - (iv) any other matters that may be prescribed.

(2) The accounting officer of a municipality or municipal entity must—

- (a) take all reasonable steps to ensure that a contract or agreement procured through the supply chain management policy of the municipality or municipal entity is properly enforced;
- (b) monitor on a monthly basis the performance of the contractor under the contract or agreement;
- (c) establish capacity in the administration of the municipality or municipal entity—

- (i) to assist the accounting officer in carrying out the duties set out in paragraphs (a) and (b); and
- (ii) to oversee the day-to-day management of the contract or agreement; and
- (d) regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor.

(3) A contract or agreement procured through the supply chain management policy of the municipality or municipal entity may be amended by the parties, but only after—

- (a) the reasons for the proposed amendment have been tabled in the council of the municipality or, in the case of a municipal entity, in the council of its parent municipality; and
- (b) the local community—
  - (i) has been given reasonable notice of the intention to amend the contract or agreement; and
  - (ii) has been invited to submit representations to the municipality or municipal entity.

(Date of commencement of s. 116: 1 December, 2004.)

**117. Councillors barred from serving on municipal tender committees.**—No councillor of any municipality may be a member of a municipal bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer.

**118. Interference.**—No person may—

- (a) interfere with the supply chain management system of a municipality or municipal entity; or
- (b) amend or tamper with any tenders, quotations, contracts or bids after their submission.

**119. Competency levels of officials involved in municipal supply chain management.**—(1) The accounting officer and all other officials of a municipality or municipal entity involved in the implementation of the supply chain management policy of the municipality or municipal entity must meet the prescribed competency levels.

(2) A municipality and a municipal entity must for the purposes of subsection (1) provide resources or opportunities for the training of officials referred to in that subsection to meet the prescribed competency levels.

(3) The National Treasury or a provincial treasury may assist municipalities and municipal entities in the training of officials referred to in subsection (1).

(Date of commencement of s. 119: 1 July, 2006.)

*Part 2: Public-private partnerships*

**120. Conditions and process for public-private partnerships.**—(1) A municipality may enter into a public-private partnership agreement, but only if the municipality can demonstrate that the agreement will—

- (a) provide value for money to the municipality;
- (b) be affordable for the municipality; and
- (c) transfer appropriate technical, operational and financial risk to the private party.

(2) A public-private partnership agreement must comply with any prescribed regulatory framework for public-private partnerships.

(3) If the public-private partnership involves the provision of a municipal service, Chapter 8 of the Municipal Systems Act must also be complied with.

(4) Before a public-private partnership is concluded, the municipality must conduct a feasibility study that—

- (a) explains the strategic and operational benefits of the public-private partnership for the municipality in terms of its objectives;
- (b) describes in specific terms—
  - (i) the nature of the private party's role in the public-private partnership;
  - (ii) the extent to which this role, both legally and by nature, can be performed by a private party; and
  - (iii) how the proposed agreement will—
    - (aa) provide value for money to the municipality;
    - (bb) be affordable for the municipality;
    - (cc) transfer appropriate technical, operational and financial risks to the private party; and
    - (dd) impact on the municipality's revenue flows and its current and future budgets;
- (c) takes into account all relevant information; and
- (d) explains the capacity of the municipality to effectively monitor, manage and enforce the agreement.

(5) The national government may assist municipalities in carrying out and assessing feasibility studies referred to in subsection (4).

(6) When a feasibility study has been completed, the accounting officer of the municipality must—

- (a) submit the report on the feasibility study together with all other relevant documents to the council for a decision, in principle, on whether the municipality should continue with the proposed public-private partnership;
- (b) at least 60 days prior to the meeting of the council at which the matter is to be considered, in accordance with section 21A of the Municipal Systems Act—
  - (i) make public particulars of the proposed public-private partnership, including the report on the feasibility study; and
  - (ii) invite the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed public-private partnership; and



- (c) solicit the views and recommendations of—
  - (i) the National Treasury;
  - (ii) the national department responsible for local government;
  - (iii) if the public-private partnership involves the provision of water, sanitation, electricity or any other service as may be prescribed, the responsible national department; and
  - (iv) any other national or provincial organ of state as may be prescribed.

(7) Part 1 of this Chapter applies to the procurement of public-private partnership agreements. Section 33 also applies if the agreement will have multi-year budgetary implications for the municipality within the meaning of that section.

(Date of commencement of s. 120: 1 December, 2004.)

## CHAPTER 12 FINANCIAL REPORTING AND AUDITING

**121. Preparation and adoption of annual reports.**—(1) Every municipality and every municipal entity must for each financial year prepare an annual report in accordance with this Chapter. The council of a municipality must within nine months after the end of a financial year deal with the annual report of the municipality and of any municipal entity under the municipality's sole or shared control in accordance with section 129.

- (2) The purpose of an annual report is—
  - (a) to provide a record of the activities of the municipality or municipal entity during the financial year to which the report relates;
  - (b) to provide a report on performance against the budget of the municipality or municipal entity for that financial year; and
  - (c) to promote accountability to the local community for the decisions made throughout the year by the municipality or municipal entity.
- (3) The annual report of a municipality must include—
  - (a) the annual financial statements of the municipality, and in addition, if section 122 (2) applies, consolidated annual financial statements, as submitted to the Auditor-General for audit in terms of section 126 (1);
  - (b) the Auditor-General's audit report in terms of section 126 (3) on those financial statements;
  - (c) the annual performance report of the municipality prepared by the municipality in terms of section 46 of the Municipal Systems Act;
  - (d) the Auditor-General's audit report in terms of section 45 (b) of the Municipal Systems Act;
  - (e) an assessment by the municipality's accounting officer of any arrears on municipal taxes and service charges;
  - (f) an assessment by the municipality's accounting officer of the municipality's performance against the measurable performance objectives referred to in section 17 (3) (b) for revenue

collection from each revenue source and for each vote in the municipality's approved budget for the relevant financial year;

- (g) particulars of any corrective action taken or to be taken in response to issues raised in the audit reports referred to in paragraphs (b) and (d);
- (h) any explanations that may be necessary to clarify issues in connection with the financial statements;
- (i) any information as determined by the municipality;
- (j) any recommendations of the municipality's audit committee; and
- (k) any other information as may be prescribed.

(4) The annual report of a municipal entity must include—

- (a) the annual financial statements of the entity, as submitted to the Auditor-General for audit in terms of section 126 (2);
- (b) the Auditor-General's audit report in terms of section 126 (3) on those financial statements;
- (c) an assessment by the entity's accounting officer of any arrears on municipal taxes and service charges;
- (d) an assessment by the entity's accounting officer of the entity's performance against any measurable performance objectives set in terms the service delivery agreement or other agreement between the entity and its parent municipality;
- (e) particulars of any corrective action taken or to be taken in response to issues raised in the audit report referred to in paragraph (b);
- (f) any information as determined by the entity or its parent municipality;
- (g) any recommendations of the audit committee of the entity or of its parent municipality; and
- (h) any other information as may be prescribed.

**122. Preparation of financial statements.**—(1) Every municipality and every municipal entity must for each financial year prepare annual financial statements which—

- (a) fairly presents the state of affairs of the municipality or entity, its performance against its budget, its management of revenue, expenditure, assets and liabilities, its business activities, its financial results, and its financial position as at the end of the financial year; and
- (b) disclose the information required in terms of sections 123, 124 and 125.

(2) A municipality which has sole control of a municipal entity, or which has effective control within the meaning of the Municipal Systems Act of a municipal entity which is a private company, must in addition to complying with subsection (1), prepare consolidated annual financial statements incorporating the annual financial statements of the municipality and of such entity. Such consolidated annual financial statements must comply with any requirements as may be prescribed.

(3) Both annual financial statements and consolidated annual financial statements must be prepared in accordance with generally recognised accounting practice prescribed in terms of section

91 (1) (b) of the Public Finance Management Act.

**123. Disclosures on intergovernmental and other allocations.**—(1) The annual financial statements of a municipality must disclose information on—

- (a) any allocations received by the municipality from—
  - (i) an organ of state in the national or provincial sphere of government; or
  - (ii) a municipal entity or another municipality;
- (b) any allocations made by the municipality to—
  - (i) a municipal entity or another municipality; or
  - (ii) any other organ of state;
- (c) how any allocations referred to in paragraph (a) were spent, per vote, excluding allocations received by the municipality as its portion of the equitable share or where prescribed otherwise because of the nature of the allocation;
- (d) whether the municipality has complied with the conditions of—
  - (i) any allocations made to the municipality in terms of section 214 (1) (c) of the Constitution; and
  - (ii) any allocations made to the municipality other than by national organs of state;
- (e) the reasons for any non-compliance with conditions referred to in paragraph (d); and
- (f) whether funds destined for the municipality in terms of the annual Division of Revenue Act were delayed or withheld, and the reasons advanced to the municipality for such delay or withholding.

(2) The annual financial statements of a municipal entity must disclose information on—

- (a) any allocations received by the entity from any municipality or other organ of state;
- (b) any allocations made by the entity to a municipality or other organ of state; and
- (c) any other information as may be prescribed.

(Date of commencement of s. 123: 1 July, 2005.)

**124. Disclosures concerning councillors, directors and officials.**—(1) The notes to the annual financial statements of a municipality must include particulars of—

- (a) the salaries, allowances and benefits of political office-bearers and councillors of the municipality, whether financial or in kind, including a statement by the accounting officer whether or not those salaries, allowances and benefits are within the upper limits of the framework envisaged in section 219 of the Constitution;
- (b) any arrears owed by individual councillors to the municipality, or a municipal entity under its sole or shared control, for rates or services and which at any time during the relevant financial year were outstanding for more than 90 days, including the names of those councillors; and
- (c) the salaries, allowances and benefits of the municipal manager, the chief financial officer, every senior manager and such categories of other officials as may be prescribed.

(2) The notes to the annual financial statements of a municipal entity must include particulars of the salaries, allowances and benefits of—

- (a) the members of the board of directors of the entity; and
- (b) the chief executive officer of the entity, every senior manager and such categories of other officials as may be prescribed.

**125. Other compulsory disclosures.**—(1) The notes to the financial statements of a municipality must include—

- (a) a list of all municipal entities under the sole or shared control of the municipality during the financial year and as at the last day of the financial year;
- (b) the total amount of contributions to organised local government for the financial year, and the amount of any contributions outstanding as at the end of the financial year; and
- (c) the total amounts paid in audit fees, taxes, levies, duties and pension and medical aid contributions, and whether any amounts were outstanding as at the end of the financial year.

(2) The notes to the annual financial statements of a municipality or municipal entity must disclose the following information:

- (a) In respect of each bank account held by the municipality or entity during the relevant financial year—
  - (i) the name of the bank where the account is or was held, and the type of account; and
  - (ii) year opening and year end balances in each of these bank accounts;
- (b) a summary of all investments of the municipality or entity as at the end of the financial year;
- (c) particulars of any contingent liabilities of the municipality or entity as at the end of the financial year;
- (d) particulars of—
  - (i) any material losses and any material irregular or fruitless and wasteful expenditures, including in the case of a municipality, any material unauthorised expenditure, that occurred during the financial year, and whether these are recoverable;
  - (ii) any criminal or disciplinary steps taken as a result of such losses or such unauthorised, irregular or fruitless and wasteful expenditures; and
  - (iii) any material losses recovered or written off;
- (e) particulars of non-compliance with this Act; and
- (f) any other matters that may be prescribed.

**126. Submission and auditing of annual financial statements.**—(1) The accounting officer of a municipality—

- (a) must prepare the annual financial statements of the municipality and, within two months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing; and

- (b) must in addition, in the case of a municipality referred to in section 122 (2), prepare consolidated annual financial statements in terms of that section and, within three months after the end of the financial year to which those statements relate, submit the statements to the Auditor-General for auditing.

(2) The accounting officer of a municipal entity must prepare the annual financial statements of the entity and, within two months after the end of the financial year to which those statements relate, submit the statements to—

- (a) the parent municipality of the entity; and
- (b) the Auditor-General, for auditing.

(3) The Auditor-General must—

- (a) audit those financial statements; and
- (b) submit an audit report on those statements to the accounting officer of the municipality or entity within three months of receipt of the statements.

(4) If the Auditor-General is unable to complete an audit within three months of receiving the financial statements from an accounting officer, the Auditor-General must promptly submit a report outlining the reasons for the delay to the relevant municipality or municipal entity and to the relevant provincial legislature and Parliament.

(5) Once the Auditor-General has submitted an audit report to the accounting officer, no person other than the Auditor-General may alter the audit report or the financial statements to which the audit report relates.

(Date of commencement of s. 126: 1 July, 2005.)

**127. Submission and tabling of annual reports.**—(1) The accounting officer of a municipal entity must, within six months after the end of a financial year, or on such earlier date as may be agreed between the entity and its parent municipality, submit the entity's annual report for that financial year to the municipal manager of the entity's parent municipality.

(2) The mayor of a municipality must, within seven months after the end of a financial year, table in the municipal council the annual report of the municipality and of any municipal entity under the municipality's sole or shared control.

(3) If the mayor, for whatever reason, is unable to table in the council the annual report of the municipality, or the annual report of any municipal entity under the municipality's sole or shared control, within seven months after the end of the financial year to which the report relates, the mayor must—

- (a) promptly submit to the council a written explanation referred to in section 133 (1) (a) setting out the reasons for the delay, together with any components of the annual report listed in section 121 (3) or (4) that are ready; and
- (b) submit to the council the outstanding annual report or the outstanding components of the annual report as soon as may be possible.

(4) The Auditor-General may submit the financial statements and audit report—

- (a) of a municipality directly to the municipal council, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the mayor fails to comply with subsection (2) or (3); or

- (b) of a municipal entity directly to the parent municipality, the National Treasury, the relevant provincial treasury, the MEC responsible for local government in the province and any prescribed organ of state, if the accounting officer of the entity fails to comply with subsection (1).

(5) Immediately after an annual report is tabled in the council in terms of subsection (2), the accounting officer of the municipality must—

- (a) in accordance with section 21A of the Municipal Systems Act—
  - (i) make public the annual report; and
  - (ii) invite the local community to submit representations in connection with the annual report; and
- (b) submit the annual report to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.

(6) Subsection (5), with the necessary modifications as the context may require, is also applicable if only components of the annual report are tabled in terms of subsection (3).

(Date of commencement of s. 127: 1 July, 2005.)

**128. Compliance to be monitored.**—The accounting officer of a parent municipality must—

- (a) monitor whether the accounting officer of any municipal entity under the sole or shared control of the municipality has complied with sections 121 (1) and 126 (2);
- (b) establish the reasons for any non-compliance; and
- (c) promptly report any non-compliance, together with the reasons for such non-compliance, to the council of the parent municipality, the relevant provincial treasury and the Auditor-General.

(Date of commencement of s. 128: 1 July, 2005.)

**129. Oversight reports on annual reports.**—(1) The council of a municipality must consider the annual report of the municipality and of any municipal entity under the municipality's sole or shared control, and by no later than two months from the date on which the annual report was tabled in the council in terms of section 127, adopt an oversight report containing the council's comments on the annual report, which must include a statement whether the council—

- (a) has approved the annual report with or without reservations;
- (b) has rejected the annual report; or
- (c) has referred the annual report back for revision of those components that can be revised.

(2) The accounting officer must—

- (a) attend council and council committee meetings where the annual report is discussed, for the purpose of responding to questions concerning the report; and
- (b) submit copies of the minutes of those meetings to the Auditor-General, the relevant provincial treasury and the provincial department responsible for local government in the province.

(3) The accounting officer must in accordance with section 21A of the Municipal Systems Act

make public an oversight report referred to in subsection (1) within seven days of its adoption.

(4) The National Treasury may issue guidelines on—

- (a) the manner in which municipal councils should consider annual reports and conduct public hearings; and
- (b) the functioning and composition of any public accounts or oversight committees established by the council to assist it to consider an annual report.

(5) No guidelines issued in terms of subsection (4) are binding on a municipal council unless adopted by the council.

(6) This section, with the necessary modifications as the context may require, is also applicable if only components of the annual report were tabled in terms of section 127 (3).

(Date of commencement of s. 129: 1 July, 2005.)

**130. Council meetings open to public and certain public officials.**—(1) The meetings of a municipal council at which an annual report is to be discussed or at which decisions concerning an annual report are to be taken, must be open to the public and any organs of state, and a reasonable time must be allowed—

- (a) for the discussion of any written submissions received from the local community or organs of state on the annual report; and
- (b) for members of the local community or any organs of state to address the council.

(2) Representatives of the Auditor-General are entitled to attend, and to speak at, any council meeting referred to in subsection (1).

(3) This section, with the necessary modifications as the context may require, is also applicable if only components of the annual report were tabled in terms of section 127 (3).

(Date of commencement of s. 130: 1 July, 2005.)

**131. Issues raised by Auditor-General in audit reports.**—(1) A municipality must address any issues raised by the Auditor-General in an audit report. The mayor of a municipality must ensure compliance by the municipality with this subsection.

(2) The MEC for local government in the province must—

- (a) assess all annual financial statements of municipalities in the province, the audit reports on such statements and any responses of municipalities to such audit reports, and determine whether municipalities have adequately addressed any issues raised by the Auditor-General in audit reports; and
- (b) report to the provincial legislature any omission by a municipality to adequately address those issues within 60 days.

(Date of commencement of s. 131: 1 July, 2005.)

**132. Submissions to provincial legislatures.**—(1) The following documents must be submitted to the provincial legislature:

- (a) The annual report of each municipality and each municipal entity in the province, or if only components of an annual report were tabled in terms of section 127 (3), those components; and

(b) all oversight reports on those annual reports adopted in terms of section 129 (1).

(2) The accounting officer of a municipality must submit the documents referred to in subsection (1) (a) and (b) to the provincial legislature within seven days after the municipal council has adopted the relevant oversight report in terms of section 129 (1).

(3) The MEC for local government in a province must monitor whether municipalities in the province comply with subsection (2).

(4) A provincial legislature may deal with the documents referred to it in terms of subsection (1) in accordance with its constitutional powers.

(5) The National Treasury may issue guidelines on the manner in which provincial legislatures should consider the annual reports of municipalities. No guidelines issued in terms of this subsection are binding on a provincial legislature unless adopted by the legislature.

(Date of commencement of s. 132: 1 July, 2005.)

**133. Consequences of non-compliance with certain provisions.**—(1) If the accounting officer of a municipality or municipal entity fails to submit financial statements to the Auditor-General in accordance with section 126 (1) or (2), or if the mayor fails to table the annual report of the municipality or a municipal entity in the council in accordance with section 127 (2)—

(a) the mayor must promptly table in the council a written explanation setting out the reasons for the failure;

(b) the Auditor-General, in the case of any failure to submit financial statements for auditing, must promptly—

(i) inform the speaker of the council, the National Treasury and the MEC for local government and the MEC for finance in the province of such failure; and

(ii) issue a special report on the failure to the relevant provincial legislature; and

(c) the municipal council—

(i) must request the speaker or any other councillor to investigate the reasons for the failure and report to the council;

(ii) must take appropriate steps to ensure that the financial statements are submitted to the Auditor-General or that the annual report, including the financial statements and the audit report on those statements, is tabled in the council, as the case may be; and

(iii) may order that disciplinary steps be taken against the accounting officer or other person responsible for the failure;

(d) the provincial executive may intervene in the municipality in terms of section 139 of the Constitution;

(e) the National Treasury may take appropriate steps against the municipality in terms of section 5 (2) (e); and

(f) the provincial treasury may take appropriate steps against the municipality in terms of section 5 (4) (d).

(2) The Auditor-General must submit to Parliament and the provincial legislatures—

(a) by no later than 31 October of each year, the names of any municipalities or municipal



entities which have failed to submit their financial statements to the Auditor-General in terms of section 126; and

- (b) at quarterly intervals thereafter, the names of any municipalities or municipal entities whose financial statements are still outstanding at the end of each interval.

(Date of commencement of s. 133: 1 July, 2005.)

**134. Annual report to Parliament.**—The Cabinet member responsible for local government must, as part of the report referred to in section 48 of the Municipal Systems Act, annually report to Parliament on actions taken by MECs for local government to address issues raised by the Auditor-General in audit reports on financial statements of municipalities and municipal entities.

(Date of commencement: 1 July, 2005.)

## CHAPTER 13 RESOLUTION OF FINANCIAL PROBLEMS

### *Part 1: Identification of financial problems*

**135. Primary responsibility for resolution of financial problems.**—(1) The primary responsibility to avoid, identify and resolve financial problems in a municipality rests with the municipality itself.

- (2) A municipality must meet its financial commitments.

(3) If a municipality encounters a serious financial problem or anticipates problems in meeting its financial commitments, it must immediately—

- (a) seek solutions for the problem;
- (b) notify the MEC for local government and the MEC for finance in the province; and
- (c) notify organised local government.

(Date of commencement of s. 135: 1 July, 2005.)

### *Part 2: Provincial interventions*

**136. Types of provincial interventions.**—(1) If the MEC for local government in a province becomes aware that there is a serious financial problem in a municipality, the MEC must promptly—

- (a) consult the mayor of the municipality to determine the facts;
- (b) assess the seriousness of the situation and the municipality's response to the situation; and
- (c) determine whether the situation justifies or requires an intervention in terms of section 139 of the Constitution.

(2) If the financial problem has been caused by or resulted in a failure by the municipality to comply with an executive obligation in terms of legislation or the Constitution, and the conditions for an intervention in terms of section 139 (1) of the Constitution are met, the provincial executive must promptly decide whether or not to intervene in the municipality. If the provincial executive decides to intervene, section 137 applies.

- (3) If the municipality has failed to approve a budget or any revenue-raising measures necessary to

give effect to the budget, as a result of which the conditions for an intervention in terms of section 139 (4) of the Constitution are met, the provincial executive must intervene in the municipality in accordance with section 26.

(4) If the municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, as a result of which the conditions for an intervention in terms of section 139 (5) of the Constitution are met, the provincial executive must intervene in the municipality in accordance with section 139.

(Date of commencement of s. 136: 1 July, 2005.)

**137. Discretionary provincial interventions.**—(1) If the conditions for a provincial intervention in a municipality in terms of section 139 (1) of the Constitution are met and the provincial executive decides in terms of section 136 (2) of this Act to intervene in the municipality, the provincial executive may take any appropriate steps referred to in section 139 (1) of the Constitution, including—

- (a) assessing the seriousness of the financial problem in the municipality;
- (b) seeking solutions to resolve the financial problem in a way that would be sustainable and would build the municipality's capacity to manage its own financial affairs;
- (c) determining whether the financial problem, singly or in combination with other problems, is sufficiently serious or sustained that the municipality would benefit from a financial recovery plan and, if so, requesting any suitably qualified person—
  - (i) to prepare an appropriate financial recovery plan for the municipality;
  - (ii) to recommend appropriate changes to the municipality's budget and revenue-raising measures that will give effect to the recovery plan; and
  - (iii) to submit the recovery plan and any recommendations referred to in subparagraphs (i) and (ii) to the MEC for local government in the province within a period determined by the MEC; and
- (d) consulting the mayor of the municipality to obtain the municipality's co-operation in resolving the financial problem, and if applicable, implementing the financial recovery plan.

(2) The MEC must submit any assessment in terms of subsection (1) (a), any determination in terms of subsection (1) (c) and a copy of any request in terms of subsection (1) (c), to the municipality and the Cabinet member responsible for local government.

(3) This section does not apply to a provincial intervention which is unrelated to a financial problem in a municipality.

(Date of commencement of s. 137: 1 July, 2005.)

**138. Criteria for determining serious financial problems.**—When determining for the purposes of section 137 the seriousness of a financial problem, all relevant facts must be considered, and the following factors, singly or in combination, may indicate a serious financial problem:

- (a) The municipality has failed to make payments as and when due;
- (b) the municipality has defaulted on financial obligations for financial reasons;
- (c) the actual current expenditure of the municipality has exceeded the sum of its actual

- current revenue plus available surpluses for at least two consecutive financial years;
- (d) the municipality had an operating deficit in excess of five per cent of revenue in the most recent financial year for which financial information is available;
- (e) the municipality is more than 60 days late in submitting its annual financial statements to the Auditor-General in accordance with section 126;
- (f) the Auditor-General has withheld an opinion or issued a disclaimer due to inadequacies in the financial statements or records of the municipality, or has issued an opinion which identifies a serious financial problem in the municipality;
- (g) any of the above conditions exists in a municipal entity under the municipality's sole control, or in a municipal entity for whose debts the municipality may be responsible, and the municipality has failed to intervene effectively; or
- (h) any other material condition exists which indicates that the municipality, or a municipal entity under the municipality's sole control, is likely to be unable for financial reasons to meet its obligations.

(Date of commencement of s. 138: 1 July, 2005.)

**139. Mandatory provincial interventions arising from financial crises.**—(1) If a municipality, as a result of a crisis in its financial affairs, is in serious or persistent material breach of its obligations to provide basic services or to meet its financial commitments, or admits that it is unable to meet its obligations or financial commitments, the provincial executive must promptly—

- (a) request the Municipal Financial Recovery Service—
  - (i) to determine the reasons for the crisis in its financial affairs;
  - (ii) to assess the municipality's financial state;
  - (iii) to prepare an appropriate recovery plan for the municipality;
  - (iv) to recommend appropriate changes to the municipality's budget and revenue-raising measures that will give effect to the recovery plan; and
  - (v) to submit to the MEC for finance in the province—
    - (aa) the determination and assessment referred to in subparagraphs (i) and (ii) as a matter of urgency; and
    - (bb) the recovery plan and recommendations referred to in subparagraphs (iii) and (iv) within a period, not to exceed 90 days, determined by the MEC for finance; and
- (b) consult the mayor of the municipality to obtain the municipality's co-operation in implementing the recovery plan, including the approval of a budget and legislative measures giving effect to the recovery plan.

(2) The MEC for finance in the province must submit a copy of any request in terms of subsection (1) (a) and of any determination and assessment received in terms of subsection (1) (a) (v) (aa) to—

- (a) the municipality;
- (b) the Cabinet member responsible for local government; and
- (c) the Minister.

(3) An intervention referred to in subsection (1) supersedes any discretionary provincial intervention referred to in section 137, provided that any financial recovery plan prepared for the discretionary intervention must continue until replaced by a recovery plan for the mandatory intervention.

(Date of commencement of s. 139: 1 July, 2005.)

**140. Criteria for determining serious or persistent material breach of financial commitments.**—(1) When determining whether the conditions for a mandatory intervention referred to in section 139 are met, all relevant facts must be considered.

(2) The following factors, singly or in combination, may indicate that a municipality is in serious material breach of its obligations to meet its financial commitments:

- (a) The municipality has failed to make any payment to a lender or investor as and when due;
- (b) the municipality has failed to meet a contractual obligation which provides security in terms of section 48;
- (c) the municipality has failed to make any other payment as and when due, which individually or in the aggregate is more than an amount as may be prescribed or, if none is prescribed, more than two per cent of the municipality's budgeted operating expenditure; or
- (d) the municipality's failure to meet its financial commitments has impacted, or is likely to impact, on the availability or price of credit to other municipalities.

(3) Any recurring or continuous failure by a municipality to meet its financial commitments which substantially impairs the municipality's ability to procure goods, services or credit on usual commercial terms, may indicate that the municipality is in persistent material breach of its obligations to meet its financial commitments.

(4) Subsections (2) and (3) do not apply to—

- (a) disputed obligations as to which there are pending legal actions between the municipality and the creditor, provided that such actions are not instituted to avoid an intervention; or
- (b) obligations explicitly waived by the creditor.

(Date of commencement of s. 140: 1 July, 2005.)

**141. Preparation of financial recovery plans.**—(1) Any suitably qualified person may, on request by the provincial executive, prepare a financial recovery plan for a discretionary provincial intervention referred to in section 137.

(2) Only the Municipal Financial Recovery Service may prepare a financial recovery plan for a mandatory provincial intervention referred to in section 139.

(3) When preparing a financial recovery plan, the person referred to in subsection (1) or the Municipal Financial Recovery Service must—

- (a) consult—
  - (i) the relevant municipality;
  - (ii) the municipality's principal suppliers and creditors, to the extent they can reasonably be contacted;
  - (iii) the MEC for finance and the MEC for local government in the province; and

- (iv) organised labour;
- (b) take into account—
  - (i) any financial recovery plan that has previously been prepared for the municipality; and
  - (ii) any proposed financial recovery plan, or proposals for a financial recovery plan, that may be advanced by the municipality or any creditor of the municipality; and
- (c) at least 14 days before finalising the plan—
  - (i) submit the plan for comment to—
    - (aa) the municipality;
    - (bb) the MEC for finance and the MEC for local government in the province;
    - (cc) organised local government in the province;
    - (dd) organised labour; and
    - (ee) any supplier or creditor of the municipality, on request; and
  - (ii) publish a notice in a newspaper of general circulation in the municipality—
    - (aa) stating the place, including any website address, where copies of the plan will be available to the public free of charge or at a reasonable price; and
    - (bb) inviting the local community to submit written comments in respect of the plan.

(4) The person charged with preparing the financial recovery plan or the Municipal Financial Recovery Service must—

- (a) consider any comments received pursuant to subsection (3) (c);
- (b) finalise the financial recovery plan; and
- (c) submit the final plan to the MEC for finance in the province for approval in terms of section 143.

(Date of commencement of s. 141: 1 July, 2005.)

**142. Criteria for financial recovery plans.**—(1) A financial recovery plan must be aimed at securing the municipality's ability to meet its obligations to provide basic services or its financial commitments, and such a plan, whether for a mandatory or discretionary intervention—

- (a) must—
  - (i) identify the financial problems of the municipality;
  - (ii) be designed to place the municipality in a sound and sustainable financial condition as soon as possible;
  - (iii) state the principal strategic objectives of the plan, and ways and means for achieving those objectives;
  - (iv) set out a specific strategy for addressing the municipality's financial problems, including a strategy for reducing unnecessary expenditure and increasing the collection of revenue, as may be necessary;

- (v) identify the human and financial resources needed to assist in resolving financial problems, and where those resources are proposed to come from;
  - (vi) describe the anticipated time frame for financial recovery, and milestones to be achieved; and
  - (vii) identify what actions are necessary for the implementation of the plan, distinguishing between actions to be taken by the municipality and actions to be taken by other parties; and
- (b) may—
- (i) provide for the liquidation of specific assets, excluding those needed for the provision of the minimum level of basic municipal services;
  - (ii) provide for debt restructuring or debt relief in accordance with Part 3 of this Chapter;
  - (iii) provide for special measures to prevent unauthorised, irregular and fruitless and wasteful expenditures and other losses; and
  - (iv) identify any actual and potential revenue sources.
- (2) In addition, a financial recovery plan—
- (a) for a mandatory intervention must—
- (i) set spending limits and revenue targets;
  - (ii) provide budget parameters which bind the municipality for a specified period or until stated conditions have been met; and
  - (iii) identify specific revenue-raising measures that are necessary for financial recovery, including the rate at which any municipal tax and tariffs must be set to achieve financial recovery; and
- (b) for a discretionary intervention may suggest for adoption by the municipality—
- (i) spending limits and revenue targets;
  - (ii) budget parameters for a specified period or until stated conditions have been met; and
  - (iii) specific revenue-raising measures that are necessary for financial recovery.

(Date of commencement of s. 142: 1 July, 2005.)

**143. Approval of financial recovery plans.**—(1) On receipt of a financial recovery plan pursuant to a discretionary intervention referred to in section 137, the MEC for local government in the province may approve the recovery plan with or without amendments, as the MEC considers appropriate.

(2) On receipt of a financial recovery plan pursuant to a mandatory intervention referred to in section 139, the MEC for finance must verify that the process set out in section 141 has been followed and that the criteria contained in section 142 are met, and—

- (a) if so, approve the recovery plan; or
- (b) if not, direct what defects must be rectified.

(3) The responsible MEC must submit an approved recovery plan to—

- (a) the municipality;

- (b) the Minister and the Cabinet member responsible for local government;
- (c) the Auditor-General; and
- (d) organised local government in the province.

(Date of commencement of s. 143: 1 July, 2005.)

**144. Amendment of financial recovery plans.**—(1) The MEC for local government or the MEC for finance in the province may at any time, but subject to section 141 (1) and (2), request any suitably qualified person or the Municipal Financial Recovery Service to prepare an amended financial recovery plan in accordance with the directions of the MEC.

(2) Section 141, read with such changes as the context may require, apply to the amendment of a financial recovery plan in terms of this section.

(3) No amendment of a recovery plan may impede the implementation of any court order made or agreement reached in terms of the plan before the amendment.

(Date of commencement of s. 144: 1 July, 2005.)

**145. Implementation of financial recovery plans in discretionary provincial interventions.**—(1) If the financial recovery plan was prepared in a discretionary provincial intervention referred to in section 137, the municipality must—

- (a) implement the approved recovery plan; and
- (b) report monthly to the MEC for local government in the province on the implementation of the plan, in such manner as the plan may determine.

(2) The financial recovery plan binds the municipality in the exercise of its executive authority, but only to the extent to resolve the financial problems of the municipality.

(3) If the municipality cannot or does not implement the approved recovery plan, the provincial executive may in terms of section 139 (1) or (4) of the Constitution take further appropriate steps to ensure implementation of the plan.

(4) Sections 34 (3) and (4) and 35 of the Municipal Structures Act apply if a provincial executive dissolves a municipal council in terms of subsection (3).

(Date of commencement of s. 145: 1 July, 2005.)

**146. Implementation of financial recovery plans in mandatory provincial interventions.**—(1) If the recovery plan was prepared in a mandatory provincial intervention referred to in section 139—

- (a) the municipality must implement the approved recovery plan;
- (b) all revenue, expenditure and budget decisions must be taken within the framework of, and subject to the limitations of, the recovery plan; and
- (c) the municipality must report monthly to the MEC for finance in the province on the implementation of the plan in such manner as the plan may determine.

(2) The financial recovery plan binds the municipality in the exercise of both its legislative and executive authority, including the approval of a budget and legislative measures giving effect to the budget, but only to the extent necessary to achieve the objectives of the recovery plan.

- (3) The provincial executive must in terms of section 139 (5) (b) of the Constitution either—
- (a) dissolve the council of the municipality, if the municipality cannot or does not approve legislative measures, including a budget or any revenue-raising measures, necessary to give effect to the recovery plan within the time frames specified in the plan and—
    - (i) appoint an administrator until a newly elected council has been declared elected; and
    - (ii) approve a temporary budget and revenue-raising measures, and other measures to give effect to the recovery plan and to provide for the continued functioning of the municipality; or
  - (b) assume responsibility for the implementation of the recovery plan to the extent that the municipality cannot or does not take executive measures to give effect to the recovery plan.

(4) Sections 34 (3) and (4) and 35 of the Municipal Structures Act apply when a provincial executive dissolves a municipal council in terms of section 139 (5) (b) (i) of the Constitution.

(Date of commencement of s. 146: 1 July, 2005.)

**147. Regular review of provincial interventions.**—(1) The MEC for local government or the MEC for finance in a province must at least every three months—

- (a) review any discretionary provincial intervention referred to in section 137 or any mandatory provincial intervention referred to in section 139, including—
  - (i) progress with resolving the municipality's financial problems and its financial recovery; and
  - (ii) the effectiveness of any financial recovery plan; and
- (b) submit progress reports and a final report on the intervention to—
  - (i) the municipality;
  - (ii) the Minister;
  - (iii) the Cabinet member responsible for local government;
  - (iv) the provincial legislature; and
  - (v) organised local government in the province.

(2) The MEC for local government or the MEC for finance may request the person who prepared the recovery plan, or the Municipal Financial Recovery Service, to assist the MEC in complying with subsection (1).

(Date of commencement of s. 147: 1 July, 2005.)

**148. Termination of provincial interventions.**—(1) A discretionary intervention referred to in section 137 must end—

- (a) if it is terminated in terms of section 139 (2) (b) of the Constitution; or
- (b) when—
  - (i) the municipality is able and willing to fulfil the executive obligation in terms of legislation or the Constitution that gave rise to the intervention; and



- (ii) the financial problem that has been caused by or has caused the failure by the municipality to comply with that obligation is resolved.
- (2) A mandatory intervention referred to in section 139 must end when—
- (a) the crisis in the municipality's financial affairs has been resolved; and
  - (b) the municipality's ability to meet its obligations to provide basic services or its financial commitments is secured.
- (3) When a provincial intervention ends, the MEC for local government or the MEC for finance in the province must notify—
- (a) the municipality;
  - (b) the Minister, in the case of a mandatory intervention;
  - (c) the Cabinet member responsible for local government;
  - (d) any creditors having pending litigation against the municipality;
  - (e) the provincial legislature; and
  - (f) organised local government in the province.

(Date of commencement of s. 148: 1 July, 2005.)

**149. Access to information, records and documents of municipalities.**—If a provincial executive intervenes in a municipality in terms of section 139 of the Constitution, the provincial executive and its representatives have access to such information, records and documents of the municipality or of any municipal entity under the sole or shared control of the municipality as may be necessary for the intervention, including for identifying or resolving the financial problem of the municipality.

(Date of commencement: 1 July, 2005.)

**150. National interventions.**—(1) If the conditions for a provincial intervention in a municipality in terms of section 139 (4) or (5) of the Constitution are met and the provincial executive cannot or does not or does not adequately exercise the powers or perform the functions referred to in that section, the national executive must—

- (a) consult the relevant provincial executive; and
  - (b) act or intervene in terms of that section in the stead of the provincial executive.
- (2) If the national executive intervenes in a municipality in terms of subsection (1)—
- (a) the national executive assumes for the purposes of the intervention the functions and powers of a provincial executive in terms of this Chapter;
  - (b) the Minister assumes for the purposes of the intervention the functions and powers of an MEC for finance in terms of this Chapter; and
  - (c) a reference in this Chapter—
    - (i) to a provincial executive must be read as a reference to the national executive;
    - (ii) to an MEC for finance must be read as a reference to the Minister; and
    - (iii) to a provincial intervention must be read as a reference to a national intervention.

(Date of commencement of s. 150: 1 July, 2005.)

*Part 3: Debt relief and restructuring*

**151. Legal rights.**—Except as expressly provided for in this Part, nothing in this Chapter limits or affects—

- (a) the rights of any creditor or other person having a claim against a municipality;
- (b) any person's access to ordinary legal process in accordance with the common law and relevant legislation; or
- (c) the rights of a municipality or municipal entity, or of the parties to a contract with a municipality or municipal entity, to alternative dispute resolution mechanisms, notice procedures and other remedies, processes or procedures.

(Date of commencement of s. 151: 1 July, 2005.)

**152. Application for stay of legal proceedings.**—(1) If a municipality is unable to meet its financial commitments, it may apply to the High Court for an order to stay, for a period not exceeding 90 days, all legal proceedings, including the execution of legal process, by persons claiming money from the municipality or a municipal entity under the sole control of the municipality.

(2) Notice of an application in terms of subsection (1) must be given to—

- (a) the MEC for local government and the MEC for finance in the province;
- (b) the Minister;
- (c) the Cabinet member responsible for local government;
- (d) organised local government; and
- (e) to the extent that they can reasonably be contacted, all persons to whom the municipality or the municipal entity owes an amount in excess of a prescribed amount, or if no amount is prescribed, in excess of R100 000.

(3) An application in terms of subsection (1) may for the purposes of section 139 (5) of the Constitution be regarded as an admission by the municipality that it is unable to meet its financial commitments.

(Date of commencement of s. 152: 1 July, 2005.)

**153. Application for extraordinary relief.**—(1) A municipality may apply to the High Court for an order—

- (a) to stay, for a period not exceeding 90 days at a time, all legal proceedings, including the execution of legal process, by persons claiming money from the municipality;
- (b) to suspend the municipality's financial obligations to creditors, or any portion of those obligations, until the municipality can meet those obligations; or
- (c) to terminate the municipality's financial obligations to creditors, and to settle claims in accordance with a distribution scheme referred to in section 155.

(2) The Court may make an order in terms of subsection (1) only if—

- (a) the provincial executive has intervened in terms of section 139 and a financial recovery plan to restore the municipality to financial health has been approved for the municipality;

- (b) the financial recovery plan is likely to fail without the protection of such an order;
- (c) section 154 has been complied with, in the case of an application for an order referred to in subsection (1) (b); and
- (d) section 155 (1) has been complied with, in the case of an application for an order referred to in subsection (1) (c).

(3) Notice of an application in terms of subsection (1) must be given to—

- (a) all creditors to whom the municipality owes an amount in excess of a prescribed amount, or if no amount is prescribed, in excess of R100 000, in so far as those creditors can reasonably be contacted;
- (b) the MEC for finance and the MEC for local government in the province;
- (c) the Minister;
- (d) the Cabinet member responsible for local government; and
- (e) organised labour.

(Date of commencement of s. 153: 1 July, 2005.)

**154. Suspension of financial obligations.**—Before issuing an order in terms of section 153 (1) (b) for the suspension of a municipality’s financial obligations to creditors, the court must be satisfied that—

- (a) the municipality cannot currently meet its financial obligations to creditors; and
- (b) all assets not reasonably necessary to sustain effective administration or to provide the minimum level of basic municipal services have been or are to be liquidated in accordance with the approved financial recovery plan for the benefit of meeting creditors’ claims.

(Date of commencement of s. 154: 1 July, 2005.)

**155. Termination of financial obligations and settlement of claims.**—(1) Before issuing an order for the termination of a municipality’s financial obligations to creditors in terms of section 153 (1) (c), the court must be satisfied that—

- (a) the municipality cannot meet its financial obligations to its creditors and is not likely to be able to do so in the foreseeable future;
- (b) all assets not reasonably necessary to sustain effective administration or to provide the minimum level of basic municipal services have been liquidated in accordance with the approved financial recovery plan for the benefit of meeting creditors’ claims; and
- (c) all employees have been discharged except those affordable in terms of reasonably projected revenues as set out in the approved financial recovery plan.

(2) If the court issues an order referred to subsection (1), the MEC for finance in the province must appoint a trustee to prepare a distribution scheme for the proportional settlement of all legitimate claims against the municipality as at the date of the order. Those claims must be settled against the amount realised from the liquidation of assets referred to in subsection (1) (b).

(3) A distribution scheme must—

- (a) determine the amount available for distribution;
- (b) list all creditors with claims which qualify for the purposes of the distribution scheme,

- indicating which of those are secured and the manner in which they are secured; and
- (c) provide for the distribution of the amount available amongst creditors in the following order of preference:
- (i) First preference must be given to the rights of secured creditors as to the assets with which they are secured in terms of section 48, provided the security in question was given in good faith and at least six months before the mandatory provincial intervention in terms of section 139 began;
  - (ii) thereafter the preferences provided for in the Insolvency Act, 1936 (Act No. 24 of 1936), read with the necessary changes as the context may require, must be applied; and
  - (iii) thereafter non-preferent claims must be settled in proportion to the amount of the different claims.
- (4) A distribution scheme may not be implemented unless approved by the court.  
(Date of commencement of s. 155: 1 July, 2005.)

**156. Matters to be prescribed.**—The Minister, acting with the concurrence of the Cabinet member responsible for local government, must by regulation in terms of section 168—

- (a) provide for an equitable process for the recognition of claims against a municipality for the purposes of sharing in a distribution scheme, provided that rejection of any claim does not prevent a creditor from proving the claim in a court; and
  - (b) provide for public access to a distribution scheme.
- (Date of commencement of s. 156: 1 July, 2005.)

*Part 4: Municipal Financial Recovery Service*

**157. Establishment.**—(1) A Municipal Financial Recovery Service is hereby established as an institution within the public service.

(2) The Municipal Financial Recovery Service forms part of, and functions within, the National Treasury.

(Date of commencement of s. 157: 1 July, 2005.)

**158. Functions and powers.**—The Municipal Financial Recovery Service—

- (a) must perform the duties and may exercise the powers assigned to the Service in terms of this Act;
- (b) may, on request by the MEC for finance in a province, prepare a financial recovery plan for a municipality or, with the approval of the Director-General of the National Treasury, instruct any suitably qualified person to prepare the plan in accordance with the directions of the Service;
- (c) may, on request by the MEC for finance in the province, monitor the implementation of any financial recovery plans that it has prepared, and may recommend such amendments and revisions as are appropriate;
- (d) may on request by any municipality that is experiencing financial problems, and in

co-ordination with any other provincial or national efforts, assist the municipality to identify the causes of, and potential solutions for, these financial problems;

- (e) may, with the approval of the Director-General of the National Treasury, obtain the services of any financial expert to perform any specific work for the Service; and
- (f) may collect information on municipal financial problems and on best practices in resolving such problems.

(Date of commencement of s. 158: 1 July, 2005.)

**159. Appointment of Head.**—(1) The Minister must appoint a person as the Head of the Service, subject to subsection (2) and legislation governing the public service.

(2) A person appointed as the Head of the Service holds office in the National Treasury on terms and conditions set out in a written employment contract, which must include terms and conditions setting performance standards.

(Date of commencement of s. 159: 1 July, 2005.)

**160. Responsibilities of Head.**—(1) The Head of the Service—

- (a) is responsible for the performance by the Service of its functions and the exercise of its powers; and
- (b) takes all decisions of the Service in the performance of its functions and the exercise of its powers, except those decisions of the Service taken in consequence of a delegation in terms of section 162.

(2) The Head of the Service performs the functions of office subject to the directions of the Director-General of the National Treasury.

(Date of commencement of s. 160: 1 July, 2005.)

**161. Staff.**—The staff of the Municipal Financial Recovery Service consists of—

- (a) the Head of the Service;
- (b) persons in the service of, or contracted by, the National Treasury and designated by the Director-General of the National Treasury for the work of the Service; and
- (c) persons seconded from an organ of state or organisation to the Service by agreement between the Director-General and that organ of state or organisation.

(Date of commencement of s. 161: 1 July, 2005.)

**162. Delegations.**—(1) The Head of the Service may delegate, in writing, any of the powers or duties of the Service to a member of the staff of the Service.

(2) A delegation in terms of subsection (1)—

- (a) must be in writing;
- (b) is subject to the limitations or conditions which the Head of the Service may impose; and
- (c) does not divest the Head of the Service of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.

(3) The Head of the Service may confirm, vary or revoke any decision taken in consequence of a

delegation in terms of subsection (1), provided that no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

(Date of commencement of s. 162: 1 July, 2005.)

#### CHAPTER 14 GENERAL TREASURY MATTERS

**163. Liabilities and risks payable in foreign currencies.**—(1) No municipality or municipal entity may incur a liability or risk payable in a foreign currency.

(2) Subsection (1) does not apply—

- (a) to debt regulated in terms of section 47; or
- (b) to the procurement of goods or services denominated in a foreign currency but the Rand value of which is determined at the time of procurement, or where this is not possible and risk is low, at the time of payment.

**164. Forbidden activities.**—(1) No municipality or municipal entity may—

- (a) conduct any commercial activities—
  - (i) otherwise than in the exercise of the powers and functions assigned to it in terms of the Constitution or national or provincial legislation; or
  - (ii) outside the borders of the Republic;
- (b) provide a municipal service in an area outside its jurisdiction except with the approval of the council of the municipality having jurisdiction in that area; or
- (c) make loans to—
  - (i) councillors or officials of the municipality;
  - (ii) directors or officials of the entity; or
  - (iii) members of the public.

(2) If a municipality or municipal entity on the date on which this section takes effect is engaged in any activity prohibited by subsection (1) (a) or (b) and which is otherwise lawful, the municipality or entity must take all reasonable steps to rectify its position and to comply with that subsection as soon as may be reasonable in the circumstances.

**165. Internal audit unit.**—(1) Each municipality and each municipal entity must have an internal audit unit, subject to subsection (3).

(2) The internal audit unit of a municipality or municipal entity must—

- (a) prepare a risk-based audit plan and an internal audit program for each financial year;
- (b) advise the accounting officer and report to the audit committee on the implementation of the internal audit plan and matters relating to—
  - (i) internal audit;
  - (ii) internal controls;

- (iii) accounting procedures and practices;
- (iv) risk and risk management;
- (v) performance management;
- (vi) loss control; and
- (vii) compliance with this Act, the annual Division of Revenue Act and any other applicable legislation; and

(c) perform such other duties as may be assigned to it by the accounting officer.

(3) The internal audit function referred to in subsection (2) may be outsourced if the municipality or municipal entity requires assistance to develop its internal capacity and the council of the municipality or the board of directors of the entity has determined that this is feasible or cost-effective.

**166. Audit committees.**—(1) Each municipality and each municipal entity must have an audit committee, subject to subsection (6).

(2) An audit committee is an independent advisory body which must—

- (a) advise the municipal council, the political office-bearers, the accounting officer and the management staff of the municipality, or the board of directors, the accounting officer and the management staff of the municipal entity, on matters relating to—
  - (i) internal financial control and internal audits;
  - (ii) risk management;
  - (iii) accounting policies;
  - (iv) the adequacy, reliability and accuracy of financial reporting and information;
  - (v) performance management;
  - (vi) effective governance;
  - (vii) compliance with this Act, the annual Division of Revenue Act and any other applicable legislation;
  - (viii) performance evaluation; and
  - (ix) any other issues referred to it by the municipality or municipal entity;
- (b) review the annual financial statements to provide the council of the municipality or, in the case of a municipal entity, the council of the parent municipality and the board of directors of the entity, with an authoritative and credible view of the financial position of the municipality or municipal entity, its efficiency and effectiveness and its overall level of compliance with this Act, the annual Division of Revenue Act and any other applicable legislation;
- (c) respond to the council on any issues raised by the Auditor-General in the audit report;
- (d) carry out such investigations into the financial affairs of the municipality or municipal entity as the council of the municipality, or in the case of a municipal entity, the council of the parent municipality or the board of directors of the entity, may request; and
- (e) perform such other functions as may be prescribed.

- (3) In performing its functions, an audit committee—
- (a) has access to the financial records and other relevant information of the municipality or municipal entity; and
  - (b) must liaise with—
    - (i) the internal audit unit of the municipality; and
    - (ii) the person designated by the Auditor-General to audit the financial statements of the municipality or municipal entity.
- (4) An audit committee must—
- (a) consist of at least three persons with appropriate experience, of whom the majority may not be in the employ of the municipality or municipal entity, as the case may be; and
  - (b) meet as often as is required to perform its functions, but at least four times a year.
- (5) The members of an audit committee must be appointed by the council of the municipality or, in the case of a municipal entity, by the council of the parent municipality. One of the members who is not in the employ of the municipality or municipal entity, must be appointed as the chairperson of the committee. No councillor may be a member of an audit committee.
- (6) A single audit committee may be established for—
- (a) a district municipality and the local municipalities within that district municipality; and
  - (b) a municipality and municipal entities under its sole control.

**167. Councillors' remuneration.**—(1) A municipality may remunerate its political office-bearers and members of its political structures, but only—

- (a) within the framework of the Public Office-Bearers Act, 1998 (Act No. 20 of 1998), setting the upper limits of the salaries, allowances and benefits for those political office-bearers and members; and
- (b) in accordance with section 219 (4) of the Constitution.

(2) Any remuneration paid or given in cash or in kind to a person as a political office-bearer or as a member of a political structure of a municipality otherwise than in accordance with subsection (1), including any bonus, bursary, loan, advance or other benefit, is an irregular expenditure, and the municipality—

- (a) must, and has the right to, recover that remuneration from the political office-bearer or member; and
- (b) may not write off any expenditure incurred by the municipality in paying or giving that remuneration.

(3) The MEC for local government in a province must report to the provincial legislature—

- (a) any transgressions of subsection (1); and
- (b) any non-compliance with sections 17 (3) (k) (i) and (ii) and 124 (1) (a).

**168. Treasury regulations and guidelines.**—(1) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may make regulations or guidelines applicable to



municipalities and municipal entities, regarding—

- (a) any matter that may be prescribed in terms of this Act;
- (b) financial management and internal control;
- (c) a framework for regulating the exercise of municipal fiscal and tariff-fixing powers;
- (d) a framework regulating the financial commitments of municipalities and municipal entities in terms of public-private partnership agreements;
- (e) the establishment by municipalities of, and control over—
  - (i) municipal entities; and
  - (ii) business units contemplated in section 76 (a) (ii) of the Municipal Systems Act;
- (f) the safe-guarding of the financial affairs of municipalities and of municipal entities when assets, liabilities or staff are transferred from or to a municipality or a municipal entity;
- (g) the alienation, letting or disposal of assets by municipalities or municipal entities;
- (h) internal audit units and their functioning;
- (i) the information to be disclosed when municipalities or municipal entities issue or incur debt and the manner in which such information must be disclosed, including by way of a prospectus or other document;
- (j) the circumstances under which further or specific disclosures are required after money has been borrowed by a municipality or municipal entity;
- (k) the circumstances under which documentation or information pertaining to municipal debt must be lodged or registered;
- (l) the establishment of a registry for the registration of documentation and information pertaining to municipal borrowing;
- (m) the settlement of claims against a municipality following an order of court in terms of section 153;
- (n) the information that must be placed on the websites of municipalities;
- (o) a framework regulating investments by municipal entities; and
- (p) any other matter that may facilitate the enforcement and administration of this Act.

(2) A regulation or guideline in terms of this section may—

- (a) differentiate between different—
  - (i) kinds of municipalities, which may, for the purposes of this section, be defined either in relation to categories, types or budgetary size of municipalities or in any other manner;
  - (ii) categories of municipal entities;
  - (iii) categories of accounting officers; or
  - (iv) categories of officials; or
- (b) be limited in its application to a particular—
  - (i) kind of municipality, which may, for the purposes of this section, be defined either in

relation to a category, type or budgetary size of municipality or in any other manner;

- (ii) category of municipal entities;
- (iii) category of accounting officers; or
- (iv) category of officials.

(3) No guidelines issued in terms of subsection (1) are binding on—

- (a) a municipality unless adopted by its council; or
- (b) a municipal entity unless adopted by the council of the entity's parent municipality.

**169. Consultative processes before promulgation of regulations.**—(1) Before regulations in terms of section 168 are promulgated, the Minister must—

- (a) consult organised local government on the substance of those regulations; and
- (b) publish the draft regulations in the *Government Gazette* for public comment.

(2) Regulations made in terms of section 168 must be submitted to Parliament for parliamentary scrutiny at least 30 days before their promulgation.

**170. Departures from treasury regulations or conditions.**—(1) The National Treasury may on good grounds approve a departure from a treasury regulation or from any condition imposed in terms of this Act.

(2) Non-compliance with a regulation made in terms of section 168, or with a condition imposed by the National Treasury in terms of this Act, may on good grounds shown be condoned by the Treasury.

## CHAPTER 15 FINANCIAL MISCONDUCT

### *Part 1: Disciplinary proceedings*

**171. Financial misconduct by municipal officials.**—(1) The accounting officer of a municipality commits an act of financial misconduct if that accounting officer deliberately or negligently—

- (a) contravenes a provision of this Act;
- (b) fails to comply with a duty imposed by a provision of this Act on the accounting officer of a municipality;
- (c) makes or permits, or instructs another official of the municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information in any document which in terms of a requirement of this Act must be—
  - (i) submitted to the mayor or the council of the municipality, or to the Auditor-General, the National Treasury or other organ of state; or
  - (ii) made public.

(2) The chief financial officer of a municipality commits an act of financial misconduct if that officer deliberately or negligently—

- (a) fails to carry out a duty delegated to that officer in terms of section 79 or 81 (1) (e);
- (b) contravenes or fails to comply with a condition of any delegation of a power or duty in terms of section 79 or 81 (1) (e);
- (c) makes or permits, or instructs another official of the municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information to the accounting officer for the purposes of a document referred to in subsection (1) (d).

(3) A senior manager or other official of a municipality exercising financial management responsibilities and to whom a power or duty was delegated in terms of section 79, commits an act of financial misconduct if that senior manager or official deliberately or negligently—

- (a) fails to carry out the delegated duty;
- (b) contravenes or fails to comply with a condition of the delegated power or duty;
- (c) makes an unauthorised, irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information to the accounting officer for the purposes of a document referred to in subsection (1) (d).

(4) A municipality must—

- (a) investigate allegations of financial misconduct against the accounting officer, the chief financial officer, a senior manager or other official of the municipality unless those allegations are frivolous, vexatious, speculative or obviously unfounded; and
- (b) if the investigation warrants such a step, institute disciplinary proceedings against the accounting officer, chief financial officer or that senior manager or other official in accordance with systems and procedures referred to in section 67 of the Municipal Systems Act, read with Schedule 2 of that Act.

**172. Financial misconduct by officials of municipal entities.**—(1) The accounting officer of a municipal entity commits an act of financial misconduct if that accounting officer deliberately or negligently—

- (a) contravenes a provision of this Act;
- (b) fails to comply with a duty imposed by a provision of this Act on the accounting officer of a municipal entity;
- (c) makes or permits, or instructs another official of the municipal entity to make, an irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information in any document which in terms of this Act must be—
  - (i) submitted to the entity’s board of directors or parent municipality or to the Auditor-General; or
  - (ii) made public.

(2) A senior manager or other official of a municipal entity exercising financial management responsibilities and to whom a power or duty was delegated in terms of section 106, commits an act of financial misconduct if that senior manager or official deliberately or negligently—

- (a) fails to carry out the delegated duty;
- (b) contravenes or fails to comply with a condition of the delegated power or duty;
- (c) makes an irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information to the accounting officer for the purposes of a document referred to in subsection (1) (d).

(3) A municipal entity must—

- (a) investigate allegations of financial misconduct against the accounting officer, a senior manager or other official of the entity unless those allegations are frivolous, vexatious, speculative or obviously unfounded; and
- (b) if the investigation warrants such a step, institute disciplinary proceedings against the accounting officer, senior manager or official in terms of Schedule 3 of the Municipal Systems Act.

*Part 2: Criminal proceedings*

**173. Offences.**—(1) The accounting officer of a municipality is guilty of an offence if that accounting officer—

- (a) deliberately or in a grossly negligent way—
  - (i) contravenes or fails to comply with a provision of section 61 (2) (b), 62 (1), 63 (2) (a) or (c), 64 (2) (a) or (d) or 65 (2) (a), (b), (c), (d), (f) or (i);
  - (ii) fails to take reasonable steps to implement the municipality’s supply chain management policy referred to in section 111;
  - (iii) fails to take all reasonable steps to prevent unauthorised, irregular or fruitless and wasteful expenditure; or
  - (iv) fails to take all reasonable steps to prevent corruptive practices—
    - (aa) in the management of the municipality’s assets or receipt of money; or
    - (bb) in the implementation of the municipality’s supply chain management policy;
- (b) deliberately misleads or withholds information from the Auditor-General on any bank accounts of the municipality or on money received or spent by the municipality; or
- (c) deliberately provides false or misleading information in any document which in terms of a requirement of this Act must be—
  - (aa) submitted to the Auditor-General, the National Treasury or any other organ of state; or
  - (bb) made public.

(2) The accounting officer of a municipal entity is guilty of an offence if that accounting officer—

- (a) deliberately or in a grossly negligent way—
  - (i) contravenes or fails to comply with a provision of section 94 (2) (b), 95 (1), 96 (2), 97 (a) or 99 (2) (a), (c) or (e);
  - (ii) fails to take all reasonable steps to prevent irregular or fruitless and wasteful

expenditure; or

- (iii) fails to take all reasonable steps to prevent corruptive practices in the management of the entity's assets, receipt of money or supply chain management system;
- (b) deliberately misleads or withholds information from the Auditor-General or the entity's parent municipality on any bank accounts of the municipal entity or on money received or spent by the entity; or
- (c) deliberately provides false or misleading information in any document which in terms of a requirement of this Act must be—
  - (aa) submitted to the entity's parent municipality, the Auditor-General, the National Treasury or any other organ of state; or
  - (bb) made public.

(3) A senior manager or other official of a municipality or municipal entity exercising financial management responsibilities and to whom a power or duty was delegated in terms of section 79 or 106, is guilty of an offence if that senior manager or official deliberately or in a grossly negligent way contravenes or fails to comply with a condition of the delegation.

(4) A councillor of a municipality is guilty of an offence if that councillor—

- (a) deliberately influences or attempts to influence the accounting officer, the chief financial officer, a senior manager or any other official of the municipality to contravene a provision of this Act or to refrain from complying with a requirement of this Act;
- (b) interferes in the financial management responsibilities or functions assigned in terms of this Act to the accounting officer of the municipality or delegated to the chief financial officer of the municipality in terms of this Act;
- (c) interferes in the financial management responsibilities or functions assigned in terms of this Act to the accounting officer of a municipal entity under the sole or shared control of the municipality; or
- (d) interferes in the management or operational activities of a municipal entity under the sole or shared control of the municipality.

(5) A councillor, an official of a municipality or municipal entity, a member of the board of directors of a municipal entity or any other person is guilty of an offence if that person deliberately or in a grossly negligent way—

- (a) impedes an accounting officer from complying with a provision of this Act;
- (b) gives incorrect, untrue or misleading information material to an investment decision relating to borrowing by a municipality or municipal entity;
- (c) makes a withdrawal in contravention of section 11;
- (d) fails to comply with section 49;
- (e) contravenes a provision of section 115 (2), 118 or 126 (5); or
- (f) provides false or misleading information for the purposes of any document which must in terms of a requirement of this Act be—
  - (i) submitted to the council, mayor or accounting officer of a municipality or to the Auditor-General or the National Treasury; or

- (ii) made public.

**174. Penalties.**—A person is liable on conviction of an offence in terms of section 173 to imprisonment for a period not exceeding five years or to an appropriate fine determined in terms of applicable legislation.

*Part 3: General*

**175. Regulations on financial misconduct procedures and criminal proceedings.**—(1) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may make regulations prescribing—

- (a) the manner, form and circumstances in which allegations and disciplinary and criminal charges of financial misconduct must be reported to the National Treasury, the MEC for local government in the province and the Auditor-General, including—
  - (i) particulars of the alleged financial misconduct; and
  - (ii) steps taken in connection with such financial misconduct;
- (b) matters relating to internal investigations by municipalities and municipal entities of allegations of financial misconduct;
- (c) the circumstances in which the National Treasury or the MEC for local government in the province may direct that disciplinary steps be taken or criminal charges be laid against a person for financial misconduct;
- (d) criteria for the composition and functioning of a disciplinary board which hears a charge of financial misconduct;
- (e) the circumstances in which the findings of a disciplinary board and any sanctions imposed by the board must be reported to the National Treasury, the MEC for local government in the province and the Auditor-General; and
- (f) any other matters to the extent necessary to enforce the provisions of this Act.

(2) A regulation in terms of subsection (1) may—

- (a) differentiate between different—
  - (i) kinds of municipalities, which may, for the purposes of this section, be defined either in relation to categories, types or budgetary size of municipalities or in any other manner;
  - (ii) categories of municipal entities;
  - (iii) categories of accounting officers; or
  - (iv) categories of other officials; or
- (b) be limited in its application to a particular—
  - (i) kind of municipality, which may, for the purposes of this section, be defined either in relation to a category, type or budgetary size of municipality or in any other manner;
  - (ii) category of municipal entities;
  - (iii) category of accounting officers; or

- (iv) category of other officials.

CHAPTER 16  
MISCELLANEOUS

**176. Liability of functionaries exercising powers and functions in terms of this Act.**—(1) No municipality or any of its political structures, political office-bearers or officials, no municipal entity or its board of directors or any of its directors or officials, and no other organ of state or person exercising a power or performing a function in terms of this Act, is liable in respect of any loss or damage resulting from the exercise of that power or the performance of that function in good faith.

(2) Without limiting liability in terms of the common law or other legislation, a municipality may recover from a political office-bearer or official of the municipality, and a municipal entity may recover from a director or official of the entity, any loss or damage suffered by it because of the deliberate or negligent unlawful actions of that political office-bearer or official when performing a function of office.

**177. Delays and exemptions.**—(1) The Minister may by notice in the *Gazette*—

- (a) delay the implementation of a provision of this Act for a transitional period not exceeding five years from the date when this section takes effect; or
- (b) where practicalities impede the strict application of a specific provision of this Act, exempt any municipality or municipal entity from, or in respect of, such provision for a period and on conditions determined in the notice.

(2) A delay or exemption in terms of subsection (1) may—

- (a) apply to—
  - (i) municipalities generally; or
  - (ii) municipal entities generally; or
- (b) be limited in its application to a particular—
  - (i) municipality;
  - (ii) kind of municipality, which may, for the purposes of this section, be defined either in relation to a category, type or budgetary size of municipality or in any other manner;
  - (iii) municipal entity; or
  - (iv) category of municipal entities.

(3) To facilitate the restructuring of the electricity industry as authorised by the Cabinet member responsible for such restructuring, the Minister, acting with the concurrence of the Cabinet member responsible for local government and after consultation with organised local government, may, by notice in the *Gazette*, exempt any municipality or municipal entity from any specific provision of this Act for a period of not more than four years and on conditions determined in the notice, provided that such exemption may not be understood as obligating any municipality to transfer any staff, assets or liabilities.

[General Note: Delays and exemptions have been published under Government Notice No. 773 in *Government Gazette* 26511 of 1 July, 2004.]

**178. Transitional provisions.**—(1) Anything done in terms of a provision repealed by section

179 (1), which can be done in terms of a provision of this Act, must be regarded as having been done in terms of this Act.

(2) All municipalities must within three months of the date on which this section takes effect, submit to the National Treasury a list of—

- (a) all corporate entities in which the municipality or a municipal entity under its sole or shared control has an interest, specifying—
  - (i) the name and address of the corporate entity;
  - (ii) the purpose, extent and other particulars of the interest;
  - (iii) if such corporate entity is a municipal entity, whether the entity is under the sole or shared control of the municipality; and
  - (iv) such other information as may be required by the National Treasury;
- (b) all public-private partnerships to which the municipality is a party, with a value of more than one million Rands in total or per annum, specifying—
  - (i) the name and physical address of the private party participating in the public-private partnership;
  - (ii) the purpose and other particulars of the public-private partnership; and
  - (iii) such other information as may be required by the National Treasury; and
- (c) all other types of contracts of the municipality for a period beyond 1 January 2007 and with a value of more than one million Rands in total or per annum.

**179. Repeal and amendment of legislation.**—(1) The legislation referred to in the second column of the Schedule is hereby amended or repealed to the extent indicated in the third column of the Schedule.

(2) Despite the repeal of section 10G of the Local Government Transition Act, 1993 (Act No. 209 of 1993), by subsection (1) of this section, the provisions contained in subsections (6), (6A) and (7) of section 10G remain in force until the legislation envisaged in section 229 (2) (b) of the Constitution is enacted.

(3) The repeal of the Municipal Accountants Act, 1988 (Act No. 21 of 1988), takes effect on a date determined by the Minister by notice in the *Gazette*.

(Date of commencement of s. 179 and date of repeal of the Municipal Accountants Act, No. 21 of 1988: 1 July, 2005.)

**180. Short title and commencement.**—(1) This Act is called the Local Government: Municipal Finance Management Act, 2003, and takes effect on a date determined by the Minister by notice in the *Gazette*.

(2) Different dates may in terms of subsection (1) be determined for different provisions of the Act.



COMMENCEMENT OF THIS ACT

<i>Date of commencement</i>	<i>The whole Act/Sections</i>	<i>Government Notice No.</i>	<i>Government Gazette</i>	<i>Date of Government Gazette</i>
1 July, 2004	The whole Act, unless otherwise indicated	772	26510	25 June, 2004
1 December, 2004	Ss. 62 (1) (f) (iv), 71, 110-116 and 120	772	26510	25 June, 2004
1 April, 2005	Ss. 9 and 38-42	772	26510	25 June, 2004
1 July, 2005	Ss. 5 (3), (4), (8), 28, 34 (3), 73, 91, 123, 126-134, Chapter 13 and s. 179	772	26510	25 June, 2004
1 July, 2006	Ss. 83, 107 and 119	772	26510	25 June, 2004
1 July, 2008	S. 45 (4) (a)	772	26510	25 June, 2004

**Schedule**  
REPEAL AND AMENDMENT OF LEGISLATION  
(Section 179)

<i>No. and year of Act</i>	<i>Short title of Act</i>	<i>Extent of repeal or amendment</i>
Act No. 91 of 1983	Promotion of Local Government Affairs Act, 1983	<i>Repeals section 17D.</i>
Act No. 21 of 1988	Municipal Accountants Act, 1988	<i>Repeals the whole.</i>
Act No. 209 of 1993	Local Government Transition Act, 1993	<i>Repeals section 10G.</i>

## GNR.308 of 1 April 2005: Municipal Investment Regulations

### NATIONAL TREASURY

The Minister of Finance, acting with the concurrence of the Minister for Provincial and Local Government, has in terms of section 168, read with section 13 and 99 (2) (g), of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), made the regulations as set out in the Schedule.

### SCHEDULE

#### ARRANGEMENT OF REGULATIONS

1. Definitions
2. Application
3. Adoption of investment policies
4. Core elements of investment policies
5. Standard of care to be exercised when making investments
6. Permitted investments
7. Investments denominated in foreign currencies prohibited
8. Payment of commission
9. Reporting requirements
10. Credit requirements
11. Portfolio diversification
12. Miscellaneous provisions
13. Existing investments
14. Commencement

**1. Definitions.**—In these regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and—

“**Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“**investee**” means an institution with which an investment is placed, or its agent;

“**investment manager**” means a natural person or legal entity that is a portfolio manager registered in terms of the Financial Markets Control Act, 1989 (Act No. 55 of 1989(1)), and Stock Exchanges Control Act, 1985 (Act No. 1 of 1985(2)), contracted by a municipality or municipal entity to—

- (a) advise it on investments;
- (b) manage investments on its behalf; or
- (c) advise it on investments and manage investments on its behalf;

“**trust money**” means money held in trust on behalf of third parties in a trust contemplated in terms of section 12 of the Act.

**2. Application.**—(1) These regulations apply to—

- (a) all municipalities;
- (b) all municipal entities; and
- (c) all investment managers acting on behalf of, or assisting, a municipality or municipal entity in making or managing investments.

(2) These regulations do not apply—

- (a) to a pension or provident fund registered in terms of the Pension Funds Act, 1956 (Act No. 24 of 1956), any subsequent legislation; or
- (b) in respect of trust money administered by a municipality or municipal entity where a trust deed prescribes how the trust money is to be invested.

(3) Municipal pension or provident funds which do not comply with subregulation (2) (a) are exempted from these regulations until 30 June 2005.

(4) The accounting officer of a municipality and municipal entity must provide the National Treasury with details of all pension or provident funds that do not comply with subregulation (2) (a) within 30 days of promulgation of these regulations.

**3. Adoption of investment policies.**—(1) The investment policy to be established by a municipality in terms of section 13 (2) of the Act, must be—

- (a) adopted by the council of the municipality; and
- (b) consistent with the Act and these regulations.

(2) The board of directors of a municipal entity must adopt an investment policy for the entity consistent with the Act and these regulations.

(3) All investments made by a municipality or municipal entity, or by an investment manager on behalf of a municipality or municipal entity, must be in accordance with the investment policy of the municipality or entity and these regulations.

**4. Core elements of investment policies.**—The investment policy of a municipality or municipal entity must—

- (a) be in writing;
- (b) give effect to these regulations; and
- (c) set out—
  - (i) the scope of the policy;
  - (ii) the objectives of the policy, with due regard to the provisions of these regulations relating to—
    - (aa) the preservation and safety of investments as the primary aim;
    - (bb) the need for investment diversification; and
    - (cc) the liquidity needs of the municipality or municipal entity;
  - (iii) a minimum acceptable credit rating for investments, including—

- (aa) a list of approved investment types that may be made, subject to regulation 6;
- (bb) a list of approved institutions where or through which investments may be made, subject to regulation 10;
- (iv) procedures for the invitation and selection of competitive bids or offers in accordance with Part 1 of Chapter 11 of the Act;
- (v) measures for ensuring implementation of the policy and internal control over investments made;
- (vi) procedures for reporting on and monitoring of all investments made, subject to regulation 9;
- (vii) procedures for benchmarking and performance evaluation;
- (viii) the assignment of roles and functions, including any delegation of decision-making powers;
- (ix) if investment managers are to be used, conditions for their use, including their liability in the event of non-compliance with the policy or these regulations; and
- (x) procedures for the annual review of the policy.

**5. Standard of care to be exercised when making investments.**—Investments by a municipality or municipal entity, or by an investment manager on behalf of a municipality or entity—

- (a) must be made with such judgment and care, under the prevailing circumstances, as a person of prudence, discretion and intelligence would exercise in the management of that person's own affairs;
- (b) may not be made for speculation but must be a genuine investment; and
- (c) must in the first instance be made with primary regard being to the probable safety of the investment, in the second instance to the liquidity needs of the municipality or municipal entity and lastly to the probable income derived from the investment.

**6. Permitted investments.**—A municipality or municipal entity may invest funds only in any of the following investment types—

- (a) securities issued by the national government;
- (b) listed corporate bonds with an investment grade rating from a nationally or internationally recognised credit rating agency;
- (c) deposits with banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990);
- (d) deposits with the Public Investment Commissioners as contemplated by the Public Investment Commissioners Act, 1984 (Act No. 45 of 1984);
- (e) deposits with the Corporation for Public Deposits as contemplated by the Corporation for Public Deposits Act, 1984 (Act No. 46 of 1984);
- (f) banker's acceptance certificates or negotiable certificates of deposit of banks registered in terms of the Banks Act, 1990;
- (g) guaranteed endowment policies with the intention of establishing a sinking fund;

- (h) repurchase agreements with banks registered in terms of the Banks Act, 1990;
- (i) municipal bonds issued by a municipality; and
- (j) any other investment type as the Minister may identify by regulation in terms of section 168 of the Act, in consultation with the Financial Services Board.

**7. Investments denominated in foreign currencies prohibited.**—A municipality or municipal entity may make an investment only if the investment is denominated in Rand and is not indexed to, or affected by, fluctuations in the value of the Rand against any foreign currency.

**8. Payment of commission.**—(1) No fee, commission or other reward may be paid to a councillor or official of a municipality or to a director or official of a municipal entity or to a spouse or close family member of such councillor, director or official in respect of any investment made or referred by a municipality or municipal entity.

(2) If an investee pays any fee, commission or other reward to an investment manager in respect of any investment made by a municipality or municipal entity, both the investee and the investment manager must declare such payment to the council of the municipality or the board of directors of the municipal entity by way of a certificate disclosing full details of the payment.

**9. Reporting requirements.**—(1) The accounting officer of a municipality or municipal entity must within 10 working days of the end of each month, as part of the section 71 report required by the Act, submit to the mayor of the municipality or the board of directors of the municipal entity a report describing in accordance with generally recognised accounting practice the investment portfolio of that municipality or municipal entity as at the end of the month.

(2) The report referred to in subregulation (1) must set out at least—

- (a) the market value of each investment as at the beginning of the reporting period;
- (b) any changes to the investment portfolio during the reporting period;
- (c) the market value of each investment as at the end of the reporting period; and
- (d) fully accrued interest and yield for the reporting period.

**10. Credit requirements.**—(1) A municipality or municipal entity must take all reasonable and prudent steps consistent with its investment policy and according to the standard of care set out in regulation 5, to ensure that it places its investments with credit-worthy institutions.

(2) A municipality or municipal entity must—

- (a) regularly monitor its investment portfolio; and
- (b) when appropriate liquidate an investment that no longer has the minimum acceptable credit rating as specified in its investment policy.

**11. Portfolio diversification.**—A municipality or municipal entity must take all reasonable and prudent steps, consistent with its investment policy and according to the standard of care prescribed in regulation 5, to diversify its investment portfolio across institutions, types of investment and investment maturities.

**12. Miscellaneous provisions.**—(1) The responsibility and risk arising from any investment transaction vests in the relevant municipality or municipal entity.

(2) All investments made by a municipality or municipal entity must be in the name of that municipality or municipal entity.

(3) A municipality or municipal entity may not borrow money for the purpose of investment.

**13. Existing investments.**—Nothing in these regulations compels a municipality or municipal entity to liquidate an investment which existed when these regulations took effect merely because such investment does not comply with a provision of these regulations.

**14. Commencement.**—These regulations take effect on 1 April 2005.

## **GNR.309 of 1 April 2005: Municipal Public-Private Partnership Regulations**

### NATIONAL TREASURY

The Minister of Finance, acting with the concurrence of the Minister for Provincial and Local Government, has In terms of section 168 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), made the regulations as set out in the Schedule.

### **SCHEDULE**

#### ARRANGEMENT OF SECTIONS

1. Definitions
2. Initiation of feasibility studies
3. Additional matters to be addressed in feasibility studies
4. Procurement of public-private partnership agreements
5. Basic requirements to which public-private partnership agreements must comply
6. Signing of public-private partnership agreements
7. Project officers
8. Responsibilities of accounting officers
9. Amendment of public-private partnership agreements
10. Municipal entities
11. Exemption
12. Commencement

**1. Definitions.**—In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and—

“**Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“**activity**”, in relation to a public-private partnership, means the municipal function or the management or use of municipal property, or both, which is or is to be outsourced to a private party in terms of a public private partnership agreement;

“**affordable**”, in relation to a public-private partnership agreement, means that the financial obligations (if any) to be incurred by a municipality in terms of the agreement can be met by—

- (a) funds designated in the municipality’s budget for the current year for the activity outsourced in terms of the agreement;
- (b) funds destined for that activity in accordance with the future budgetary projections of the municipality;
- (c) any allocations to the municipality; or
- (d) a combination of such funds and allocations;

**“municipal function”** means—

- (a) a municipal service; or
- (b) any other activity within the legal competence of a municipality;

**“municipal property”**, in relation to a municipality, includes any movable, immovable or intellectual property, owned by or under the control of—

- (a) the municipality; or
- (b) a municipal entity under the sole or shared control of the municipality;

**“private party”** excludes—

- (a) a municipality;
- (b) a municipal entity; or
- (c) an organ of state, including an institution listed in any of the Schedules to the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“project officer”** means a person appointed in terms of regulation 7 (1);

**“public-private partnership”** means a commercial transaction between a municipality and a private party in terms of which the private party—

- (a) performs a municipal function for or on behalf of a municipality, or acquires the management or use of municipal property for its own commercial purposes, or both performs a municipal function for or on behalf of a municipality and acquires the management or use of municipal property for its own commercial purposes; and
- (b) assumes substantial financial, technical and operational risks in connection with—
  - (i) the performance of the municipal function;
  - (ii) the management or use of the municipal property; or
  - (iii) both; and
- (c) receives a benefit from performing the municipal function or from utilising the municipal property or from both, by way of—
  - (i) consideration to be paid or given by the municipality or a municipal entity under the sole or shared control of the municipality;
  - (ii) charges or fees to be collected by the private party from users or customers of a service provided to them; or
  - (iii) a combination of the benefits referred to in subparagraphs (i) and (ii);

**“transaction advisor”** means a person appointed in terms of regulation 2 (1) (b);

**“value for money”**, in relation to a public-private partnership agreement, means that the performance of a private party in terms of the agreement will result in a net benefit to the municipality in terms of cost, price, quality, quantity, risk transfer or any combination of those factors.

**2. Initiation of feasibility studies.**—(1) Before a municipality initiates a feasibility study for a



public-private partnership contemplated in section 120 (4) of the Act, the accounting officer of the municipality must—

- (a) notify the National Treasury and the relevant provincial treasury in writing of the municipality's intention, together with information on the expertise within the municipality to comply with that section of the Act; and
- (b) if requested to do so by the National Treasury or the relevant provincial treasury, appoint a person with appropriate skills and experience, either from within or outside the municipality, as the transaction advisor to assist and advise the municipality on the preparation and procurement of the public-private partnership agreement.

(2) Subregulation (1) also applies when a municipality in terms of section 78 (2) of the Municipal Systems Act explores the provision of a municipal service through an external mechanism to be appointed in terms of a public-private partnership agreement.

**3. Additional matters to be addressed in feasibility studies.**—(1) A feasibility study conducted in terms of section 120 (4) of the Act, in addition to the matters specified in that section, must—

- (a) identify and define the activity which the municipality proposes to outsource to a private party;
- (b) assess the needs of the municipality in respect of such activity, including—
  - (i) the various options available to the municipality to satisfy those needs; and
  - (ii) the advantages and disadvantages of each option;
- (c) assess the projected impact of the proposed outsourcing of the activity to a private party on the staff, assets, liabilities and revenue of the municipality or a municipal entity under the sole or shared control of the municipality, which must include an assessment of—
  - (i) the number of officials of the municipality or such municipal entity that would become redundant as a result of the outsourcing of the activity;
  - (ii) the cost to the municipality or such municipal entity of any staff retrenchments or the retention of redundant staff;
  - (iii) any assets of the municipality or such municipal entity proposed to be placed under the control of the private party;
  - (iv) any assets of the municipality or such municipal entity that would become obsolete as a result of the outsourcing of the activity;
  - (v) any liabilities of the municipality or such municipal entity proposed to be assigned to the private party;
  - (vi) any debt of the municipality or such municipal entity attributed to the activity to be outsourced which the municipality or such municipal entity would retain; and
  - (vii) any revenue to be foregone by the municipality or such municipal entity as a result of the outsourcing of the activity; and
- (d) recommend an appropriate plan for the procurement of the proposed public-private partnership agreement, if outsourcing of the activity is the preferred option.

(2) An assessment in terms of subregulation (1) (b) must show comparative projections of—

- (a) the full costs to the municipality for the activity if that activity is not outsourced through a public-private partnership agreement; and
- (b) the full costs to the municipality for the activity if that activity is outsourced through a public-private partnership agreement.

(3) Subregulations (1) and (2) need not be complied with if the activity which the municipality proposes to outsource is a municipal service in respect of which an assessment in terms of section 78 (3) (b) and a feasibility study in terms of section 78 (3) (c) of the Municipal Systems Act have already been carried out, provided that—

- (a) such assessment and feasibility study cover the matters referred to in subregulations (1) and (2); and
- (b) the documents reflecting the results of such assessment and feasibility study are included in the documents submitted to the council in terms of section 120 (6) (a) of the Act.

**4. Procurement of public-private partnership agreements.**—(1) When complying with Part 1 of Chapter 11 of the Act, the accounting officer of the municipality must solicit the views and recommendations of the National Treasury and the relevant provincial treasury on—

- (a) the proposed bid documentation at least 30 days before bids are publicly invited; and
- (b) the evaluation of the bids received and of any preferred bidder at least 30 days before any award is made.

(2) An award of a public-private partnership agreement—

- (a) may be made only after the process set out in section 120 (6) of the Act has been completed; and
- (b) is subject to compliance with section 33 of the Act.

(3) When complying with section 120 (6) (c) (i) of the Act, the municipality must specifically solicit the views and recommendations of the National Treasury on—

- (a) the proposed terms and conditions of the draft public-private partnership agreement;
- (b) the municipality's plan for the effective management of the agreement after its conclusion; and
- (c) the preferred bidder's—
  - (i) competency to enter into the public-private partnership agreement; and
  - (ii) capacity to comply with his or her obligations in terms of the public-private partnership agreement.

(4) A provincial treasury is a prescribed organ of state for purposes of section 120 (6) (c) (iv) of the Act, and when complying with this section the municipality must specifically solicit the views and recommendations also of the relevant provincial treasury on the matters set out in paragraphs (a) to (c) of subregulation (3).

**5. Basic requirements to which public-private partnership agreements must comply.**—(1) A public-private partnership agreement between a municipality and a private party must—

- (a) provide value for money to the municipality;

- (b) be affordable for the municipality;
- (c) describe in specific terms the nature of the private party's role in the public-private partnership;
- (d) confer effective powers on the municipality—
  - (i) to monitor implementation of, and to assess the private party's performance under, the agreement;
  - (ii) to manage and enforce the agreement;
- (e) impose financial management duties on the private party, including transparent processes relating to internal financial control, budgeting, accountability and reporting;
- (f) provide for the termination of the agreement if the private party—
  - (i) fails to comply with terms or conditions of the agreement; or
  - (ii) deliberately provides incorrect or misleading information to the municipality;
- (g) restrain the private party, for the full period of the agreement, from offering otherwise than in accordance with the agreement an employment, consultancy or other contract to a person—
  - (i) who is an official of the municipality or a municipal entity under the sole or shared control of the municipality; or
  - (ii) who was such an official at any time during a period of one year before the offer is made; and
- (h) restrain the private party, for a period of three years, from offering an employment, consultancy or other contract to an employee of the municipality directly involved in the negotiation of the agreement;
- (i) comply with section (1) of the Act.

(2) Any municipal employee participating in the negotiation of the public-private partnership agreement may not be employed by the private party in the public-private partnership for a period of three years.

**6. Signing of public-private partnership agreements.**—(1) Only the accounting officer of a municipality may sign a public-private partnership agreement on behalf of the municipality.

(2) The accounting officer may not sign a public-private partnership agreement unless section 33 of the Act has been complied with.

**7. Project officers.**—(1) As soon as a municipality initiates a project that may be a public-private partnership, the accounting officer must appoint a person with appropriate skills and experience, either from within or outside the municipality, as the project officer for the public-private partnership.

(2) The project officer is responsible for performing—

- (a) the duties set out in section 116 (2) (c) (i) and (ii) of the Act; and
- (b) any other duties or powers delegated by the accounting officer to the project officer in terms of section 79 of the Act.

**8. Responsibilities of accounting officers.**—The accounting officer of a municipality which has entered into a public-private partnership agreement must, in addition to complying with section 116 (2) of the Act, take all reasonable steps to ensure—

- (a) that the outsourced activity is effectively and efficiently carried out in accordance with the agreement;
- (b) that municipal property which is placed under the control of the private party in terms of the agreement is appropriately protected against forfeiture, theft, loss, wastage and misuse; and
- (c) that the municipality has contract management and monitoring capacity.

**9. Amendment of public-private partnership agreements.**—(1) A public-private partnership agreement may be amended by the parties provided—

- (a) section 116 (3) of the Act has been complied with; and
- (b) the amendment is consistent with the basic essentials of public-private partnership agreements set out in regulation 5 and other applicable provisions of these Regulations.

(2) At least 60 days before a public-private partnership agreement is amended, the accounting officer must solicit the views and recommendations of the National Treasury and the relevant provincial treasury on the reasons for the amendment. The period may be shortened if the National Treasury and relevant provincial treasury respond earlier.

**10. Municipal entities.**—No municipal entity may initiate, procure or enter into a public-private partnership agreement on its own or on behalf of its parent municipality, but may be a party to a public-private partnership agreement initiated, procured and entered into by its parent municipality.

**11. Exemption.**—A municipality that has commenced with the procurement of a public-private partnership prior to 1 December 2004 is exempt from these regulations in relation to that partnership, provided the agreement is concluded by 30 June 2005.

**12. Commencement.**—These regulations take effect on 1 April 2005.

# **GNR.868 of 30 May 2005: Municipal Supply Chain Management Regulations**

## NATIONAL TREASURY

The Minister of Finance, acting with the concurrence of the Minister for Provincial and Local Government, has in terms of section 168 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), made the Regulations as set out in the Schedule.

## **SCHEDULE**

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4. Delegation of supply chain management powers and duties
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52. Commencement

**1. Definitions.**—In these Regulations, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and—

“**competitive bidding process**” means a competitive bidding process referred to in regulation 12 (1) (d);

“**competitive bid**” means a bid in terms of a competitive bidding process;

“**final award**”, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

“**formal written price quotation**” means quotations referred to in regulation 12 (1) (c);

“**in the service of the state**” means to be—

- (a) a member of—
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (e) **Executive** (See Gov. Notice R.31 dated 20 January 2017 - Gazette No. 40553) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

“**long term contract**” means a contract with a duration period exceeding one year;

“**list of accredited prospective providers**” means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of regulation 14;

“**other applicable legislation**” means any other legislation applicable to municipal supply chain management, including—

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);

“**Treasury guidelines**” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

“**the Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“**written or verbal quotations**” means quotations referred to in regulation 12 (1) (b).

CHAPTER 1  
ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICIES

**2. Supply chain management policies.**—(1) Each municipality and each municipal entity must in terms of section 111 of the Act have and implement a supply chain management policy that—

- (a) gives effect to—
  - (i) section 217 of the Constitution; and
  - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) complies with—
  - (i) the regulatory framework prescribed in Chapter 2 of these Regulations; and
  - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
- (d) is consistent with other applicable legislation;
- (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) The supply chain management policy of a municipal entity must, in addition to complying with subregulation (1), and to the extent determined by the parent municipality, also be consistent with the supply chain management policy of the parent municipality. If the supply chain management policy of an entity is not consistent with the supply chain management policy of its parent municipality, the council of the parent municipality must take appropriate steps to ensure consistency.

(3) No municipality or municipal entity may act otherwise than in accordance with its supply chain management policy when—

- (a) procuring goods or services;
- (b) disposing of goods no longer needed;
- (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
- (d) in the case of a municipality, selecting external mechanisms referred to in section 80 (1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(4) Subregulations (1), (2) and (3) do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in these Regulations.

**3. Adoption and amendment of supply chain management policies.**—(1) The accounting officer of a municipality or municipal entity must—

- (a) promptly prepare and submit a draft supply chain management policy complying with



regulation 2 to the council of the municipality or the board of directors of the municipal entity for adoption;

- (b) at least annually review the implementation of the policy; and
- (c) when the accounting officer considers it necessary, submit proposals for the amendment of the policy to the council or the board of directors.

(2) (a) The accounting officer may for purposes of subregulation (1)(a) make use of any Treasury guidelines determining standards for municipal supply chain management policies, and submit to the council or board of directors that guideline standard, or any modified version thereof, as a draft policy.

(b) If the accounting officer submits a draft policy to the council or board of directors that differs from the guideline standard, the accounting officer must ensure that such draft policy complies with regulation 2.

(c) The accounting officer must report any deviation from the guideline standard to the National Treasury and the relevant provincial treasury.

(3) When preparing or amending its supply chain management policy, a municipality or municipal entity must take account of the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses.

(4) The accounting officer of a municipality must in terms of section 62 (1) (f) (iv) of the Act, and the accounting officer of a municipal entity must in terms of section 99 (2) (h) of the Act, take all reasonable steps to ensure that the municipality or municipal entity has and implements a supply chain management policy as set out in regulation 2.

**4. Delegation of supply chain management powers and duties.**—(1) The council of a municipality and the board of directors of a municipal entity must delegate such additional powers and duties to the accounting officer so as to enable the accounting officer—

- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of—
  - (i) Chapter 8 or 10 of the Act; and
  - (ii) the supply chain management policy of the municipality or municipal entity;
- (b) to maximise administrative and operational efficiency in the implementation of the supply chain management policy;
- (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of the supply chain management policy; and
- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subregulation (1).

(3) No municipal council, board of directors of a municipal entity or accounting officer may delegate or subdelegate any supply chain management powers or duties—

- (a) in the case of a municipality—
  - (i) to a person who is not an official of the municipality; or
  - (ii) to a committee which is not exclusively composed of officials of the municipality; or
- (b) in the case of a municipal entity—
  - (i) to a person who is not an official of the municipal entity; or
  - (ii) to a committee which is not exclusively composed of officials of the municipal entity.

(4) This regulation may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in regulation 26.

**5. Subdelegations.**—(1) An accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of regulation 4 (1), but any such subdelegation must be consistent with subregulation (2) and regulation 4.

- (2) The power to make a final award—
  - (a) above R10 million (VAT included) may not be subdelegated by an accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to—
    - (i) the chief financial officer;
    - (ii) a senior manager; or
    - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member of; or
  - (c) not exceeding R2 million (VAT included) may subdelegated but only to —
    - (i) the chief financial officer;
    - (ii) a senior manager;
    - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
    - (iv) a bid adjudication committee.

(3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with subregulation (2) must within five days of the end of each month submit to the official referred to in subsection (4) a written report containing particulars of each final award made by such official or committee during that month, including—

- (a) the amount of the award;
- (b) the name of the person to whom the award was made; and
- (c) the reason why the award was made to that person.

(4) A written report referred to in subregulation (3) must be submitted—

- (a) to the accounting officer, in the case of an award by—
  - (i) the chief financial officer;

- (ii) a senior manager; or
  - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by—
- (i) a manager referred to in subregulation (2) (c) (iii); or
  - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subregulations (3) and (4) do not apply to procurements out of petty cash.

(6) This regulation may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in regulation 26.

(7) No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

**6. Oversight role of council of municipality or board of directors of municipal entity.**—(1) The council of a municipality and the board of directors of a municipal entity must maintain oversight over the implementation of its supply chain management policy.

(2) For the purposes of such oversight the accounting officer must—

- (a)
- (i) in the case of a municipality, within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality;
  - (ii) in the case of a municipal entity, within 20 days of the end of each financial year, submit a report on the implementation of the municipal entity's supply chain management policy to the board of directors, who must then submit the report to the accounting officer of the parent municipality for submission to the council in terms of subparagraph (i); and
  - (iii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council of the municipality or in the case of a municipal entity, to the board of directors, who must then submit the report to the accounting officer of the parent municipality for submission to the council.

(3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality or the board of directors of the municipal entity, as the case may be.

(4) The reports of a municipality must be made public in accordance with section 21A of the Municipal Systems Act. The reports of a municipal entity must be made public in a similar way.

**7. Supply chain management units.**—(1) Each municipality and each municipal entity must establish a supply chain management unit to implement its supply chain management policy.

(2) A parent municipality and a municipal entity under its sole or shared control may establish a joint supply chain management unit to implement their respective supply chain management policies.

(3) A supply chain management unit must, where possible, operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

**8. Training of supply chain management officials.**—The training of officials involved in implementing a supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training.

## CHAPTER 2 FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT POLICIES

**9. Format of supply chain management policy.**—The supply chain management policy of a municipality or municipal entity must describe in sufficient detail—

- (a) the supply chain management system that is to be implemented by the municipality or municipal entity; and
- (b) effective systems for—
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management;
  - (v) risk management; and
  - (vi) performance management.

### *Part 1: Demand management*

**10. System of demand management.**—A supply chain management policy must provide for an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments of the municipality or municipal entity are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the municipality or municipal entity.

### *Part 2: Acquisition management*

**11. System of acquisition management.**—(1) A supply chain management policy must provide for an effective system of acquisition management in order to ensure—

- (a) that goods and services are procured by the municipality or municipal entity in accordance with authorised processes only;
- (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) that the threshold values for the different procurement processes are complied with;

- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- (e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) A supply chain management policy, except where provided otherwise in these Regulations, does not apply in respect of the procurement of goods and services contemplated in section 110 (2) of the Act, including—

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

(3) A municipality or municipal entity procuring goods or services contemplated in section 110 (2) of the Act must make public the fact that it procures such goods or services otherwise than through its supply chain management system, including—

- (a) the kind of goods or services; and
- (b) the name of the supplier.

**12. Range of procurement processes.**—(1) A supply chain management policy must subject to regulation 11 (2), provide for the procurement of goods and services by way of—

- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
- (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
- (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- (d) a competitive bidding process for—
  - (i) procurements above a transaction value of R200 000 (VAT included); and
  - (ii) the procurement of long term contracts.

(2) A supply officer chain management policy may allow the accounting officer—

- (a) to lower, but not to increase, the different threshold values specified in subregulation (1); or
- (b) to direct that—
  - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

(3) A supply chain management policy must state—

- (a) that goods or services may not deliberately be split into parts or items of a lesser value

merely to avoid complying with the requirements of the policy; and

- (b) that when determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

**13. General preconditions for consideration of written quotations or bids.**—A supply chain management policy must state that the municipality or municipal entity may not consider a written quotation or bid unless the provider who submitted the quotation or bid—

- (a) has furnished the municipality or municipal entity with that provider's—
  - (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the municipality or municipal entity to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated—
  - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months ; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

**14. Lists of accredited prospective providers.**—(1) A supply chain management policy must—

- (a) instruct the accounting officer—
  - (i) to keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the municipality or municipal entity through written or verbal quotations and formal written price quotations; and
  - (ii) at least once a year through newspapers commonly circulating locally, the website of the municipality or municipal entity and any other appropriate ways, to invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- (b) specify the listing criteria for accredited prospective providers; and
- (c) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

(3) The list must be compiled per commodity and per type of service.

**15. Petty cash purchases.**—A supply chain management policy must stipulate the conditions for the procurement of goods by means of petty cash purchases referred to in regulation 12 (1) (a), which must include conditions—

- (a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
- (b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
- (c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
- (d) requiring monthly reconciliation reports from each manager to the chief financial officer, including—
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each purchase.

**16. Written or verbal quotations.**—A supply chain management policy must stipulate the conditions for the procurement of goods or services through written or verbal quotations, which must include conditions stating—

- (a) that quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by regulation 14 (1) (b) and (c);
- (b) that, to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) that the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

**17. Formal written price quotations.**—(1) A supply chain management policy must stipulate the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating—

- (a) that quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity;
- (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by regulation 14 (1) (b) and (c);

- (c) that if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer; and
- (d) that the accounting officer must record the names of the potential providers and their written quotations; and

(2) A designated official referred to in subregulation (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subregulation.

**18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations.**—A supply chain management policy must determine the procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, and must stipulate—

- (a) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of regulation 17, be advertised for at least seven days on the website and an official notice board of the municipality or municipal entity;
- (b) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
- (c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
- (d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegation; and
- (e) requirements for proper record keeping.

**19. Competitive bids.**—A supply chain management policy must specify—

- (a) that goods or services above a transaction value of R200 000 (VAT included) and long term contracts may be procured by the municipality or municipal entity only through a competitive bidding process, subject to regulation 11 (2); and
- (b) that no requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

**20. Process for competitive bidding.**—A supply chain management policy must provide procedures for a competitive bidding process for each of the following stages:

- (a) the compilation of bidding documentation;
- (b) the public invitation of bids;
- (c) site meetings or briefing sessions, if applicable;



- (d) the handling of bids submitted in response to public invitation;
- (e) the evaluation of bids;
- (f) the award of contracts;
- (g) the administration of contracts; and
- (h) proper record keeping.

**21. Bid documentation for competitive bids.**—A supply chain management policy must determine the criteria to which bid documentation for a competitive bidding process must comply, and state that in addition to regulation 13 the bid documentation must—

- (a) take into account—
  - (i) the general conditions of contract;
  - (ii) any Treasury guidelines on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish—
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements—
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

**22. Public invitation for competitive bids.**—(1) A supply chain management policy must determine the procedure for the invitation of competitive bids, and must stipulate—

- (a) that any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or municipal entity or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
- (b) the information a public advertisement must contain, which must include—
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subregulation (2); and
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality or municipal entity.

(2) A supply chain management policy may allow the accounting officer to determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted to the municipality or municipal entity must be sealed.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

**23. Procedure for handling, opening and recording of bids.**—A supply chain management policy must determine the procedure for the handling, opening and recording of bids, and must—

- (a) stipulate that bids—
  - (i) may be opened only in public; and
  - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
- (b) confer on any bidder or member of the public the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and
- (c) require the accounting officer—
  - (i) to record in a register all bids received in time;
  - (ii) to make the register available for public inspection; and
  - (iii) to publish the entries in the register and the bid results on the website of the municipality or municipal entity.

**24. Negotiations with preferred bidders.**—(1) A supply chain management policy may allow the accounting officer to negotiate the final terms of a contract with bidders identified through a competitive bidding process provided that such negotiation—

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

**25. Two-stage bidding process.**—A supply chain management policy may allow a two-stage bidding process for—

- (a) large complex projects;
- (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) long term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

**26. Committee system for competitive bids.**—(1) A supply chain management policy must provide for—

- (a) a committee system for competitive bids consisting of at least—
  - (i) a bid specification committee;
  - (ii) a bid evaluation committee; and
  - (iii) a bid adjudication committee;
- (b) the appointment by the accounting officer of the members of each committee, taking into account section 117 of the Act; and
- (c) an attendance or oversight process by a neutral or independent observer appointed by the accounting officer when this is appropriate for ensuring fairness and promoting transparency.

(2) The committee system must be consistent with—

- (a) regulations 27, 28 and 29; and
- (b) any other applicable legislation.

(3) A supply chain management policy may allow the accounting officer to apply the committee system to formal written price quotations.

**27. Bid specification committees.**—(1) A bid specification committee must compile the specifications for each procurement of goods or services by the municipality or municipal entity.

(2) Specifications—

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) where possible, be described in terms of performance required rather than in terms of

descriptive characteristics for design;

- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”;
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the supply chain management policy of the municipality or municipal entity; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of regulation 22.

(3) A bid specification committee must be composed of one or more officials of the municipality or municipal entity, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

**28. Bid evaluation committees.**—(1) A bid evaluation committee must—

- (a) evaluate bids in accordance with—
  - (i) the specifications for a specific procurement; and
  - (ii) the points system as must be set out in the supply chain management policy of the municipality or municipal entity in terms of regulation 27 (2) (f) and as prescribed in terms of the Preferential Procurement Policy Framework Act;
- (b) evaluate each bidder’s ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A bid evaluation committee must as far as possible be composed of—

- (a) officials from departments requiring the goods or services; and
- (b) at least one supply chain management practitioner of the municipality or municipal entity.

**29. Bid adjudication committees.**—(1) A bid adjudication committee must—

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either—
  - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
  - (ii) make another recommendation to the accounting officer how to proceed with the

relevant procurement.

(2) A bid adjudication committee must consist of at least four senior managers of the municipality or municipal entity which must include—

- (i) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer;
- (ii) at least one senior supply chain management practitioner who is an official of the municipality or municipal entity; and
- (iii) a technical expert in the relevant field who is an official of the municipality or municipal entity, if the municipality or municipal entity has such an expert.

(3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

(4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5) (a) If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid—

- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
- (ii) notify the accounting officer.

(b) The accounting officer may—

- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
- (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

(7) The accounting officer must comply with section 114 of the Act within 10 working days.

**30. Procurement of banking services.**—(1) A contract for the provision of banking services to a municipality or municipal entity—

- (a) must be procured through competitive bids;
- (b) must be consistent with sections 7 or 85 of the Act; and
- (c) may not be for a period of more than five years at a time.

(2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of regulation 22 (1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

**31. Procurement of IT related goods or services.**—(1) A supply chain management policy may allow the accounting officer to request the State Information Technology Agency (SITA) to assist the municipality or municipal entity with the acquisition of IT related goods or services through a competitive bidding process.

(2) The parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

(3) The accounting officer must notify SITA together with a motivation of the IT needs of the municipality or municipal entity if—

- (a) the transaction value of IT related goods or services required by the municipality or municipal entity in any financial year will exceed R50 million (VAT included); or
- (b) the transaction value of a contract to be procured by the municipality or entity whether for one or more years exceeds R50 million (VAT included).

(4) If SITA comments on the submission and the municipality or municipal entity disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

**32. Procurement of goods and services under contracts secured by other organs of state.**—(1) A supply chain management policy may allow the accounting officer to procure goods or services for the municipality or municipal entity under a contract secured by another organ of state, but only if—

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) the municipality or entity has no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits for the municipality or entity to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subregulation (1) (c) and (d) do not apply if—

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

**33. Procurement of goods necessitating special safety arrangements.**—(1) A supply chain management policy must restrict the acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality or municipal entity.

**34. Proudly SA Campaign.**—A supply chain management policy must stipulate to what extent the municipality or municipal entity supports the Proudly SA Campaign.

**35. Appointment of consultants.**—(1) A supply chain management policy may allow the accounting officer to procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

(2) A contract for the provision of consultancy services to a municipality or municipal entity must be procured through competitive bids if—

- (a) the value of the contract exceeds R200 000 (VAT included); or
- (b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by these Regulations for competitive bids, bidders must furnish the municipality or municipal entity with particulars of—

- (a) all consultancy services provided to an organ of state in the last five years; and
- (b) any similar consultancy services provided to an organ of state in the last five years.

(4) The municipality or municipal entity must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality or entity.

**36. Deviation from, and ratification of minor breaches of, procurement processes.**—(1) A supply chain management policy may allow the accounting officer—

- (a) to dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only—
  - (i) in an emergency;
  - (ii) if such goods or services are produced or available from a single provider only;
  - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
  - (iv) acquisition of animals for zoos; or
  - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

(2) The accounting officer must record the reasons for any deviations in terms of subregulation (1) (a) and (b) and report them to the next meeting of the council, or board of directors in the case of a municipal entity, and include as a note to the annual financial statements.

(3) Subregulation (2) does not apply to the procurement of goods and services contemplated in regulation 11 (2).

**37. Unsolicited bids.**—(1) A supply chain management policy must state that the municipality or municipal entity is in terms of section 113 of the Act not obliged to consider unsolicited bids received outside a normal bidding process.

(2) If a municipality or municipal entity decides in terms of section 113 (2) of the Act to consider

an unsolicited bid, it may do so only if—

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality or municipal entity;
- (c) the person who made the bid is the sole provider of the product or service; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(3) If a municipality or municipal entity decides to consider an unsolicited bid that complies with subregulation (2), the municipality or municipal entity must make its decision public in accordance with section 21A of the Municipal Systems Act, together with—

- (a) its reasons as to why the bid should not be open to other competitors;
- (b) an explanation of the potential benefits for the municipality or entity were it to accept the unsolicited bid; and
- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) Once the municipality or municipal entity has received written comments pursuant to subregulation (3), it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

(6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the adjudication committee must take into account—

- (a) any comments submitted by the public; and
- (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

(8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

(9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality or municipal entity to the bid may be entered into or signed within 30 days of the submission.

**38. Combating of abuse of supply chain management system.**—(1) A supply chain management policy must provide measures for the combating of abuse of the supply chain management system, and must enable the accounting officer—

- (a) to take all reasonable steps to prevent such abuse;
- (b) to investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the supply chain



management policy, and when justified—

- (i) take appropriate steps against such official or other role player; or
- (ii) report any alleged criminal conduct to the South African Police Service;
- (c) to check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) to reject any bid from a bidder—
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or municipal entity, or to any other municipality or municipal entity, are in arrears for more than three months; or
  - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) to reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) to cancel a contract awarded to a person if—
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) to reject the bid of any bidder if that bidder or any of its directors—
  - (i) has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
  - (iv) has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No. 12 of 2004).

(2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subregulation (1) (b) (ii), (e) or (f).

*Part 3: Logistics, Disposal, Risk and Performance Management*

**39. Logistics management.**—A supply chain management policy must provide for an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

**40. Disposal management.**—(1) A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.

(2) A supply chain management policy must—

- (a) specify the ways in which assets may be disposed of, including by—
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or
  - (iv) destroying the asset;
- (b) stipulate that—
  - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality or municipal entity;
  - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
- (c) provide that—
  - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
  - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

**41. Risk management.**—(1) A supply chain management policy must provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.

(2) Risk management must include—

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous

contract documentation.

**42. Performance management.**—A supply chain management policy must provide for an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes are being followed and whether the desired objectives are being achieved.

*Part 4: Other matters*

Now R 30,000

**43. Prohibition on awards to persons whose tax matters are not in order.**—(1) The supply chain management policy of a municipality or municipal entity must, irrespective of the procurement process followed, state that the municipality or municipal entity may not make any award above R15 000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person, a municipality or municipal entity must first check with SAPS whether that person's tax matters are in order.

(3) If SARS does not respond within seven days such person's tax matters may for purposes of subregulation (1) be presumed to be in order.

**44. Prohibition on awards to persons in the service of the state.**—The supply chain management policy of a municipality or municipal entity must, irrespective of the procurement process followed, state that the municipality or municipal entity may not make any award to a person—

- (a) who is in the service of the state; See: Government Notice No.44 dated 18 February 2006
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) who is an advisor or consultant contracted with the municipality or municipal entity.

**45. Awards to close family members of persons in the service of the state.**—The notes to the annual financial statements of a municipality or municipal entity must disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including—

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

**46. Ethical standards.**—(1) A supply chain management policy must establish a code of ethical standards complying with subregulation (2) for officials and other role players in the supply chain management system in order to promote—

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) A municipal code of ethical standards must stipulate that an official or other role player involved in the implementation of the supply chain management policy of the municipality or municipal

entity—

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;
- (d) notwithstanding subregulation (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality or municipal entity;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to the municipality or municipal entity;
- (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including—
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;
  - (ii) any alleged contravention of regulation 47 (1); or
  - (iii) any alleged breach of the code of ethical standards.

(3) A supply chain management policy must—

- (a) determine that all declarations in terms of subregulation (2) (d) and (e) must be recorded in a register which the accounting officer must keep for this purpose;
- (b) determine that all declarations by the accounting officer must be made to the mayor of the municipality or the board of directors of the municipal entity who must ensure that such declarations are recorded in the register; and
- (c) contain measures to ensure that appropriate action is taken against any official or other role player who commits a breach of the code of ethical standards.

(4) A supply chain management policy must take into account the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management.

(5) A municipality or municipal entity may adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

(6) Subregulation (2) (c) does not apply to gifts less than R350 in value.

**47. Inducements, rewards, gifts and favours to municipalities, municipal entities, officials and other role players.**—(1) No person who is a provider or prospective provider of goods or services to a municipality or municipal entity, or a recipient or prospective recipient of goods disposed or to be disposed of by a municipality or municipal entity, may either directly or through a representative or intermediary promise, offer or grant—

- (a) any inducement or reward to the municipality or municipal entity for or in connection with the award of a contract; or
- (b) any reward, gift, favour or hospitality to—
  - (i) any official of the municipality or municipal entity; or
  - (ii) any other role player involved in the implementation of the supply chain management policy of the municipality or municipal entity.

(2) The accounting officer of a municipality or municipal entity must promptly report any alleged contravention of subregulation (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

(3) Subregulation (1) does not apply to gifts less than R350 in value.

**48. Sponsorships.**—The accounting officer of a municipality or municipal entity must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted to the municipality or municipal entity, whether directly or through a representative or intermediary, by any person who is—

- (a) a provider or prospective provider of goods or services to the municipality or municipal entity; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed, of by the municipality or municipal entity.

**49. Objections and complaints.**—The supply chain management policy of a municipality or municipal entity must allow persons aggrieved by decisions or actions taken by the municipality or municipal entity in the implementation of its supply chain management system, to lodge within 14 days of the decision or action a written objection or complaint to the municipality or municipal entity against the decision or action.

**50. Resolution of disputes, objections, complaints and queries.**—(1) The supply chain management policy of a municipality or municipal entity must provide for the appointment by the accounting officer of an independent and impartial person not directly involved in the supply chain management processes of the municipality or municipal entity—

- (a) to assist in the resolution of disputes between the municipality or municipal entity and other persons regarding—
  - (i) any decisions or actions taken by the municipality or municipal entity in the implementation of its supply chain management system; or
  - (ii) any matter arising from a contract awarded in the course of its supply chain

management system; or

- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) A parent municipality and a municipal entity under its sole or shared control may for purposes of subregulation (1) appoint the same person.

(3) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(4) The person appointed must—

- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
- (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(5) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if—

- (a) the dispute, objection, complaint or query is not resolved within 60 days; or
- (b) no response is received from the municipality or municipal entity within 60 days.

(6) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(7) This regulation must not be read as affecting a person's rights to approach a court at any time.

**51. Contracts providing for compensation based on turnover.**—If a service provider acts on behalf of a municipality or municipal entity to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality or municipal entity must stipulate—

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

**52. Commencement.**—These Regulations take effect on 1 July 2005 and becomes effective for a municipality or municipal entity on that date subject to any exemptions that may be granted in terms of section 177 of the Act.

# REGULATIONS

## **GNR.878 of 22 August 2008: Municipal Asset Transfer Regulations** *(Government Gazette No. 31346)*

### NATIONAL TREASURY

I, Trevor A. Manuel, Minister of Finance, hereby publish the regulations set out in the Schedule hereto made by me in terms of section 168 of the Local Government: Municipal Finance Management Act, 2003, (Act No. 56 of 2003), with the concurrence of the Minister of Provincial and Local Government.

**T.A. MANUEL, MP**  
**MINISTER OF FINANCE**

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CHAPTER 1  
INTERPRETATION AND APPLICATION OF THESE REGULATIONS

**1. Definitions.**—(1) In these Regulations a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, (Act No. 56 of 2003), has the same meaning as in that Act, and—

**“asset”** means a tangible or intangible resource capable of ownership;

**“capital asset”** means—

- (a) any immovable asset such as land, property or buildings; or
- (b) any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic or social benefit can be derived, such as plant, machinery and equipment;

**“commercial service”** means a service other than a municipal service—

- (a) rendered by a private sector party or organ of state to or for a municipality or municipal entity on a commercial basis; and
- (b) which is procured by the municipality or municipal entity through its supply chain management policy;

**“depreciated replacement cost”**, in relation to a capital asset, means an amount equivalent to the cost to replace the capital asset on the date of transfer adjusted by a deemed depreciated cost at the date of the transfer taking into account the age and condition of the asset;

**“disposal”**, in relation to a capital asset, includes—

- (a) the demolition, dismantling or destruction of the capital asset; or

- (b) any other process applied to a capital asset which results in loss of ownership of the capital asset otherwise than by way of transfer of ownership;

**“disposal management system”** means the system contemplated in regulation 40 of the Municipal Supply Chain Management Regulations, published by General Notice No.868 of 2005;

**“encumbrance”**, in relation to a capital asset, means a right to the capital asset that is held by a third party that limits the owner’s use of the asset;

**“exempted capital asset”** means a municipal capital asset which is exempted by section 14 (6) or 90 (6) of the Act from the other provisions of that section;<sup>1</sup>

**“fair market value”**, in relation to a capital asset, means the value at which a knowledgeable willing buyer would buy and a knowledgeable willing seller would sell the capital asset in an arm’s length transaction;

**“high value”**, in relation to a capital asset of a municipality or municipal entity, means that the fair market value of the capital asset exceeds any of the following amounts:

- (a) R50 million;
- (b) one per cent of the total value of the capital assets of the municipality or municipal entity, as determined from the latest available audited annual financial statements of the municipality or entity; or
- (c) an amount determined by resolution of the council of the municipality or of the parent municipality of the municipal entity which is less than (a) or (b);

**“historical cost”**, in relation to a capital asset, means the original purchase price or cost of acquisition of the capital asset at the time the asset was acquired;

**“long term”** means a period of longer than three years;

**“municipal capital asset”** means a capital asset of which a municipality or municipal entity is the owner;

**“municipal service”** has the same meaning as assigned to it in section 1 of the Municipal Systems Act;

**“non-exempted capital asset”** means a municipal capital asset which is not exempted by section 14 (6) or 90 (6) of the Act from the other provisions of that section;

**“organ of state”** means—

- (a) a national department or national public entity;
- (b) a provincial department or provincial public entity;
- (c) a municipality or municipal entity; or
- (d) any other organ of state within the meaning assigned to “organ of state” in section 239 of the Constitution;

**“private sector party”** means a person who is not an organ of state;

**“realisable value”**, in relation to a capital asset, means the amount of cash or cash equivalents that

could currently be obtained by transferring the capital asset, less the estimated costs of completion and the estimated costs necessary to make the transfer;

**“right to use, control or manage”**, in relation to a capital asset, means a right to use, control or manage the capital asset for a period exceeding one calendar month without ceding legal ownership in the asset;<sup>2</sup>

**“service provider”**—

- (a) in relation to a municipal service, means a private sector party or organ of state appointed by a municipality in terms of Chapter 8 of the Municipal Systems Act to perform a municipal service in accordance with that Act; or
- (b) in relation to a commercial service, means a private sector party or organ of state appointed in terms of the supply chain management policy of a municipality or municipal entity to render a commercial service to or for the municipality or entity as an independent contractor;

**“subsidiary asset”**, in relation to a capital asset, means an asset that forms an integral part of the capital asset or of the operation or maintenance of the asset;

**“supply chain management policy”** means the supply chain management policy which a municipality or municipality entity is required to have in terms of Chapter 11 of the Act;

**“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“transfer”**, in relation to a capital or subsidiary asset, means transfer of ownership in the asset as a result of a sale or other transaction.

(2) In these Regulations—

- (a) a word or expression which is a derivative or other grammatical form of a word or expression defined in subregulation (1), has a corresponding meaning unless the context indicates that another meaning is intended; or
- (b) a footnote may be taken into account in determining the meaning of a provision of these Regulations, but only as an opinion on the information it conveys.

**2. Application of these Regulations.**—(1) These Regulations apply to—

- (a) the transfer and disposal of capital assets by municipalities and municipal entities; and
- (b) the granting by municipalities and municipal entities of rights to use, control or manage capital assets.

(2) The different Chapters of these Regulations apply as follows:

(a) Chapter 2 regulates—

- (i) the transfer<sup>3</sup> by municipalities or municipal entities of non-exempted capital assets<sup>4</sup> either to private sector parties or organs of state; and
- (ii) the permanent disposal<sup>5</sup> by municipalities or municipal entities of non-exempted capital assets;

- (b) Chapter 3 regulates the transfer by municipalities or municipal entities of exempted capital assets<sup>6</sup> to organs of state qualifying for such transfers in terms of section 14 (6) or 90 (6) of the Act;
- (c) Chapter 4 regulates the granting by municipalities or municipal entities of rights to use, control or manage capital assets in circumstances where sections 14 and 90 of the Act and Chapters 2 and 3 of these Regulations do not apply;<sup>7</sup> and
- (d) Chapter 5 deals with matters of general application and provides for certain general exemptions from these Regulations.

**3. Governing principles.**—These regulations are governed and must be implemented in accordance with the following principles:

- (a) *Valuation principle*, i.e. the need to attach a value to the transfer or disposal of a municipal capital asset, in order to ensure that the interests of the municipality or municipal entity and of its stakeholders are not prejudiced by the transfer or disposal.
- (b) *Continuity of service principle*, i.e. the need to ensure the uninterrupted continuance of a municipal service when a municipal capital asset that is being used in the delivery of that service, is transferred or disposed of, particularly when the asset is used in the provision of the minimum level of basic municipal services.
- (c) *Risk transfer principle*, i.e. the need to transfer the risk relating to a municipal capital asset in conjunction with the transfer of the asset.
- (d) *Asset preservation principle*, i.e. the need to prevent the indiscriminate or unsustainable transfer or disposal of a municipal capital asset in order not to undermine the ability of the municipality or municipal entity to render or expand municipal services in the longer term.

## CHAPTER 2

### TRANSFER AND PERMANENT DISPOSAL OF NON-EXEMPTED CAPITAL ASSETS

**4. Purpose of this Chapter.**—(1) The purpose of this Chapter is to regulate the transfer and permanent disposal of non-exempted capital assets by municipalities and municipal entities in order to facilitate the enforcement and administration of section 14 (2) and 90 (2) of the Act.

(2) This Chapter may not be read as permitting the transfer or disposal of municipal capital assets needed to provide the minimum level of basic municipal services.<sup>8</sup>

(3) This Chapter does not apply to the transfer of—

- (a) non-exempted capital assets in terms of public-private partnership agreements referred to in section 120 of the Act and the Municipal Public-Private Partnership Regulations published by Government Notice No. R.309 of 2005;<sup>9</sup> or
- (b) housing on municipal land and the transfer of that municipal land for the poor to beneficiaries of such housing.

#### *Part 1:*

#### *Decision-making process for municipalities*

**5. Transfer or disposal of non-exempted capital assets.**—(1) A municipality may transfer or

dispose of a non-exempted capital asset only after—

- (a) the accounting officer has in terms of regulation 6 conducted a public participation process to facilitate the determinations a municipal council must make in terms of section 14 (2) (a) and (b) of the Act; and
- (b) the municipal council—
  - (i) has made the determinations required by section 14 (2) (a) and (b);<sup>10</sup> and
  - (ii) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

(2) Subregulation (1) (a) must be complied with only if the capital asset proposed to be transferred or disposed of is a high value capital asset. If the combined value of any capital assets a municipality intends to transfer or dispose of in any financial year exceeds five per cent of the total value of its assets, as determined from its latest available audited annual financial statements, subregulation (1) (a) must be complied with in relation to all the capital assets proposed to be transferred or disposed of during that year.

(3) (a) Only the municipal council may authorise the public participation process referred to in subregulation (1) (a).

(b) A request to the municipal council for authorisation of a public participation process must be accompanied by an information statement stating—

- (i) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation;
- (ii) the reasons for the proposal to transfer or dispose of the capital asset;
- (iii) any expected benefits to the municipality that may result from the transfer or disposal;
- (iv) any expected proceeds to be received by the municipality from the transfer or disposal; and
- (v) any expected gain or loss that will be realised or incurred by the municipality arising from the transfer or disposal.

(4) The value of a capital asset must for purposes of subregulation (3) (b) (i) be determined in accordance with the accounting standards that the municipality is required by legislation to apply in preparing its annual financial statements.

(5) In the absence of sufficient guidance in those accounting standards regarding the valuation of capital assets, any of the following valuation methods must be applied:

- (a) historical cost of the asset, adjusted for accumulated depreciation and any impairment losses as at the proposed date of transfer or disposal;
- (b) fair market value of the asset;
- (c) depreciated replacement cost of the asset; or
- (d) realisable value of the asset.

(6) A municipal council may delegate to the accounting officer its power to make the determinations referred to in subregulation (1) (b) (i) and to give the approval referred to in subregulation (1) (b) (ii) in respect of movable capital assets below a value determined by the municipal council.

**6. Public participation process for municipalities.**—If the municipal council has in terms of regulation 5 (3) (a) authorised the accounting officer to conduct a public participation process in connection with any proposed transfer or disposal of a high value capital asset or other asset referred to in regulation 5 (2), the accounting officer must at least 60 days before the meeting of the council at which the determinations referred to in regulation 5 (1) (b) are to be considered—

- (a) in accordance with section 21A of the Municipal Systems Act—
  - (i) make public the proposal to transfer or dispose of the capital asset together with the information statement referred to in regulation 5 (3) (b); and
  - (ii) invite the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed transfer or disposal of the capital asset; and
- (b) solicit the views and recommendations of the National Treasury and the relevant provincial treasury on the matter.

**7. Consideration of proposals to transfer or dispose of non-exempted capital assets.**—The municipal council must, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 5 (1) (b) (i) and (ii), take into account—

- (a) whether the capital asset may be required for the municipality's own use at a later date;
- (b) the expected loss or gain that is expected to result from the proposed transfer or disposal;
- (c) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the municipality;
- (d) the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the municipality's interests;
- (e) the effect that the proposed transfer or disposal will have on the credit rating of the municipality, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;
- (f) any limitations or conditions attached to the capital asset or the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;
- (g) the estimated cost of the proposed transfer or disposal;
- (h) the transfer of any liabilities and reserve funds associated with the capital asset;
- (i) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;
- (j) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant provincial treasury;
- (k) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and
- (l) compliance with the legislative regime applicable to the proposed transfer or disposal.

*Part 2:*  
*Decision-making process for municipal entities*

**8. Transfer or disposal of non-exempted capital assets.**—(1) A municipal entity may transfer or dispose of a non-exempted capital asset only after—

- (a) the accounting officer of the entity has in terms of regulation 9 conducted a public participation process to facilitate the determinations that the council of the parent municipality of the entity must make in terms of section 90 (2) (a) and (b) of the Act; and
- (b) the council of the parent municipality of the municipal entity—
  - (i) has made the determinations required by section 90 (2) (a) and (b);<sup>11</sup> and
  - (ii) has as a consequence of those determinations approved in principle that the capital asset may be transferred or disposed of.

(2) Subregulation (1) (a) must be complied with only if the capital asset proposed to be transferred or disposed of is a high value capital asset. If the combined value of any capital assets a municipal entity intends to transfer or dispose of in any financial year exceeds five per cent of the total value of its assets, as determined from its latest available audited annual financial statements, subregulation (1) (a) must be complied with in relation to all capital assets proposed to be transferred or disposed of during that year.

(3) (a) Only the council of the parent municipality of a municipal entity may authorise the public participation process referred to in subregulation (1) (a).

(b) A request to the municipal council for authorisation of a public participation process must be accompanied by an information statement approved by the board of directors of the municipal entity stating—

- (i) the valuation of the capital asset to be transferred or disposed of and the method of valuation used to determine that valuation;
- (ii) the reasons for the proposal to transfer or dispose of the capital asset;
- (iii) any expected benefits to the municipal entity that may result from the transfer or disposal;
- (iv) any expected proceeds to be received by the municipal entity from the transfer or disposal; and
- (v) any expected gain or loss that will be realised or incurred by the municipal entity arising from the transfer or disposal.

(4) The value of a capital asset must for purposes of subregulation (3) (b) (i) be determined in accordance with the accounting standards that the municipal entity is required by legislation to apply in preparing its annual financial statements.

(5) In the absence of sufficient guidance in those accounting standards regarding the valuation of capital assets, any of the following valuation methods must be applied:

- (a) historical cost of the asset, adjusted for accumulated depreciation and any impairment losses as at the proposed date of transfer or disposal;
- (b) fair market value of the asset;
- (c) depreciated replacement cost of the asset; or
- (d) realisable value of the asset.



(6) The council of the parent municipality of a municipal entity may delegate to the accounting officer of the entity its power to make the determinations referred to in subregulation (1) (b) (i) and to give the approval referred to in subregulation (1) (b) (ii) in respect of movable capital assets below a value determined by the municipal council.

**9. Public participation process for municipal entities.**—If the council of the parent municipality of a municipal entity has in terms of regulation 8 (3) (a) authorised the entity to conduct a public participation process in connection with any proposed transfer or disposal of a high value capital asset or other asset referred to in regulation 8 (2), the chief executive officer of the entity must at least 90 days before the meeting of the municipal council at which the determinations referred to in regulation 8 (1) (b) are to be considered—

- (a) in accordance with section 21A of the Municipal Systems Act—
  - (i) make public the proposal to transfer or dispose of the capital asset together with the information statement referred to in regulation 8 (3) (b); and
  - (ii) invite the local community and other interested persons to submit to the parent municipality comments or representations in respect of the proposed transfer or disposal of the capital asset; and
- (b) solicit the views and recommendations of the National Treasury and the relevant provincial treasury on the matter.

**10. Consideration of proposals to transfer or dispose of non-exempted capital assets.**—The council of the municipal entity's parent municipality must, when considering any proposed transfer or disposal of a non-exempted capital asset in terms of regulation 8 (1) (b) (i) and (ii), take into account—

- (a) whether the capital asset may be required for the municipality or a municipal entity under the municipality's sole or shared control at a later date;
- (b) the expected loss or gain that is expected to result from the proposed transfer or disposal;
- (c) the extent to which any compensation to be received in respect of the proposed transfer or disposal will result in a significant economic or financial cost or benefit to the municipality or municipal entity;
- (d) the risks and rewards associated with the operation or control of the capital asset that is to be transferred or disposed of in relation to the interests of the municipality or municipal entity;
- (e) the effect that the proposed transfer or disposal will have on the credit rating of the municipal entity, its ability to raise long-term or short-term borrowings in the future and its financial position and cash flow;
- (f) any limitations or conditions attached to the capital asset on the transfer or disposal of the asset, and the consequences of any potential non-compliance with those conditions;
- (g) the estimated cost of the proposed transfer or disposal;
- (h) the transfer of any liabilities and reserve funds associated with the capital asset;
- (i) any comments or representations on the proposed transfer or disposal received from the local community and other interested persons;

- (j) any written views and recommendations on the proposed transfer or disposal by the National Treasury and the relevant provincial treasury;
- (k) the interests of any affected organ of state, the strategic, legal and economic interests of the municipality and the municipal entity and the interests of the local community; and
- (l) compliance with the legislative regime applicable to the proposed transfer or disposal.

*Part 3:*

*Provisions applicable to both municipalities and municipal entities*

**11. Conditional approval of transfer or disposal of non-exempted capital assets.**—An approval in principle in terms of regulation 5 (1) (b) (ii) or 8 (1) (b) (ii) that a non-exempted capital asset may be transferred or disposed of, may be given subject to any conditions, including conditions specifying<sup>12</sup>—

- (a) the way in which the capital asset is to be sold or disposed of;
- (b) a floor price or minimum compensation for the capital asset;
- (c) whether the capital asset may be transferred or disposed of for less than its fair market value, in which case the municipal council must first consider the criteria set out in regulation 13 (2); and
- (d) a framework within which direct negotiations for the transfer or disposal of the capital asset must be conducted with another person, if transfer or disposal is subject to direct negotiations.

**12. Transfer or disposal of non-exempted capital assets to be in accordance with disposal management system.**—(1) If approval has been given in terms of regulation 5 (1) (b) (ii) or 8 (1) (b) (ii) that a non-exempted capital asset may be transferred or disposed of, the relevant municipality or municipal entity may transfer or dispose of the asset only in accordance with its disposal management system,<sup>13</sup> irrespective of—

- (a) the value of the capital asset; or
- (b) whether the capital asset is to be transferred to a private sector party or an organ of state.

(2) The disposal management system of a municipality or municipal entity does not apply to the transfer of a non-exempted capital asset if—

- (a) the municipality—
  - (i) reviews in terms of Chapter 8 of the Municipal Systems Act its service delivery mechanisms for the performance of a municipal service;
  - (ii) appoints a private sector party<sup>14</sup> through a competitive bidding process as the service provider for the performance of that municipal service; and
  - (iii) transfers the capital asset as an integral component of the performance of that municipal service to that service provider; or
- (b) the municipality or municipal entity—
  - (i) appoints a private sector party or organ of state through a competitive bidding process as the service provider for the performance of a commercial service;<sup>15</sup> and
  - (ii) transfers the capital asset as an integral component of the performance of that

commercial service to that service provider.

(3) The municipality or municipal entity may negotiate directly with the selected service provider regarding the transfer of a capital asset referred to in subregulation (2) (a) or (b).

(4) A municipality or municipal entity may not commence with the process referred to in subregulation (1) or negotiations referred to in subregulation (3) unless approval in principle has in terms of regulation 5 (1) (b) (ii) or 8 (1) (b) (ii) been given that the relevant capital asset may be transferred or disposed of.

(5) In applying the process referred to in subregulation (1) or conducting negotiations referred to in subregulation (3), the municipality or municipal entity must consider the gain or loss that will—

- (a) result from the transfer or disposal of the relevant capital asset; and
- (b) be recorded in the accounting records of the municipality or municipal entity.

**13. Compensation for transfer of non-exempted municipal capital assets.**—(1) The compensation payable to a municipality or municipal entity for the transfer of a non-exempted capital asset must, subject to subregulation (2)—

- (a) be consistent with criteria applicable to compensation set out in the disposal management system of the municipality or municipal entity; and
- (b) if regulation 12 (2) (b) applies to the transfer, reflect fair market value.

(2) If a municipality or municipal entity on account of the public interest, in particular in relation to the plight of the poor, intends to transfer a non-exempted capital asset for less than its fair market value, the municipality or entity must, when considering the proposed transfer<sup>16</sup>, take into account—

- (a) the interests of—
  - (i) the State; and
  - (ii) the local community;
- (b) the strategic and economic interests of the municipality or municipal entity, including the long-term effect of the decision on the municipality or entity;
- (c) the constitutional rights and legal interests of all affected parties;
- (d) whether the interests of the parties to the transfer should carry more weight than the interest of the local community, and how the individual interest is weighed against the collective interest; and
- (e) whether the local community would be better served if the capital asset is transferred at less than its fair market value, as opposed to a transfer of the asset at fair market value.

**14. Preconditions for transferring non-exempted capital assets as part of appointment of service providers for performance of municipal or commercial services.**—If a municipality or municipal entity intends to transfer to a private sector party or organ of state a non-exempted capital asset following the selection through a competitive bidding process of a service provider for the performance of a municipal service referred to in regulation 12 (2) (a) or for the performance of a commercial service referred to in regulation 12 (2) (b)—

- (a) all assets needed or directly related to the performance of that service must be properly identified to distinguish those assets from the other assets of the municipality or municipal

entity;

- (b) all decisions referred to in regulation 5 (1) (b) (i) and (ii) or 8 (1) (b) (i) and (ii) relating to the transfer of the capital asset must be taken as an integral part of the broader decision-making process on the appointment of a service provider for the performance of that service; and
- (c) all documents prepared for the purpose of those decisions, must be taken into account in any feasibility study conducted to determine the financial and other implications of appointing a service provider for the performance of that service.

**15. Transfer of municipal assets to service providers appointed through competitive bidding.**—(1) If a service provider is appointed for the performance of a municipal service referred to in regulation 12 (2) (a) or for the performance of a commercial service referred to in regulation 12 (2) (b), the municipality or municipal entity may, as may be agreed with the service provider and subject to section 14 (1) of the Act, transfer to that service provider all capital assets, including subsidiary assets, essential to the performance of that service.

(2) Capital and subsidiary assets that may be transferred in terms of subregulation (1) as essential to the performance of the service referred to in that subsection may include—

- (a) plant, machinery and equipment and any other movable assets used for or in connection with that service;
- (b) land, property and buildings and other immovable structures used for or in connection with that service, irrespective of whether the land, property, buildings or other immovable structures are classified as investment property in the accounting records of the municipality or municipal entity;
- (c) intangible assets recorded in the accounting records of the municipality or municipal entity as an integral part of that service;
- (d) receivables, both short-term and long-term, provided that the transfer does not undermine the legal recoverability of such receivables by the person to whom the assets are transferred;
- (e) investments, including the instruments referred to in regulation 6 of the Municipal Investment Regulations published by Government Notice No. R.308 of 2005;
- (f) cash and bank balances derived from the performance of that service; and
- (g) any cash reserves associated with the performance of that service.

**16. Discharge of borrowings on assets transferred or disposed of in terms of this Chapter.**—(1) The proceeds received from the transfer or disposal of an asset in terms of this Chapter must be used to discharge any borrowing against the asset as at its redemption date, or another date as may be negotiated with the lender.

(2) Subregulation (1) may not be read as preventing a municipality or municipal entity from negotiating with the private sector party or organ of state to whom an asset is transferred in terms of this Chapter, to take over, as part of the compensation payable to the municipality or entity, any borrowing the municipality or entity made against the asset.

**17. Transfer agreements.**—(1) A municipality or municipal entity may transfer assets approved

for transfer to a private sector party or organ of state in terms of this Chapter, only by way of a written transfer agreement concluded between the transferring municipality or entity and the receiving private sector party or organ of state.

(2) A transfer agreement must set out the terms and conditions of the transfer, including, as a minimum—

- (a) a sufficient description of the capital asset being transferred in order to identify the asset;
- (b) particulars of any subsidiary assets that are transferred with the capital asset;
- (c) particulars of any liabilities transferred with the asset;
- (d) the amount of compensation payable to the municipality or municipal entity for the transfer of the asset or assets, and the terms and conditions of payment; and
- (e) the effective date from which the risk and accountability for the asset or assets is transferred to the receiving private sector party or organ of state.

(3) If a capital asset is transferred following the selection through a competitive bidding process of a service provider for the performance of a municipal service referred to in regulation **12 (2) (a)** or for the performance of a commercial service referred to in regulation **12 (2) (b)**, the transfer agreement referred to in subregulation (1)—

- (a) must contain provision for—
  - (i) contract termination in the case of non- or underperformance;
  - (ii) dispute resolution mechanisms to settle disputes between the parties; and
  - (iii) a periodic review of the agreement once every three years, in the case of an agreement for longer than three years; and
- (b) may be incorporated into any service delivery agreement or procurement contract to be concluded with the service provider.

**18. Access to transfer agreements.**—An agreement in terms of which a municipality or municipal entity transfers a non-exempted capital asset in terms of this Chapter—

- (a) must be made available in its entirety to the council of the municipality or the council of the parent municipality of the municipal entity; and
- (b) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

### CHAPTER 3 TRANSFER OF EXEMPTED CAPITAL ASSETS

**19. Purpose of this Chapter.**—The purpose of this Chapter is—

- (a) to define the circumstances in which the transfer of municipal capital assets to organs of state is for purposes of section 14 (6) and section 90 (6) of the Act exempted from the other provisions of section 14 or 90;<sup>17</sup> and
- (b) to prescribe a framework contemplated in section 14 (6) and section 90 (6) for regulating the transfer in those circumstances of municipal capital assets to organs of state.

**20. Circumstances in which transfer of municipal capital assets to organs of state is exempted from sections 14 and 90.**—(1) Section 14 (1) to (5) and section 90 (1) to (5) of the Act does not apply if a municipality or municipal entity transfers a capital asset to an organ of state in any of the following circumstances:

- (a) When transfer of a capital asset emanates from a review by a municipality of its service delivery mechanisms for the performance of a municipal service in terms of Chapter 8 of the Municipal Systems Act and the municipality appoints another organ of state as the preferred option for the performance of the service;
- (b) when transfer of a capital asset emanates from a reorganisation of powers and functions between a parent municipality and its municipal entity, including asset transfers contemplated in section 84 of the Act;
- (c) when transfer of a capital asset emanates from an assignment of any of the powers or functions of a municipality to another organ of state by national legislation or in terms of a power contained in national legislation, including an assignment of powers or functions following—
  - (i) an adjustment of the division of powers and functions between a district municipality and local municipalities within the district in terms of section 85 of the Municipal Structures Act;
  - (ii) an authorisation in terms of section 84 (3) the Municipal Structures Act; or  
(Editorial Note: Wording as per original *Government Gazette*.)
  - (iii) a re-demarcation of municipal boundaries in terms of the Municipal Structures Act;<sup>18</sup>
- (d) when municipal housing or land is transferred to a national or provincial organ of state for housing for the poor or in terms of a national or provincial housing policy;
- (e) when transfer of a capital asset to an organ of state is required or permitted in terms of national legislation and that legislation determines the conditions of the transfer; or
- (f) any other circumstance not provided in paragraph (a) to (e), provided that—
  - (i) the capital asset to be transferred is determined by resolution of the council to be not needed for the provision of the minimum level of basic municipal services and to be surplus to the requirements of the municipality; and
  - (ii) if the capital asset is to be transferred for less than fair market value, the municipality takes into account—
    - (aa) whether the capital asset may be required for the municipality or a municipal entity under the municipality's sole or shared control at a later date;
    - (bb) the expected loss or gain that is expected to result from the proposed transfer;
    - (cc) the extent to which any compensation to be received in respect of the proposed transfer will result in a significant economic or financial cost or benefit to the municipality;
    - (dd) the risks and rewards associated with the operation or control of the capital asset that is to be transferred in relation to the interests of the municipality or municipal entity;

- (*ee*) the effect that the proposed transfer will have on the ability of the municipality or municipal entity to raise long-term or short-term borrowings in the future;
- (*ff*) any limitations or conditions attached to the capital asset or the transfer of the asset, and the consequences of any potential non-compliance with those conditions;
- (*gg*) the estimated cost of the proposed transfer;
- (*hh*) the transfer of any reserve funds associated with the capital asset;
- (*ii*) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and
- (*jj*) compliance with the legislative regime applicable to the proposed transfer.

(2) Any transfer of a municipal capital asset to an organ of state in circumstances described in subregulation (1) may be effected only in accordance with this Chapter and any other legislation specifically regulating the transfer of the asset, but in the event of any inconsistency between a provision of this Chapter and such other legislation, that other legislation prevails.

**21. Circumstances in which transfer of municipal capital assets to organs of state is not exempted from sections 14 and 90.**—Sections 14 (1) to (5) and 90 (1) to (5) of the Act and Chapter 2 of these Regulations must be applied if a municipality or municipal entity transfers a capital asset to an organ of state when none of the circumstances mentioned in regulation 20 apply, including when the asset is transferred in the course of an ordinary commercial transaction between the municipality or entity and the organ of state.

**22. Municipal decision-making processes for transfer of exempted capital assets.**—(1) If an exempted capital asset is to be transferred to an organ of state in connection with the performance of a municipal service contemplated in regulation 20 (1) (a) or a reorganisation of powers or functions contemplated in 20 (1) (b)—

- (a) all decisions relating to the transfer of the capital asset must be taken by the municipality or municipal entity as an integral part of the broader decision-making process on the selection of a service provider for the performance of the municipal service or on the reorganisation of powers or functions in terms of the legislation applicable to that process;
- (b) any document prepared by the municipality or municipal entity for the purpose of conducting a public participation process to involve the community in decision-making must include details of the proposed transfer of the capital asset; and
- (c) the proposed transfer of the capital asset must be taken into account in any feasibility study conducted to determine the financial and other implications of the selection of a service provider for the performance of the municipal service or of the reorganisation of powers or functions.

(2) If a feasibility study referred to in subregulation (1) (c) indicates that there will be a significant increase in the costs of the municipality or municipal entity after the transfer of the capital asset to the organ of state, the municipality or the parent municipality of the entity must demonstrate—

- (a) how the costs can be minimised by considering the sharing of administrative, information technology or financial costs between the municipality or municipal entity and the organ of state;

- (b) how much revenue can be generated by the organ of state which will be available to the municipality or municipal entity to offset any increased costs it will incur as a result of the transfer; and
- (c) the extent to which the municipality or municipal entity can rationalise its administrative, information technology and financial costs subsequent to the transfer.

(3) A municipality transferring a capital asset to an organ of state in the circumstances described in regulation 20 (1) (a) must take all reasonable steps to ensure that the transfer will result in the continuation of the municipal service concerned at least at the same or better level that would otherwise have been rendered by the transferring municipality had it not transferred the asset.

**23. Identification of exempted capital assets to be transferred to organs of state.**—Before transferring an exempted capital asset to an organ of state in any of the circumstances described in regulation 20 (1), a municipality or municipal entity must—

- (a) properly identify the capital asset, including—
  - (i) in the case of a transfer emanating from the circumstances referred to in regulation 20 (1) (a), all other assets needed for or directly related to, and staff associated with, the performance of the municipal service concerned;
  - (ii) in the case of a transfer emanating from the circumstances referred to in regulation 20 (1) (b) or (c), all other assets needed for or directly related to, and staff associated with, the exercise of the power or function concerned; or
  - (iii) in the case of a transfer emanating from the circumstances referred to in regulation 20 (1) (d) or (e), all other assets needed for or directly related to that capital asset; and
- (b) distinguish that asset and staff from the other assets and staff of the municipality or municipal entity.

**24. Transfer of exempted capital assets needed to provide minimum level of basic municipal services.**—(1) If a municipality or municipal entity transfers to an organ of state an exempted capital asset needed to provide the minimum level of basic municipal services, such transfer may only be effected on condition that—

- (a) ownership in the capital asset must immediately revert to the municipality or municipal entity should the organ of state for any reason cease to render the service or is unable to render the service; and
- (b) the organ of state may not without the written approval of the municipality or the parent municipality of the municipal entity—
  - (i) transfer the capital asset to another person;
  - (ii) dispose of the capital asset;
  - (iii) grant a right to another person to use, control or manage the capital asset; or
  - (iv) encumber the capital asset in any way.

(2) Before transferring an exempted capital asset needed to provide the minimum level of basic municipal services, the municipality or municipal entity must be satisfied that the organ of state to which the asset is to be transferred can demonstrate the ability to adequately maintain and safeguard the asset.



(3) The transfer agreement, service delivery or other agreement between the municipality or municipal entity and the organ of state to whom the asset is to be transferred must reflect the conditions set out in subregulation (1).

(4) If the organ of state replaces, upgrades or improves the capital asset transferred to it, the conditions set out in subregulation (1) remain applicable to the new, upgraded or improved capital asset as if it were the original capital asset.

(5) This regulation does not apply to a capital asset needed to provide the minimum level of basic municipal services which is transferred to an organ of state in the circumstances referred to in regulation 20 (1) (c) or (d).

**25. Transfer of exempted capital assets contemplated in regulation 20 (1) (a) or (c).**—(1) If a municipality appoints an organ of state as the service provider for the performance of a municipal service as contemplated in regulation 20 (1) (a) or if a power or function of a municipality or municipal entity is assigned to an organ of state as contemplated in regulation 20 (1) (c), the municipality or entity must, as may be agreed with the organ of state, transfer to that organ of state all capital assets, including subsidiary assets, essential to the performance of that municipal service or the exercise of that power or function

(2) Capital and subsidiary assets that must be transferred in terms of subregulation (1) may include—

- (a) plant, machinery and equipment and other movable assets used for or in connection with the service, power or function referred to in that subregulation;
- (b) land, property and buildings and other immovable structures used for or in connection with that service, power or function, irrespective of whether the land, property and buildings or other immovable structures are classified as investment property in the accounting records of the municipality or municipal entity;
- (c) intangible assets recorded in the accounting records of the municipality or municipal entity as an integral part of that service, power or function;
- (d) receivables, both short-term and long-term, provided that the transfer does not undermine the legal recoverability of such receivables by the organ of state;
- (e) investments, including the instruments referred to in regulation 6 of the Municipal Investment Regulations, published in Government Notice No. R.308 of 2005;
- (f) cash and bank balances derived from the performance of that service, power or function; and
- (g) cash equal to the residual value of assets and liabilities as well as any reserve funds associated with that service, power or function, or alternatively ensure that the organ of state has appropriate access to the cash resources of the municipality or entity.

**26. Transfer of borrowings.**—(1) If a municipality or municipal entity transfers an exempted capital asset to an organ of state, any borrowings or other amounts owing by the municipality or entity specifically associated with the asset being transferred, or with its acquisition, operation or maintenance, must also be transferred to the organ of state.

(2) If the transfer of an exempted capital asset by a municipality or municipal entity to an organ of state emanates from the appointment of an organ of state as the service provider for the performance of a municipal service as contemplated in regulation 20 (1) (a) or the assignment of a power or function of a

municipality or entity to an organ of state as contemplated in regulation **20** (1) (c), any borrowings or other amounts owing by the municipality or entity specifically associated with the performance of that municipal service or the exercise of that power or function, must also be transferred to the organ of state.

(3) In addition, a portion of the outstanding balance of general borrowings on capital expenditure by the municipality or municipal entity which is attributable or associated with the capital asset being transferred or with the performance of the relevant municipal service or with the exercise of the relevant power or function must also be transferred to the organ of state, in a ratio of total value of capital assets being transferred to the organ of state to total value of all capital assets of the municipality or entity, as appears in the accounting records of the municipality or entity.

(4) Subregulation (1), (2) or (3) applies only if—

- (a) the creditor to whom the amount is owed consents to the transfer to the organ of state of the amount owing; and
- (b) any legal, operational, administrative or other constraints do not prevent the transfer to the organ of state of the amount owing.

(5) If a borrowing or other amount owing is transferred to an organ of state in terms of subregulation (1), (2) or (3), the organ of state—

- (a) replaces the municipality or municipal entity as debtor in relation to the borrowing or amount owing; and
- (b) becomes liable for the borrowing or amount owing as fully and effectually as if it originally entered into the agreement with the creditor.

(6) If for any reason a borrowing or other amount owing referred to in subregulation (1), (2) or (3) is not transferred to the organ of state—

- (a) the municipality or municipal entity remains liable for the amount owing to the creditor; and
- (b) the municipality or municipal entity and the organ of state must enter into an agreement whereby the organ of state undertakes to compensate the municipality or entity for all payments made by it to the creditor in terms of paragraph (a).

(7) A borrowing or other amount owing referred to in subregulation (1), (2) or (3) must be identified and allocated to the organ of state on a reasonable basis.

**27. Transfer of staff associated with performance of functions assigned to organs of state.**—If a municipality or municipal entity transfers an exempted capital asset to an organ of state and the transfer of that asset gives rise to the transfer to the organ of state of staff associated with the asset the staff transfer must be consistent with legislation regulating staff transfers in those circumstances, including any applicable labour legislation and legislation regulating the transfer of liabilities associated with such staff.

**28. Compensation for transfer of assets.**—(1) A municipality or municipal entity transferring an exempted capital asset and any subsidiary assets to an organ of state may receive compensation for the value of those assets, as may be agreed with the organ of state.

(2) The value of an asset must for purposes of subregulation (1) be determined in accordance with regulation **29**.

**29. Valuation of assets.**—(1) The value of a capital asset or any subsidiary assets transferred to an

organ of state in terms of this Chapter must be determined in accordance with the accounting standards that the municipality or municipal entity is required by legislation to apply in preparing its annual financial statements.

(2) In the absence of sufficient guidance in those accounting standards regarding the valuation of assets, any of the following valuation methods must be applied:

- (a) historical cost of the asset, adjusted for accumulated depreciation and any impairment losses as at the date of transfer of the asset;
- (b) fair market value of the asset;
- (c) depreciated replacement cost of the asset; or
- (d) realisable value of the asset.

(3) The value of liabilities transferred to an organ of state in terms of regulation 26 must be determined in accordance with the accounting standards that the municipality or municipal entity is required by legislation to apply in preparing its annual financial statements.

(4) In the absence of sufficient guidance in those accounting standards regarding the valuation of liabilities attached to those assets, any of the following valuation methods must be applied:

- (a) the settlement value of the liability, which is the amount that will be paid or the value of the service that will be provided to settle the liability when due; or
- (b) the net present value of the liability, after discounting future settlement values to present values.

**30. Transfer agreements.**—(1) A municipality or municipal entity may transfer assets and liabilities in terms of this Chapter to an organ of state only in accordance with a written transfer agreement concluded between the municipality or entity and the organ of state.

(2) A transfer agreement must—

- (a) set out the terms and conditions of the transfer, including, as a minimum—
  - (i) a sufficient description of the capital asset being transferred in order to identify the asset;
  - (ii) particulars of any subsidiary assets that are transferred with the capital asset;
  - (iii) details of all staff that will be affected and the legislation in terms of which such staff will be transferred;
  - (iv) particulars of any liabilities transferred with the asset;
  - (v) the amount of any compensation payable to the municipality or municipal entity for the transfer of the asset, and the terms and conditions of payment;
  - (vi) the effective date from which the risk and accountability for the asset or assets is transferred to the organ of state;
  - (vii) in instances in which the organ of state is required or chooses to use the billing, information technology or any other administrative structure of the municipality or municipal entity in the operation of the asset, the terms and conditions of such usage together with the basis of compensation for such usage and the financial risk exposure to the municipality or entity;

- (viii) details of any staff of the municipality or municipal entity that will be available to the organ of state on a temporary or defined basis in the operation of the asset, together with the basis of compensation for such staff and the financial risk exposure to the municipality or entity;
- (ix) where the asset is to be used by both the municipality or municipal entity and the organ of state, the basis of how the asset is to be shared as well as how the costs and benefits of the shared asset will be apportioned between parties;
- (x) the value of the asset determined in accordance with regulation **29**;
- (xi) appropriate evidence to support the valuation of the asset; and
- (xii) details of any encumbrances, rights and servitudes, applicable to the asset;
- (b) state that the transfer is effected on the basis of the provisions of this Chapter and that these provisions must for this purpose be regarded as forming part of the agreement; and
- (c) be signed on behalf of the municipality or municipal entity and the organ of state.

(3) If a capital asset is transferred following the appointment of an organ of state as the service provider for the performance of a municipal service contemplated in regulation **20** (1) (a), the transfer agreement referred to in subregulation (1)—

- (a) must provide for—
  - (i) contract termination in the case of non- or underperformance, which must be linked to termination of any service delivery agreement entered into between the parties;
  - (ii) dispute resolution mechanisms to settle disputes between the parties;
  - (iii) a periodic review of the agreement whenever the service delivery agreement to which it is linked is reviewed in terms of the Municipal Systems Act, but at least once every three years in the case of an agreement for longer than three years; and
  - (vi) requirements for the organ of state to maintain and safeguard the asset for its intended purpose, taking into account the condition of the asset and its estimated remaining life at the date of transfer;
- (b) may contain—
  - (i) limitations or restrictions on the use or subsequent transfer of the asset; and
  - (ii) limitations and conditions by which an asset may be used for the provision of security over any borrowing of the organ of state; and
- (c) may be incorporated into any service delivery agreement to be concluded with the organ of state as service provider.

**31. Impact of asset transfers on financial interests of transferring municipalities and municipal entities.**—(1) Before entering into a transfer agreement in terms of regulation **30**, a municipality or municipal entity must consider the effect that the transfer of an asset will have on—

- (a) its credit rating and ability to raise long-term or short-term funds in the future; and
- (b) its financial position and cash flow.

(2) Subregulation (1) does not apply if the asset is transferred to an organ of state in the

circumstances referred to in regulation 20 (1) (c), (d) or (e).

**32. Due diligence.**—(1) Before entering into a transfer agreement in terms of regulation 30 the organ of state to whom a capital asset is to be transferred must undertake and document a due diligence review on the asset and any liabilities transferred to it.

(2) The results of the due diligence must be taken into account in any decision to transfer a capital asset in terms of this Chapter.

#### CHAPTER 4

#### GRANTING OF RIGHTS TO USE, CONTROL OR MANAGE MUNICIPAL CAPITAL ASSETS

**33. Purpose of this Chapter.**—(1) The purpose of this Chapter is to regulate the granting by municipalities and municipal entities of rights to use, control or manage capital assets in circumstances where sections 14 and 90 of the Act and Chapters 2 and 3 of these Regulations do not apply.<sup>19</sup>

(2) This Chapter does not apply to the granting by municipalities and municipal entities of—

- (a) rights to use, control or manage capital assets in terms of public-private partnership agreements referred to in section 120 of the Act and the Municipal Public-Private Partnership Regulations published by Government Notice No. R.309 of 2005; or
- (b) rights on municipal land to housing for the poor to beneficiaries of such housing.

(3) The granting by a municipality or municipal entity of a right to use, control or manage a capital asset must for the purposes of these Regulations be dealt with in terms of Chapter 2 or 3 as if such granting of a right is a transfer within the meaning of that Chapter, if the right—

- (a) is granted for an indefinite or undetermined period;
- (b) is granted for a period which exceeds—
  - (i) the useful life of the capital asset; or
  - (ii) the economic usefulness of the capital asset and which would require the asset, in order to remain economically useful, to be substantially upgraded, altered or replaced during the period for which the right is granted; or
- (c) confers on the person to whom the right is granted—
  - (i) an option to buy or acquire ownership in the capital asset; or
  - (ii) the power to use, control or manage the capital asset as if that person is the beneficial (but not legal) owner of the asset.

##### *Part 1:*

##### *Decision-making process for municipalities*

**34. Granting of rights to use, control or manage municipal capital assets.**—(1) A municipality may grant a right to use, control or manage a capital asset only after

- (a) the accounting officer has in terms of regulation 35 conducted a public participation process regarding the proposed granting of the right; and
- (b) the municipal council has approved in principle that the right may be granted.

(2) Subregulation (1) (a) must be complied with only if—

- (a) the capital asset in respect of which the proposed right is to be granted has a value in excess of R10 million; and
- (b) a long term right is proposed to be granted in respect of the capital asset.

(3) (a) Only the municipal council may authorise the public participation process referred to in subregulation (1) (a).

(b) A request to the municipal council for authorisation of a public participation process must be accompanied by an information statement stating—

- (i) the reasons for the proposal to grant a long term right to use, control or manage the relevant capital asset;
- (ii) any expected benefits to the municipality that may result from the granting of the right;
- (iii) any expected proceeds to be received by the municipality from the granting of the right; and
- (iv) any expected gain or loss that will be realised or incurred by the municipality arising from the granting of the right.

(4) A municipal council may delegate to the accounting officer its approval power referred to in subregulation (1) (b) excluding the power to grant long term rights to use, control or manage capital assets of a value in excess of R10 million.

**35. Public participation process for granting long term rights to municipal capital assets with value in excess of R10 million.**—If the municipal council has in terms of regulation 34 (3) (a) authorised the accounting officer to conduct a public participation process in connection with any proposed granting of a long term right to use, control or manage a capital asset with a value in excess of R10 million, the accounting officer must at least 60 days before the meeting of the municipal council at which the decision referred to in regulation 34 (1) (b) is to be considered—

- (a) in accordance with section 21A of the Municipal Systems Act—
  - (i) make public the proposal to grant the relevant right together with the information statement referred to in regulation 34 (3) (b); and
  - (ii) invite the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed granting of the right; and
- (b) solicit the views and recommendations of the National Treasury and the relevant provincial treasury on the matter.

**36. Consideration of proposals to grant rights to use, control or manage municipal capital assets.**—The municipal council must, when considering in terms of regulation 34 (1) (b) approval for any proposed granting of a right to use, control or manage a capital asset, take into account—

- (a) whether the capital asset may be required for the municipality's own use during the period for which the right is to be granted;
- (b) the extent to which any compensation to be received for the right together with the estimated value of any improvements or enhancements to the capital asset that the private sector party or organ of state to whom the right is granted will be required to make, will

- result in a significant economic or financial benefit to the municipality;
- (c) the risks and rewards associated with the use, control or management of the capital asset in relation to the municipality's interests;
- (d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;
- (e) any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant provincial treasury;
- (f) the interests of any affected organ of state, the municipality's own strategic, legal and economic interests and the interests of the local community; and
- (g) compliance with the legislative regime applicable to the proposed granting of the right.

*Part 2:*

*Decision-making process for municipal entities*

**37. Granting of rights to use, control or manage municipal capital assets.**—(1) A municipal entity may grant a right to use, control or manage a capital asset only after—

- (a) the accounting officer of the entity has in terms of regulation **38** conducted a public participation process regarding the proposed granting of the right; and
- (b) the council of the parent municipality of the entity has approved in principle that the right may be granted.

(2) Subregulation (1) (a) must be complied with only if—

- (a) the capital asset in respect of which the proposed right is to be granted has a value in excess of R 10 million; and
- (b) a long term right is proposed to be granted in respect of the capital asset.

(3) (a) Only the council of the parent municipality of a municipal entity may authorise the public participation process referred to in subregulation (1) (a).

(b) A request to the municipal council for authorisation of a public participation process must be accompanied by an information statement approved by the board of directors of the municipal entity stating—

- (i) the reasons for the proposal to grant a long term right to use, control or manage the relevant capital asset;
- (ii) any expected benefits to the municipal entity that may result from the granting of the right;
- (iii) any expected proceeds to be received by the municipal entity from the granting of the right; and
- (iv) any expected gain or loss that will be realised or incurred by the municipal entity arising from the granting of the right.

(4) The council of the parent municipality of a municipal entity may delegate to the accounting officer of the entity its approval power referred to in subregulation (1) (b) excluding the power to grant long term rights to use, control or manage capital assets of a value in excess of R10 million.

**38. Public participation process for granting long term rights to municipal capital assets with**

**value in excess of R10 million.**—If the council of the parent municipality of a municipal entity has in terms of regulation 37 (3) (a) authorised the entity to conduct a public participation process in connection with any proposed granting of a long term right to use, control or manage a capital asset with a value in excess of R10 million, the chief executive officer of the entity must at least 90 days before the meeting of the council of the parent municipality at which the decision referred to in regulation 37 (1) (b) is to be considered—

- (a) in accordance with section 21A of the Municipal Systems Act—
  - (i) make public the proposal to grant the relevant right together with the information statement referred to in regulation 37 (3) (b); and
  - (ii) invite the local community and other interested persons to submit to the parent municipality comments or representations in respect of the proposed of the right; and(Editorial Note: Wording as per original *Government Gazette*.)
- (b) solicit the views and recommendations of the National Treasury and the relevant provincial treasury on the matter.

**39. Consideration of proposals to grant rights to use, control or manage municipal capital assets.**—The council of the parent municipality of a municipal entity must, when considering in terms of regulation 37 (1) (b) approval for any proposed granting of a right to use, control or manage a capital asset, take into account—

- (a) whether the capital asset may be required for the municipality or a municipal entity under the municipality's sole or shared control at a later date;
- (b) the extent to which the compensation for the right to use, control or manage the capital asset together with the estimated value of any improvements or enhancements to the asset that the private sector party or organ of state to whom the right is granted will be required to make, will result in a significant economic or financial benefit for the municipality or municipal entity;
- (c) the risks and rewards associated with the use, control or management of the capital asset in relation to the interests of the municipality or municipal entity;
- (d) any comments or representations on the proposed granting of the right received from the local community and other interested persons;
- (e) any written views and recommendations on the proposed granting of the right by the National Treasury and the relevant provincial treasury;
- (f) the interests of any affected organ of state, the strategic, legal and economic interests of the municipality and municipal entity and the interests of the local community; and
- (g) compliance with the legislative regime applicable to the granting of the right.

*Part 3:*

*Provisions applicable to both municipalities and municipal entities*

**40. Conditional approval of rights to municipal capital assets.**—An approval in principle in terms of regulation 34 (1) (b) or 37 (1) (b) that a right to use, control or manage a capital asset may be granted, may be given subject to any conditions, including conditions specifying—

- (a) the type of right that may be granted, the period for which it is to be granted and the way



in which it is to be granted;

- (b) the minimum compensation to be paid for the right; and
- (c) a framework within which direct negotiations for the granting of the right must be conducted, if granting of the right is subject to direct negotiations.

**41. Granting of rights to use, control or manage municipal capital assets to be in accordance with disposal management system.**—(1) If approval in principle has been given in terms of regulation 34 (1) (b) or 37 (1) (b) that a right to use, control or manage a capital asset may be granted, the relevant municipality or municipal entity may grant the right only in accordance with the disposal management system of the municipality or entity, irrespective of—

- (a) the value of the asset;
- (b) the period for which the right is to be granted; or
- (c) whether the right is to be granted to a private sector party or organ of state.

(2) The disposal management system of a municipality or municipal entity does not apply to the granting of a right to use, control or manage a capital asset if—

- (a) the municipality—
  - (i) reviews in terms of Chapter 8 of the Municipal Systems Act its service delivery mechanisms for the performance of a municipal service;
  - (ii) selects through a competitive bidding process a private sector party or appoints an organ of state as the service provider for the performance of that municipal service; and
  - (iii) grants that service provider the right to use, control or manage that capital asset as an integral component of the performance of that municipal service;
- (b) the municipality or municipal entity—
  - (i) selects through a competitive bidding process a private sector party or organ of state as the service provider for the performance of a commercial service; and
  - (ii) grants that service provider the right to use, control or manage that capital asset as an integral component of the performance of that commercial service;
- (c) the right to use, control or manage that capital asset is granted as part of a reorganisation of powers or functions between a parent municipality and its municipal entity;
- (d) the right to use, control or manage that capital asset is granted in circumstances referred to in section 110 (2) of the Act; or
- (e) the right to use, control or manage that capital asset is granted to another organ of state in any other circumstance not provided in paragraph (a) to (d) provided that the capital asset is determined by resolution of the council of the municipality or of the parent municipality of the municipal entity to be surplus to the requirements of the municipality or entity.

(3) The municipality or municipal entity may negotiate directly with the private sector party or organ of state to whom the right to use, control or manage a capital asset referred to in subregulation (2) (a), (b), (c), (d) or (e) is to be granted.

(4) Before granting the right to use, control or manage a capital asset, the municipality or

municipal entity must be satisfied that the private sector party or organ of state to whom the right is to be granted can demonstrate the ability to adequately maintain and safeguard the asset.

**42. Preconditions for granting of long term rights to municipal capital assets as part of selection of service providers for performance of municipal or commercial services.**—If a municipality or municipal entity intends to grant to a private sector party or organ of state a long term right to use, control or manage a capital asset with a value in excess of R10 million following the selection of that private sector party or organ of state as the service provider for the performance of a municipal service referred to in regulation **41 (2) (a)** or for the performance of a commercial service referred to in regulation **41 (2) (b)**—

- (a) all assets needed or directly related to the performance of that service must be properly identified, to distinguish those assets from the other assets of the municipality or municipal entity;
- (b) the decision required in terms of regulation **34 (1) (b)** or **37 (1) (c)** relating to the granting of the right must be taken as an integral part of the broader decision-making process on the selection of a service provider for the performance of that service; and
- (c) all documents prepared for the purpose of that decision must be taken into account in any feasibility study conducted to determine the financial and other implications of appointing a service provider for the performance of that service.

**43. Continuation of municipal services.**—If a municipality or municipal entity grants a right to use, control or manage a capital asset used for or in connection with a municipal service, the municipality or entity must take all reasonable steps to ensure that the granting of the right will result in the continuation of the service at least at the same or better level that would otherwise have been rendered by the municipality or entity had it not granted the right.

**44. Granting of rights to use, control or manage municipal capital assets needed to provide minimum level of basic municipal services.**—If approval in principle has been given in terms of regulation **34 (1) (b)** or **37 (1) (b)** that a right to use, control or manage a capital asset may be granted and that asset is needed to provide the minimum level of basic municipal services, such right may only be granted on condition that—

- (a) the granting of the right immediately lapses should the private sector party or organ of state to whom the right is granted, for any reason cease or become unable to render the service for which the capital asset is used; and
- (b) the private sector party or organ of state to whom the right is granted may not without the written consent of the municipality or the parent municipality of the municipal entity grant a right to another person to use, control or manage that capital asset.

**45. Agreements granting rights to use, control or manage municipal capital assets.**—(1) A municipality or municipal entity may grant a right to use, control or manage a capital asset to a private sector party or organ of state only by way of a written agreement concluded between the municipality or entity and the private sector party or organ of state to whom the right is granted.

(2) An agreement referred to in subregulation (1) must—

- (a) set out the terms and conditions on which the right is granted, including, as a minimum—

- (i) a sufficient description of the capital asset in respect of which the right is granted, in order to identify the asset;
  - (ii) particulars of any subsidiary assets that are to be made available with the capital asset;
  - (iii) the period for which the right is granted;
  - (iv) the amount of compensation payable to the municipality or municipal entity for the granting of the right, and the terms and conditions of payment;
  - (v) requirements for the private sector party or organ of state to whom the right is granted to maintain and safeguard the asset for its intended purpose, taking into account the condition of the asset and its estimated remaining life at the date of granting of the right;
  - (vi) where the asset is to be used by the municipality or municipal entity and the public sector party or organ of state to whom the right is granted, the basis of how the asset is to be shared as well as how the costs and benefits of the shared asset will be apportioned between the parties;
  - (vii) the extent to which the public sector party or organ of state to whom the right is granted will be required to make improvements or enhancements to the asset, and the terms and conditions regulating such improvements or enhancements;
  - (viii) a statement to the effect that the risk and accountability for the asset is transferred to the public sector party or organ of state to whom the right is granted;
  - (ix) the effective date from which the risk and accountability for the asset is transferred; and
  - (x) a clause disallowing the private sector party or organ of state to whom the right is granted from ceding or subcontracting the right to another person; and
- (b) be signed on behalf of the municipality or municipal entity and the private sector party or organ of state to whom the right is granted.

(3) If a long term right to a capital asset with a value in excess of R10 million is granted following the selection of a service provider for the performance of a municipal service referred to in regulation 41 (2) (a) or for the performance of a commercial service referred to in regulation 41 (2) (b), the agreement referred to in subregulation (1)—

- (a) must contain provision for—
  - (i) contract termination in the case of non- or underperformance;
  - (ii) dispute resolution mechanisms to settle disputes between the parties; and
  - (iii) a periodic review of the agreement once every three years, in the case of an agreement for longer than three years; and
- (b) may be incorporated into any service delivery agreement or procurement contract to be concluded with the service provider.

**46. Access to agreements granting rights to use, control or manage municipal capital assets.**—An agreement granting a right to use, control or manage a capital asset to a private sector party or organ of state—

- (a) must be made available in its entirety to the council of the relevant municipality or to the council of the parent municipality of the relevant municipal entity; and
- (b) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

## CHAPTER 5 GENERAL MATTERS

**47. Gains, losses and associated costs not budgeted for to be included in adjustments budgets.**—Any gain that will be realised or any loss and all associated costs that will be incurred by a municipality or municipal entity in respect of the transfer or disposal of, or the granting of a right to use, control or manage, an asset, if not budgeted for in the approved annual budget of the municipality or entity, must be included in the next adjustments budget of the municipality or entity referred to in section 28 and 87 of the Act, respectively.

**48. Assets to remain subject to all existing encumbrances, rights and servitudes.**—The transfer of an asset, or the granting of a right to use, control or manage an asset, in terms of these Regulations does not affect any existing encumbrances, rights and servitudes attached to the asset.

**49. Transfer or disposal of and rights granted in respect of assets to be effected in accordance with the law.**—The transfer or disposal of an asset or the granting of a right to use, control or manage an asset in terms of these Regulations must be given effect to and formalised in accordance with any legislation applicable to such transfers, disposals or granting of rights.

**50. Exemptions.**—These Regulations do not apply to—

- (a) any security or guarantee provided by a municipality or municipal entity to a lender or a representative nominated by a lender and that is used as collateral for any borrowings by the municipality or entity in terms of section 48 of the Act;
- (b) the transfer by a municipality or municipal entity of moneys owed by consumers to a collector appointed in terms of the supply chain management policy of the municipality or entity to enable the collector to collect amounts due to the municipality or entity;

(Editorial Note: Wording as per original *Government Gazette*. It is suggested that the word “moneys” is intended to be “monies”.)

- (c) cash deposited in a bank account in the name of a municipality or municipal entity or an investment made in terms of the investment policy of a municipality or entity referred to in the Municipal Investment Regulations, published by Government Notice R.308 of 2005;
- (d) a security deposit made in the name of a municipality or municipal entity that is required for goods or services acquired in terms of the supply chain management policy of a municipality or entity; or
- (e) a prepayment that is made in terms of short-term insurance or any other related services acquired in terms of the supply chain management policy of a municipality or municipal entity.

**51. Short title and commencement.**—These Regulations may be cited as the Asset Transfer Regulations, 2008, and take effect on 1 September 2008.

<sup>1</sup> The circumstances in which municipal capital assets are exempted are set out in regulation 20.

<sup>2</sup> In other words, where the granting of such rights do not amount to the transfer or permanent disposal of the asset, for example when a right is acquired through a leasing, letting or hiring out arrangement.

<sup>3</sup> “Transfer” means transfer of ownership in an asset (see definition in regulation 1).

<sup>4</sup> “Non-exempted capital asset” means a capital asset contemplated in section 14(2) or 90(2) of the Act transferred by a municipality or municipal entity to a private sector party or an organ of state in circumstances where section 14 or 90 does apply (see definition in regulation 1).

<sup>5</sup> “Disposal” includes the demolition of buildings and other immovable property and the dismantling of plant and equipment where ownership of a capital asset is lost otherwise than by way of a transfer of ownership (see definition in regulation 1).

<sup>6</sup> “Exempted capital asset” means a capital asset contemplated in section 14(6) or 90(6) of the Act transferred by a municipality or municipal entity to an organ of state in circumstances where section 14 or 90 does not apply (see definition in regulation 1).

<sup>7</sup> In other words, where the granting of such rights does not amount to a “transfer” or “disposal” of the asset, such as leasing, letting, hiring out, etc, of the asset.

<sup>8</sup> Sections 14(1) and 90(1) of the Act do not allow the transfer of municipal capital assets needed to provide the minimum level of basic municipal services. Such transfers are only allowed under sections 14(6) and 90(6) to organs of state selected in circumstances set out in a prescribed framework. This framework is provided in Chapter 3.

<sup>9</sup> This regulation does not affect the applicability of section 14 when transfer of municipal capital assets emanates from PPP agreements. See in this regard section 120(7) read with section 110(3) of the Act.

<sup>10</sup> In terms of section 14(2)(a) and (b) the council must (a) decide on reasonable grounds that the capital asset is not needed to provide the minimum level of basic municipal services and (b) consider the fair market value of the asset and the economic and community value to be received in exchange for the capital asset.

<sup>11</sup> In terms of section 90(2)(a) and (b) the council of the parent municipality must (a) decide on reasonable grounds that the capital asset is not needed to provide the minimum level of basic municipal services and (b) consider the fair market value of the asset and the economic and community value to be received in exchange for the capital asset.

<sup>12</sup> The Supply Chain Management Regulations will apply here.

<sup>13</sup> Regulation 40(2) of the Municipal Supply Chain Management Regulations determines the ways in which a municipal asset may be transferred or disposed of and contains conditions as to the payment of compensation.

<sup>14</sup> If another municipality, municipal entity or other organ of state is the preferred service provider, any transfer of assets is regulated by Chapter 3. See regulation 20(1)(a).

<sup>15</sup> This includes any independent contractor which performs a task for the municipality or municipal entity, eg: a collection agent or a person servicing the equipment of the municipality or entity.

<sup>16</sup> When the municipal council is required to make a determination in terms of section 90 (2) of the Act, the municipal entity should provide all the information available to allow the municipality to make an informed decision.

<sup>17</sup> Section 14(6) of the Act provides that section 14 does not apply to the transfer by a municipality of capital assets falling within a prescribed category to another municipality, a municipal entity or national or provincial organ of state, provided the transfer takes place in accordance with a prescribed framework. A similar provision is contained in section 90(6) in relation to the transfer of capital assets by municipal entities.

<sup>18</sup> In such a case the notice required in terms of section 12 of the Municipal Structures Act will regulate the transfer of the asset

<sup>19</sup> In other words, where the granting of such rights do not amount to the transfer or permanent disposal of the asset, for example when a right is acquired through a leasing, letting or hiring out arrangement.

**GENERAL NOTICE BY NATIONAL TREASURY  
CONDONATION OF NON-COMPLIANCE WITH CERTAIN  
PROVISIONS OF REGULATION 44 OF THE MUNICIPAL SUPPLY  
CHAIN MANAGEMENT REGULATIONS, 2005**

Attention is drawn to Government Notice 44 dated 18 January 2006 which exempts all municipalities and municipal entities in terms of section 177(1)(b) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), from compliance with regulation 44 of the Municipal Supply Chain Management Regulations, 2005, insofar as that regulation prohibits municipalities and municipal entities from making awards to a person in any of the following circumstances:

- (a) where the person receiving the award is a non-executive member of the Board of Directors of a municipal entity; or
- (b) where the person receiving the award is not a natural person and any of its directors, managers, principal shareholders or stakeholders is a non-executive member of the Board of Directors of a municipal entity.

As this exemption only took effect on 18 January 2006, and some municipalities and municipal entities may unintentionally and acting in good faith, have failed to comply with regulation 44 in the above circumstances before that date, the National Treasury has decided to condone in terms of section 170 (2) of the Municipal Finance Management Act all non-compliances by municipalities and municipal entities with regulation 44 in the said circumstances. The Auditor General has been informed accordingly.

Any enquiries concerning this General Notice should be emailed to [mfma@treasury.gov.za](mailto:mfma@treasury.gov.za)

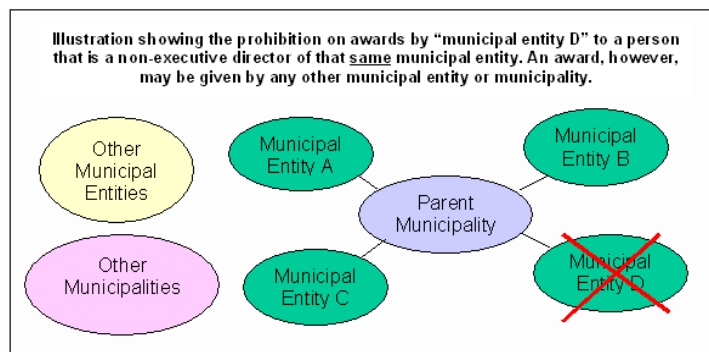
**Municipal Finance Management Act**

**Supply Chain Management exemption for Municipal entities**

The Municipal Supply Chain Management regulations (gazette 27636 dated 30 May 2005) prohibits municipalities and their entities from making an award to a person in the service of the state. This prohibition extends to the members of a board of directors of any municipal entity. The Minister of Finance has exempted municipalities and municipal entities from this regulation in respect to non-executive members of boards of directors of municipal entities, until 30 June 2010 unless repealed earlier (see gazette no 28411 below - 18 January 2006).

The National Treasury has further condoned departure from regulation 44 prior to this exemption coming into effect (see condo nation notice below).

This exemption does not apply to the municipal entity on which the non-executive member serves, which remains fully bound by regulation 44. The illustration below will assist with this explanation.



**GN 393 of 17 April 2009: Municipal budget and reporting regulations  
(Government Gazette No. 32141)**

**NATIONAL TREASURY**

I, Trevor A. Manuel, Minister of Finance, with the concurrence of the Minister for Provincial and Local Government, hereby publish regulations made in terms of section 168 of the Municipal Finance Management Act, 2003, (Act No. 56 of 2003) as set out in the Schedule.

**T.A. MANUEL, MP  
MINISTER OF FINANCE**

**SCHEDULE**

**NATIONAL TREASURY**

**LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT  
MUNICIPAL BUDGET AND REPORTING REGULATIONS**

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#### CHAPTER 1

#### INTERPRETATION, OBJECT AND APPLICATION OF THESE REGULATIONS

**1. Definitions.**—(1) In these Regulations, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and unless the context indicates otherwise—

“**Act**” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“**in-year reports**”, in relation to—

- (a) a municipality, means—
  - (i) a monthly budget statement of the municipality contemplated in section 71 (1) of the Act;
  - (ii) a quarterly report on the implementation of the budget and financial state of affairs of the municipality contemplated in section 52 (d) of the Act; or
  - (iii) a mid-year budget and performance assessment of the municipality contemplated in section 72 of the Act; and
- (b) a municipal entity, means—
  - (i) a monthly budget statement of the entity contemplated in section 87 (11) of the Act; or
  - (ii) a mid-year budget and performance assessment of the entity contemplated in section 88 of the Act;

**“own revenue”**, in relation to regulation 72 means total revenue as reflected in the municipality’s financial **performance** budget by standard classification less national and provincial conditional transfers.

**“quality certificate”**, in relation to—

- (a) a municipality, means a certificate issued and signed by the municipal manager of the municipality confirming the accuracy and reliability of the contents of a document prepared or issued by the municipality; or
- (b) a municipal entity, means a certificate issued and signed by the chief executive officer of the entity confirming the accuracy and reliability of the contents of a document prepared or issued by the entity;

**“Schedule”** means a Schedule to these Regulations;

**“supporting documentation”**, in relation to—

- (a) an annual budget of a municipality, means documentation referred to in section 17 (3) of the Act;
- (b) an annual budget of a municipal entity, means documentation that informs the annual budget;
- (c) an adjustments budget of a municipality, means documentation referred to in section 28 (5) (d) of the Act; or
- (d) an adjustments budget of a municipal entity, means documentation that informs the adjustments budget.

**“total revenue”**, in relation to regulations 13 (2) means total revenue as reflected in the municipality’s financial performance budget by standard classification.

(2) In these Regulations—

- (a) a word or expression which is a derivative or other grammatical form of a word or expression defined in subregulation (1), has a corresponding meaning unless the context indicates that another meaning is intended; and
- (b) a footnote may be taken into account in determining the meaning of a provision of these Regulations, but only as an opinion on the information it conveys.



**2. Object of these Regulations.**—The object of these Regulations is to secure sound and sustainable management of the budgeting and reporting practices of municipalities and municipal entities by establishing uniform norms and standards and other requirements for ensuring transparency, accountability and appropriate lines of responsibility in the budgeting and reporting processes of those institutions and other relevant matters as required by the Act.

**3. Application of these Regulations.**—These Regulations apply to all municipalities and municipal entities.

## CHAPTER 2 BUDGETS AND BUDGET RELATED MATTERS OF MUNICIPALITIES

### *Part 1: General provisions*

**4. Budget steering committee.**—(1) The mayor of a municipality must establish a budget steering committee to provide technical assistance to the mayor in discharging the responsibilities set out in section 53 of the Act.

(2) The steering committee must consist of at least the following persons—

- (a) the councillor responsible for financial matters;
- (b) the municipal manager;
- (c) the chief financial officer;
- (d) the senior managers responsible for at least the three largest votes in the municipality;
- (e) the manager responsible for budgeting;
- (f) the manager responsible for planning; and
- (g) any technical experts on infrastructure.

**5. Quality certification.**—Whenever an annual budget and supporting documentation, an adjustments budget and supporting documentation or an in-year report of a municipality is submitted to the mayor, tabled in the municipal council, made public or submitted to another organ of state, it must be accompanied by a quality certificate complying with Schedule A, B or C, as the case may be, and signed by the municipal manager.

**6. Consistency in bases of measurement and accounting policies.**—The municipal manager of a municipality must take all reasonable steps to ensure that—

- (a) the basis of measurement and accounting policies underpinning the municipality's annual financial statements are the same as those used in the preparation of the municipality's annual budget and supporting documentation, its adjustments budgets and supporting documentation, and its in-year reports; and
- (b) any differences or changes between financial years are explicitly noted.

### *Part 2: Budget-related policies of municipalities*

**7. Preparing and amending budget-related policies.**—(1) The municipal manager of a

municipality must prepare, or take all reasonable steps to ensure the preparation of the budget-related policies<sup>1</sup> of the municipality, or any necessary amendments to such policies, in accordance with the legislation applicable to those policies for tabling in the municipal council by the applicable deadline specified by the mayor in terms of section 21 (1) (b) of the Act.

**8. Funding and reserves policies.**—(1) Each municipality must have a funding and reserves policy which must set out the assumptions and methodology for estimating—

- (a) projected billings, collections and all direct revenues;
- (b) the provision for revenue that will not be collected;
- (c) the funds the municipality can expect to receive from investments;
- (d) the dividends the municipality can expect to receive from municipal entities;
- (e) the proceeds the municipality can expect to receive from the transfer or – disposal of assets;
- (f) the municipality’s borrowing requirements; and
- (g) the funds to be set aside in reserves.

(2) When developing or amending the funding and reserves policy of the municipality, the municipal manager must ensure that the policy—

- (a) is consistent with the most recent actual billings and collection trends;
- (b) takes into account the credit rating of the municipality, if available, the financial position of the municipality, the cost of borrowing and the capacity to repay debt;
- (c) takes into account all the budget-related policies of the municipality, particularly recent amendments to any of those policies;
- (d) takes account of any statutory requirements to set aside funds in reserves; and
- (e) takes account of the transfer and disposal of assets.

*Part 3:  
Annual budgets of municipalities*

**9. Format of annual budgets.**—The annual budget and supporting documentation of a municipality must be in the format specified in Schedule A and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>2</sup>

**10. Funding of expenditure<sup>3</sup>.**—(1) The funding of an annual budget must—

- (a) be estimated in accordance with the assumptions and methodologies set out in the funding and reserves policy of the municipality referred to in regulation 8; and
- (b) be consistent with the trends, current and past, of actual funding collected or received.

(2) Realistically anticipated revenues to be received from national or provincial government, national or provincial public entities, other municipalities, municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds. Acceptable documentation is constituted by—

- (a) in the case of allocations or transfers from national or provincial government, the latest available—

- (i) gazetted allocations or transfers to the municipality following the approval of the current year's Division of Revenue Act, national annual budget, national adjustments budget, relevant provincial annual budget or provincial adjustments budget;
  - (ii) proposed allocations or transfers to the municipality contained in the tabled national and provincial budgets as detailed in accordance with section 36 (2) of the Act;
  - (iii) written notifications from the relevant treasury of proposed allocations or transfers subsequent to the previous year's national or provincial approved annual budgets and latest adjustment budgets, but prior to the current year's budgets being tabled; or
  - (iv) the previous years' allocations or transfers in the national and provincial annual budgets and adjustments budgets as gazetted;
- (b) in the case of transfers from other municipalities, the latest available—
- (i) transfers in the approved annual budget or any subsequent approved adjustments budget of the transferring municipality;
  - (ii) proposed transfers contained in the tabled annual budget of the relevant transferring municipality;
  - (iii) written notification of proposed transfers from transferring municipalities communicated to the municipality in terms of section 37 (2) of the Act; or
  - (iv) the previous year's transfers in the approved annual budget or any adjustments budget of the transferring municipality; and
- (c) in the case of agency payments, public contributions, donations, donor grants or any other grants, subsidies or contributions, the relevant service level agreement, contract or other legally binding document which guarantees the funding.

(3) Estimated provision for revenue from rates, taxes, levies or other charges that will not be collected must be budgeted for separately and reflected on the expenditure side of the municipality's annual budget and not netted out from budgeted revenue.

(4) The cash flow budget required in terms of Schedule A must reflect all funds realistically forecast to be collected, including arrears.

(5) The municipal manager in signing the quality certificate in Schedule A, certifies that all ratepayers and consumers are accounted for in the annual budget calculations and that billing systems including property records and metering information are up to date and consistent with the revenue projections in the annual budget.

(6) To determine whether an annual budget is funded in accordance with section 18 of the Act, a simultaneous analysis is required of the financial performance, financial position, cash flow, and capital expenditure budgets together with any requirements for working capital and cash investments held for statutory or contractual purposes.<sup>4</sup>

**11. Funding of capital expenditure.**—(1) An annual budget must show total capital expenditure and the different sources of funding<sup>5</sup>.

(2) All sources of funding shown in terms of subregulation (1) must be available, and must not have been committed for other purposes.

(3) The total budgeted capital funding by source must equal the total budgeted capital expenditure.

**12. Funds created in terms of section 12 of the Act.**—(1) Funds created in terms of section 12 of the Act must be fully cash backed.

(2) A municipality may make expenditures or donations in support of the objectives for which funds created in terms of section 12 of the Act were established if approved in an annual budget or adjustments budget.

(3) No municipal funds may be paid into a fund created in terms of section 12 of the Act.

**13. Approval of capital projects<sup>6</sup>.**—(1) Within ten working days after the municipal council has given individual approval for a capital project in terms of section 19 (1) (b) of the Act, the municipal manager must in accordance with section 21A of the Municipal Systems Act make public—

- (a) the municipal council resolution approving the capital project; and
- (b) details of the nature, location and total projected cost of the approved capital project.

(2) The following capital projects may be approved by a council either individually or as part of a consolidated capital programme as contemplated in section 19 (3) of the Act:

- (a) capital projects of which the total projected cost is below 5% of the municipality's revenue, in the case of a municipality with approved total revenue in its current annual budget not exceeding R250 million;
- (b) capital projects of which the total projected cost is below 8% of the municipality's revenue, in the case of a municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and
- (c) capital projects of which the total projected cost is below R50 million, in the case of a municipality with approved total revenue in its current annual budget greater than R500 million.<sup>7</sup>

(3) Subregulation (1) does not apply to capital projects whose total projected cost when the annual budget is approved is below the values set out in subregulation (2).

(4) Expenditure needed for capital projects below the values set out in subregulation (2) may be included in the annual budget before the project is approved in terms of section 19 (3) of the Act.

**14. Tabling of annual budgets in municipal councils<sup>8</sup>.**—(1) An annual budget and supporting documentation tabled in a municipal council in terms of sections 16 (2) and 17 (3) of the Act must—

- (a) be in the format in which it will eventually be approved by the council; and
- (b) be credible and realistic such that it is capable of being approved and implemented as tabled.

(2) When complying with section 68 of the Act, the municipal manager must submit the draft municipal service delivery and budget implementation plan to the mayor together with the annual budget to be considered by the mayor for tabling in terms of section 16 (2) of the Act.

(3) For effective planning and implementation of the annual budget, the draft municipal service delivery and budget implementation plan may form part of the budget documentation and be tabled in the municipal council if so recommended by the budget steering committee.

**15. Publication and submission of annual budgets for consultation.**—(1) When making public the annual budget and supporting documentation in terms of section 22 (a) of the Act, read with section 21A of the Municipal Systems Act, the municipal manager must also make public any

other information that the municipal council considers appropriate to facilitate the budget consultation process, including—

- (a) summaries of the annual budget and supporting documentation in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

(2) All information contemplated in subregulation (1) must cover:

- (a) the relevant financial and service delivery implications of the annual budget; and
- (b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year, and the following two years.

(3) When submitting the annual budget to the National Treasury and the relevant provincial treasury in terms of section 22 (b) (i) of the Act, the municipal manager must also submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form—

- (a) the supporting documentation as tabled in the municipal council;
- (b) the draft service delivery and budget implementation plan; and
- (c) any other information as may be required by the National Treasury.

(4) The municipal manager must send copies of the annual budget and supporting documentation as tabled in the municipal council, in both printed and electronic form to—

- (a) any other municipality affected by the annual budget within ten working days of the annual budget being tabled in the municipal council; and
- (b) any other organ of state on receipt of a request from that organ of state.

**16. Consideration of annual budgets by municipal councils<sup>9</sup>.**—(1) At least 30 days before the start of the budget year the mayor must for purposes of section 23 of the Act table the following documents in the municipal council—

- (a) a report summarising the local community's views on the annual budget;
- (b) any comments on the annual budget received from the National Treasury and the relevant provincial treasury;
- (c) any comments on the annual budget received from any other organ of state, including any affected municipality; and
- (d) any comments on the annual budget received from any other stakeholders.

(2) The municipal manager must assist the mayor in the preparation of the documents referred to in subregulation (1) and section 23 (2) of the Act.

**17. Approval of annual budgets<sup>10</sup>.**—(1) A municipal council must consider the full implications, financial or otherwise, of the annual budget and supporting documentation before approving the annual budget.

(2) When approving an annual budget, a municipal council must in terms of section 24 (2) (c) of the Act, consider and adopt separate resolutions dealing with each of the matters contemplated in that section.<sup>11</sup>

**18. Publication of approved annual budgets.**—(1) Within ten working days after the municipal council has approved the annual budget of a municipality, the municipal manager must in accordance with section 21A of the Municipal Systems Act make public the approved annual budget

and supporting documentation and the resolutions referred to in section 24 (2) (c) of the Act.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of the annual budget, including—

- (a) summaries of the annual budget and supporting documentation in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

(3) All information contemplated in subregulation (2) must cover:

- (a) the relevant financial and service delivery implications of the annual budget; and
- (b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year and the following two years.

**19. Publication of approved service delivery and budget implementation plan.**—The municipal manager must in accordance with section 21A of the Municipal Systems Act make public the approved service delivery and budget implementation plan within ten working days after the mayor has approved the plan in terms of section 53 (1) (c) (ii) of the Act.

**20. Submission of approved annual budget and other documents.**—(1) The municipal manager must comply with section 24 (3) of the Act within ten working days after the municipal council has approved the annual budget.

(2) The municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form—

- (a) the supporting documentation within ten working days after the municipal council has approved the annual budget;
- (b) the approved service delivery and budget implementation plan within ten working days after the mayor has approved the plan; and
- (c) any other information as may be required by the National Treasury.

(3) The municipal manager must send copies of the approved annual budget and supporting documentation, in both printed and electronic form to—

- (a) any other municipality affected by the annual budget within ten working days after the municipal council has approved the annual budget; and
- (b) any other organ of state on receipt of a request from that organ of state.

#### *Part 4:*

#### *Adjustments budgets of municipalities*

**21. Formats of adjustments budgets.**—An adjustments budget and supporting documentation of a municipality must be in the format specified in Schedule B and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>12</sup>

**22. Funding of adjustments budgets.**—(1) An adjustments budget of a municipality must be appropriately funded.

(2) The supporting documentation to accompany an adjustments budget in terms of section 28 (5) of the Act must contain an explanation of how the adjustments budget is funded.

**23. Timeframes for tabling of adjustments budgets.**—(1) An adjustments budget referred to in section 28 (2) (b), (d) and (f) of the Act may be tabled in the municipal council at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year.

(2) Only one adjustments budget referred to in subregulation (1) may be tabled in the municipal council during a financial year, except when the additional revenues contemplated in section 28 (2) (b) of the Act are allocations to a municipality in a national or provincial adjustments budget, in which case subregulation (3) applies.

(3)<sup>13</sup> If a national or provincial adjustments budget allocates or transfers additional revenues to a municipality, the mayor of the municipality must, at the next available council meeting, but within 60 days of the approval of the relevant national or provincial adjustments budget, table an adjustments budget referred to in section 28 (2) (b) of the Act in the municipal council to appropriate these additional revenues.

(4) An adjustments budget referred to in section 28 (2) (c) of the Act must be tabled in the municipal council at the first available opportunity after the unforeseeable and unavoidable expenditure contemplated in that section was incurred and within the time period set in section 29 (3) of the Act.

(5) An adjustments budget referred to in section 28 (2) (e) of the Act may only be tabled after the end of the financial year to which the roll-overs relate, and must be approved by the municipal council by 25 August of the financial year following the financial year to which the roll-overs relate.

(6)<sup>14</sup> An adjustments budget contemplated in section 28 (2) (g) of the Act may only authorise unauthorised expenditure as anticipated by section 32 (2) (a) (i) of the Act, and must be—

- (a) dealt with as part of the adjustments budget contemplated in subregulation (1); and
- (b) a special adjustments budget tabled in the municipal council when the mayor tables the annual report in terms of section 127 (2) of the Act, which may only deal with unauthorised expenditure from the previous financial year which the council is being requested to authorise in terms of section 32 (2) (a) (i) of the Act.<sup>15</sup>

**24. Submission of tabled adjustments budgets.**—(1) The municipal manager must comply with section 28 (7) of the Act, read together with section 22 (b) (i) of the Act, within ten working days after the mayor has tabled an adjustments budget in the municipal council.

(2) When submitting the tabled adjustments budget to the National Treasury and the relevant provincial treasury in terms of section 28 (7) of the Act, read together with section 22 (b) (i) of the Act, the municipal manager must submit in both printed and electronic form—

- (a) the supporting documentation referred to in section 28 (5) of the Act within ten working days of the adjustments budget being tabled in the municipal council; and
- (b) any other information as may be required by the National Treasury.

(3) The municipal manager must send copies of an adjustments budget and supporting documentation, in both printed and electronic form to—

- (a) any other municipality affected by that adjustments budget within ten working days of the adjustments budget being tabled in the municipal council; and
- (b) any other organ of state on receipt of a request from that organ of state.

**25. Approval of adjustments budget<sup>16</sup>.**—(1) A municipal council must consider the full

implications, financial or otherwise, of the adjustments budget and supporting documentation referred to in regulation 21 before approving the adjustments budget.

(2) A municipal council may approve an adjustments budget dealing with matters referred to in section 28 (2) (c) of the Act only if the expenditure was recommended by the mayor in accordance with the framework prescribed in Chapter 5 of these Regulations.

(3) When approving an adjustments budget, a municipal council must consider and adopt separate resolutions dealing with each of the matters listed in item 4 of Schedule B.

**26. Publication of approved adjustments budget.**—(1) Within ten working days after the municipal council has approved an adjustments budget, the municipal manager must in accordance with section 21A of the Municipal Systems Act make public the approved adjustments budget and supporting documentation, as well as the resolutions referred to in regulation 25 (3).

(2) When making public an adjustments budget and supporting documentation in terms of subregulation (1), the municipal manager must make public any other information that the municipal council considers appropriate to facilitate public awareness of the adjustments budget, including—

- (a) summaries of the adjustments budget and supporting documentation in alternate languages predominant in the community;
- (b) information relevant to each ward in the municipality, if that ward is affected by the adjustments budget; and
- (c) any consequential amendment of the service delivery and budget implementation plan that is necessitated by the adjustments budget.

**27. Submission of approved adjustments budget and other documents.**—(1) The municipal manager must comply with section 28 (7) of the Act read together with section 24 (3) of the Act within ten working days after the municipal council has approved an adjustments budget.

(2) When submitting an adjustments budget to the National Treasury and the relevant provincial treasury in terms of section 28 (7) of the Act read together with section 24 (3) of the Act, the municipal manager must also submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form—

- (a) the supporting documentation within ten working days after the municipal council has approved the adjustments budget;
- (b) the amended service delivery and budget implementation plan, within ten working days after the council has approved the amended plan in terms of section 54 (1) (c) of the Act; and
- (c) any other information as may be required by the National Treasury.

(2) The municipal manager must send copies of an approved adjustments budget and supporting documentation, in both printed and electronic form to—

- (a) any other municipality affected by that adjustments budget within ten working days after the municipal council has approved the adjustments budget; and
- (b) any other organ of state on receipt of a request from that organ of state.

*Part 5:  
In-year reports of municipalities*

**28. Format of monthly budget statements.**—The monthly budget statement of a municipality must be in the format specified in Schedule C and include all the required tables, charts and



explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>17</sup>

**29. Tabling of monthly budget statements.**—The mayor may table in the municipal council a monthly budget statement submitted to the mayor in terms of section 71 (1) of the Act. If the mayor does so, the monthly budget statement must be accompanied by a mayor's report in a format set out in Schedule C.

**30. Publication of monthly budget statements.**—(1) The monthly budget statement of a municipality must be placed on the municipality's website.<sup>18</sup>

(2) The municipal manager must publish on the municipality's website any other information that the municipal council considers appropriate to facilitate public awareness of the monthly budget statement, including—

- (a) summaries of monthly budget statements in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

**31. Quarterly reports on implementation of budget.**—(1) The mayor's quarterly report on the implementation of the budget and the financial state of affairs of the municipality as required by section 52 (d) of the Act must be—

- (a) in the format specified in Schedule C and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act; and
- (b) consistent with the monthly budget statements for September, December, March and June as applicable; and
- (c) submitted to the National Treasury and the relevant provincial treasury within five days of tabling of the report in the council.

**32. Publication of quarterly reports on implementation of budget.**—When publishing the quarterly reports on the implementation of the budget in terms of section 75 (1) (k) of the Act, the municipal manager must make public any other information that the municipal council considers appropriate to facilitate public awareness of the quarterly report on the implementation of the budget and the financial state of affairs of the municipality, including—

- (a) summaries of quarterly report in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

**33. Format of a mid-year budget and performance assessment.**—A mid-year budget and performance assessment of a municipality referred to in section 72 of the Act must be in the format specified in Schedule C and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>19</sup>

**34. Publication of mid-year budget and performance assessments.**—(1) Within five working days of 25 January each year the municipal manager must make the mid-year budget and performance assessment public by placing it on the municipal website.

(2) The municipal manager must make public any other information that the municipal council considers appropriate to facilitate public awareness of the mid-year budget and performance

assessment, including—

- (a) summaries in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

**35. Submission of mid-year budget and performance assessments.**—The municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form—

- (a) the mid-year budget and performance assessment by 25 January of each year; and
- (b) any other information relating to the mid-year budget and performance assessment as may be required by the National Treasury.

### CHAPTER 3 BUDGETS AND BUDGET RELATED MATTERS OF MUNICIPAL ENTITIES

#### *Part 1: General provisions*

**36. Quality certification.**—Whenever an annual budget and supporting documentation, an adjustments budget and supporting documentation, or an in-year report of a municipal entity is submitted to the entity's board of directors or the parent municipality, tabled in the municipal council, made public or submitted to another organ of state, it must be accompanied by a quality certificate complying with Schedule D, E or F, as the case may be, and signed by the chief executive officer of the entity.

**37. Consistency in bases of measurement and accounting policies.**—The chief executive officer of a municipal entity must take all reasonable steps to ensure that—

- (a) the basis of measurement and accounting policies underpinning the entity's annual financial statements are the same as those used in the preparation of the entity's annual budget and supporting documentation, its adjustments budgets and supporting documentation and its in-year reports; and
- (b) that any differences or changes between financial years are explicitly noted.

#### *Part 2: Funding and reserves policy of municipal entities*

**38. Funding and reserves policies.**—When funding budgets, a municipal entity must apply the assumptions and methodology in its business plan for estimating—

- (a) projected billings; collections and all direct revenues;
- (b) the provision for revenue that will not be collected;
- (c) the funds that the municipal entity can expect to receive from investments;
- (d) the dividends the municipal entity anticipates paying to the parent municipality;
- (e) the proceeds the municipal entity can expect to receive from the disposal of assets;
- (f) the municipal entity's borrowing requirements; and
- (g) the funds to be set aside in reserves.

*Part 3:*  
*Annual budgets of municipal entities*

**39. Format of annual budget**<sup>20</sup>.—The annual budget and supporting documentation of a municipal entity must be in the format specified in Schedule D and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) (a) of the Act.<sup>21</sup>

**40. Funding of expenditure.**—(1) Realistically anticipated revenues to be received directly from the entity's parent municipality, other municipalities, other municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds. Acceptable documentation is constituted by—

- (a) in the case of allocations from the entity's parent municipality or from other municipalities the latest available
  - (i) allocations in the approved annual budget or any subsequent approved adjustments budget of the relevant municipality;
  - (ii) proposed allocations contained in the tabled annual budget of the relevant municipality;
  - (iii) proposed allocations from transferring municipalities communicated to the municipality in terms of section 37 (2) of the Act; or (iv) the previous years' allocations in the approved annual budgets and adjustments budgets of the relevant municipality; and
- (b) in the case of public contributions, donations, donor grants and any other grants, subsidies or contributions, the relevant contract or other legally binding document which guarantees the funding.

(2) Estimated provision for revenue from rates, taxes, levies or other charges that will not be collected, must be budgeted for separately and reflected on the expenditure side of the municipal entity's annual budget and not netted out from budgeted revenue.

(3) The cash flow budget required in terms of Schedule D must reflect all funds forecast to be collected, including arrears.

(4) The chief executive officer in signing the quality certificate in Schedule D, certifies that all customers are accounted for in the annual budget calculations and that billing systems including metering information are up to date and consistent with the revenue projections in the annual budget.

(5) To determine whether an annual budget is funded in accordance with section 87 (5) (a) of the Act a simultaneous analysis is required of the financial performance, financial position, cash flow, and capital expenditure budgets together with any requirements for working capital and cash investments held for statutory or contractual purposes.

**41. Funding of capital expenditure**<sup>22</sup>.—(1) An annual budget of a municipal entity must show total capital expenditure and the different sources of funding for that expenditure.

(2) All sources of funding shown in terms of subregulation (1) must be available, and must not have been committed for other purposes.

(3) The total budgeted capital funding by source must equal the budgeted capital expenditure.

**42. Parent municipalities to submit to treasuries information relating to approval of**

**capital projects by municipal entities.**—A parent municipality must submit to the National Treasury and the relevant provincial treasuries particulars of—

- (a) each public entity's capital budget as approved by the board of directors of the municipal entity; and
- (b) details of all capital projects of which the total projected cost is greater than R5 million as approved by the board of directors of the municipal entity.

**43. Submission of annual budgets to parent municipality.**—An annual budget and supporting documentation of a municipal entity submitted by the board of directors of a municipal entity to the parent municipality of the entity in terms of section 87 (1) of the Act must—

- (a) be in the format in which it will eventually be approved by the board; and
- (b) be credible and realistic such that it is capable of being approved and implemented as submitted.

**44. Approval of annual budget.**—(1) The board of directors of a municipal entity must consider the full implications, financial and otherwise, of an annual budget and supporting documentation as prescribed by regulation 37, taking into account the matters referred to in section 87 (4) of the Act, before approving an annual budget.

(2) When approving an annual budget, the board of directors of a municipal entity must consider and adopt separate resolutions dealing with each of the matters listed in item 4 of Schedule D.

**45. Submission of approved annual budgets for tabling<sup>23</sup>.**—Immediately after the board of directors of a municipal entity has approved the entity's annual budget in terms of section 87 (4) of the Act, the chief executive officer must submit the approved annual budget and supporting documentation to the municipal manager of the parent municipality in both printed and electronic form.

**46. Publication of approved annual budgets.**—(1) Within ten working days after the board of directors of a municipal entity has approved the annual budget of the entity in terms of section 87 (4) of the Act, the municipal manager of the parent municipality must in accordance with section 21A of the Municipal Systems Act make public the approved annual budget of the entity.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of the municipal entity's annual budget, including—

- (a) summaries of the annual budget and supporting documentation of the municipal entity in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

(3) The chief executive officer of a municipal entity must provide to the municipal manager of the parent municipality any additional information contemplated in subregulation (2) as the municipal manager may require.

(4) The information contemplated in subregulation (2) must cover—

- (a) the relevant financial and service delivery implications of the entity's annual budget; and
- (b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year, and the following two years.

**47. Submission of approved annual budgets.**—(1) When submitting the approved annual budget and supporting documentation of the municipality in terms of regulation 20, the municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form, the approved annual budget and supporting documentation of all municipal entities under the municipality's sole or shared control.

(2) The municipal manager must send copies of the approved annual budget and supporting documentation of a municipal entity, in both printed and electronic form to—

- (a) any other municipality affected by that budget within ten working days of receiving the approved budget and supporting documentation from the municipal entity; and
- (b) any other organ of state on receipt of a request from that organ of state.

*Part 4:  
Adjustments budgets of municipal entities*

**48. Formats of adjustments budgets<sup>24</sup>.**—An adjustments budget and supporting documentation of a municipal entity must be in the format specified in Schedule E and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>25</sup>

**49. Framework for adjustments budgets.**—An adjustments budget referred to in section 87 (6) (d) of the Act may only be used—

- (a) to authorise the rollover of funds that were unspent at the end of the previous financial year; or
- (b) to correct any errors in the annual budget of the municipal entity.

**50. Approval of adjustments budgets.**—Whenever a proposed adjustments budget and supporting documentation is submitted to the board of directors of a municipal entity, the chief executive officer of the entity must submit a copy to the municipal manager of the entity's parent municipality.

**51. Submission of approved adjustments budgets.**—Immediately after the board of directors of a municipal entity has approved an adjustments budget, the chief executive officer must submit the approved adjustments budget and supporting documentation to the municipal manager of the parent municipality in both printed and electronic form.

**52. Publication of approved adjustments budgets.**—(1) Within ten working days after the board of directors of a municipal entity has approved an adjustments budget of the entity, the municipal manager of the parent municipality must in accordance with section 21A of the Municipal Systems Act make public the approved adjustments budget of the entity.

(2) The municipal manager must also make public any other information that the municipal council considers appropriate to facilitate public awareness of a municipal entity's adjustments budgets, including—

- (a) summaries of an adjustments budget and supporting documentation of the municipal entity in alternate languages predominant in the community; and
- (b) information relevant to each ward in the municipality.

(3) The chief executive officer of a municipal entity must provide such additional information

contemplated in subregulation (2) to the municipal manager of the parent municipality.

**53. Submission of approved adjustments budgets.**—(1) Within five working days of the end of each quarter, the municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form all approved adjustments budgets and supporting documentation received from municipal entities during that quarter.

(2) The municipal manager must send copies of the approved adjustments budget and supporting documentation of a municipal entity, in both printed and electronic form to—

- (a) any other municipality affected by the adjustments budget within ten working days of receiving the approved adjustments budget and supporting documentation from the municipal entity; and
- (b) any other organ of state on receipt of a request from that organ of state.

*Part 5:*

*In-year reports of municipal entities*

**54. Formats of monthly budget statements.**—A monthly budget statement of a municipal entity must be in the format specified in Schedule F and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>26</sup>

**55. Submission of monthly budget statements.**—When submitting a monthly budget statement in terms of section 87 (11) of the Act to the municipal manager of the parent municipality of a municipal entity, the chief executive officer of the entity must also submit a copy of the statement no later than seven working days after the end of the month to—

- (a) the chairperson of the board of directors of the entity;
- (b) other municipalities affected by the entity's annual budget; and
- (c) any other organ of state, on receipt of a request from that organ of state.

**56. Format of mid-year budget and performance assessment.**—A mid-year budget and performance assessment of a municipal entity must be—

- (a) in the format specified in Schedule F and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act;<sup>27</sup> and
- (b) consistent with the entity's monthly budget statements for December.

**57. Tabling of mid-year budget and performance assessments.**—When the mayor of the parent municipality submits the report on the mid-year budget and performance assessment of the municipality in terms of section 54 (1) (f) of the Act, the mayor must take all reasonable steps to simultaneously table in the municipal council the reports on the mid-year budget and performance assessments of all municipal entities under the sole or shared control of the municipality.

**58. Publication of mid-year budget and performance assessments.**—(1) When making public the mid-year budget and performance assessment of the parent municipality in terms of regulation 34, the municipal manager must make public in accordance with section 21A of the Municipal Systems Act the mid-year budget and performance assessments of all municipal entities.

(2) The municipal manager must also make public any other information that the municipal

council considers appropriate to facilitate public awareness of a municipal entity's mid-year budget and performance assessment, including—

- (a) summaries of the mid-year budget and performance assessment of the municipal entity in alternate languages predominant in the community; and
- (a) information relevant to each ward in the municipality.

(Editorial Note: Numbering as per original *Government Gazette*.)

(3) The chief executive officer of a municipal entity must provide such additional information contemplated in subregulation (2) to the municipal manager of the parent municipality as the municipal manager may require.

**59. Submission of mid-year budget and performance assessments.**—When submitting the mid-year budget and performance assessment of the municipality in terms of regulation 35, the municipal manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form, the mid-year budget and performance assessments of all municipal entities of the municipality.

#### CHAPTER 4 NON-COMPLAINEE WITH TIME PROVISIONS

##### *Part 1:*

##### *Impending non-compliance by municipalities with time lines and deadlines concerning annual budgets*

**60. Applications for extension of time limits<sup>28</sup>.**—(1) An application made in terms of section 27 (2) of the Act must—

- (a) be in the format contained in Schedule G;
- (b) be signed and dated by the mayor;
- (c) contain information on—
  - (i) the specific time provision in respect of which an extension of a time limit or deadline is being applied for;
  - (ii) the reason why the municipality will not comply with the relevant time provision;
  - (iii) the impact, if any, of the non-compliance on the municipal council's ability to meet the deadline for approving the annual budget of a municipality set in section 16 (1) of the Act, and any steps to ensure this deadline is met;
  - (iv) any implications on the finances, performance, governance and accountability arrangements in the municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;
  - (v) the steps the municipality will take to ensure compliance with the relevant time provision in future; and
  - (vi) a list of non-compliances with time provisions by the municipality in the previous three financial years.

(2) The mayor must table a copy of any application referred to in subregulation (1) at the first meeting of the municipal council following the submission of the application.

**61. Framework for consideration of applications<sup>29</sup>.**—(1) The MEC for finance in a province

must promptly consider an application referred to in regulation 60, taking into account all relevant factors, including—

- (a) the time provision in respect of which an extension of a time limit or deadline is being sought;
- (b) whether the stated reasons for the impending non-compliance with the time provision constitute good cause;
- (c) whether the non-compliance will compromise the municipal council's ability to meet the deadline for approving the annual budget set in section 16 (1) of the Act;
- (d) the steps the municipality proposes to take to ensure compliance with the relevant time provision in future;
- (e) the steps the municipality proposes to take to ensure that municipal council meets the deadline for approving the annual budget of the municipality set in section 16 (1) of the Act, if relevant; and
- (f) any views that may be expressed by the National Treasury on the application.

(2) The MEC for finance must obtain the views of the National Treasury before communicating the decision on the application to the municipality.

(3) The MEC for finance may require a mayor who has submitted an application referred to in regulation 60 to furnish additional information necessary for the proper consideration of the application.

(4) The MEC for finance must refuse an application if—

- (a) the stated reasons for the impending non-compliance with the time provision do not constitute good cause as required in section 27 (2) of the Act;
- (b) the extension of the relevant time limit will compromise the municipal council's ability to meet the deadline set in section 16 (1) of the Act;
- (c) there is an implication on the finances, performance, governance and accountability arrangements in the municipality that will negatively impact on the operations of the municipality; or
- (d) if non-compliance with the time provision has already occurred on the date the application is received by the office of the MEC of finance.

(5) Within 10 working days of receiving an application referred to in regulation 60, the MEC for finance must, in writing, notify the mayor of the municipality of the decision on the application, either—

- (a) approving the application, confirming the new date for compliance proposed in the application;
- (b) approving the application, but indicating an earlier date for compliance to that proposed in the application, giving reasons for specifying an earlier date; or
- (c) refuse the application, giving reasons for the decision.

(6) The mayor must table the response of the MEC for finance to any application referred to in regulation 60 at the first meeting of the municipal council following the receipt of the response.

**62. Possible non-compliance with section 16 (1) of the Act.**—If a municipality's ability to comply with the deadline set in section 16 (1) of the Act will be compromised by any application for an extension in terms of regulation 60, the MEC for finance must notify the MEC for local government in the province and the Provincial Executive Council in anticipation of an intervention in



terms of section 136 of the Act.

*Part 2:*

*Actual non-compliance by municipalities with time provisions concerning annual budgets and adjustments budgets*

**63. Notification of actual non-compliance with time provisions.**—(1) A notification made in terms of section 27 (3) of the Act by the mayor of a municipality to the MEC for finance in a province and the National Treasury, in respect of a time provision concerning an annual budget or an adjustments budget must—

- (a) be in the format contained in Schedule G;
- (b) be signed and dated by the mayor;
- (c) contain information on—
  - (i) the specific time provision in respect of which the municipality is failing to comply;
  - (ii) the specific date by which the municipality will remedy its non-compliance;
  - (iii) the reason why an application in terms of section 27 (2) of the Act was not submitted before the non-compliance occurred;
  - (iv) the reason why the municipality did not comply with the relevant time provision;
  - (v) the impact, if any, of the non-compliance on the municipal council's ability to meet the deadline for approving an annual budget of a municipality set in section 16 (1) of the Act, and any steps to ensure this deadline is met;
  - (vi) any implications on the finances, performance, governance and accountability arrangements in the municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;
  - (vii) the steps the municipality will take to ensure compliance with the relevant time provision in future; and
  - (viii) a list of non-compliances with time provisions by the municipality in the previous three financial years.

(2) The mayor must table a copy of any notification referred to in subregulation (1) at the first meeting of the municipal council following the submission of the notification.

**64. Framework for consideration of notifications of non-compliance with time provisions affecting annual budgets and adjustments budgets.**—(1) The MEC for finance in a province must promptly consider notifications referred to in regulation 63 with a view to take appropriate remedial steps, including an intervention in terms of section 136 of the Act.

(2) When considering such notifications the MEC must take into account all relevant factors, including—

- (a) the time provision in respect of which the non-compliance occurred;
- (b) the extent of the actual non-compliance;
- (c) the acceptability of the date by which the municipality will remedy its non-compliance, if this is legally possible in terms of the Act;
- (d) whether the non-compliance has compromised or will compromise the municipal council's ability to meet the deadline for approving an annual budget of a municipality

set in section 16 (1) of the Act;

- (e) the steps the municipality proposes to take to ensure compliance with the relevant time provision in future, and
- (f) the steps the municipality proposes to take to ensure that municipal council meets the deadline for approving an annual budget of a municipality set in section 16 (1), if relevant.

(2) The MEC for finance may require a mayor who has submitted a notification referred to in regulation 63 to furnish additional information necessary for the proper consideration of the notification.

*Part 3:*

*Non-compliance by municipalities with time provisions concerning in-year reports*

**65. Notification of non-compliance with time provisions concerning in-year reports.**—(1) The municipal manager of a municipality must notify the mayor of the municipality, the MEC for finance of the relevant province and the National Treasury if the municipal manager has failed to comply with a time provision pertaining to any in-year report.

(2) Such notification must—

- (a) be in the format contained in Schedule G;
- (b) be signed and dated by the municipal manager;
- (c) contain information on—
  - (i) the specific time provision which has not been complied with;
  - (ii) the specific date by which the municipality will remedy the non-compliance;
  - (iii) the reason why the relevant time provision was not complied with;
  - (iv) any implications on the finances, performance, governance and accountability arrangements in the municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;
  - (v) the steps the municipality will take to ensure compliance with the relevant time provision in future; and
  - (vi) a list of non-compliance with time provisions by the municipality and its office-bearers in the previous three financial years.

(3) The mayor must table a copy of any notification referred to in subregulation (1) at the first meeting of the municipal council following the receipt of the notification.

**66. Framework for consideration of notifications of non-compliance with time provisions concerning in-year reports.**—(1) The MEC for finance in a province must promptly consider notifications referred to in regulation 65 with a view to take any appropriate steps.

(2) When considering such notifications, the MEC must take into account all relevant factors, including—

- (a) the time provision in respect of which the non-compliance occurred;
- (b) the extent of the non-compliance;
- (c) the acceptability of the date by which the municipality will remedy the non-compliance; and
- (d) the steps the municipality proposes to take to ensure compliance with the relevant time

provision in future.

(3) The MEC for finance in the province may require a municipal manager who has submitted a notification referred to in regulation 65 to furnish additional information necessary for the proper consideration of the notification.

*Part 4:*

*Non-compliance by municipal entities with time provisions*

**67. Monitoring compliance with time provisions.**—(1) The mayor of the parent municipality of a municipal entity must put in place systems to monitor whether the entity complies with the time provisions affecting its annual budget, adjustments budgets and in-year reports.

(2) At the first council meeting after the end of each quarter, the mayor of a municipality must report to the council on the extent to which each municipal entity of the municipality is complying with the time provisions affecting its budget, adjustments budget and in-year reports, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>30</sup>

**68. Notifications of non-compliance with time provisions.**—(1) The chief executive officer of a municipal entity must notify the board of directors of the entity and the municipal manager of the parent municipality of any non-compliance with a time provision concerning the entity's annual budget, adjustments budget or in-year reports.

(2) Such notification must—

- (a) be in the format contained in Schedule G;
- (b) be signed and dated by the chief executive officer; and
- (c) contain information on—
  - (i) the specific time provision which the entity has failed to comply with;
  - (ii) the specific date by which the entity will remedy its non-compliance;
  - (iii) the reason why the entity did not comply with the relevant time provision;
  - (iv) any implications on the finances, performance, governance and accountability arrangements in the entity that will be affected by the delay in meeting the time provision and the measure taken to address such implications;
  - (v) the steps the entity will take to ensure compliance with the relevant time provision in future; and
  - (vi) a list of non-compliance with time provisions by the municipal entity in the previous three financial years.

**69. Framework for consideration of notifications of non-compliance with time provisions.**—(1) The mayor of the parent municipality must promptly consider a notification referred to in regulation 68 with a view to take appropriate steps.

(2) When considering such notifications, the mayor must take into account all relevant factors, including—

- (a) the time provision in respect of which the non-compliance occurred;
- (b) the extent of the non-compliance;
- (c) the acceptability of the date by which the municipal entity will remedy its non-compliance; and

- (d) the steps the entity proposes to take to ensure compliance with the relevant time provision in future.

(3) The mayor of the parent municipality may require a chief executive officer of the municipal entity who has submitted a notification referred to in regulation 68 to furnish additional information necessary for the proper consideration of the notification.

(4) The mayor must table at the first meeting of the municipal council following the receipt of a notification referred to in subregulation (1)—

- (a) a copy of the notification; and
- (b) a report on steps taken to remedy the non-compliance.

**70. Submission of information to National Treasury.**—The municipal manager must promptly send to the relevant provincial treasury and the National Treasury a copy of a notification received from the chief executive officer of a municipal entity referred to in regulation 68 together with a copy of the report referred to in regulation 69 (4) (b).

## CHAPTER 5

### FRAMEWORK FOR UNFORESEEN AND UNAVOIDABLE EXPENDITURE<sup>31</sup>

#### *Part 1:*

#### *Unforeseen and unavoidable expenditure by municipalities*

**71. Authorisation of unforeseen and unavoidable expenditure.**—(1) The mayor of a municipality may authorise expenditure in terms of section 29 of the Act only if—

- (a) the expenditure could not have been foreseen at the time the annual budget of the municipality was passed; and
- (b) the delay that will be caused pending approval of an adjustments budget by the municipal council in terms of section 28 (2) (c) of the Act to authorise the expenditure may—
  - (i) result in significant financial loss for the municipality;
  - (ii) cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;
  - (iii) lead to loss of life or serious injury or significant damage to property; or
  - (iv) obstruct the municipality from instituting or defending legal proceedings on an urgent basis.

(2) The mayor of a municipality may not authorise expenditure in terms of section 29 of the Act if the expenditure—

- (a) was considered by the council, but not approved in the annual budget or an adjustments budget;
- (b) is required for—
  - (i) price increases of goods or services during the financial year;
  - (ii) new municipal services or functions during the financial year;
  - (iii) the extension of existing municipal services or functions during the financial year;
  - (iv) the appointment of personnel during the financial year; or

- (v) allocating discretionary appropriations to any vote during the financial year; or
- (c) would contravene any existing council policy; or
- (d) is intended to ratify irregular or fruitless and wasteful expenditure.

**72. Monetary limits on unforeseen and unavoidable expenditure.**—The amount of expenditure that a mayor of a municipality may authorise in terms of section 29 of the Act is limited to—

- (a) 5% of the municipality's own revenue in the case of a municipality with approved total revenue in its current annual budget not exceeding R250 million;
- (b) the greater of R 5 million or 4% of the municipality's own revenue in the case of a municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and
- (c) R15 million in the case of a municipality with approved total revenue in its current annual budget greater than R500 million.

*Part 2:*

*Unforeseen and unavoidable expenditure by municipal entities*

**73. Approval of unforeseen and unavoidable expenditure.**—(1) The board of directors of a municipal entity and the mayor of the parent municipality may approve expenditure in terms of section 87 (6) (c) of the Act only if—

- (a) the expenditure could not have been foreseen at the time the annual budget of the entity was passed; and
- (b) the delay that will be caused pending approval of an adjustments budget to authorise the expenditure may—
  - (i) result in significant financial loss for the entity;
  - (ii) cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;
  - (iii) lead to loss of life or serious injury or significant damage to property; or
  - (iv) obstruct the entity from instituting or defending legal proceedings on an urgent basis.

(2) The board of directors of a municipal entity and the mayor of the parent municipality may not approve expenditure in terms of section 87 (6) (c) of the Act if the expenditure—

- (a) was considered by the board but not included in the approved annual budget of the entity;
- (b) is required for—
  - (i) price increases of goods or services during the financial year;
  - (ii) new municipal services or functions during the financial year;
  - (iii) the extension of existing municipal services or functions during the financial year;
  - (iv) the appointment of personnel during the financial year;
  - (v) increasing the remuneration or allowances of board members; or
  - (vi) allocating discretionary appropriations to any vote during the financial year;

- (c) would contravene any existing policy of the entity or its parent municipal; or
- (d) is intended to ratify irregular or fruitless and wasteful expenditure.

(3) Expenditure may be incurred by a municipal entity as unforeseen and unavoidable expenditure only after the municipal entity has communicated its intention in writing to the mayor of the parent municipality and the mayor has responded positively to the request. Such expenditure must still be approved by the board of directors appropriating the expenditure in an adjustments budget.

## CHAPTER 6 UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE

### *Part 1:*

#### *Unauthorised, irregular or fruitless and wasteful expenditure by municipalities*

**74. Issues to be considered by council committee<sup>32</sup>.**—(1) A council committee contemplated in section 32 (2) (a) (ii) of the Act to investigate the recoverability of any unauthorised, irregular or fruitless and wasteful expenditure must consider—

- (a) the measures already taken to recover such expenditure;
- (b) the cost of the measures already taken to recover such expenditure;
- (c) the estimated cost and likely benefit of further measures that can be taken to recover such expenditure; and
- (d) submit a motivation explaining its recommendation to the municipal council for a final decision.

(2) The municipal manager must provide all information required by the council committee referred to in subregulation (1), and any other information the council committee may require for the purpose of conducting a proper investigation.

### *Part 2:*

#### *Irregular or fruitless and wasteful expenditure by municipal entities*

**75. Recovery of irregular or fruitless and wasteful expenditure<sup>33</sup>.**—(1) The board of directors of a municipal entity must on discovery of any irregular or fruitless and wasteful expenditure incurred by the entity investigate the recoverability of such expenditure.

(2) After completing its investigation referred to in subregulation (1), the board of directors of the municipal entity must decide whether or not the relevant expenditure is recoverable, and—

- (a) if irrecoverable, certify that the expenditure is irrecoverable and submit a certificate to this effect to the mayor of the entity's parent municipality; or
- (b) if recoverable, decide on steps to be taken to recover the expenditure.

**76. Board may not delegate authority to certify expenditure as irrecoverable.**—The board of directors of a municipal entity may not delegate its authority to certify expenditure as irrecoverable.

**77. Short title and commencement.**—These Regulations are called the Municipal Budget and Reporting Regulations, 2008, and take effect on 1 July 2009.

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### Schedule A

## ANNUAL BUDGETS AND SUPPORTING DOCUMENTATION OF MUNICIPALITIES

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- 25. Annual budgets and service delivery agreements – entities and other external mechanisms
- 26. Contracts having future budgetary implications
- 27. Capital expenditure details
- 28. Legislation compliance status
- 29. Other supporting documents
- 30. Annual budgets of municipal entities attached to the annual budget
- 31. Municipal manager's quality certification

**1. Format and content of annual budget and supporting documentation.**—An annual



budget and supporting documentation of a municipality must have all the headings in the sequence shown in the table of contents below, contain the information described in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 of the Act.<sup>34</sup>

**2. Table of contents.**—An annual budget and supporting documentation must commence with a table of contents and show the headings in the sequence set out below:

- PART 1 – ANNUAL BUDGET
  - Mayor’s report
  - Resolutions
  - Executive summary
  - Annual budget tables
- PART 2 – SUPPORTING DOCUMENTATION
  - Overview of annual budget process
  - Overview of alignment of annual budget with Integrated Development Plan
  - Measurable performance objectives and indicators
  - Overview of budget-related policies
  - Overview of budget assumptions
  - Overview of budget funding
  - Expenditure on allocations and grant programmes
  - Allocations and grants made by the municipality
  - Councillor and board member allowances and employee benefits
  - Monthly targets for revenue, expenditure and cash flow
  - Annual budgets and service delivery and budget implementation plans – internal departments
  - Annual budgets and service delivery agreements – municipal entities and other external mechanisms
  - Contracts having future budgetary implications
  - Capital expenditure details
  - Legislation compliance status
  - Other supporting documents
  - Annual budgets of municipal entities attached to the municipalities annual budget
  - Municipal manager’s quality certification

### ***PART 1 – ANNUAL BUDGET***

**3. Mayor’s report.**—The mayor’s report accompanying an annual budget must provide—

- (a) a summary of the medium-term service delivery objectives and the associated medium-term financial implications contained in the annual budget;
- (b) a summary of linkages between the annual budget, the Integrated Development Plan and the political priorities at the national, provincial, district and local levels;

- (c) a summary of infrastructure development objectives;
- (d) a summary of material amendments made to the annual budget after the consultation processes; and
- (e) any other information considered relevant by the mayor.

**4. Resolutions.**—Resolutions dealing with at least the following matters must be prepared and presented as part of the annual budget documentation:

- (a) approval of the annual budget of the municipality, and specifically appropriating the amounts for the different votes, and for single-year and multi-year capital expenditures;
- (b) noting the consolidated annual budget in instances where a municipality has municipal entities;
- (c) approval of all rates, taxes and tariffs for services provided by the municipality;
- (d) approval of measurable performance objectives for the annual budget for each year of the medium term revenue and expenditure framework;
- (e) approval of the transfer of funds to a separate bank account for purposes contemplated in section 12 of the Act; and
- (f) approval of all budget-related policies or amendments to such policies<sup>35</sup>.

**5. Executive summary.**—The executive summary must cover at least the following:

- (a) if a municipality has municipal entities or uses external mechanisms for service delivery, a summary of the total service delivery package and associated financial implications as reflected in the consolidated annual budget;
- (b) the effect, including the financial and service delivery implications, of the annual budget, making reference to the annual budget tables, charts and explanations, and include a summary of service delivery, financial, rate and tariff implications for at least the budget year and the following two years;
- (c) past performance and in particular the impact on the budget of the previous year's audited results and annual report, and include a summary of service delivery, financial, rate and tariff outcomes for at least the previous year and the expected for the current year;
- (d) the consolidated financial position and summary medium term revenue and expenditure strategy;
- (e) the municipality's priorities and linkages to the Integrated Development Plan;
- (f) key amendments to the Integrated Development Plan;
- (g) alignment with and achievement of national, provincial and district priorities;
- (h) key amendments to budget-related policies;
- (i) key demographic, economic and other assumptions; and
- (j) progress with the provision of basic services and financial implications for the medium term revenue and expenditure framework and long term sustainability.

**6. Annual budget tables.**—If a municipality does not have any municipal entities, the annual budget tables must consist of a statement regarding changes in the basis of measurement and

accounting policies from past financial years and the tables in the First Attachment to this Schedule, namely—

- (a) Table A1 Budget Summary
- (b) Table A2 Budgeted Financial Performance (revenue and expenditure by standard classification)
- (c) Table A3 Budgeted Financial Performance (revenue and expenditure by municipal vote)
- (d) Table A4 Budgeted Financial Performance (revenue and expenditure)
- (e) Table A5 Budgeted Capital Expenditure by vote, standard classification and funding
- (f) Table A6 Budgeted Financial Position
- (g) Table A7 Budgeted Cash Flows
- (h) Table A8 Cash backed reserves/accumulated surplus reconciliation
- (i) Table A9 Asset Management
- (j) Table A10 Basic service delivery measurement

**7.** If a municipality does have one or more municipal entities, the annual budget tables must consist of a statement regarding changes in the basis of measurement and accounting policies from past financial years and—

- (a) the tables mentioned in item 6; and
- (b) the tables in the Second Attachment to this Schedule, namely—
  - (i) Table A1 Consolidated Budget Summary
  - (ii) Table A2 Consolidated Budgeted Financial Performance (revenue and expenditure by standard classification)
  - (iii) Table A3 Consolidated Budgeted Financial Performance (revenue and expenditure by municipal vote)
  - (iv) Table A4 Consolidated Budgeted Financial Performance (revenue and expenditure)
  - (v) Table A5 Consolidated Budgeted Capital Expenditure by vote, standard classification and funding
  - (vi) Table A6 Consolidated Budgeted Financial Position
  - (vii) Table A7 Consolidated Budgeted Cash Flows
  - (viii) Table A8 Consolidated Cash backed reserves/accumulated surplus reconciliation
  - (ix) Table A9 Consolidated Asset Management
  - (x) Table A10 Consolidated basic service delivery measurement

**8.** Supporting information, charts and explanations of trends and anomalies must be presented for each table where such presentation will assist with understanding the information contained in the tables.

**9.** If a municipality has municipal entities, the annual budget and supporting documentation must provide the required consolidated information and detail relating to individual municipal entities, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the

***PART 2 – SUPPORTING DOCUMENTATION***

**10. Overview of annual budget process.**—The overview of the annual budget process must at least—

- (a) provide an overview of the process that was used to prepare the annual budget, the service delivery and budget implementation plan and the review of the Integrated Development Plan;
- (b) address the planning processes, highlighting the specific municipal policies taken into account in developing the annual budget;
- (c) detail the consultation process with the community and key stakeholders, and present a summarised list of community hearings and key stakeholders consulted; and
- (d) include the schedule of key deadlines as originally approved by the mayor in terms of section 21 (1) (b) of the Act and provide an explanation for any deviation from the key deadlines approved.

**11. Overview of alignment of annual budget with Integrated Development Plan.**—The overview of the alignment of the annual budget with the Integrated Development Plan of the municipality must at least—

- (a) provide details of any proposed amendments to the Integrated Development Plan including the service delivery and financial impact of such changes for the budget year and at least the two following years; and
- (b) provide a breakdown of all the revenue, operating expenditure and capital expenditure aligned to the goals and action plans of the Integrated Development Plan.

**12. Measurable performance objectives and indicators.**—Measurable performance objectives and indicators must include at least—

- (a) key financial indicators and ratios dealing with—
  - (i) borrowing management;
  - (ii) safety of capital;
  - (iii) liquidity;
  - (iv) debtors' and creditors' management;
  - (v) the mix of expenditure type;
  - (vi) the mix of revenue source; and
  - (vii) unaccounted for losses in respect of services rendered; and
- (b) measurable performance objectives for—
  - (i) revenue for each vote;
  - (ii) revenue for each source; and
  - (iii) for operating and capital expenditure for each vote.

**13. When developing these measurable performance objectives, regard must be had for—**

- (a) the municipality's Integrated Development Plan;

- (b) the service delivery and budget implementation plan;
- (c) economic development initiatives that facilitate job creation, economic growth, poverty alleviation; and
- (d) the provision of basic services.

**14.** The measurable performance objectives for the provision of free basic services in respect of property rates, water, sanitation, waste management and electricity must give details of—

- (a) the amount in rand value of each of the free basic services;
- (b) the level of service to be provided free;
- (c) the number of households to receive each of the free basic services;
- (d) the total budgeted cost of providing each free basic service; and
- (e) the total budgeted revenue foregone by providing each free basic service.

**15. Overview of budget-related policies.**—The overview of budget-related policies<sup>37</sup> must include at least—

- (a) a list of the budget-related policies of the municipality including a reference of where the public can locate them; and
- (b) the proposed amendments to the budget-related policies taken into account in preparing the annual budget explaining the service delivery and financial implications for the budget year and at least the two following years.

**16. Overview of budget assumptions.**—The overview of budget assumptions must—

- (a) provide a summary explanation of the budget assumptions taken into account in preparing the annual budget, including those relating to demographic, economic, and service delivery trends where applicable;
- (b) highlight any significant changes in assumptions since the last approved annual budget or adjustments budget; and
- (c) include at least the following—
  - (i) the targets for the key financial indicators and ratios;
  - (ii) the basis and methodology for forecasting budget projections, including any present value assumptions, interest rates forecasts, bulk price movements and other related factors; and
  - (iii) alignment to generally recognised accounting practice.

**17. Overview of budget funding.**—The overview of budget funding must explain how the annual budget is to be funded, which must include at least—

- (a) a narrative summary of—
  - (i) the funding of operating and capital expenditure;
  - (ii) financial plans;
  - (iii) reserves;
  - (iv) fiscal sustainability of the municipality; and
  - (v) the overall impact on rates and tariffs;

- (b) particulars of funding measures used to determine whether operating and capital expenditure are funded in accordance with section 18 of the Act;
- (c) particulars of property valuation, rates, tariffs and other charges;
- (d) the debtors' collection levels that have been estimated;
- (e) particulars of planned savings and efficiencies shown over the medium term revenue and expenditure framework;
- (f) particulars of the municipality's monetary investments by—
  - (i) type; and
  - (ii) maturity date;
- (g) particulars of contributions and donations in cash or in-kind planned to be received, specifically listing donor assistance secured by formal agreement or contract;
- (h) particulars of planned proceeds from the sale of assets;
- (i) particulars of planned proceeds from the lease of assets, where the period of the lease is three years or more;
- (j) particulars of the planned use of previous years' cash backed accumulated surplus including—
  - (i) any shortfall between liabilities or provisions and cash reserves set aside for this purpose;
  - (ii) details of council decisions to set aside funds including time schedules for progressively meeting funding of provisions;
  - (iii) details of allowances made for working capital – defined as holding sufficient funds to meet any financial obligations as they fall due; and
  - (iv) details of non-statutory reserves;
- (k) particulars of proposed future revenue sources;
- (l) particulars of planned use of any bank overdrafts and reasons therefore;
- (m) particulars of all existing and any new borrowing proposed to be raised; and
- (n) particulars of budgeted allocations and grants to the municipality, distinguishing between operating and capital, from the national government, provincial government, other municipalities, and other donors.

**18. Expenditure on allocations and grant programmes.**—The disclosure on expenditure on allocations and grant programmes must provide particulars of planned expenditure against each allocation and grant in the same format as the information on allocations and grant receipts and a reconciliation of allocations, receipts and unspent funds.

**19. Allocations or grants made by the municipality.**—The disclosure on allocations or grants made by the municipality must provide particulars of any allocations and grants by the municipality to—

- (a) other municipalities;
- (b) any municipal entities and other external mechanisms assisting the municipality in the exercise of its functions or powers;
- (c) any other organs of state; and

- (d) any organisations or bodies outside any sphere of government as referred to in section 67 (1) of the Act.

**20. Councillors and board member allowances and employee benefits.**—The disclosure on councillors and board member allowances and employee benefits must present the following information—

- (a) a summary of councillor allowances;
- (b) a summary of employee benefits for the municipal manager and senior managers;
- (c) a summary of employee benefits for other municipal employees;
- (d) a summary of allowances for board members of municipal entities;
- (e) a summary of employee benefits for chief executive officers and senior managers of municipal entities;
- (f) a summary of employee benefits for other employees of municipal entities;
- (g) detail of the cost to the municipality for the budget year of the salary/wage, pension and medical aid contributions, other benefits and allowances of—
  - (i) each political office-bearer of the municipality detailed separately;
  - (ii) councillors of the municipality collectively;
  - (iii) the municipal manager and each senior manager as defined by section 57 of the Municipal Systems Act, detailed separately; and
  - (iv) all other staff collectively;
- (h) the cost for the budget year to each municipal entity of the salary/wage, pension contributions, medical aid and other benefits and allowances of—
  - (i) each member of the entity's board of directors detailed separately;
  - (ii) the chief executive officer and each senior manager of the entity detailed separately; and
  - (iii) all other staff collectively;
- (i) the number of councillors;
- (j) the number of personnel employed by the municipality, distinguishing between senior managers appointed in terms of section 57 of the Municipal Systems Act, including the municipal manager, other managers, technical and professional staff and other staff members. The number of personnel must be expressed as both full time equivalent and head count; and
- (k) the number of personnel employed by each municipal entity, distinguishing between the board members, senior managers including the chief executive officer, other managers, technical as well as professional staff and other staff members. The number of personnel must be expressed as both full time equivalent and head count.

**21. Monthly targets for revenue, expenditure and cash flow.**—The disclosure on monthly targets for revenue, expenditure and cash flow must include—

- (a) a consolidated projection of revenue by source and expenditure by type for the budget year broken down per month for the budget year, and shown in total for the following two years;
- (b) a consolidated projection of revenue and expenditure by municipal vote broken down

per month for the budget year, and shown in total for the following two years;

- (c) where the municipal vote is different to the standard classification, a consolidated projection of revenue and expenditure by standard classification broken down per month for the budget year, and shown in total for the following two years;
- (d) a consolidated projection of capital expenditure by vote broken down per month for the budget year, and shown in total for the following two years;
- (e) where the municipal vote is different to the standard classification, a consolidated projection of capital expenditure by standard classification broken down per month for the budget year, and shown in total for the following two years; and
- (f) a consolidated projection of cash flow for the budget year setting out receipts by source and payments by type, both operating and capital, broken down per month for the budget year, and shown in total for the following two years.

**22. Annual budgets and service delivery and budget implementation plans – internal departments.**—The disclosure on annual budgets and service delivery and budget implementation plans for internal departments must provide an executive summary of the SDBIP for each internal department of the municipality.

**23.** Where internal departments cover more than one vote, detail must be provided for each vote.

**24.** Each departmental executive summary must include at least—

- (a) a reference as to where the public can locate the detailed departmental SDBIP;
- (b) a brief description of the services provided which may include the level and standard of service provided to each customer group;
- (c) a description of senior management capability and structure;
- (d) an explanation of how the department’s performance objectives and indicators relate to the Integrated Development Plan;
- (e) a description of the changes to service levels and standards over the period covered in the medium term revenue and expenditure framework;
- (f) commentary on the past year’s performance and the impact on future performance objectives;
- (g) a summary of revenue by source and operating and capital expenditure by type;
- (h) a summary of any risks to achieving revenue projections, any expected major shifts in revenue patterns and any planned alternative sources of revenue;
- (i) a description of the major features of expenditure including highlighting discretionary and non-discretionary expenditure; and
- (j) a brief narrative on the departmental capital programme in the context of the overall capital programme of the municipality.

**25. Annual budgets and service delivery agreements – entities and other external mechanisms.**—The disclosure on annual budgets and service delivery agreements for entities and other external mechanisms must include at least—

- (a) a list of entities and other external mechanisms showing the following—
  - (i) name of organisation;



- (ii) period of agreement;
- (iii) service provided;
- (iv) expiry date of service delivery agreement or contract; and
- (v) monetary value of any agreement with an external mechanism;
- (b) the aggregated annual budget of all entities showing—
  - (i) revenue by source and expenditure by type;
  - (ii) capital expenditure and sources of funds;
  - (iii) financial position; and
  - (iv) cash flows; and
- (c) an executive summary of the annual budget and multi-year business plan of each existing and proposed municipal entity, or external mechanism providing a substantial amount of a municipal service, including—
  - (i) ownership and control details and whether there are plans to disestablish the entity;
  - (ii) the oversight processes instituted by the municipality;
  - (iii) the mandate of the municipal entity or other external mechanism, including any proposed amendments to the mandate;
  - (iv) the funding of the municipal entity or other external mechanism over the period covered in the medium term revenue and expenditure framework;
  - (v) a summary of the service delivery agreement between the municipality and the entity or other external mechanism highlighting any material amendments and including a description of the services provided including the level and standard of service provided to each customer group and a description of the changes to service levels and standards over the period covered in the medium term revenue and expenditure framework;
  - (vi) an explanation of how the entity's or external mechanism's mandate links to the Integrated Development Plan;
  - (vii) commentary on past performance and the impact on future performance objectives;
  - (viii) a summary of revenue by source and operating and capital expenditure by type;
  - (ix) a summary of any risks to revenue projections, expected major shifts in revenue patterns and potential alternative sources of revenue;
  - (x) a description of the major features of expenditure including highlighting discretionary and non-discretionary expenditure; and
  - (xi) a brief narrative on the overall capital programme for the entity.

**26. Contracts having future budgetary implications.**—The disclosure on contracts having future budgetary implications must include a table of all contracts which will impose financial obligations on the municipality beyond the three years covered in the annual budget which includes—

- (a) the names of all contracting parties,
- (b) information on expenditure on each contract for the last three years, if any,

- (c) the total expenditure on each contract to date;
- (d) the planned expenditure on each contract for the budget year, and the follow two years; and
- (e) an estimate of the total future budgetary implications of each contract.

**27. Capital expenditure details.**—The disclosure on capital expenditure details must include—

- (a) a summary of budgeted capital expenditure by class and sub-class;
- (b) a summary of the financial implications of the capital expenditure budget, including—
  - (i) the total capital cost;
  - (ii) the costs that will be incurred until the item of property, plant and equipment, investment property or intangible asset is operational; and
  - (iii) the future financial implications of the capital expenditure on revenue by source and expenditure by vote over the estimated useful life of the item of property, plant and equipment, investment property or intangible asset;
- (c) a list of capital programmes and projects grouped by municipality and each municipal entity aligned to the goals of the Integrated Development Plan of the municipality; and
- (d) a list of capital programmes or projects delayed from previous financial years grouped by parent municipality and each municipal entity.

**28. Legislation compliance status.**—The disclosure on legislation compliance must provide a brief summary of the status of the implementation of legislation applicable to municipalities, including progress made or delays experienced in implementation.

**29. Other supporting documents.**—A municipality must add to its budget documentation any other supporting documents not covered in this Schedule if such documents are necessary to fully explain the impact of the annual budget on service delivery and the state of financial affairs of the municipality including its municipal entities.

**30. Annual budgets of municipal entities attached to the annual budget.**—Give a list of the municipal entity annual budgets attached to the annual budget.

**31. Municipal manager’s quality certification.**—An annual budget and supporting documentation must be covered by a quality certificate in the format described below.

**Quality certificate**

I ....., municipal manager of ..... (name of municipality), hereby certify that the annual budget and supporting documentation have been prepared in accordance with the Municipal Finance Management Act and the regulations made under the Act, and that the annual budget and supporting documents are consistent with the Integrated Development Plan of the municipality.

Print  
Name \_\_\_\_\_  
Municipal manager of ..... (name and demarcation code of municipality)  
Signature \_\_\_\_\_  
Date \_\_\_\_\_

## Schedule B

### ADJUSTMENTS BUDGETS AND SUPPORTING DOCUMENTATION OF MUNICIPALITIES

#### TABLE OF CONTENTS

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20.	Other supporting documents
21.	Municipal manager's quality certification

**1. Format and content of adjustments budgets and supporting documentation.**—An adjustments budget and supporting documentation of a municipality that is—

- (a) contemplated in subregulation 23 (1) must have all the headings in the sequence shown in the table of contents below, contain the information described in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act<sup>38</sup>, and
- (b) is contemplated in subregulations 23 (3), (4), (5) and (6) must have all the headings in the sequence shown in Part 1 of the table of contents below, and the headings that are relevant to the particular adjustments budget from Part 2 of the table of contents below, and contain the information described in relation to the relevant headings in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act

**2. Table of contents.**—An adjustments budget and supporting documentation must commence

with a table of contents and show the relevant headings in the sequence set out below—

- PART 1 – ADJUSTMENTS BUDGET
  - Mayor’s report
  - Resolutions
  - Executive summary
  - Adjustments budget tables
- PART 2 – SUPPORTING DOCUMENTATION
  - Adjustments to budget assumptions
  - Adjustments to budget funding
  - Adjustments to expenditure on allocations and grant programmes
  - Adjustments to allocations and grants made by the municipality
  - Adjustments to councillor allowances and employee benefits
  - Adjustments to service delivery and budget implementation plan
  - Adjustments to capital expenditure
  - Other supporting documents
  - Municipal manager’s quality certification

### ***PART 1 – ADJUSTMENTS BUDGET***

**3. Mayor’s report.**—The mayor’s report accompanying an adjustments budget must provide—

- (a) a summary of the reasons for the adjustments budget having regard to the material variances highlighted in the latest monthly budget statement including at least the following where applicable—
  - (i) new allocations of cash backed accumulated funds;
  - (ii) multi-year funds shifting in relation to the capital programme;
  - (iii) unforeseen and unavoidable expenditure; and
  - (iv) allocations and grant adjustments;
- (b) a recommendation that the municipal council approves the adjustments budget;
- (c) a recommendation that the municipal council approves the revision to the service delivery targets and performance indicators in the service delivery and budget and implementation plan if applicable; and
- (d) any other information considered relevant by the mayor.

**4. Resolutions.**—Resolutions dealing with at least the following matters must be prepared and presented as part of the adjustments budget documentation—

- (a) approval of the adjustments budget;
- (b) approval of any adjustments permitted in terms of section 28 (2) of the Act;
- (c) approval of the transfer of funds to a separate bank account for purposes contemplated in section 12 of the Act;

- (d) approval of revisions to the monthly and quarterly service delivery targets and performance indicators in the service delivery and budget implementation plan, if any, to correspond with the approval of the adjustments budget; and
- (e) approval of any amendments to budget-related policies<sup>39</sup> necessitated by the adjustments budget.

**5. Executive summary.**—The executive summary must cover at least the following—

- (a) the effect, including the financial and service delivery implications, of the adjustments budget on service delivery and related financial implications making reference to the adjustments budget tables, charts and explanations.
- (b) the effect of the adjustments budget on the provision of basic services;
- (c) the effect of the adjustments budget on the service delivery and budget implementation plan, service delivery agreements and medium term revenue and expenditure framework and long term financial sustainability of the municipality; and
- (d) highlighting the adjustments made to the approved annual budget and any subsequent approved adjustments budgets.

**6. Adjustments budget tables.**—If a municipality does not have any municipal entities, the adjustment budget tables must consist of the tables in the First Attachment to this Schedule, namely—

- (a) Table B1 Adjustments Budget Summary
- (b) Table B2 Adjustments Budget Financial Performance (standard classification)
- (c) Table B3 Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)
- (d) Table B4 Adjustments Budget Financial Performance (revenue and expenditure)
- (e) Table B5 Adjustments Capital Expenditure Budget by vote and funding
- (f) Table B6 Adjustments Budget Financial Position
- (g) Table B7 Adjustments Budget Cash Flows
- (h) Table B8 Cash backed reserves/accumulated surplus reconciliation
- (i) Table B9 Asset Management
- (j) Table B10 Basic service delivery measurement

**7.** If a municipality does have one or more municipal entities, the adjustment budget tables must consist of—

- (a) the tables mentioned in item 6; and
- (b) the tables in the Second Attachment to this Schedule, namely—
  - (i) Table B1 Consolidated Adjustments Budget Summary
  - (ii) Table B2 Consolidated Adjustments Budget Financial Performance (standard classification)
  - (iii) Table B3 Consolidated Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)
  - (iv) Table B4 Consolidated Adjustments Budget Financial Performance (revenue and expenditure)

- (v) Table B5 Consolidated Adjustments Capital Expenditure Budget by vote and funding
- (vi) Table B6 Consolidated Adjustments Budget Financial Position
- (vii) Table B7 Consolidated Adjustments Budget Cash Flows
- (viii) Table B8 Consolidated cash backed reserves/accumulated surplus reconciliation
- (ix) Table B9 Consolidated Asset Management
- (x) Table B10 Consolidated basic service delivery measurement

**8.** Supporting information, charts and explanations of trends and anomalies must be presented for each table where such presentation will assist with understanding the information contained in the tables.

**9.** If a municipality has municipal entities, the information in 6, 7 and 8 and any other supporting documentation must be presented for the parent municipality only.

## ***PART 2 – SUPPORTING DOCUMENTATION***

**10. Adjustments to budget assumptions.**—Provide a description of any adjustments made to the budget assumptions presented in the annual budget.

**11. Adjustments to budget funding.**—The disclosure on adjustments to budget funding must, where applicable, include—

- (a) a narrative summary of the impact of the adjustments budget on—
  - (i) the funding of operating and capital expenditure;
  - (ii) financial plans;
  - (iii) reserves; and
  - (iv) the financial sustainability of the municipality;
- (b) a reconciliation showing that operating and capital expenditure remain funded in accordance with section 18 of the Act;
- (c) adjustments to collection levels estimated;
- (d) any adjustments to the municipality’s monetary investments by—
  - (i) type; and
  - (ii) maturity date;
- (e) any adjustments to contributions and donations in cash or in-kind specifically listing donor assistance secured by formal agreement or contract;
- (f) adjustments related to proceeds from the sale of assets;
- (g) adjustments related to proceeds from the lease of assets, where the period of the lease is three years or more;
- (h) adjustments related to the planned use of previous years’ cash backed accumulated surplus including—
  - (i) any shortfall between liabilities or provisions and cash reserves set aside for this purpose;

- (ii) municipal council decisions to set aside funds including time schedules for progressively meeting funding of provisions;
- (iii) allowances made for working capital ; and
- (iv) non-statutory reserves;
- (i) adjustments related to new proposed loans to be raised in the budget year; and
- (j) adjustments related to allocations and grants to the municipality, distinguishing between operating and capital, from national government, provincial government, other municipalities and other donors.

**12. Adjustments to expenditure on allocations and grant programmes.**—Provide a summary of any adjustments made to planned expenditure of allocations and grants received.

**13. Adjustments to allocations or grants made by the municipality.**—Provide a summary of any adjustments to allocations or grants made by the municipality.

**14. Adjustments to councillors and board members allowances and employee benefits.**—Provide details of any adjustments to councillor and board members allowances and employee benefits.

**15. Adjustments to service delivery and budget implementation plan.**—Provide details of any adjustments to quarterly service delivery targets and performance indicators in the plan.

**16.** Provide a summary of any adjustments made to the key financial indicators presented in the annual budget.

**17.** Provide details of any adjustments to monthly targets for revenue, expenditure and cash flow.

**18.** Provide explanations for the adjustments referred to in 15, 16 and 17 referring to the relevant monthly budget statement where appropriate.

**19. Adjustments to capital expenditure.**—The disclosure on adjustments to the capital programme must provide at least—

- (a) a summary of adjustments to capital expenditure by class and sub-class;
- (b) a list of adjusted capital programmes and projects of the municipality aligned to the goals of the Integrated Development Plan of the municipality.

**20. Other supporting documents.**—A municipality must add to its adjustments budget documents any supporting documents not covered in this Schedule if such documents are necessary to fully explain the impact of the adjustments budget on service delivery and the state of financial affairs of the municipality including municipal entities.

**21. Municipal manager’s quality certification.**—An adjustments budget and supporting documentation must be covered by a quality certificate in the format described below:

**Quality certificate**

I ....., municipal manager of ..... (name of municipality),

hereby certify that the adjustments budget and supporting documentation have been prepared in accordance with the Municipal Finance Management Act and the regulations made under that Act, and that the adjustments budget and supporting documentation are consistent with the Integrated Development Plan of the municipality.

Print

Name

Municipal manager of ..... (name and demarcation code of municipality)

Signature

Date

## Schedule C

### IN-YEAR REPORTS OF MUNICIPALITIES

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**1. Format and content of in-year reports.**—An in-year report of a municipality must have all the headings in the sequence shown in the table of contents below, contain the information described in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>40</sup>

**2. Table of contents** An in-year report must commence with a table of contents and show the headings in the sequence set out below—

- PART 1 – IN-YEAR REPORT
  - Mayor’s report (required if tabled in the municipal council)
  - Resolutions (required if tabled in the municipal council)
  - Executive summary
  - In-year budget statement tables
- PART 2 – SUPPORTING DOCUMENTATION
  - Debtors’ Analysis
  - Creditors’ Analysis
  - Investment portfolio analysis
  - Allocation and grant receipts and expenditure
  - Councillor and board member allowances and employee benefits
  - Material variances to the service delivery and budget implementation plan
  - Parent municipality financial performance
  - Municipal entity financial performance
  - Capital programme performance
  - Other supporting documents
  - In-year reports of municipal entities attached the municipality’s in-year report
  - Municipal manager’s quality certification

#### ***PART 1 – IN-YEAR REPORT***

**3. Mayor’s report.**—The mayor’s report accompanying an in-year must provide—

- (a) a summary of whether the municipality’s budget is being implemented in accordance with the service delivery and budget implementation plan and any service delivery agreements with municipal entities;
- (b) a summary of any financial problems or risks facing the municipality or any such entity; and
- (c) any other information considered relevant by the mayor.

**4.** For the mid-year budget and performance assessment, the mayor’s report must also provide—

- (a) a summary of the past year’s annual report, and progress on resolving problems identified in the annual report and the audit report;
- (b) a summary of the potential impact of the national adjustments budget and the relevant

provincial adjustments budget; and

- (c) a recommendation as to whether an adjustments budget for the municipality is necessary.

**5. Resolutions.**—If an in-year report is tabled in the municipal council, resolutions dealing with at least the following matters must be prepared and presented as part of the documentation, as may be relevant—

- (a) noting the monthly budget statement and any supporting documents;
- (b) noting the quarterly report on the implementation of the budget and the financial affairs for the municipality referred to in section 52 (d) of the Act;
- (c) noting the mid-year budget and performance assessment referred to in section 72 of the Act;
- (d) noting the in-year reports of any municipal entities; and
- (e) any other resolutions that may be required.

**6. Executive summary.**—The executive summary of a monthly budget statement must cover at least the following—

- (a) the municipality's consolidated performance, in relation to both the approved annual budget and the latest approved adjustments budget, with specific reference to the financial and non-financial impact of the performance of municipal entities on the consolidated performance making reference to the in-year report tables, charts and explanations;
- (b) any material variances from the service delivery and budget implementation plan; and
- (c) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's budget.

**7.** The executive summary of the quarterly report on the implementation of the budget and the financial affairs for the municipality must, in addition to the information in item 6, also include a summary of—

- (a) the municipality's consolidated performance in implementing the service delivery and budget implementation plan referring to actual service delivery achieved compared with the quarterly targets and explanations of any material variances, and taking into account performance in relation to both the approved annual budget and the latest adjustments budget;
- (b) the performance in relation to the quarterly performance targets for the delivery of basic services; and
- (c) the financial impact of the performance to date on the medium term revenue and expenditure framework and long term sustainability.

**8.** The executive summary of the mid-year budget and performance assessment must, in addition to the information in items 6 and 7 provide a summary of the potential impact of the national adjustments budget and the relevant provincial adjustments budget.

**9. In-year budget statement tables.**—If a municipality does not have any municipal entities, the in-year budget statement tables must consist of the tables in the First Attachment to this Schedule, namely—

- (a) Table C1 s71 Monthly Budget Statement Summary
- (b) Table C2 Monthly Budget Statement – Financial Performance (standard classification)
- (c) Table C3 Monthly Budget Statement – Financial Performance (revenue and expenditure by municipal vote)
- (d) Table C4 Monthly Budget Statement – Financial Performance (revenue and expenditure)
- (e) Table C5 Monthly Budget Statement – Capital Expenditure (municipal vote, standard classification and funding)
- (f) Table C6 Monthly Budget Statement – Financial Position
- (g) Table C7 Monthly Budget Statement – Cash Flow

**10.** If a municipality does have one or more municipal entities, the in-year budget statement tables must consist of—

- (a) the tables mentioned in item 9; and
- (b) the tables in the Second Attachment to this Schedule, namely—
  - (i) Table C1 Consolidated Monthly Budget Statement Summary
  - (ii) Table C2 Consolidated Monthly Budget Statement – Financial Performance (standard classification)
  - (iii) Table C3 Consolidated Monthly Budget Statement – Financial Performance (revenue and expenditure by municipal vote)
  - (iv) Table C4 Consolidated Monthly Budget Statement – Financial Performance (revenue and expenditure)
  - (v) Table C5 Consolidated Monthly Budget Statement – Capital Expenditure (municipal vote, standard classification and funding)
  - (vi) Table C6 Consolidated Monthly Budget Statement – Financial Position
  - (vii) Table C7 Consolidated Monthly Budget Statement – Cash Flow

**11.** Supporting information, charts and explanations of trends and anomalies must be presented for each table where such presentation will assist with understanding the information contained in the tables.

**12.** If a municipality has municipal entities, the information in items 6 and 7 must be consolidated covering the parent municipality’s monthly budget statement and municipal entities monthly budget statements.

***PART 2 – SUPPORTING DOCUMENTATION***

**13. Debtors’ analysis** The debtors’ analysis must contain—

- (a) an aged analysis reconciled with the financial position grouped by—
  - (i) revenue source; and
  - (ii) customer group; and
- (b) any bad debts written off by customer group.

**14. Creditors' analysis.**—The creditors analysis must contain an aged analysis by customer type reconciled with the financial position.

**15. Investment portfolio analysis.**—The investment portfolio analysis must include information consistent with the requirements of the Municipal Investment Regulations, 2005 issued by the National Treasury.

**16. Allocation and grant receipts and expenditure.**—The disclosure on allocation and grant receipts and expenditure must reflect particulars of—

- (a) allocation and grant receipts and expenditure against each allocation or grant; and
- (b) any change in allocations as a result of—
  - (i) an adjustments budget of the national or provincial government or district or local municipality; and
  - (ii) changes in grants from other providers.

**17. Expenditure on councillor and board members allowances and employee benefits.**—The disclosure on councillor and board members allowances and employee benefits must include a comparison of actual expenditure and budgeted expenditure on—

- (a) councillor allowances;
- (b) board member allowances; and
- (c) employee benefits.

**18. Material variances to the service delivery and budget implementation plan.**—In the monthly financial statements provide a disclosure on monthly targets for revenue, expenditure and cash flow that includes a consolidated projection of cash flow for the budget year setting out receipts by source and payments by type, per month for the budget year with actual for past months and revised forecasts for future months, and shown in total for the two years following the budget year.

**19.** In the quarterly report on the implementation of the budget and the financial affairs for the municipality provide—

- (a) a review of actual performance against the quarterly targets for measurable performance objectives and service delivery;
- (b) a consolidated projection of revenue and operating expenditure per month for the budget year with actual for past months and revised forecasts for future months, and the total for the two years following the budget year; and
- (c) a projection of capital expenditure by project broken down per month for the budget year showing actual for past periods and revised forecasts for future periods, and shown in total for the two years following the budget year.

**20.** In the mid-year budget and performance assessment provide an explanation of the cause of variations from the approved annual budget and the impact on any contractual agreements and the overall budget, if any.

**21.** Where (17), (18) and (19) indicate a material variance between the actual year-to-date performance compared with the monthly or quarterly targets from the service delivery and budget implementation plan, provide explanations for such variances and indicate the likely impact on annual

performance agreements of the municipal manager and senior managers.

**22. Parent municipality financial performance.**—If the municipality has municipal entities, provide the monthly statement of financial performance for the parent municipality only.

**23. Municipal entity summary.**—If the municipality has municipal entities, provide a summary for all entities of revenue, operating expenditure and capital expenditure.

**24. Capital programme performance.**—The disclosure on capital programme performance must include at least—

- (a) capital expenditure by month; and
- (b) a summary of capital expenditure by asset class and sub-class.

**25. Other supporting documents.**—A municipality must add to its in-year report any supporting documents not covered in this Schedule if such documents are necessary to fully explain the review of actual service delivery and financial performance compared to the approved annual budget and the latest approved adjustments budget.

**26. In-year reports of municipal entities attached to the in-year report.**—Give a list of the municipal entity in-year reports attached to the in-year report.

**27. Municipal manager’s quality certification.**—An in-year report must be covered by a quality certificate in the format described below:

**Quality certificate**

I, ....., the municipal manager of ..... (name of municipality), hereby certify that—

(mark as appropriate)

- Y the monthly budget statement
- Y quarterly report on the implementation of the budget and financial state affairs of the municipality
- Y mid-year budget and performance assessment

for the month of ..... of ..... has been prepared in accordance with the Municipal Finance Management Act and regulations made under that Act.

Print  
Name \_\_\_\_\_  
Municipal manager of ..... (name and demarcation code of municipality)  
Signature \_\_\_\_\_  
Date \_\_\_\_\_

**Schedule D**

**ANNUAL BUDGETS AND SUPPORTING DOCUMENTS OF MUNICIPAL ENTITIES**

## TABLE OF CONTENTS

1.	Format and content of annual budgets
2.	Table of contents
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10.	Overview of annual budget process
11.	Overview of alignment of annual budget with service delivery agreement
12.	Measurable performance objectives and indicators
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15.	Overview of budget-related policies
16.	Overview of budget assumptions
17.	Overview of budget funding
18.	Expenditure on allocations and grant programmes
19.	Board member allowances and employee benefits
20.	Monthly targets for revenue, expenditure and cash flow
21.	Contracts having future budgetary implications
22.	Capital expenditure details
23.	Legislation compliance status
24.	Other supporting documents
25.	Chief executive officer quality certification

**1. Format and content of annual budgets.**—An annual budget and supporting documentation of a municipal entity must have all the headings in the sequence shown in the table of contents below, contain the information described in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>41</sup>

**2. Table of contents.**—An annual budget and supporting documentation must commence with a table of contents and show the headings in the sequence set out below—

- PART 1 – ANNUAL BUDGET
  - Chairperson's report
  - Resolutions
  - Executive summary
  - Annual budget tables
- PART 2 – SUPPORTING DOCUMENTATION
  - Overview of annual budget process
  - Overview of alignment of annual budget with service delivery agreement

- Measurable performance objectives and indicators
- Overview of budget-related policies
- Overview of budget assumptions
- Overview of budget funding
- Expenditure on allocations and grant programmes
- Board member allowances and employee benefits
- Monthly targets for revenue, expenditure and cash flow
- Contracts having future budgetary implications
- Capital expenditure details
- Legislation compliance status
- Other supporting documents
- Chief executive officer's quality certification

### ***PART 1 – ANNUAL BUDGET***

**3. Chairperson's report.**—The chairperson's report accompanying an annual budget must provide—

- (a) a summary of the medium term service delivery objectives and the associated medium term financial implications of the annual budget;
- (b) a summary of the medium term infrastructure development objectives of the parent municipality applicable to the municipal entity;
- (c) a summary of alignment of the municipal entity's annual budget and multi-year business plan with the parent municipality's annual budget and Integrated Development Plan;
- (d) a summary of the main service delivery agreement with the municipality and any other agreements with the parent municipality or other municipal entities;
- (e) a summary of any limits determined by the parent municipality applicable to the entity including limits on tariffs, revenue, expenditure and borrowing;
- (f) a summary of material amendments made to the annual budget after the consultation processes with the parent municipality; and
- (g) any other information considered relevant by the chairperson.

**4. Resolutions.**—Resolutions dealing with at least the following matters must be prepared and presented as part of the municipal entity's annual budget documentation—

- (a) approval of the annual budget of the municipal entity;
- (b) approval of tariffs for services provided by the municipal entity;
- (c) approval of any amendments to the municipal entity's multi-year business plan;
- (d) approval of measurable performance objectives for the annual budget for each year of the medium term revenue and expenditure framework; and
- (e) approval of all budget-related policies or amendments to such policies.

**5. Executive summary.**—The executive summary must cover at least the following—

- (a) the effect of the annual budget making reference to the annual budget tables, charts and explanations, and include a summary of service delivery, financial and tariff implications for at least the next three years;
- (b) past performance and in particular the impact of the previous year's audited results and annual report;
- (c) the financial position and medium term financial strategy;
- (d) alignment to the service delivery agreement with the parent municipality and the parent municipality's Integrated Development Plan including alignment with and achievement of the parent municipality's goals in relation to national and provincial priorities;
- (e) key amendments to the service delivery agreement with the parent municipality;
- (f) key demographic, economic and other assumptions;
- (g) key amendments to the municipal entity's budget-related policies; and
- (h) progress with the provision of basic services provided by the entity and related financial implications.

**6. Annual budget tables.**—The annual budget tables must consist of a statement regarding changes in the basis of measurement and accounting policies from past financial years and the tables in the Attachment to this Schedule, namely—

- (a) Table D1 Budget Summary
- (b) Table D2 Budgeted Financial Performance (revenue and expenditure)
- (c) Table D3 Capital Expenditure Budget by programme and funding
- (d) Table D4 Budgeted Financial Position
- (e) Table D5 Budgeted Cash Flows

**7.** Supporting information, charts and explanations of trends and anomalies must be presented for each table where such presentation will assist with understanding the information contained in the tables.

**8.** If a municipal entity's business operations are sufficiently complex, the parent municipality may stipulate additional requirements for the annual budget tables to ensure that adequate information is provided.

**9.** If a municipal entity's business operations extend across multiple municipal votes, the parent municipality must stipulate the provision of additional information needed to complete the necessary consolidations.

## ***PART 2 – SUPPORTING DOCUMENTATION***

**10. Overview of annual budget process.**—The overview of the annual budget process must at least—

- (a) provide an overview of the process that was used to prepare the municipal entity's annual budget and multi-year business plan;



- (b) address the planning processes, highlighting the parent municipality's budget preparation requirements and policies taken into account in developing the annual budget;
- (c) detail the consultation process with the community and key stakeholders, and present a summarised list of community hearings and key stakeholders consulted; and
- (d) include the schedule of key deadlines as originally approved by the mayor in terms of section 21 (1) (b) of the Act, highlighting the activities impacting on the entity and any special requirements imposed by the parent municipality.

**11. Overview of alignment of annual budget with service delivery agreement.**—The overview of alignment of the annual budget with the service delivery agreement must at least—

- (a) provide details of the ownership and control of the municipal entity;
- (b) provide a summary of the oversight processes instituted by the municipality;
- (c) give details of the mandate of the municipal entity, including any proposed amendments to the mandate;
- (d) provide particulars of the service delivery agreement between the parent municipality and the entity;
- (e) summarise any proposed material amendments to the existing service delivery agreement;
- (f) detail how the entity's annual budget and multi-year business plan are aligned to—
  - (i) the parent municipality's Integrated Development Plan; and
  - (ii) the service delivery agreement between the parent municipality and the entity; and
- (g) provide details of the funding of the municipal entity by the parent municipality.

**12. Measurable performance objectives and indicators.**—Measurable performance objectives and indicators must include at least—

- (a) key financial indicators and ratios dealing with—
  - (i) borrowing management;
  - (ii) safety of capital;
  - (iii) liquidity;
  - (iv) debtors' and creditors' management;
  - (v) the mix of expenditure type;
  - (vi) the mix of revenue source; and
  - (vii) unaccounted for losses in respect of services rendered; and
- (b) measurable performance objectives for—
  - (i) revenue for each source; and
  - (ii) for operating and capital expenditure.

**13. When developing these measurable performance objectives, regard must be had for—**

- (a) the entity's multi-year business plan;

- (b) the service delivery agreement with the parent municipality;
- (c) economic development initiatives that facilitate job creation, economic growth, poverty alleviation; and
- (d) the provision of basic services.

**14.** The measurable performance objectives for the provision of free basic services in respect of water, sanitation, waste management and electricity must give details of—

- (a) the amount in rand value of each of the free basic services;
- (b) the level of service to be provided free;
- (c) the number of households to receive each of the free basic services;
- (d) the total budgeted cost of providing each free basic service; and
- (e) the total budgeted revenue foregone by providing each free basic service.

**15. Overview of budget-related policies.**—The overview of budget-related policies must include at least—

- (a) a list of the budget-related policies of the municipal entity including a reference of where the public can locate them; and
- (b) the proposed amendments to the budget-related policies taken into account in preparing the annual budget, explaining the service delivery and financial implications for the budget year and at least the two following years.

**16. Overview of budget assumptions.**—The overview of budget assumptions must—

- (a) provide a summary explanation of the budget assumptions taken into account in preparing the annual budget, including those relating to demographic, economic, and service delivery trends where applicable, taking into account the assumptions provided by the parent municipality;
- (b) highlight any significant changes in assumptions since the last approved annual budget or adjustments budget; and
- (c) include at least the following—
  - (i) the targets for the key financial indicators and ratios;
  - (ii) the basis and methodology for forecasting budgets projections, including any present value assumptions, interest rates forecasts, bulk price movements, dividend policy of parent municipality, tax measures, and other related factors; and
  - (iii) alignment to generally recognised accounting practice.

**17. Overview of budget funding.**—The overview of budget funding must explain how the annual budget is to be funded, which must include at least the following—

- (a) a narrative summary of—
  - (i) the funding of operating and capital expenditure;
  - (ii) financial plans;
  - (iii) reserves;

- (iv) the fiscal viability of the municipal entity;
- (v) the overall impact on rates and tariffs; and
- (vi) allocations from or distributions to the parent municipality;
- (b) particulars of funding measures used to determine whether operating and capital expenditure are funded in accordance with section 18 of the Act;
- (c) particulars of tariffs and other charges;
- (d) the debtors' collection levels that have been estimated;
- (e) particulars of planned savings and efficiencies for the medium term as detailed in the multi year business plan;
- (f) particulars of the municipal entity's monetary investments by—
  - (i) type, and
  - (ii) maturity date;
- (g) particulars of contributions and donations in cash or in-kind received planned to be received, specifically listing donor assistance secured by formal agreement or contract;
- (h) particulars of planned proceeds from the sale of assets;
- (i) particulars of planned proceeds from the lease of assets, where the period of the lease is three years or more;
- (j) particulars of the planned use of previous years' cash backed accumulated surplus including—
  - (i) any shortfall between liabilities or provisions and cash reserves set aside for this purpose;
  - (ii) details of board decisions to set aside funds including time schedules for progressively meeting funding of provisions;
  - (iii) details of allowances made for working capital – defined as holding sufficient funds to meet any financial obligations as they fall due; and
  - (iv) details of non statutory reserves;
- (k) particulars of proposed future revenue sources;
- (l) particulars of planned use of any bank overdrafts and reasons therefore;
- (m) particulars of any existing and any new borrowing proposed to be raised;
- (n) particulars of allocations from or distributions to the parent municipality; and
- (o) particulars of any other transfers and grants to the municipal entity.

**18. Expenditure on allocations and grant programmes.**—Provide particulars of planned expenditure against each allocation and grant planned to be received in the same format as the information on allocation and grant receipts.

**19. Board member allowances and employee benefits.**—The disclosure on board member allowances and employee benefits must present the following information—

- (a) a summary of board member, and employee benefits;
- (b) the detail of the cost to the municipal entity for the budget year of the salary/wage, pension and medical aid contributions, other benefits and allowances of—

- (i) each board member, detailed separately;
  - (ii) the chief executive officer and each senior manager, detailed separately; and
  - (iii) all other staff collectively; and
- (c) the number of personnel employed by the municipal entity, distinguishing between board members, senior managers, including the chief executive officer, senior managers, other managers, technical and professional staff and other staff members. The number of personnel must be expressed as both full time equivalent and head count.

**20. Monthly targets for revenue, expenditure and cash flow.**—The disclosure on monthly targets for revenue, expenditure, revenue and cash flow must include—

- (a) a projection of operating revenue by source and expenditure by type for the budget year broken down per month for the budget year, and shown in total for the two years following the budget year;
- (b) a projection of capital expenditure by project broken down per month for the budget year, and shown in total for the two years following the budget year;
- (c) a projection of cash flow for the budget year setting out receipts by source and payments by type, both operating and capital, broken down per month for the budget year, and shown in total for the two years following the budget year; and
- (d) a list of entities and other external mechanisms showing the following—
  - (i) name of organisation;
  - (ii) period of agreement;
  - (iii) service provided;
  - (iv) expiry date of service delivery agreement or contract; and
  - (v) monetary value of any agreement with an external mechanism.

**21. Contracts having future budgetary implications.**—The disclosure on contracts having future budgetary implications must include a table of all contracts which will impose financial obligations on the municipal entity beyond the three years covered in the annual budget which includes—

- (a) the names of all contracting parties,
- (b) information on expenditure on each contract for the last three years, if any,
- (c) the total expenditure on each contract to date;
- (d) the planned expenditure on each contract for the budget year, and the follow two years; and
- (e) an estimate of the total future budgetary implications of each contract.

**22. Capital expenditure details.**—The disclosure on capital expenditure details must include—

- (a) a summary of budgeted capital expenditure by asset class and sub-class;
- (b) a summary of the financial implications of the capital expenditure budget, including—
  - (i) the total capital cost;
  - (ii) the costs that will be incurred until the item of property, plant and equipment,

- investment property or intangible asset is operational; and
- (iii) the future financial implications of the capital expenditure on revenue by source and expenditure by vote over the estimated useful life of the item of property, plant and equipment, investment property or intangible asset;
- (c) a list of capital programmes and projects aligned to the goals of the Integrated Development Plan of the municipality; and
- (d) a list of capital programmes or projects delayed from previous financial years.

**23. Legislation compliance status.**—The disclosure on legislation compliance status provide a brief summary of the status of the implementation of any legislation applicable to the municipal entity including progress made and delays experienced in implementation.

**24. Other supporting documents.**—A municipal entity must add to its budget documents any supporting documents not covered in this Schedule if such documents are necessary to fully explain the impact of the annual budget on service delivery and the state of financial affairs of the municipal entity.

**25. Chief executive officer quality certification.**—An annual budget and supporting documentation must be covered by a quality certificate in the format described below.

**Quality certificate**

I ....., chief executive officer of ..... (name of municipal entity), hereby certify that the annual budget and supporting documentation have been prepared in accordance with the Municipal Finance Management Act and the regulations made under the Act, and that the annual budget and supporting documentation are consistent with the Integrated Development Plan of the parent municipality, the service delivery agreement with the parent municipality and the business plan of the entity.

Print  
 Name \_\_\_\_\_  
 Chief executive officer of ..... (name of municipal entity)  
 Signature \_\_\_\_\_  
 Date \_\_\_\_\_

**Schedule E**

**ADJUSTMENTS BUDGETS AND SUPPORTING DOCUMENTS OF MUNICIPAL ENTITIES**

**TABLE OF CONTENTS**

1.	Format and content of adjustments budget and supporting documentation
2.	Table of contents
3.	Chairperson’s report
4.	Resolutions
5.	Executive summary
6.	Adjustments budget tables

- 7.
- 8.
- 9.
10. Adjustments to budget assumptions
11. Adjustments to budget funding
12. Adjustments to expenditure on allocations and grant programmes
13. Adjustments to allocations made by the municipal entity
14. Adjustments to board member allowances and employee benefits
15. Adjustments to service delivery agreement and multi-year business plan
- 16.
- 17.
- 18.
19. Adjustments to capital expenditure
20. Other supporting documents
21. Chief executive officer's quality certification

**1. Format and content of adjustments budget and supporting documentation.**—An adjustments budget and supporting documentation of a municipal entity that is—

- (a) contemplated in section 87 (6) (a) and (b) of the Act must have all the headings in the sequence shown in the table of contents below, contain the information described in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act<sup>42</sup>, and
- (b) is contemplated in section 87 (6) (c) and (d) of the Act must have all the headings in the sequence shown in Part 1 of the table of contents below, and the headings that are relevant to the particular adjustments budget from Part 2 of the table of contents below, and contain the information described in relation to the relevant headings in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.

**2. Table of contents.**—An adjustments budget and supporting documentation must commence with a table of contents and show the relevant headings in the sequence set out below—

- PART 1 – ADJUSTMENTS BUDGET
  - Chairperson's report
  - Resolutions
  - Executive summary
  - Adjustments budget tables
- PART 2 – SUPPORTING DOCUMENTATION
  - Adjustments to budget assumptions
  - Adjustments to budget funding
  - Adjustments to expenditure on allocations and grant programmes
  - Adjustments to allocations and grants made by the municipal entity
  - Adjustments to board member allowances and employee benefits

- Adjustments to the service delivery agreement and multi-year business plan
- Adjustments to capital expenditure
- Other supporting documentation
- Chief executive officer's quality certification

***PART 1 – ADJUSTMENTS BUDGET***

**3. Chairperson's report.**—The chairperson's report accompanying an adjustments must provide—

- (a) a summary of the reasons for the adjustments budget having regard to the material variances highlighted in the latest monthly budget statement including at least the following where applicable—
  - (i) new allocations of cash backed accumulated funds;
  - (ii) multi-year funds shifting in relation to the capital programme;
  - (iii) unforeseen and unavoidable expenditure; and
  - (iv) parent municipality allocation adjustments;
- (b) recommendation that the entity board approves the adjustments budget after the prior approval by the mayor;
- (c) a recommendation that the entity approves the board of directors approves the revisions to the service delivery targets and performance indicators in the service delivery agreement, if applicable; and
- (d) any other information considered relevant by the chairperson.

**4. Resolutions.**—Resolutions dealing with at least the following matters must be prepared and presented as part of the adjustments budget document—

- (a) approval of the municipal entity's adjustments budget;
- (b) approval of any adjustments permitted in terms of regulation 61;
- (c) approval of revisions to the monthly and quarterly service delivery targets and performance indicators in the service delivery agreement, if any, to correspond with the approval of the adjustments budget; and
- (d) approval of any amendments to budget-related policies necessitated by the adjustments budget.

**5. Executive summary.**—The executive summary must cover at least the following—

- (a) the effect of the adjustments budget on service delivery and the related financial implications making reference to the adjustments budget tables, charts and explanations;
- (b) the effect of the adjustments budget on the provision of basic services; and
- (c) the effect of the adjustments budget on the service delivery agreement, multi-year business plan and long-term sustainability of the municipal entity.

**6. Adjustments budget tables.**—The adjustments budget tables must consist of the tables in the Attachment to this Schedule—

- (a) Table E1 Adjustments Budget Summary
- (b) Table E2 Adjustments Budget – Financial Performance (revenue and expenditure)
- (c) Table E3 Adjustments Capital Expenditure Budget by programme and funding
- (d) Table E4 Adjustments Budget – Financial Position
- (e) Table E5 Adjustments Budget – Cash Flows

7. Supporting information, charts and explanations of trends and anomalies must be presented for each table where such presentation will assist with understanding the information contained in the tables.

8. If a municipal entity's operations are sufficiently complex, the parent municipality may stipulate additional requirements for the adjustments budget tables to ensure that adequate information is provided.

9. If a municipal entity's business operations extend across multiple municipal votes, the parent municipality must stipulate the provision of additional information needed to complete the necessary consolidation.

## ***PART 2 – SUPPORTING DOCUMENTATION***

**10. Adjustments to budget assumptions.**—Provide a description of any adjustments made to the budget assumptions presented in the annual budget.

**11. Adjustments to budget funding.**—The disclosure on adjustments to budget funding must include at least the following where applicable—

- (a) a narrative summary of the impact of the adjustments budget on—
  - (i) the funding of operating and capital expenditure;
  - (ii) financial plans;
  - (iii) reserves; and
  - (iv) the financial sustainability of the municipal entity;
- (b) a reconciliation showing that operating and capital expenditure remain funded in accordance with section 18 of the Act;
- (c) adjustments to debtors collection levels estimated;
- (d) any adjustments to the municipal entity's monetary investments by—
  - (i) type; and
  - (ii) maturity date;
- (e) any adjustments to contributions and donations in cash or in-kind specifically listing donor assistance secured by formal agreement or contract;
- (f) adjustments related to proceeds from the sale of assets;
- (g) adjustments related to proceeds from the lease of assets, where the period of the lease is three years or more;
- (h) adjustments related to the planned use of previous years' cash backed accumulated surplus including—



- (i) any shortfall between liabilities or provisions and cash reserves set aside for this purpose;
  - (ii) board decisions to set aside funds including a time schedules for progressively meeting funding of provisions;
  - (iii) allowances made for working; and
  - (iv) non-statutory reserves;
- (i) adjustments related to new proposed borrowing to be raised in the budget year; and
  - (j) adjustments related to allocations and grants from the parent municipality or other donors.

**12. Adjustments to expenditure on allocations and grant programmes.**—Provide a summary of any adjustments made to planned expenditure of allocations and grants received.

**13. Adjustments to allocations made by the municipal entity.**—Provide a summary of any adjustments made to allocations, grants or dividends or other distributions made by the municipal entity, including any to the parent municipality.

**14. Adjustments to board member allowances and employee benefits.**—Provide details of any adjustments made to board member and employee benefits.

**15. Adjustments to service delivery agreement and multi-year business plan.**—Provide details of any adjustments to quarterly service delivery targets and performance indicators in the plan.

**16.** Provide a summary of any adjustments made to the key financial indicators presented in the annual budget.

**17.** Provide details of any adjustments to monthly targets for revenue, expenditure and cash flow.

**18.** Provide explanations for the adjustments referred to in (15), (16) and (17) referring to the relevant monthly budget statement where appropriate.

**19. Adjustments to capital expenditure.**—The disclosure on adjustments to the capital programme must provide at least—

- (a) a summary of adjustments to capital expenditure by class and sub-class; and
- (b) a list of adjusted capital programmes and projects aligned to the goals of the Integrated Development Plan of the municipality.

**20. Other supporting documents.**—A municipal entity must add to its adjustments budget documents any supporting documents not covered in this Schedule if such documents are necessary to fully explain the impact of the adjustments budget on service delivery and the state of financial affairs of the municipal entity.

**21. Chief executive officer's quality certification.**—an adjustments budget and supporting documentation must be covered by a quality certificate in the format described below:

#### **Quality certificate**

I, ....., chief executive officer of ..... (name of municipal entity), hereby certify that the adjustments budget and supporting documentation have been prepared in accordance with the Municipal Finance Management Act and the regulations made under the Act, and that the adjustments budget and supporting documentation are consistent with the business plan of the entity, the service delivery agreement with the parent municipality and the Integrated Development Plan of the parent municipality.

Print  
Name \_\_\_\_\_  
Chief executive officer of ..... (name of municipal entity)  
Signature \_\_\_\_\_  
Date \_\_\_\_\_

## Schedule F

### IN-YEAR REPORTS OF MUNICIPAL ENTITIES

#### TABLE OF CONTENTS

1. Format and content of in-year reports
2. Table of contents
3. Chairperson's report
- 4.
5. Resolutions
6. Executive summary
- 7.
8. In-year budget statement tables
- 9.
- 10.
- 11.
12. Debtors' analysis
13. Creditors' analysis
14. Investment portfolio analysis
15. Allocations, grants receipt and expenditure
16. Board member allowances and employee benefits
17. Material variances to the service delivery agreement and multi year business plan
- 18.
- 19.
20. Capital programme performance
21. Other supporting documents
22. Chief executive officer's quality certification

**1. Format and content of in-year reports.**—An in-year report of a municipal entity must have all the headings in the sequence shown in the table of contents below, contain the information described in this Schedule and be appropriately page numbered, taking into account any guidelines issued by the Minister in terms of section 168 (1) of the Act.<sup>43</sup>

**2. Table of contents.**—An in-year report must commence with a table of contents and show the headings in the sequence set out below—

- PART 1 – IN-YEAR REPORT
  - Chairperson’s Report (required if tabled to board)
  - Resolutions (required if tabled to board)
  - Executive summary
  - In-year budget statement tables
- PART 2 – SUPPORTING DOCUMENTATION
  - Debtors’ analysis
  - Creditors’ analysis
  - Investment portfolio analysis
  - Allocation and grant receipts and expenditure
  - Board member allowances and employee benefits
  - Material variances to the service delivery agreement and multi year business plan
  - Capital programme performance
  - Other supporting documents
  - Chief executive officer’s quality certification

***PART 1 – IN-YEAR REPORT***

**3. Chairperson’s report.**—The chairperson’s report accompanying an in-year report must provide—

- (a) a summary of whether the municipal entity’s budget is being implemented in accordance with the service delivery agreement with the parent municipality and the multi-year business plan of the entity;
- (b) a summary of any financial problems or risks facing the municipal entity; and
- (c) any other information considered relevant by the chairperson.

**4.** For the mid-year budget and performance assessment, the chairperson’s report must also provide—

- (a) a summary of the past year’s annual report, and progress on resolving problems identified in the annual report and audit report;
- (b) a summary of any financial or service delivery implications for the parent municipality; and
- (c) a recommendation as to whether an adjustments budget for the municipal entity is necessary.

**5. Resolutions.**—If an in-year report is presented to the board, resolutions dealing with at least the following matters must be prepared and presented as part of the documentation—

- (a) receiving the in-year report and any supporting documents;

- (b) noting of the submission of the in-year report to the municipal manager of the parent municipality; and
- (c) any other resolutions that may be required.

**6. Executive summary.**—The executive summary must cover at least the following—

- (a) the municipal entity’s performance, in relation to both the approved annual budget and the latest approved adjustments budget making reference to the in-year report tables, charts and explanations;
- (b) any material variances from the service delivery agreement with the parent municipality and the multi-year business plan of the entity; and
- (c) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipal entity’s budget.

**7.** The executive summary of the mid-year budget and performance assessment, in addition to the information in (6), also include a summary of—

- (a) the municipal entity’s performance in implementing the service delivery agreement referring to actual service delivery achieved compared with the quarterly targets and an explanation of any variances, and taking into account performance in relation to both the approved annual budget and the latest adjustments budget;
- (b) the performance in relation to the quarterly performance targets for the delivery of basic services; and
- (c) the financial impact of the performance to date on the multi year business plan and long term sustainability of the municipal entity.

**8. In-year budget statement tables.**—The in-year budget statement tables must consist of the tables in the Attachment to this Schedule, namely—

- (a) Table F1 Monthly Budget Statement Summary
- (b) Table F2 Monthly Budget Statement – Financial Performance (revenue and expenditure)
- (c) Table F3 Monthly Budget Statement – Capital Expenditure
- (d) Table F4 Monthly Budget Statement – Financial Position
- (e) Table F5 Monthly Budget Statement – Cash Flows

**9.** Supporting information, charts and explanations of trends and anomalies must be presented for each table where such presentation will assist with understanding the information contained in the tables.

**10.** If a municipal entity’s operations are sufficiently complex, the parent municipality may stipulate additional requirements for the in-year budget statement tables to ensure that adequate information is provided.

**11.** If a municipal entity’s business operations extend across multiple municipal votes, the parent municipality must stipulate the provision of additional information needed to complete the necessary consolidation.

## ***PART 2 – SUPPORTING DOCUMENTATION***

**12. Debtors' analysis.**—The debtors' analysis must contain the following—

- (a) an aged analysis reconciled with the financial position grouped by—
  - (i) revenue source; and
  - (ii) customer group; and
- (b) any bad debts written off by customer group.

**13. Creditors' analysis.**—The creditors' analysis must contain an aged analysis by customer type reconciled with the financial position.

**14. Investment portfolio analysis.**—The investment portfolio analysis must include information consistent with the requirements of the Municipal Investment Regulations, 2005.

**15. Allocations, grants receipt and expenditure** The disclosure on allocation and grant receipts and expenditure must reflect particulars of—

- (a) allocation and grant receipts and expenditure against each allocation or grant; and
- (b) any change in allocations as a result of an adjustments budget of the parent municipality, and changes in grants from other providers.

**16. Board member allowances and employee benefits.**—The disclosure on board member allowances and employee benefits must include a comparison of actual expenditure and budgeted expenditure—

- (a) board member allowances; and
- (b) employee benefits.

**17. Material variances to the service delivery agreement and multi year business plan.**—In the monthly financial statements provide a disclosure on monthly targets for revenue, expenditure and cash flow that includes a projection of cash flow for the budget year setting out receipts by source and payments by type, per month for the budget year with actual for past months and revised forecasts for future months, and shown in total for the two years following the budget year.

**18.** In the mid-year budget and performance assessment provide—

- (a) a review of actual performance against the quarterly targets for measurable performance objectives and service delivery;
- (b) a projection of revenue and operating expenditure per month for the budget year with actual for past months and revised forecasts for future months, and the total for the two years following the budget year;
- (c) a projection of capital expenditure by project broken down per month for the budget year showing actual for past periods and revised forecasts for future periods, and shown in total for the two years following the budget year; and
- (d) an explanation of the cause of variations from the approved annual budget and the impact on any contractual agreements and the overall budget, if any.

**19.** Where items 17 and 18 indicate a material variance between the actual year-to-date performance compared with the monthly or quarterly targets from the service delivery agreement and multi-year business plan, provide explanations for such variances and indicate the likely impact on annual performance agreements of the chief executive officer and senior managers.

**20. Capital programme performance.**—The disclosure on capital programme performance must include at least—

- (a) capital expenditure by month; and
- (b) a summary of capital expenditure by asset class and sub-class.

**21. Other supporting documents.**—A municipal entity must add to its in-year report any supporting documents not covered in this Schedule if such documents are necessary to fully explain the review of actual service delivery and financial performance compared to the approved annual budget and the latest approved adjustments budget.

**22. Chief executive officer’s quality certification.**—An in-year report must be covered by a quality certificate in the format described below:

**Quality certificate**

I, ....., chief executive officer of ..... (name of municipal entity), hereby certify that—

(mark as appropriate)

Y the monthly budget statement

Y mid-year budget and performance assessment

for the month of ..... of ..... has been prepared in accordance with the Municipal Finance Management Act and regulations made under that Act.

Print

Name \_\_\_\_\_

Chief executive officer of ..... (name of municipal entity)

Signature \_\_\_\_\_

Date \_\_\_\_\_

**Schedule G**

**EXTENSIONS AND NON-COMPLIANCE WITH TIME PROVISIONS**

<b>APPLICATION FOR EXTENSION TO THE BUDGET PROCESS</b>	
<i>Note: The application must be submitted to the MEC for finance by no later than 15 March</i>	
<b>Name of Municipality:</b>	
<b>1. State the relevant section of the Act and regulation for which extension is being applied.</b>	

<b>2. State the revised completion date the extension is required.</b>			
<i>Processes</i>	<i>Legislated date</i>	<i>Number of days</i>	<i>Proposed Extension Date</i>
<b>3. State how the proposed extension will affect the remaining legislated process and how compliance will be achieved with other MFMA timelines</b>			
<b>4. State the underlying reasons why an extension to a legislated timeframe is being requested. If the extension is requested for budget timeline extension, attach the municipalities approved time schedule including the dates that earlier processes have been undertaken.</b>			
<b>5. Detail the action plan that has been instituted to address the reasons for the legislated timeframe not being met</b>			
<i>Reasons for delay</i>	<i>Action Plans to resolve</i>		
<b>6. Detail what corrective action has been or will be put in place to prevent a recurrence in future years.</b>			
<i>Reasons for delay</i>	<i>Action Plans to resolve</i>		
<b>7. Has an application for an extension to a timeframe been made previously</b>			
<i>Date of application</i>	<i>State whether application approved or not approved</i>		

**Declaration:**

I, \_\_\_\_\_ hereby declare that: (Name)

1. The information submitted above is, to the best of my knowledge, accurate.
2. A copy of this application will be tabled at the next meeting of the Municipal Council subsequent to the submission of this application.

**SIGNED:**

**DATE:**

-----  
Mayor

**CONTACT DETAILS:**

<b>Mayor' Office Contact Details</b>			
<b>Name of contact person:</b>			
<b>Telephone:</b>	<b>Code ( )</b>	<b>Fax:</b>	
<b>Municipal Manager Contact Details</b>			
<b>Name:</b>			

<b>Telephone:</b>	<b>Code ( )</b>		<b>Fax:</b>	
<b>Municipality's Postal Address</b>				
Postal Code				

### **ATTACHMENTS TO SCHEDULES**

Schedule A	First Attachment
Schedule A	Second Attachment
Schedule B	First Attachment
Schedule B	Second Attachment
Schedule C	First Attachment
Schedule C	Second Attachment
Schedule D	Attachment
Schedule E	Attachment
Schedule F	Attachment

### **SCHEDULE A – FIRST ATTACHMENT**

- (k) Table A1 Budget Summary
- (l) Table A2 Budgeted Financial Performance (revenue and expenditure by standard classification)
- (m) Table A3 Budgeted Financial Performance (revenue and expenditure by municipal vote)
- (n) Table A4 Budgeted Financial Performance (revenue and expenditure)
- (o) Table A5 Budgeted Capital Expenditure by vote, standard classification and funding
- (p) Table A6 Budgeted Financial Position
- (q) Table A7 Budgeted Cash Flows
- (r) Table A8 Cash backed reserves/accumulated surplus reconciliation
- (s) Table A9 Asset Management
- (t) Table A10 Basic service delivery measurement

### **SCHEDULE A – SECOND ATTACHMENT**

- (a) Table A1 Consolidated Budget Summary
- (b) Table A2 Consolidated Budgeted Financial Performance (revenue and expenditure by standard classification)
- (c) Table A3 Consolidated Budgeted Financial Performance (revenue and expenditure by municipal vote)



- (d) Table A4 Consolidated Budgeted Financial Performance (revenue and expenditure)
- (e) Table A5 Consolidated Budgeted Capital Expenditure by vote, standard classification and funding
- (f) Table A6 Consolidated Budgeted Financial Position
- (g) Table A7 Consolidated Budgeted Cash Flows
- (h) Table A8 Consolidated Cash backed reserves/accumulated surplus reconciliation
- (i) Table A9 Consolidated Asset Management
- (j) Table A10 Consolidated basic service delivery measurement

#### **SCHEDULE B – FIRST ATTACHMENT**

- (a) Table B1 Adjustments Budget Summary
- (b) Table B2 Adjustments Budget Financial Performance (standard classification)
- (c) Table B3 Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)
- (d) Table B4 Adjustments Budget Financial Performance (revenue and expenditure)
- (e) Table B5 Adjustments Capital Expenditure Budget by vote and funding
- (f) Table B6 Adjustments Budget Financial Position
- (g) Table B7 Adjustments Budget Cash Flows
- (h) Table B8 Cash backed reserves/accumulated surplus reconciliation
- (i) Table B9 Asset Management
- (j) Table B10 Basic service delivery measurement

#### **SCHEDULE B – SECOND ATTACHMENT**

- (a) Table B1 Consolidated Adjustments Budget Summary
- (b) Table B2 Consolidated Adjustments Budget Financial Performance (standard classification)
- (c) Table B3 Consolidated Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)
- (d) Table B4 Consolidated Adjustments Budget Financial Performance (revenue and expenditure)
- (e) Table B5 Consolidated Adjustments Capital Expenditure Budget by vote and funding
- (f) Table B6 Consolidated Adjustments Budget Financial Position
- (g) Table B7 Consolidated Adjustments Budget Cash Flows
- (h) Table B8 Consolidated cash backed reserves/accumulated surplus reconciliation
- (i) Table B9 Consolidated Asset Management
- (j) Table B10 Consolidated basic service delivery measurement

#### **SCHEDULE C – FIRST ATTACHMENT**

- (a) Table C1 s71 Monthly Budget Statement Summary

- (b) Table C2 Monthly Budget Statement – Financial Performance (standard classification)
- (c) Table C3 Monthly Budget Statement – Financial Performance (revenue and expenditure by municipal vote)
- (d) Table C4 Monthly Budget Statement – Financial Performance (revenue and expenditure)
- (e) Table C5 Monthly Budget Statement – Capital Expenditure (municipal vote, standard classification and funding)
- (f) Table C6 Monthly Budget Statement – Financial Position
- (g) Table C7 Monthly Budget Statement – Cash Flow

#### **SCHEDULE C – SECOND ATTACHMENT**

- (a) Table C1 s71 Consolidated Monthly Budget Statement Summary
- (b) Table C2 Consolidated Monthly Budget Statement – Financial Performance (standard classification)
- (c) Table C3 Consolidated Monthly Budget Statement – Financial Performance (revenue and expenditure by municipal vote)
- (d) Table C4 Consolidated Monthly Budget Statement – Financial Performance (revenue and expenditure)
- (e) Table C5 Consolidated Monthly Budget Statement – Capital Expenditure (municipal vote, standard classification and funding)
- (f) Table C6 Consolidated Monthly Budget Statement – Financial Position
- (g) Table C7 Consolidated Monthly Budget Statement – Cash Flow

#### **SCHEDULE D – ATTACHMENT**

- (a) Table D1 Budget Summary
- (b) Table D2 Budgeted Financial Performance (revenue and expenditure)
- (c) Table D3 Capital Expenditure Budget by programme and funding
- (d) Table D4 Budgeted Financial Position
- (e) Table D5 Budgeted Cash Flows

#### **SCHEDULE E – ATTACHMENT**

- (a) Table E1 Adjustments Budget Summary
- (b) Table E2 Adjustments Budget – Financial Performance (revenue and expenditure)
- (c) Table E3 Adjustments Capital Expenditure Budget by programme and funding
- (d) Table E4 Adjustments Budget – Financial Position
- (e) Table E5 Adjustments Budget – Cash Flows

#### **SCHEDULE F – ATTACHMENT**

- (a) Table F1 Monthly Budget Statement Summary
- (b) Table F2 Monthly Budget Statement – Financial Performance (revenue and











Fines										
Licences and permits										
Agency services										
Transfers recognised – operational										
Other revenue	2	-	-	-	-	-	-	-	-	-
Gains on disposal of PPE										
<b>Total Revenue (excluding capital transfers and contributions)</b>		-	-	-	-	-	-	-	-	-
<b>Expenditure by Type</b>										
Employee related costs	2	-	-	-	-	-	-	-	-	-
Remuneration of councillors										
Debt impairment	3									
Depreciation & asset impairment	2	-	-	-	-	-	-	-	-	-
Finance charges										
Bulk purchases	2	-	-	-	-	-	-	-	-	-
Other materials	8									
Contracted services		-	-	-	-	-	-	-	-	-
Transfers and grants										
Other expenditure	4, 5	-	-	-	-	-	-	-	-	-
Loss on disposal of PPE										
<b>Total Expenditure</b>		-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>		-	-	-	-	-	-	-	-	-
Transfers recognised – capital										
Contributions recognised – capital	6	-	-	-	-	-	-	-	-	-
Contributed assets										
<b>Surplus/(Deficit) after capital transfers &amp; contributions</b>		-	-	-	-	-	-	-	-	-
Taxation										
<b>Surplus/(Deficit) after taxation</b>		-	-	-	-	-	-	-	-	-
Attributable to minorities										
<b>Surplus/(Deficit) attributable to municipality</b>		-	-	-	-	-	-	-	-	-
Share of surplus/(deficit) of associate	7									
<b>Surplus/(Deficit) for the year</b>		-	-	-	-	-	-	-	-	-

References

1. Classifications are revenue sources and expenditure type
2. Detail to be provided in Table SA1
3. Previously described as 'bad or doubtful debts' – amounts shown should reflect the change in the provision for debt impairment
4. Expenditure type components previously shown under repairs and maintenance should be allocated back to the originating expenditure group/item; e.g. employe





<b>Total Capital Expenditure – Vote</b>		-	-	-	-	-	-	-	-
<b>Capital Expenditure – Standard</b>									
<i><b>Governance and administration</b></i>		-	-	-	-	-	-	-	-
Executive and council									
Budget and treasury office									
Corporate services									
<i><b>Community and public safety</b></i>		-	-	-	-	-	-	-	-
Community and social services									
Sport and recreation									
Public safety									
Housing									
Health									
<i><b>Economic and environmental services</b></i>		-	-	-	-	-	-	-	-
Planning and development									
Road transport									
Environmental protection									
<i><b>Trading services</b></i>		-	-	-	-	-	-	-	-
Electricity									
Water									
Waste water management									
Waste management									
Other									
<b>Total Capital Expenditure – Standard</b>	3	-	-	-	-	-	-	-	-
<b>Funded by:</b>									
National Government									
Provincial Government									
District Municipality									
Other transfers and grants									
<b>Transfers recognised – capital</b>	4	-	-	-	-	-	-	-	-
<b>Public contributions &amp; donations</b>	5								
<b>Borrowing</b>	6								
<b>Internally generated funds</b>									
<b>Total Capital Funding</b>	7	-	-	-	-	-	-	-	-

*References*

1. Municipalities may choose to appropriate for capital expenditure for three years or for one year (if one year appropriation projected expenditure required for yr 3)
2. Include capital component of PPP unitary payment. Note that capital transfers are only appropriated to municipalities for the budget year
3. Capital expenditure by standard classification must reconcile to the appropriations by vote
4. Must reconcile to supporting table SA20 and to Budgeted Financial Performance (revenue and expenditure)
5. Must reconcile to Budgeted Financial Performance (revenue and expenditure)
6. Include finance leases and PPP capital funding component of unitary payment – total borrowing/repayments to reconcile to changes in Table SA17
7. Total Capital Funding must balance with Total Capital Expenditure
8. Include any capitalised interest (MFMA section 46) as part of relevant capital budget















Using public tap (at least min.service level)	2							
Other water supply (at least min.service level)	4							
<i>Minimum Service Level and Above sub-total</i>		-	-	-	-	-	-	-
Using public tap (< min.service level)	3							
Other water supply (< min.service level)	4							
No water supply								
<i>Below Minimum Service Level sub-total</i>		-	-	-	-	-	-	-
<b>Total number of households</b>	5	-	-	-	-	-	-	-
<b><u>Sanitation/sewerage:</u></b>								
Flush toilet (connected to sewerage)								
Flush toilet (with septic tank)								
Chemical toilet								
Pit latrine (ventilated or not)								
Other toilet provisions – list type separately								
<i>Minimum Service Level and Above sub-total</i>		-	-	-	-	-	-	-
Bucket latrine								
Other toilet provisions (list: < min.service level)								
No toilet provisions								
<i>Below Minimum Service Level sub-total</i>		-	-	-	-	-	-	-
<b>Total number of households</b>	5	-	-	-	-	-	-	-
<b><u>Energy:</u></b>								
Electricity (at least minimum service level)								
Electricity – prepaid (min service level)								
<i>Minimum Service Level and Above sub-total</i>		-	-	-	-	-	-	-
Electricity (< min.service level)								
Electricity – prepaid (< min. service level)								
Other energy sources								
<i>Below Minimum Service Level sub-total</i>		-	-	-	-	-	-	-
<b>Total number of households</b>	5	-	-	-	-	-	-	-
<b><u>Refuse:</u></b>								
Removed at least once a week								
<i>Minimum Service Level end Above sub-total</i>		-	-	-	-	-	-	-
Removed less frequently than once a week								
Using communal refuse dump								





<b>Surplus/(Deficit) for the year</b>	-	-	-	-	-	-	-	-
<b><u>Capital expenditure &amp; funds sources</u></b>								
<b>Capital expenditure</b>	-	-	-	-	-	-	-	-
Transfers recognised – capital	-	-	-	-	-	-	-	-
Public contributions & donations	-	-	-	-	-	-	-	-
Borrowing	-	-	-	-	-	-	-	-
Internally generated funds	-	-	-	-	-	-	-	-
<b>Total sources of capital funds</b>	-	-	-	-	-	-	-	-
<b><u>Financial position</u></b>								
Total current assets	-	-	-	-	-	-	-	-
Total non current assets	-	-	-	-	-	-	-	-
Total current liabilities	-	-	-	-	-	-	-	-
Total non current liabilities	-	-	-	-	-	-	-	-
Community wealth/Equity	-	-	-	-	-	-	-	-
<b><u>Cash flows</u></b>								
Net cash from (used) operating	-	-	-	-	-	-	-	-
Net cash from (used) investing	-	-	-	-	-	-	-	-
Net cash from (used) financing	-	-	-	-	-	-	-	-
<b>Cash/cash equivalents at the year end</b>	-	-	-	-	-	-	-	-
<b><u>Cash backing/surplus reconciliation</u></b>								
Cash and investments available	-	-	-	-	-	-	-	-
Application of cash and investments	-	-	-	-	-	-	-	-
<b>Balance – surplus (shortfall)</b>	-	-	-	-	-	-	-	-
<b><u>Asset management</u></b>								
Asset register summary (WDV)	-	-	-	-	-	-	-	-
Depreciation & asset impairment	-	-	-	-	-	-	-	-
Renewal of Existing Assets	-	-	-	-	-	-	-	-
Repairs and Maintenance	-	-	-	-	-	-	-	-
<b><u>Free services</u></b>								
Cost of Free Base Services provided	-	-	-	-	-	-	-	-
Revenue cost of free services provided	-	-	-	-	-	-	-	-
<b><u>Households below minimum service level</u></b>								
Water:	-	-	-	-	-	-	-	-
Sanitation/sewerage:	-	-	-	-	-	-	-	-
Energy:	-	-	-	-	-	-	-	-
Refuse:	-	-	-	-	-	-	-	-

**(b) Table A2 Consolidated Budgeted Financial Performance (revenue and expenditure by standard classification)**

*Schedule A2 – Table A2 Consolidated Budgeted Financial Performance (revenue and expenditure by standard classification)*

<i>Standard Classification Description</i>	<i>Ref</i>	<i>Current Year - 3</i>	<i>Current Year - 2</i>	<i>Current Year - 1</i>	<i>Current Year</i>	<i>Medium Term Revenue Expenditure Framework</i>
--	------------	-------------------------	-------------------------	-------------------------	---------------------	--







Licences and permits									
Agency services									
Transfers recognised – operational									
Other revenue	2	-	-	-	-	-	-	-	-
Gains on disposal of PPE									
<b>Total Revenue (excluding capital transfers and contributions)</b>		-	-	-	-	-	-	-	-
<b>Expenditure By Type</b>									
Employee related costs	2	-	-	-	-	-	-	-	-
Remuneration of councillors									
Debt impairment	3	-	-	-	-	-	-	-	-
Depreciation & asset impairment	2	-	-	-	-	-	-	-	-
Finance charges									
Bulk purchases	2	-	-	-	-	-	-	-	-
Other materials	8	-	-	-	-	-	-	-	-
Contracted services									
Transfers and grants									
Other expenditure	4, 5	-	-	-	-	-	-	-	-
Loss on disposal of PPE									
<b>Total Expenditure</b>		-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>		-	-	-	-	-	-	-	-
Transfers recognised – capital									
Contributions recognised – capital	6	-	-	-	-	-	-	-	-
Contributed assets									
<b>Surplus/(Deficit) after capital transfers &amp; contributions</b>		-	-	-	-	-	-	-	-
Taxation									
<b>Surplus/(Deficit) after taxation</b>		-	-	-	-	-	-	-	-
Attributable to minorities									
<b>Surplus/(Deficit) attributable to municipality</b>		-	-	-	-	-	-	-	-
Share of surplus/ (deficit) of associate	7	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit) for the year</b>		-	-	-	-	-	-	-	-

**References**

1. Classifications are revenue sources and expenditure type
2. Detail to be provided in Table SA1
3. Previously described as 'bad or doubtful debts' – amounts shown should reflect the change in the provision for debt impairment
4. Expenditure type components previously shown under repairs and maintenance should be allocated back to the originating expenditure group/item; e.g. employe
5. Repairs & maintenance detailed in Table A9 and Table SA34c
6. Contributions are funds provided by external organisations to assist with infrastructure development; e.g. developer contributions (detail to be provided in Table
7. Equity method
8. All materials not part of 'bulk' e.g. road making materials, pipe, cable etc.





Example 15 – Vote 15		-	-	-	-	-	-	-	-
<b>Capital single-year expenditure sub-total</b>		-	-	-	-	-	-	-	-
<b>Total Capital Expenditure – Vote</b>		-	-	-	-	-	-	-	-
<b><u>Capital Expenditure – Standard</u></b>									
<b><i>Governance and administration</i></b>		-	-	-	-	-	-	-	-
Executive and council									
Budget and treasury office									
Corporate services									
<b><i>Community and public safety</i></b>		-	-	-	-	-	-	-	-
Community and social services									
Sport and recreation									
Public safety									
Housing									
Health									
<b><i>Economic and environmental services</i></b>		-	-	-	-	-	-	-	-
Planning and development									
Road transport									
Environmental protection									
<b><i>Trading services</i></b>		-	-	-	-	-	-	-	-
Electricity									
Water									
Waste water management									
Waste management									
Other									
<b>Total Capital Expenditure – Standard</b>	3	-	-	-	-	-	-	-	-
<b><u>Funded by:</u></b>									
National Government									
Provincial Government									
District Municipality									
Other transfers and grants									
<b>Transfers recognised – capital</b>	4	-	-	-	-	-	-	-	-
<b>Public contributions &amp; donations</b>	5								
<b>Borrowing</b>	6								
<b>Internally generated funds</b>									
<b>Total Capital Funding</b>	7	-	-	-	-	-	-	-	-

**References**

1. Municipalities may choose to appropriate for capital expenditure for three years or for one year (if one year appropriation projected expenditure required for yr
2. Include capital component of PPP unitary payment. Note that capital transfers are only appropriated to municipalities for the budget year









<i>Infrastructure – Electricity</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Water</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Sanitation</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Other</i>		-	-	-	-	-	-	-	-
Infrastructure		-	-	-	-	-	-	-	-
Community		-	-	-	-	-	-	-	-
Heritage assets		-	-	-	-	-	-	-	-
Investment properties		-	-	-	-	-	-	-	-
Other assets	6	-	-	-	-	-	-	-	-
Agricultural Assets		-	-	-	-	-	-	-	-
Biological assets		-	-	-	-	-	-	-	-
Intangibles		-	-	-	-	-	-	-	-
<b>Total Capital Expenditure</b>	4								
<i>Infrastructure – Road transport</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Electricity</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Water</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Sanitation</i>		-	-	-	-	-	-	-	-
<i>Infrastructure – Other</i>		-	-	-	-	-	-	-	-
Infrastructure		-	-	-	-	-	-	-	-
Community		-	-	-	-	-	-	-	-
Heritage assets		-	-	-	-	-	-	-	-
Investment properties		-	-	-	-	-	-	-	-
Other assets		-	-	-	-	-	-	-	-
Agricultural Assets		-	-	-	-	-	-	-	-
Biological assets		-	-	-	-	-	-	-	-
Intangibles		-	-	-	-	-	-	-	-
<b>TOTAL CAPITAL EXPENDITURE – Asset class</b>	2								
<b>ASSET REGISTER SUMMARY – PPE (WDV)</b>	5								
<i>Infrastructure – Road transport</i>									
<i>Infrastructure – Electricity</i>									
<i>Infrastructure – Water</i>									
<i>Infrastructure – Sanitation</i>									
<i>Infrastructure – Other</i>									
Infrastructure		-	-	-	-	-	-	-	-
Community									
Heritage assets									
Investment properties		-	-	-	-	-	-	-	-
Other assets									
Agricultural Assets		-	-	-	-	-	-	-	-
Biological assets		-	-	-	-	-	-	-	-















Community and social services										-	-	
Sport and recreation										-	-	
Public safety										-	-	
Housing										-	-	
Health										-	-	
<b><i>Economic and environmental services</i></b>			-	-	-	-	-	-	-	-	-	-
Planning and development										-	-	
Road transport										-	-	
Environmental protection										-	-	
<b><i>Trading services</i></b>			-	-	-	-	-	-	-	-	-	-
Electricity										-	-	
Water										-	-	
Waste water management										-	-	
Waste management										-	-	
Other										-	-	
<b>Total Revenue Standard</b>	-	2	-	-	-	-	-	-	-	-	-	-
<b><u>Expenditure Standard</u></b>	-											
<b><i>Governance and administration</i></b>			-	-	-	-	-	-	-	-	-	-
Executive and council										-	-	
Budget and treasury office										-	-	
Corporate services										-	-	
<b><i>Community and public safety</i></b>			-	-	-	-	-	-	-	-	-	-
Community and social services										-	-	
Sport and recreation										-	-	
Public safety										-	-	
Housing										-	-	
Health										-	-	
<b><i>Economic and environmental services</i></b>			-	-	-	-	-	-	-	-	-	-
Planning and development										-	-	
Road transport										-	-	
Environmental protection										-	-	
<b><i>Trading services</i></b>			-	-	-	-	-	-	-	-	-	-
Electricity										-	-	
Water										-	-	
Waste water management										-	-	

Waste management										-	-	
Other										-	-	
<b>Total Expenditure – Standard</b>	3	-	-	-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit) for the year</b>		-	-	-	-	-	-	-	-	-	-	-

References

1. Government Finance Statistics Functions and Sub-functions are standardised to assist the completion of national and international accounts for comparison purposes.
2. Total Revenue by standard classification must reconcile to Total Operating Revenue shown in the Adjustments Budget Financial Performance (revenue and expenditure).
3. Total Operating Expenditure by standard classification must reconcile to Total Operating Expenditure shown in the Adjustments Budget Financial Performance (expenditure).
4. All amounts must be classified under a standard classification (modified GFS). The GFS function 'Other' is only for Abattoirs, Air Transport, Markets and Townships. All other amounts used must be supported by footnotes. Nothing else may be placed under 'Other'. Assign associate share to relevant classification.
5. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment.
6. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and financial statements audited (note: only where underspending could not reasonably have been foreseen).
7. Increase of funds approved under MFMA section 31.
8. Adjustments approved in accordance with MFMA section 29.
9. Adjustments to transfers from National or Provincial Government.
10. Adjusts. = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)); additional revenue appropriation on programmes (section 28 (2) (b)); projected savings (section 28 (2) (d)); error correction (section 28 (2) (f)).
11.  $G = B + C + D + E + F$
12. Adjusted Budget  $H = (A \text{ or } A1/2 \text{ etc}) + G$

**(c) Table B3 Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)**

Schedule B1 – Table B3 Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)

Vote Description	Ref	Budget Year									Budget Year + 1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-year capital	Unfore. Unavoid.	Nat. or Prov. Govt	Other Adjusts.	Total Adjusts.	Adjusted Budget	
[Insert departmental structure etc]			3	4	5	6	7	8	9	10	
R thousand		A	A1	B	C	D	E	F	G	H	
<b>Revenue by vote</b>	1										
Example 1 – Vote 1									-	-	
Example 2 – Vote 2									-	-	
Example 3 – Vote 3									-	-	
Example 4 – Vote 4									-	-	
Example 5 – Vote 5									-	-	
Example 6 – Vote 6									-	-	
Example 7 – Vote 7									-	-	
Example 8 – Vote 8									-	-	

Example 9 – Vote 9										-	-	
Example 10 – Vote 10										-	-	
Example 11 – Vote 11										-	-	
Example 12 – Vote 12										-	-	
Example 13 – Vote 13										-	-	
Example 14 – Vote 14										-	-	
Example 15 – Vote 15										-	-	
<b>Total Revenue by Vote</b>	2	-	-	-	-	-	-	-	-	-	-	-
<b>Expenditure by Vote</b>	1									-	-	
Example 1 – Vote 1										-	-	
Example 2 – Vote 2										-	-	
Example 3 – Vote 3										-	-	
Example 4 – Vote 4										-	-	
Example 5 – Vote 5										-	-	
Example 6 – Vote 6										-	-	
Example 7 – Vote 7										-	-	
Example 8 – Vote 8										-	-	
Example 9 – Vote 9										-	-	
Example 10 – Vote 10										-	-	
Example 11 – Vote 11										-	-	
Example 12 – Vote 12										-	-	
Example 13 – Vote 13										-	-	
Example 14 – Vote 14										-	-	
Example 15 – Vote 15										-	-	
<b>Total Expenditure by Vote</b>	2	-	-	-	-	-	-	-	-	-	-	-
<b>Surplus / (Deficit) for the year</b>	2	-	-	-	-	-	-	-	-	-	-	-

References

1. Insert 'Vote', e.g. Department, if different to standard classification structure
2. Must reconcile to Budgeted Financial Performance (revenue and expenditure)
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government
8. Adjusts = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)), additional revenue appropriation on programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)), error correction (section 28 (2) (f))



9.  $G = B + C + D + E + F$

10. Adjusted Budget  $H = (A \text{ or } A1/2 \text{ etc}) + G$

**(d) Table B4 Adjustments Budget Financial Performance (revenue and expenditure)**

Schedule B1 – Table B4 Adjustments Budget Financial Performance (revenue and expenditure)

Description	Ref	Budget Year									Budget Year + 1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-year capital	Unfore. Unavoid.	Nat. or Prov. Govt	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
			3	4	5	6	7	8	9	10	
<i>R thousands</i>	1	A	A1	B	C	D	E	F	G	H	
<b>Revenue By Source</b>											
Property rates	2								-	-	
Property rates – penalties & collection charges									-	-	
Service charges – electricity revenue	2								-	-	
Service charges – water revenue	2								-	-	
Service charges – sanitation revenue	2								-	-	
Service charges – refuse revenue	2	-	-	-	-	-	-	-	-	-	-
Service charges – other									-	-	
Rental of facilities and equipment									-	-	
Interest earned – external investments									-	-	
Interest earned – outstanding debtors									-	-	
Dividends received									-	-	
Fines									-	-	
Licences and permits									-	-	
Agency services									-	-	
Transfers recognised – operating									-	-	
Other revenue	2	-	-	-	-	-	-	-	-	-	-
Gains on disposal of PPE									-	-	

<b>Total Revenue (excluding capital transfers and contributions)</b>		-	-	-	-	-	-	-	-	-	-
<b>Expenditure By Type</b>											
Employee related costs		-	-	-	-	-	-	-	-	-	-
Remuneration of councillors									-	-	
Debt impairment									-	-	
Depreciation & asset impairment		-	-	-	-	-	-	-	-	-	-
Finance charges									-	-	
Bulk purchases		-	-	-	-	-	-	-	-	-	-
Other materials									-	-	
Contracted services		-	-	-	-	-	-	-	-	-	-
Transfers and grants									-	-	
Other expenditure		-	-	-	-	-	-	-	-	-	-
Loss on disposal of PPE									-	-	
<b>Total Expenditure</b>		-	-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>		-	-	-	-	-	-	-	-	-	-
Transfers recognised – capital									-	-	
Contributions									-	-	
Contributed assets									-	-	
<b>Surplus/(Deficit) before taxation</b>		-	-	-	-	-	-	-	-	-	-
Taxation											
<b>Surplus/(Deficit) after taxation</b>		-	-	-	-	-	-	-	-	-	-
Attributable to minorities											
<b>Surplus/(Deficit) attributable to municipality</b>		-	-	-	-	-	-	-	-	-	-
Share of surplus/ (deficit) of associate											
<b>Surplus/ (Deficit) for the year</b>		-	-	-	-	-	-	-	-	-	-

References

1. Classifications are revenue sources and expenditure type
2. Detail to be provided in Table SBI
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note: only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government
8. Adjusts. = 'Other' Adjustments proposed to be approved: including revenue under-collection (MFMA section 28 (2) (e)); additional revenue appropriation on programmes (section 28 (2) (b)); projected savings (section 28 (2) (d)), error correction (section 28 (2) (f))
9.  $G = B + C + D + E + F$
10. Adjusted Budget  $H = (A \text{ or } A1/2 \text{ etc}) + G$





Electricity											-	-	
Water											-	-	
Waste water management											-	-	
Waste management											-	-	
Other											-	-	
<b>Total Capital Expenditure Standard</b>	3	-	-	-	-	-	-	-	-	-	-	-	-
<b>Funded by:</b>													
National Government											-	-	
Provincial Government											-	-	
District Municipality											-	-	
Other transfers and grants											-	-	
<b>Total Capital transfers recognised</b>	4	-	-	-	-	-	-	-	-	-	-	-	-
<b>Public contributions &amp; donations</b>											-	-	
<b>Borrowing</b>											-	-	
<b>Internally generated funds</b>											-	-	
<b>Total Capital Funding</b>		-	-	-	-	-	-	-	-	-	-	-	-

References

1. Municipalities may choose to appropriate for capital expenditure for three years or for one year (if one year appropriation projected expenditure required for
2. Include capital component of PPP unitary payment Note that capital transfers are only appropriated to municipalities for the budget year
3. Capital expenditure by standard classification must reconcile to the appropriations by vote
4. Must reconcile to supporting table SB7 and to Adjustments Budget Financial Performance (revenue and expenditure)
5. Only complete if a previous adjusted budget has been approved in the same financial year Add an additional column for each previously approved Adjustments
6. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note only where under spending could not reasonably have been foreseen)
7. Increases of funds approved under MFMA section 31
8. Adjustments approved in accordance with MFMA section 29
9. Adjustments to transfers from National or Provincial Government
10. Adjusts = 'Other' Adjustments proposed to be approved, including revenue under-collection (MFMA section 28 (2) (e)); additional revenue appropriation on e programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)), error correction (section 28 (2) (f))
11.  $G = B + C + D + E + F$
12. Adjusted Budget  $H = (A \text{ or } A1/2 \text{ etc}) + G$

**(f) Table B6 Adjustments Budget Financial Position**

Schedule B1 – Table B6 Adjustments Budget Financial Position

Description	Ref	Budget Year									Budget Year +1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-Y capital	Unfore. Unavoid	Nat. Or Prov. Govt	Other Adjusts	Total Adjusts	Adjusted Budget	Adjusted Budget
			3	4	5	6	7	8	9	10	



Accumulated Surplus/(Deficit)		-	-	-	-	-	-	-	-	-	-
Reserves		-	-	-	-	-	-	-	-	-	-
<b>TOTAL COMMUNITY WEALTH/EQUITY</b>		-	-	-	-	-	-	-	-	-	-

*References*

1. Detail to be provided in Table SA3
2. Net assets must balance with Total Community Wealth/Equity
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a Financial statements audited (note: only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government
8. Adjusts = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)), additional revenue appropriation and programmes (section 28 (2) (b)); projected savings (section 28 (2) (d)); error correction (section 28 (2) (f))
9.  $G = B + C + D + E + F$
10. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$

**(g) Table B7 Adjustments Budget Cash Flows**

Schedule B1 – Table B7 Adjustments Budget Cash Flows

Description	Ref	Budget Year									Budget Year +1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-Y capital	Unfore. Unavoid	Nat. Or Prov. Govt	Other Adjusts	Total Adjust.	Adjusted Budget	
			3	4	5	6	7	8	9	10	
R thousands		A	A1	B	C	D	E	F	G	H	
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>											
<b>Receipts</b>									-	-	
Ratepayers and other									-	-	
Government – operating	1								-	-	
Government capital	1								-	-	
Interest									-	-	
Dividends									-	-	
<b>Payments</b>											
Suppliers and employees									-	-	
Finance charges									-	-	
<b>Transfers and Grants</b>	1								-	-	
<b>NET CASH FROM (USED) OPERATING ACTIVITIES</b>									-	-	

<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>											
<b>Receipts</b>											
Proceeds on disposal of PPE									-	-	
Decrease (Increase) in non-current debtors									-	-	
Decrease (Increase) other non-current receivables									-	-	
Decrease (Increase) in non-current investments									-	-	
<b>Payments</b>											
<b>Capital assets</b>									-	-	
<b>NET CASH FROM/(USED) INVESTING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-	-
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>											
<b>Receipts</b>											
Short term loans									-	-	
Borrowing long term/refinancing									-	-	
Increase in consumer deposits									-	-	
<b>Payments</b>									-	-	
<b>Repayment of borrowing</b>									-	-	
<b>NET CASH FROM/(USED) FINANCING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-	-
<b>NET INCREASE/(DECREASE) IN CASH HELD</b>		-	-	-	-	-	-	-	-	-	-
Cash/cash equivalents at the year begin	2										
Cash/cash equivalents at the year and	2	-	-	-	-	-	-	-	-	-	-

References

1. Local/District municipalities to include transfers from to District/Local Municipalities
2. Cash equivalents includes investments with members of 3 months or less
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and financial statements audited (note only where underspending court not reassembly have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government
8. Adjusts = 'Other' Adjustments proposed to be approved, including revenue under-collection (MFMA section 28 (2) (a)), additional revenue appropriation on e programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)), error correction (section 28 (2) (f))
9.  $G = B + C + D + E + F$
10. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$



## (h) Table B8 Cash backed reserves/accumulated surplus reconciliation

Schedule B1 – Table B8 Cash backed reserves/accumulated surplus reconciliation

Description	Ref	Budget Year									Budget Year +1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-Y capital	Unfor. Unavoid	Nat. Or Prov. Govt	Other Adjusts	Total Adjusts	Adjusted Budget	Adjusted Budget
			3	4	5	6	7	8	9	10	
R thousands		A	A1	B	C	D	E	F	G	H	
<b>Cash and investments available</b>											
Cash/cash equivalents at the year end	1	-	-	-	-	-	-	-	-	-	-
Other current investments >90 days		-	-	-	-	-	-	-	-	-	-
Non current assets – Investments	1	-	-	-	-	-	-	-	-	-	-
<b>Cash and Investments available:</b>		-	-	-	-	-	-	-	-	-	-
<b>Applications of cash and Investments</b>											
Unspent conditional transfers		-	-	-	-	-	-	-	-	-	-
Unspent borrowing											
Statutory requirements		-	-	-	-	-	-	-	-	-	-
Other working capital requirements	2	-	-								
Other provisions											
Long term investments committed		-	-					-	-	-	-
Reserves to be backed by cash/investments		-	-					-	-	-	-
<b>Total Applications of cash and investments:</b>		-	-					-	-	-	-
<b>Surplus (shortfall)</b>		-	-					-	-	-	-

### References

1. Must reconcile with the Adjustments Budget Cash Flow and Adjustments Budget Financial Position
2. Council approval for policy required – include sufficient working capital (e.g. allowing for a % of current debtors >90 days as uncollectable)
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note: only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provisional Government



Heritage assets		-	-	-	-	-	-	-	-	-	-
Investment properties		-	-	-	-	-	-	-	-	-	-
Other assets	6	-	-	-	-	-	-	-	-	-	-
Agricultural assets		-	-	-	-	-	-	-	-	-	-
Biological assets		-	-	-	-	-	-	-	-	-	-
Intangibles		-	-	-	-	-	-	-	-	-	-
<b>Total Capital Expenditure to be adjusted</b>	4	-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Road transport</i>		-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Electricity</i>		-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Water</i>		-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Sanitation</i>		-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Other</i>		-	-	-	-	-	-	-	-	-	-
Infrastructure		-	-	-	-	-	-	-	-	-	-
Community		-	-	-	-	-	-	-	-	-	-
Heritage assets		-	-	-	-	-	-	-	-	-	-
Investment properties		-	-	-	-	-	-	-	-	-	-
Other assets		-	-	-	-	-	-	-	-	-	-
Agricultural Assets		-	-	-	-	-	-	-	-	-	-
Biological assets		-	-	-	-	-	-	-	-	-	-
Intangibles		-	-	-	-	-	-	-	-	-	-
<b>TOTAL CAPITAL EXPENDITURE to be adjusted</b>	2	-	-	-	-	-	-	-	-	-	-
<b>ASSET REGISTER SUMMARY – PPE (WDV)</b>	5								-	-	
<i>Infrastructure Road transport</i>									-	-	
<i>Infrastructure Electricity</i>									-	-	
<i>Infrastructure Water</i>									-	-	
<i>Infrastructure Sanitation</i>									-	-	
<i>Infrastructure Other</i>									-	-	
Infrastructure									-	-	
Community									-	-	
Heritage assets									-	-	
Investment properties									-	-	
Other assets									-	-	
Intangibles									-	-	
Agricultural Assets									-	-	
Biological assets									-	-	

<b>TOTAL ASSET REGISTER SUMMARY – PPE (WOV)</b>	5	-	-	-	-	-	-	-	-	-	-
<b>EXPENDITURE OTHER ITEMS</b>											
<b>Depreciation &amp; asset Impairment</b>		-	-	-	-	-	-	-	-	-	-
<b>Repairs and Maintenance by asset class</b>	3	-	-	-	-	-	-	-	-	-	-
Infrastructure		-	-	-	-	-	-	-	-	-	-
Road transport		-	-	-	-	-	-	-	-	-	-
Infrastructure Electricity		-	-	-	-	-	-	-	-	-	-
Infrastructure Water		-	-	-	-	-	-	-	-	-	-
Infrastructure Sanitation		-	-	-	-	-	-	-	-	-	-
Infrastructure Other		-	-	-	-	-	-	-	-	-	-
Infrastructure		-	-	-	-	-	-	-	-	-	-
Community		-	-	-	-	-	-	-	-	-	-
Heritage assets		-	-	-	-	-	-	-	-	-	-
Investment properties		-	-	-	-	-	-	-	-	-	-
Other assets	6	-	-	-	-	-	-	-	-	-	-
<b>TOTAL EXPENDITURE OTHER ITEMS to be adjusted</b>		-	-	-	-	-	-	-	-	-	-
<b>% of capital exp on renewal of assets</b>		0.0%	0.0%							0.0%	0.0%
<b>Renewal of existing assets as % of depreciation</b>		0.0%	0.0%							0.0%	0.0%
<b>R&amp;M as a % of PPE</b>		0.0%	0.0%							0.0%	0.0%
<b>Renewal and R&amp;M as a % of PPE</b>		0.0%	0.0%							0.0%	0.0%

References

1. Detail of new assets provided in Table SA18a
2. Detail of renewal of existing assets provided in Table SA18b
3. Detail of Repairs and Maintenance by Asset Class provided in Table SA18c
4. Must reconcile to total capital expenditure on Budgeted Capital Expenditure
5. Must reconcile to Adjustments Budget Financial Position (written down value)
6. Donate/contributed and assets funded by finance leases to be allocated to the respective category
7. Only complete if a previous adjusted budget has been approved in the same (financial year Add an additional column for each previously approved Adjustmen
8. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note only where underspending could not reasonably have been foreseen)
9. Increases of funds approved under MFMA section 31
10. Adjustments approved in accordance with MFMA section 29
11. Adjustment to transfers from National or Provincial Government
12. Adjusts = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)); additional revenue appropriation on programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)), error correction (section 28 (2) (f))
13.  $G = B + C + D + E + F$
14. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$



Bucket latrine										-	-	
Other toilet provisions (list. < min. service level)										-	-	
No toilet provisions										-	-	
<i>Below Minimum Service Level sub-total</i>		-	-	-	-	-	-	-	-	-	-	-
<b>Total number of households</b>	5	-	-	-	-	-	-	-	-	-	-	-
<b><u>Energy:</u></b>												
Electricity (at least minimum service level)										-	-	
Electricity – prepaid (min. service level)										-	-	
<i>Minimum Service Level and Above sub-total</i>		-	-	-	-	-	-	-	-	-	-	-
Electricity (< min service level)										-	-	
Electricity – prepaid (<min service level)										-	-	
Other energy sources										-	-	
<i>Below Minimum Service Level sub-total</i>		-	-	-	-	-	-	-	-	-	-	-
<b>Total number of households</b>	5	-	-	-	-	-	-	-	-	-	-	-
<b><u>Refuse:</u></b>												
Removed at least once a week (min. service)										-	-	
Minimum Service Level and Above sub-total		-	-	-	-	-	-	-	-	-	-	-
Removed less frequently this once a week										-	-	
Using communal refuse dump										-	-	
Using own refuse dump										-	-	
Other rubbish disposal										-	-	
No rubbish disposal										-	-	
<i>Below Minimum Service Level sub-total</i>		-	-	-	-	-	-	-	-	-	-	-
<b>Total number of households</b>	5	-	-	-	-	-	-	-	-	-	-	-
<b><u>Households receiving Free Basic Service</u></b>	15											
Water (6 kilolitres per household per month)										-	-	













Water											
Waste water management											
Waste management											
Other											
<b>Total Expenditure – Standard</b>	3	-	-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit) for the year</b>		-	-	-	-	-	-	-	-	-	-

References

1. Government Finance Statistics Functions and Sub-functions are standardised to assist the compilation of national and international accounts for comparison purposes.
2. Total Revenue by standard classification must reconcile to Total Operating Revenue shown in the Adjustments Budget Financial Performance (revenue and expenditure).
3. Total Operating Expenditure by standard classification must reconcile to Total Operating Expenditure shown in the Adjustments Budget Financial Performance (expenditure).
4. All amounts must be classified under a standard classification (modified GFS). The GFS function 'Other' is only for Abattoirs, Air Transport, Markets and Townships. Nothing also may be pieced under 'Other'. Assign associate share to relevant classification.
5. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment.
6. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and financial statements audited (note only where underspending could not reasonably have been foreseen).
7. Increases of funds approved under MFMA section 31.
8. Adjustments approved in accordance with MFMA section 29.
9. Adjustments to transfers from National or Provincial Government.
10. Adjusts = 'Other' Adjustments proposed to be approved, including revenue under collection (MFMA section 28 (2) (a)), additional revenue appropriation on expenditure programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)), error correction (section 28 (2) (f)).
11.  $G = B + C + D + E + F$
12. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$

**(c) Table B3 Consolidated Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)**

Schedule B2 – Table B3 Consolidated Adjustments Budget Financial Performance (revenue and expenditure by municipal vote)

Vote Description  [Insert departmental structure etc]	Ref	Budget Year									Budget Year +1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-year capital	Unfore. Unavoid.	Nat. or Prov. Govt	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
R thousands		A	3 AI	4 B	5 C	6 D	7 E	8 F	9 G	10 H	
<b>Revenue by Vote</b>	1										
Example 1 – Vote 1									-	-	
Example 2 – Vote 2									-	-	
Example 3 – Vote 3									-	-	
Example 4 – Vote 4									-	-	
Example 5 – Vote 5									-	-	
Example 6 – Vote 6									-	-	
Example 7 – Vote 7									-	-	

Example 8 – Vote 8										-	-	
Example 9 – Vote 9										-	-	
Example 10 – Vote 10										-	-	
Example 11 – Vote 11										-	-	
Example 12 – Vote 12										-	-	
Example 13 – Vote 13										-	-	
Example 14 – Vote 14										-	-	
Example 15 – Vote 15										-	-	
<b>Total Revenue by Vote</b>	2	-	-	-	-	-	-	-	-	-	-	-
<b>Expenditure by Vote</b>	1											
Example 1 – Vote 1										-	-	
Example 2 – Vote 2										-	-	
Example 3 – Vote 3										-	-	
Example 4 – Vote 4										-	-	
Example 5 – Vote 5										-	-	
Example 6 – Vote 6										-	-	
Example 7 – Vote 7										-	-	
Example 8 – Vote 8										-	-	
Example 9 – Vote 9										-	-	
Example 10 – Vote 10										-	-	
Example 11 – Vote 11										-	-	
Example 12 – Vote 12										-	-	
Example 13 – Vote 13										-	-	
Example 14 – Vote 14										-	-	
Example 15 – Vote 15										-	-	
<b>Total Expenditure by Vote</b>	2	-	-	-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit) for the years</b>	2	-	-	-	-	-	-	-	-	-	-	-

References

1. Insert 'Vote'; e.g. Department, if different to standard classification structure
2. Must reconcile to Budgeted Financial Performance (revenue and expenditure)
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note: only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government

8. Adjusts. = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)); additional revenue appropriation exi programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)); error correction (section 28 (2) (f))

9.  $G = B + C + D + E + F$

10. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$

**(d) Table B4 Consolidated Adjustments Budget Financial Performance (revenue and expenditure)**

Schedule B2 – Table B4 Consolidated Adjustments Budget Financial Performance (revenue and expenditure)

Description	Ref	Budget Year									Budget Year + 1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-yr capital	Unfore Unavoid.	Nat. or Prov Govt	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
			3	4	5	6	7	8	9	10	
R thousands	1	A	A1	B	C	D	E	F	G	H	
<b>Revenue By Source</b>											
Property rates	2								-	-	
Property rates – penalties & collection charges									-	-	
Service charges – electricity revenue	2								-	-	
Service charges – water revenue	2								-	-	
Service charges – sanitation revenue	2								-	-	
Service charges – refuse revenue	2	-	-	-	-	-	-	-	-	-	-
Service charges – other									-	-	
Rental of facilities and equipment									-	-	
Interest earned – external investments									-	-	
Interest earned – outstanding debtors									-	-	
Dividends received									-	-	
Fines									-	-	
Licences ana permits									-	-	
Agency services									-	-	
Transfers recognised operating									-	-	
Other revenue	2	-	-	-	-	-	-	-	-	-	-
Gains on disposal of PPE									-	-	

<b>Total Revenue (excluding capital transfers and contributions)</b>		-	-	-	-	-	-	-	-	-	-
<b>Expenditure By Type</b>											
Employee related costs		-	-	-	-	-	-	-	-	-	-
Remuneration of councilors									-	-	
Debt impairment									-	-	
Depreciation & asset impairment		-	-	-	-	-	-	-	-	-	-
Finance charges									-	-	
Bulk purchases		-	-	-	-	-	-	-	-	-	-
Other materials									-	-	
Contracted services		-	-	-	-	-	-	-	-	-	-
Transfers and grants									-	-	
Other expenditure		-	-	-	-	-	-	-	-	-	-
Loss on disposal of PPE									-	-	
<b>Total Expenditure</b>		-	-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>		-	-	-	-	-	-	-	-	-	-
Transfers recognised capital									-	-	
Contributions									-	-	
Contributed assets									-	-	
<b>Surplus/(Deficit) before taxation</b>		-	-	-	-	-	-	-	-	-	-
Taxation									-	-	
<b>Surplus/(Deficit) after taxation</b>		-	-	-	-	-	-	-	-	-	-
Attributable to minorities									-	-	
<b>Surplus/(Deficit) attributable to municipality</b>		-	-	-	-	-	-	-	-	-	-
Share of surplus/ (deficit) of associate									-	-	
<b>Surplus/ (Deficit) for the year</b>		-	-	-	-	-	-	-	-	-	-

References

1. Classifications are revenue sources and expenditure type
2. Detail to be provided in Table SB1
3. Only complete if a previous adjusted budget has been approved in the same financial year Add an additional column for each previously approved Adjustments
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note, only where underspending could not reasonably have been foreseen)
5. increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government
8. Adjusts = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)), additional revenue appropriation on e programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)); error correction (section 28 (2) (f))
9.  $G = B+C+D+E+F$
10. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$

**(e) Table B5 Consolidated Adjustments Capital Expenditure Budget by vote and funding**

Schedule B2 – Table B5 Consolidated Adjustments Capital Expenditure Budget by vote and funding

Description	Ref	Budget Year									Budget Year +1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-year capital	Unfore. unavoid.	Nat. or Prov. Govt	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
			5	6	7	8	9	10	11	12	
<i>R thousands</i>		A	A1	B	C	D	E	F	G	H	
<b>Capital expenditure – Vote</b>											
<b>Multi-year expenditure to be adjusted</b>	2										
Example 1 – Vote 1									-	-	
Example 2 – Vote 2									-	-	
Example 3 – Vote 3									-	-	
Example 4 – Vote 4									-	-	
Example 5 – Vote 5									-	-	
Example 6 – Vote 6									-	-	
Example 7 – Vote 7									-	-	
Example 8 – Vote 8									-	-	
Example 9 – Vote 9									-	-	
Example 10 – Vote 10									-	-	
Example 11 – Vote 11									-	-	
Example 12 – Vote 12									-	-	
Example 13 – Vote 13									-	-	
Example 14 – Vote 14									-	-	
Example 15 – Vote 15									-	-	
<b>Capital multi-year expenditure sub-total</b>	3	-	-	-	-	-	-	-	-	-	-
<b>Single-year expenditure to be adjusted</b>	2										
Example 1 – Vote 1									-	-	
Example 2 – Vote 2									-	-	
Example 3 – Vote 3									-	-	





Waste water management										-	-	
Waste management										-	-	
Other										-	-	
<b>Total Capital Expenditure Standard</b>	3	-	-	-	-	-	-	-	-	-	-	-
<b>Funded by:</b>												
National Government										-	-	
Provincial Government										-	-	
District Municipality										-	-	
Other transfers end grants										-	-	
<b>Total Capital transfers recognised</b>	4	-	-	-	-	-	-	-	-	-	-	-
<b>Public contributions &amp; donations</b>										-	-	
<b>Borrowing</b>										-	-	
<b>Internally generated funds</b>										-	-	
<b>Total Capital Funding</b>		-	-	-	-	-	-	-	-	-	-	-

References

1. Municipalities may choose to appropriate for capital expenditure for three year or for one year (if one year appropriation projected expenditure required for y
2. Include capital component of PPP unitary payment. Note that capital transfers are only appropriated to municipalities for the budget year
3. Capital expenditure by standard classification must reconcile to the appropriations by vote
4. Must reconcile to supporting table SB7 and to Adjustments Budget Financial Performance (revenue and expenditure)
5. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
6. Additional cash-backed accumulated funds/unspent funds (MFMA section 18a (1) (b) and section 28 (2) (e,) identified after the Original Budget approved and financial statements audited (note: only where underspending could not reasonably have been foreseen)
7. Increases of funds approved under MFMA section 31
8. Adjustments approved in accordance with MFMA section 29
9. Adjustments to transfers from National or Provincial Government
10. Adjusts. = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a,); additional revenue appropriation on programmes (section 28 (2) (b,); projected savings (section 28 (2) (d,); error Correction (section 28 (2) ( f ))
11.  $G = B + C + D + E + F$
12. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$

**(f) Table B6 Consolidated Adjustments Budget Financial Position**

Schedule B2 – Table B6 Consolidated Adjustments Budget Financial Position

Description	Ref	Budget Year									Budget Year +1
		Original Budget	Prior Adjusted	Accum Funds	Multi-ye capital	Unfore Unavoid.	Net or Prov Govt	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
			3	4	5	6	7	8	9	10	
R thousands		A	A1	B	C	D	E	F	G	H	





<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>												
<b>Receipts</b>												
Proceeds on disposal of PPE									-	-		
Decrease (Increase) in non-current debtors									-	-		
Decrease (increase) other non-current receivables									-	-		
Decrease (increase) in non-current investments									-	-		
<b>Payments</b>												
Capital assets									-	-		
<b>NET CASH FROM/(USED) INVESTING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-		
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>												
<b>Receipts</b>												
Short term loans									-	-		
Borrowing long term/refinancing									-	-		
Increase in consumer deposits									-	-		
<b>Payments</b>												
Repayment of borrowing									-	-		
<b>NET CASH FROM/(USED) FINANCING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-		
<b>NET INCREASE (DECREASE) IN CASH HELD</b>		-	-	-	-	-	-	-	-	-		
Cash/cash equivalents at the year begin:	2								-	-		
Cash/cash equivalents at the year end:	2	-	-	-	-	-	-	-	-	-		

References

1. Local/District municipalities to include transfers from/to District/Local Municipalities
2. Cash equivalents includes investments with maturities of 3 months or less
3. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
4. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (a)) identified after the Original Budget approved and a financial statements audited (note: only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31
6. Adjustments approved in accordance with MFMA section 29
7. Adjustments to transfers from National or Provincial Government
8. Adjusts. = 'Other' Adjustments proposed to be approved: including revenue under-collection (MFMA section 28 (7) (a)); additional revenue appropriation on programmes (section 28 (2) (b)); projected savings (section 28 (2) (d)); error correction (section 28 (2) (f))
9.  $G = B + C + D + E + F$

10. Adjusted Budget H=(A or A 1/2 etc) + G

**(h) Table B8 Consolidated Cash backed reserves/accumulated surplus reconciliation**

Schedule B2 – Table B8 Consolidated Cash backed reserves/accumulated surplus reconciliation											
Description	Ref	Budget Year									Budget Year + 1
		Original Budget	Prior Adjusted	Accum. Funds	Multi-year	Unfore. Unavoid.	Nat. or Prev. Govt	Other Adjusts.	Total Adjusts	Adjusted Budget	Adjusted Budget
			3	4	5	6	7	8	9	10	
R thousands		A	AI	B	C	D	E	F	G	H	
<b>Cash and Investments available</b>											
Cash/cash equivalents at the year end	1	-	-	-	-	-	-	-	-	-	-
Other current investments > 90 days		-	-	-	-	-	-	-	-	-	-
Non current assets – Investments	1	-	-	-	-	-	-	-	-	-	-
<b>Cash and Investments available:</b>		-	-	-	-	-	-	-	-	-	-
<b>Application of cash and investments</b>											
Unspent conditional transfers		-	-	-	-	-	-	-	-	-	-
Unspent borrowing											
Statutory requirements		-	-	-	-	-	-	-	-	-	-
Other working capital requirements	2	-	-					-	-	-	-
Other provisions		-	-					-	-	-	-
Long term investments committed		-	-					-	-	-	-
Reserves to be backed by cash/investments		-	-					-	-	-	-
<b>Total Applications of cash and Investments:</b>		-	-					-	-	-	-
<b>Surplus (Shortfall)</b>		-	-					-	-	-	-

References

1. Must reconcile with the Adjustments Budget Cash How and Adjustments Budget Financial Position
2. Council approval for policy required – include sufficient working capital (e.g. allowing for a % of current debtors > 90 days as uncollectable)
3. Only complete if a previous adjusted budget has been approved in the same financial year Add an additional column for each previously approved Adjustments
4. Additional cash-backed accumulated funds/unspent funds (WFMA section 18 (1) (b) and section 7B (2) (e)) identified at the Original Budget approved and financial statements audited (note only where underspending could not reasonably have been foreseen)
5. Increases of funds approved under MFMA section 31







Investment properties										-	-	
Other assets										-	-	
Intangibles										-	-	
Agricultural Assets												
Biological assets										-	-	
<b>TOTAL ASSET REGISTER SUMMARY – PPE (WDV)</b>	5	-	-	-	-	-	-	-	-	-	-	-
<b>EXPENDITURE OTHER ITEMS</b>												
<b><u>Depreciation &amp; asset impairment</u></b>		-	-	-	-	-	-	-	-	-	-	-
<b><u>Repairs and Maintenance by asset class</u></b>	3	-	-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Road transport</i>		-	-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Electricity</i>		-	-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Water</i>		-	-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Sanitation</i>		-	-	-	-	-	-	-	-	-	-	-
<i>Infrastructure – Other</i>		-	-	-	-	-	-	-	-	-	-	-
Infrastructure		-	-	-	-	-	-	-	-	-	-	-
Community		-	-	-	-	-	-	-	-	-	-	-
Heritage assets		-	-	-	-	-	-	-	-	-	-	-
Investment properties		-	-	-	-	-	-	-	-	-	-	-
Other assets	6	-	-	-	-	-	-	-	-	-	-	-
<b>TOTAL EXPENDITURE OTHER ITEMS to be adjusted</b>		-	-	-	-	-	-	-	-	-	-	-
<i>% of capital exp on renewal of assets</i>		0.0%	0.0%							0.0%	0.0%	
<i>Renewal of existing assets as % of depreciation</i>		0.0%	0.0%							0.0%	0.0%	
<i>R&amp;M as a % of PPE</i>		0.0%	0.0%							0.0%	0.0%	
<i>Renewal and R&amp;M as a % of PPE</i>		0.0%	0.0%							0.0%	0.0%	

References

1. Detail of new assets provided in Table SA18a
2. Detail of renewal of existing assets provided in Table SA18b
3. Detail of Repairs and Maintenance by Asset Class provided in Table SA18c
4. Must reconcile to total capital expenditure on Budgeted Capital Expenditure
5. Must reconcile to Adjustments Budget Financial Position (written down value)
6. Donated/contributed and assets funded by finance leases to be allocated to the respective category
7. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
8. Additional cash-backed accumulated funds/unspent funds (MFMA section 18 (1) (b) and section 28 (2) (e)) identified after the Original Budget approved and a financial statements audited (note, only where underspending could not reasonably have been foreseen)
9. Increases of funds approved under MFMA section 31

10. Adjustments approved in accordance with MFMA section 29

11. Adjustments to transfers from National or Provincial Government

12. Adjusts. = 'Other' Adjustments proposed to be approved; including revenue under-collection (MFMA section 28 (2) (a)); additional revenue appropriation on programmes (section 28 (2) (b)), projected savings (section 28 (2) (d)), error correction (section 28 (2) (f))

13.  $G = B + C + D + E + F$

14. Adjusted Budget  $H = (A \text{ or } A \ 1/2 \text{ etc}) + G$

**(j) Table B10 Consolidated basic service delivery measurement**

Schedule B2 – Table B10 Consolidated Basic service delivery measurement

Description	Ref	Budget Year									Budget Year + 1
		Original Budget	Prior Adjusted	Accum Funds	Multi-year capital	Unfore Unavoid	Nat or Prov Govt	Other Adjust	Total Adjusts	Adjusted Budget	Adjusted Budget
			7	8	9	10	11	12	13	14	
		A	A1	B	C	D	E	F	G	H	
<b>Household service targets (000)</b>	1										
<b>Water:</b>									-	-	
Piped water inside dwelling									-	-	
Piped water inside yard (but not in dwelling)									-	-	
Using public tap (at least min. service level)	2								-	-	
Other water supply (at least min. service level)									-	-	
<i>Minimum Service Level and Above sub-total</i>		-	-	-	-	-	-	-	-	-	-
Using public tap (< min service level)	3								-	-	
Other water supply (< min service level)	3 4								-	-	
No water supply		-	-	-	-	-	-	-	-	-	-
<i>Below Minimum Service level sub-total</i>									-	-	
<b>Total number of households</b>	5	-	-	-	-	-	-	-	-	-	-
<b>Sanitations/Sewerage</b>									-	-	
Flush toilet (connected to sewerage)									-	-	
Flush toilet (with septic tank)									-	-	
Chemical toilet									-	-	
Pit latrine (ventilated or not)									-	-	



<b>Households receiving Free Basic Service</b>	15									-	-	
Water (6 kilolitres per household per month)										-	-	
Sanitation (free minimum level service)										-	-	
Electricity/other energy (50 kwh per household per month)										-	-	
Refuse (removed at least once a week)										-	-	
<b>Cost of Free Basic Service Provided (R'000)</b>	16									-	-	
Water (6 kilolitres per household per month)										-	-	
Sanitation (free sanitation service)										-	-	
Electricity/other energy (50 kwh per household per month)										-	-	
Refuse (removed once a week)										-	-	
<b>Total cost of FBS provided (minimum social package)</b>										-	-	
<b>Highest level of free service provider</b>										-	-	
Property rates (R'000 value threshold)										-	-	
Water (kilolitres per household per month)										-	-	
Sanitation (kilolitres per household per month)										-	-	
Sanitation (R and per household per month)										-	-	
Electricity (kw per household per month)										-	-	
Refuse (average litres per week)										-	-	
<b>Revenue cost of free services provided (R'000)</b>	17									-	-	
Property rates (R15 000 threshold rebate)										-	-	
Property rates (other exemptions reductions and rebates)										-	-	
Water										-	-	
Sanitation										-	-	
Electricity/other energy										-	-	











<b>Revenue by Vote</b>	1								
Example 1 – Vote 1		-	-	-	-	-	-	-	-
Example 2 – Vote 2		-	-	-	-	-	-	-	-
Example 3 – Vote 3		-	-	-	-	-	-	-	-
Example 4 – Vote 4		-	-	-	-	-	-	-	-
Example 5 – Vote 5		-	-	-	-	-	-	-	-
Example 6 – Vote 6		-	-	-	-	-	-	-	-
Example 7 – Vote 7		-	-	-	-	-	-	-	-
Example 8 – Vote 8		-	-	-	-	-	-	-	-
Example 9 – Vote 9		-	-	-	-	-	-	-	-
Example 10 – Vote 10		-	-	-	-	-	-	-	-
Example 11 – Vote 11		-	-	-	-	-	-	-	-
Example 12 – Vote 12		-	-	-	-	-	-	-	-
Example 13 – Vote 13		-	-	-	-	-	-	-	-
Example 14 – Vote 14		-	-	-	-	-	-	-	-
Example 15 – Vote 15		-	-	-	-	-	-	-	-
<b>Total Revenue by Vote</b>	2	-	-	-	-	-	-	-	-
<b>Expenditure by Vote</b>	1								
Example 1 – Vote 1		-	-	-	-	-	-	-	-
Example 2 – Vote 2		-	-	-	-	-	-	-	-
Example 3 – Vote 3		-	-	-	-	-	-	-	-
Example 4 – Vote 4		-	-	-	-	-	-	-	-
Example 5 – Vote 5		-	-	-	-	-	-	-	-
Example 6 – Vote 6		-	-	-	-	-	-	-	-
Example 7 – Vote 7		-	-	-	-	-	-	-	-
Example 8 – Vote 8		-	-	-	-	-	-	-	-
Example 9 – Vote 9		-	-	-	-	-	-	-	-
Example 10 – Vote 10		-	-	-	-	-	-	-	-
Example 11 – Vote 11		-	-	-	-	-	-	-	-
Example 12 – Vote 12		-	-	-	-	-	-	-	-
Example 13 – Vote 13		-	-	-	-	-	-	-	-
Example 14 – Vote 14		-	-	-	-	-	-	-	-
Example 15 – Vote 15		-	-	-	-	-	-	-	-
<b>Total Expenditure by Vote</b>	2	-	-	-	-	-	-	-	-
<b>Surplus/ (Deficit) for the year</b>	2	-	-	-	-	-	-	-	-

*References*

1. Insert 'Vote', e.g. Department, if different to standard classification structure
2. Must reconcile to Monthly Budget Statement – Financial Performance Statement (standard classification)

**(d) Table C4 Monthly Budget Statement – Financial Performance (revenue and expenditure)**

*Schedule C1 – Table C4 Monthly Budget Statement – Financial Performance (revenue and expenditure)*







<b>Total Capital Expenditure – Standard Classification</b>	3	-	-	-	-	-	-	-	-
<b>Funded by</b>									
National Government									
Provincial Government									
District Municipality									
Other transfers and grants									
<b>Transfers recognised –capital</b>		-	-	-	-	-	-	-	-
<b>Public contributions &amp; donations</b>	5								
<b>Borrowing</b>	6								
<b>Internally generated funds</b>									
<b>Total Capital Funding</b>		-	-	-	-	-	-	-	-

*References*

1. Municipalities may choose to appropriate for capital expenditure for three years or for one year (if one year appropriation projected expenditure required for
2. Include capital component of PPP unitary payment
3. Capital expenditure by standard classification must reconcile to the total of multi-year and single year appropriations
4. Include expenditure on investment property, intangible and biological assets
5. Must reconcile to Monthly Budget Statement Financial Performance (revenue and expenditure)
6. Include finance leases and PPP capital funding component of unitary payment – total borrowing/repayments to reconcile to changes in Table SA 17

**(f) Table C6 Monthly Budget Statement – Financial Position**

Schedule C1 – Table C6 Monthly Budget Statement – Financial Position

Description	Ref	Budget Year – 1	Budget Year		
			Original Budget	Adjusted Budget	YearTD actual
<i>R thousands</i>	<i>1</i>				
<b>ASSETS</b>					
<b>Current assets</b>					
Cash					
Call investment deposits					
Consumer debtors					
Other debtors					
Current portion of long-term receivables					
Inventory					
<b>Total current assets</b>		-	-	-	-
<b>Non current assets</b>					
Long-term receivables					
Investments					
Investment property					
Property, plant and equipment					
Agricultural					
Biological assets					
Intangible assets					
Other non-current assets					





<b>Total Revenue (excluding capital transfers and contributions)</b>	-	-	-	-	-	-	-	-
Employee costs	-	-	-	-	-	-	-	-
Remuneration of Councillors	-	-	-	-	-	-	-	-
Depreciation & asset impairment	-	-	-	-	-	-	-	-
Finance charges	-	-	-	-	-	-	-	-
Materials and bulk purchases	-	-	-	-	-	-	-	-
Transfers and grants	-	-	-	-	-	-	-	-
Other expenditure	-	-	-	-	-	-	-	-
<b>Total Expenditure</b>	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>	-	-	-	-	-	-	-	-
Transfers recognised – capital	-	-	-	-	-	-	-	-
Contributions & Contributed assets	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit) after capital transfers &amp; contributions</b>	-	-	-	-	-	-	-	-
Share of surplus/ (deficit) of associate	-	-	-	-	-	-	-	-
<b>Surplus/ (Deficit) for the year</b>	-	-	-	-	-	-	-	-
<b><u>Capital expenditure &amp; funds sources</u></b>								
<b>Capital expenditure</b>	-	-	-	-	-	-	-	-
Capital transfers recognised	-	-	-	-	-	-	-	-
Public contributions & donations	-	-	-	-	-	-	-	-
Borrowing	-	-	-	-	-	-	-	-
Internally generated funds	-	-	-	-	-	-	-	-
<b>Total sources of capital funds</b>	-	-	-	-	-	-	-	-
<b><u>Financial position</u></b>								
Total current assets	-	-	-	-	-	-	-	-
Total non current assets	-	-	-	-	-	-	-	-
Total current Liabilities	-	-	-	-	-	-	-	-
Total non current liabilities	-	-	-	-	-	-	-	-
Community wealth/Equity	-	-	-	-	-	-	-	-
<b><u>Cash flows</u></b>								
Net cash from (used) operating	-	-	-	-	-	-	-	-
Net cash from (used) investing	-	-	-	-	-	-	-	-
Net cash from (used) financing	-	-	-	-	-	-	-	-
<b>Cash/cash equivalents at the month/year end</b>	-	-	-	-	-	-	-	-
<b>Debtors &amp; creditors analysis</b>	<b>0-30 Days</b>	<b>31-60 Days</b>	<b>61-90 Days</b>	<b>91-120 Days</b>	<b>121-150 Days</b>	<b>151-180 Days</b>	<b>181 Days – 1 Yr</b>	<b>Over 1Yr</b>
<b><u>Debtors Age Analysis</u></b>								
Total By Revenue Source	-	-	-	-	-	-	-	-
<b><u>Creditors Age Analysis</u></b>								
Total Creditors	-	-	-	-	-	-	-	-

(b) Table C2 Consolidated Monthly Budget Statement – Financial Performance (standard













Community and social services									-	
Sport and recreation									-	
Public safety									-	
Housing									-	
Health									-	
<b>Economic and environmental services</b>		-	-	-	-	-	-	-	-	
Planning and development									-	
Road transport									-	
Environmental protection									-	
<b>Trading services</b>		-	-	-	-	-	-	-	-	
Electricity									-	
Water									-	
Waste water management									-	
Waste management									-	
Other									-	
<b>Total Capital Expenditure – Standard Classification</b>	3	-	-	-	-	-	-	-	-	
<b>Funded by</b>										
National Government									-	
Provincial Government									-	
District Municipality									-	
Other transfers and grants									-	
<b>Transfers recognized – capital</b>		-	-	-	-	-	-	-	-	
<b>Public contributions &amp; donations</b>	5								-	
<b>Borrowing</b>	6								-	
<b>Internally generated funds</b>									-	
<b>Total Capital Funding</b>		-	-	-	-	-	-	-	-	

References

1. Municipalities may choose to appropriate for capital expenditure for three years or for one year (if one appropriation projected expenditure required for yr? a)
2. Include capital component of PPP unitary payment
3. Capital expenditure by standard classification must reconcile to the total of multi-year and single year appropriations
4. Include expenditure on investment property, intangible and Biological assets
5. Must reconcile to Monthly Budget Statement financial Performance (revenue end expenditure)
6. Include finance leases and PPP capital funding component of unitary payment – total borrowing/repayments to reconcile to changes in Table SA17

**(f) Table C6 Consolidated Monthly Budget Statement – Financial Position**

Schedule C2 – Table C6 Consolidated Monthly Budget Statement – Financial Position

Description	Ref 1	Budget Year – 1 Audited Outcome	Budget Year			
			Original Budget	Adjusted Budget	Year TD actual	Full
<i>R thousands</i>						
<b>ASSETS</b>						
<b>Current assets</b>						

Cash						
Call investment deposits						
Consumer debtors						
Other debtors						
Current portion of long-term receivables						
Inventory						
<b>Total current assets</b>			-	-	-	-
<b>Non current assets</b>						
Long-term receivables						
Investments						
Investment property						
Property, plant and equipment						
Agricultural						
Biological assets						
Intangible assets						
Other non-current assets						
<b>Total non current assets</b>			-	-	-	-
<b>TOTAL ASSETS</b>			-	-	-	-
<b><u>LIABILITIES</u></b>						
<b>Current liabilities</b>						
Bank overdraft						
Borrowing						
Consumer deposits						
Trade and other payables						
Provisions						
<b>Total current liabilities</b>			-	-	-	-
<b>Non current liabilities</b>						
Borrowing						
Provisions						
<b>Total non current liabilities</b>			-	-	-	-
<b>TOTAL LIABILITIES</b>			-	-	-	-
<b>NET ASSETS</b>	2		-	-	-	-
<b><u>COMMUNITY WEALTH/EQUITY</u></b>						
Accumulated Surplus/(Deficit)						
Reserves						
<b>TOTAL COMMUNITY WEALTH/EQUITY</b>	2		-	-	-	-

References

1. Material variances to be explained in Table SCI
2. Net assets must balance with Total Community Wealth/Equity

**(g) Table C7 Consolidated Monthly Budget Statement – Cash Flow**

Schedule C2 – Table C7 Consolidated Monthly Budget Statement – Cash Flow

Description	Ref	Budget Year –1	Budget Year
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Interest earned – external investments									
Interest earned – outstanding debtors									
Dividends received									
Fines									
Licences and permits									
Agency services									
Transfers recognised – operational									
Other revenue									
Gains on disposal of PPE									
<b>Total Revenue (excluding capital transfers and contributions)</b>		-	-	-	-	-	-	-	-
<b>Expenditure By Type</b>									
Employee related costs									
Remuneration of Directors									
Debt impairment	4								
Collection costs									
Depreciation & asset impairment									
Finance charges									
Bulk purchases	2								
Other materials	5								
Contracted services									
Transfers and grants									
Other expenditure	3								
Loss on disposal of PPE									
<b>Total Expenditure</b>		-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>		-	-	-	-	-	-	-	-
Transfers recognised – capital									
Contributions recognised – capital									
Contributions of PPE									
Surplus/(Deficit) after capital transfers & contributions		-	-	-	-	-	-	-	-
Taxation									
<b>Surplus/ (Deficit) for the year</b>		-	-	-	-	-	-	-	-

References

1. Revenue includes sales of: (insert description)

2. Bulk purchases – electricity

2. Bulk purchases – water

3. Expenditure includes repairs & maintenance of:

4. Previously described as 'bad or doubtful debts' – amounts shown should reflect the change in the provision for debt impairment

5. All materials not part of 'bulk' e.g. road making materials, pipe, cable etc.

(Editorial Note: Numbering as per original *Government Gazette*.)

**(c) Table D3 Capital Expenditure Budget by programme and funding**

Schedule D Table D3 Capital Expenditure Budget by programme and funding

Vote Description	Ref	Current Year – 3	Current Year – 2	Current Year – 1	Current Year			Medium Term Re Expenditure Fr	
		Audited Outcome	Audited Outcome	Audited Outcome	Original Budget	Adjusted Budget	Full Year Forecast	Budget Year	Budget Year + 1
<i>R thousands</i>	1								
<b>Multi-Year expenditure</b> <i>Insert programme/projects description</i>									
<b>Capital multi-year expenditure sub-total</b>	2	–	–	–	–	–	–	–	–
<b>Single Year expenditure</b> <i>Insert single year budgets and indicative estimates</i>									
<b>Capital single-year expenditure sub-total</b>	2	–	–	–	–	–	–	–	–
<b>Total Capital Expenditure</b>	4	–	–	–	–	–	–	–	–
<b>Funded by:</b>									
National Government									
Provincial Government									
Parent Municipality									
District Municipality									
<b>Transfers recognised – capital</b>		–	–	–	–	–	–	–	–
<b>Public contributions &amp; donations</b>	5								
<b>Borrowing</b>	3								
<b>Internally generated funds</b>									
<b>Total Capital Funding</b>	4	–	–	–	–	–	–	–	–

*References*

1. Municipalities may choose to appropriate for capital expenditure for three years or for one year (if one year appropriation projected expenditure required for
2. Include capital component of PPP unitary payment.
3. Include finance leases and PPP capital funding component of unitary payment.
4. Total Capital Funding must balance with Total Capital Expenditure.
5. Include contributions from Public Entities, e.g. Eskom.

**(d) Table D4 Budgeted Financial Position**

Schedule D Table D4 Budgeted Financial Position

Description	Ref	Current Year – 3	Current Year – 2	Current Year – 1	Current Year	Medium Term Re Expenditure Fr
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<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>									
<b>Receipts</b>									
Short term loans									
Borrowing long term/refinancing									
Increase in consumer deposits									
<b>Payments</b>									
Repayment of borrowing									
<b>NET CASH FROM/(USED) FINANCING ACTIVITIES</b>		-	-	-	-	-	-	-	-
<b>NET INCREASE/(DECREASE) IN CASH HELD</b>	1	-	-	-	-	-	-	-	-
Cash/cash equivalents at the year begin	2	-	-	-	-	-	-	-	-
Cash/cash equivalents at the year end	2	-	-	-	-	-	-	-	-

References

1. The end balance of Cash/cash equivalents must reconcile to detail in Table SD6
2. Cash equivalents includes investments with maturities of 3 months or less

## SCHEDULE E – ATTACHMENT

### (a) Table E1 Adjustments Budget Summary

Schedule E – Table E1 Adjustments Budget Summary

Description	Budget Year								Budget Year + 1
	Original Budget	Prior Adjusted	Downward adjusts	Parent muni.	Unfore. Unavoid.	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
	A	AI	B	C	D	E	F	G	
<b>Financial Performance</b>							-	-	
Property rates									
Service charges							-	-	
Investment revenue							-	-	
Transfers recognised – operational							-	-	
Other own revenue							-	-	
<b>Total Revenue (excluding capital transfers and contributions)</b>	-	-	-	-	-	-	-	-	-
Employee costs							-	-	

Remuneration of Board Members								-	-	
Depreciation and debt impairment								-	-	
Finance charges										
Materials and bulk purchases								-	-	
Transfers and grants								-	-	
Other expenditure								-	-	
<b>Total Expenditure</b>	-	-	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>	-	-	-	-	-	-	-	-	-	-
Transfers recognised – capital								-	-	
Contributions recognised – capital & contributed assets								-	-	
<b>Surplus/(Deficit) after capital transfers &amp; contributions</b>	-	-	-	-	-	-	-	-	-	-
Taxation								-	-	
<b>Surplus/ (Deficit) for the year</b>	-	-	-	-	-	-	-	-	-	-
<b>Capital expenditure &amp; funds sources</b>								-	-	
<i>Capital expenditure</i>								-	-	
Transfers recognised – capital								-	-	
Public contributions & donations								-	-	
Borrowing								-	-	
Internally generated funds								-	-	
<b>Total sources of capital funds</b>	-	-	-	-	-	-	-	-	-	-
<b>Financial position</b>								-	-	
Total current assets								-	-	
Total non current assets								-	-	
Total current liabilities								-	-	
Total non current liabilities								-	-	
Community wealth/Equity								-	-	
<b>Cash flows</b>								-	-	
Net cash from (used) operating								-	-	
Net cash from (used) investing								-	-	
Net cash from (used) financing								-	-	
<b>Cash/cash equivalents at the year end</b>								-	-	

References

1. Only complete if a previous adjusted budget has been approved in the same financial year Add an additional column for each previously approved Adjustments
2. Revisions approved in accordance with MFMA section 87 (6a)
3. Expenditure of additional allocations from the Parent Municipality in accordance with MFMA section 87 (6b)
4. Revisions approved in accordance approved in accordance with MFMA section 87 (6c)



5. Revisions approved in accordance approved in accordance with MFMA section 87 (6d)

6.  $F = B + C + D + E$

7. Adjusted Budget  $G = (A \text{ or } A1/2 \text{ etc}) + F$

**(b) Table E2 Adjustments Budget – Financial Performance (revenue and expenditure)**

Schedule E – Table E2 Adjustments Budget – Financial Performance (revenue and expenditure)

Description	Ref	Budget Year								Budget Year + 1
		Original Budget	Prior Adjusted	Downward adjusts	Parent muni.	Unfore. Unavoid.	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
R thousands			1	2	3	4	5	6	7	
		A	A1	B	C	D	E	F	G	
<b>Revenue By Source</b>										
Property rates								-	-	
Property rates – penalties & collection charges								-	-	
Service charges – electricity revenue								-	-	
Service charges – water revenue								-	-	
Service charges – sanitation revenue								-	-	
Service charges – refuse revenue								-	-	
Service charges – other								-	-	
Rental of facilities and equipment								-	-	
Interest earned – external investments								-	-	
Interest earned – outstanding debtors								-	-	
Dividends received								-	-	
Fines								-	-	
Licences and permits								-	-	
Agency services								-	-	
Transfers recognised – operational								-	-	
Other revenue								-	-	
Gains on disposal of PPE								-	-	
<b>Total Revenue (excluding transfers and contributions)</b>		-	-	-	-	-	-	-	-	-
<b>Expenditure By Type</b>										
Employee related costs										
Remuneration of board members								-	-	
Debt Impairment								-	-	
Collection costs								-	-	



		A	AI	B	C	D	E	F	G	
<b>Multi-Year expenditure</b>										
<i>Insert programme/projects description</i>								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
<b>Capital multi-year expenditure sub-total</b>		-	-	-	-	-	-	-	-	-
<b>Single Year expenditure</b>										
<i>Insert single year budgets and indicative estimates</i>								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
								-	-	
<b>Capital single-year expenditure sub-total</b>		-	-	-	-	-	-	-	-	-
<b>Total Capital expenditure</b>		-	-	-	-	-	-	-	-	-
<b>Funded by</b>										
National Government								-	-	
Provincial Government								-	-	
Parent Municipality								-	-	
District Municipality								-	-	
<b>Transfers recognised – capital</b>		-	-	-	-	-	-	-	-	-
<b>Public contributions &amp; donations</b>								-	-	
<b>Borrowing</b>								-	-	
<b>Internally generated funds</b>								-	-	
<b>Total Capital Funding</b>		-	-	-	-	-	-	-	-	-

References:

1. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
2. Revisions approved in accordance with MFMA section 87 (6a)

3. Expenditure of additional allocations from the Parent Municipality in accordance with MFMA section 87 (6b)
4. Revisions approved in accordance approved in accordance with MFMA section 87 (6c)
5. Revisions approved in accordance approved in accordance with MFMA section 87 (6d)
6.  $F = B+C + D + E$
7.  $Adjusted\ Budget\ C = (A\ or\ A1/2\ etc) + F$

**(d) Table E4 Adjustments Budget – Financial Position**

Schedule E – Table E4 Adjustments Budget • Financial Position

Description	Ref	Budget Year								Budget Year + 1
		Original Budget	Prior Adjusted	Downward adjusts	Parent main.	Unfore. unavoid,	Other Adjusts	Total Adjusts.	Adjusted Budget	Adjusted Budget
			1	2	3	4	5	6	7	
R thousands		A	A1	B	C	D	E	F	G	
<b>ASSETS</b>										
<b>Current assets</b>										
Cash	1							-	-	
Call investment deposits	1							-	-	
Consumer debtors								-	-	
Other debtors								-	-	
Current portion of long-term receivables								-	-	
Inventory								-	-	
<b>Total current assets</b>		-	-	-	-	-	-	-	-	-
<b>Non current assets</b>										
Long-term receivables								-	-	
Investments								-	-	
Investment property								-	-	
Property, plant and equipment								-	-	
Agricultural assets								-	-	
Biological assets								-	-	
Intangible assets								-	-	
<b>Total non current assets</b>		-	-	-	-	-	-	-	-	-
<b>TOTAL ASSETS</b>		-	-	-	-	-	-	-	-	-
<b>LIABILITIES</b>										
<b>Current liabilities</b>										
Bank overdraft	1							-	-	
Borrowing								-	-	
Consumer deposits								-	-	
Trade and other payables								-	-	
Provisions								-	-	

<b>Total current liabilities</b>		-	-	-	-	-	-	-	-	-
<b>Non current liabilities</b>										
Borrowing								-	-	
Provisions								-	-	
<b>Total non current liabilities</b>		-	-	-	-	-	-	-	-	-
<b>TOTAL LIABILITIES</b>		-	-	-	-	-	-	-	-	-
<b>NET ASSETS</b>	2	-	-	-	-	-	-	-	-	-
<b>COMMUNITY WEALTH/EQUITY</b>										
Accumulated Surplus/(Deficit)								-	-	
Reserves								-	-	
<b>TOTAL COMMUNITY WEALTH/EQUITY</b>	2	-	-	-	-	-	-	-	-	-

References

1. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
2. Revisions approved in accordance with MFMA section 87 (6a)
3. Expenditure of additional allocations from the Parent Municipality in accordance with MFMA section 87 (6b)
4. Revisions approved in accordance approved in accordance with MFMA section 87 (6c)
5. Revisions approved in accordance approved in accordance with MFMA section 87 (6d)
6.  $F = B + C + D + E$
7. Adjusted Budget C = (A or A1/2 etc) + F

**(e) Table E5 Adjustments Budget – Cash Flows**

Schedule E – Table E5 Adjustments Budget – Cash Flows

Description	Ref	Budget Year								Budget Year + 1
		Original Budget	Prior Adjusted	Downward adjusts	Parent muni.	Unfore Unavoid.	Other Adjusts.	Total Adjusts.	Adjusted Budget	Adjusted Budget
			1	2	3	4	5	6	7	
<i>R thousands</i>		A	At	B	C	D	E	F	G	
<b>CASH FLOW FROM OPERATING ACTIVITIES</b>										
<b>Receipts</b>										
Ratepayers and other								-	-	
Government – operating								-	-	
Government – capital								-	-	
Interest								-	-	
Dividends								-	-	
<b>Payments</b>								-	-	
Suppliers and employees								-	-	
Finance charges								-	-	

Dividends paid									-	-	
Transfers and Grants									-	-	
<b>NET CASH FROM/(USED) OPERATING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-	-
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>											
<b>Receipts</b>											
Proceeds on disposal of PPE									-	-	
Decrease (Increase) in non-current debtors									-	-	
Decrease (increase) other non-current receivables									-	-	
Decrease (increase) in non-current investments									-	-	
<b>Payments</b>											
Capital assets									-	-	
<b>NET CASH FROM/(USED) INVESTING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-	-
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>											
<b>Receipts</b>											
Short term loans									-	-	
Borrowing long term/ refinancing									-	-	
Increase in consumer deposits									-	-	
<b>Payments</b>											
Repayment of borrowing									-	-	
<b>NET CASH FROM/(USED) FINANCING ACTIVITIES</b>		-	-	-	-	-	-	-	-	-	-
<b>NET INCREASE/(DECREASE) IN CASH HELD</b>		-	-	-	-	-	-	-	-	-	-
Cash/cash equivalents at the year begin	8	-	-	-	-	-	-	-	-	-	-
Cash/cash equivalents at the year end	8	-	-	-	-	-	-	-	-	-	-

References:

1. Only complete if a previous adjusted budget has been approved in the same financial year. Add an additional column for each previously approved Adjustment
2. Revisions approved in accordance with MFMA section 87 (6a)
3. Expenditure of additional allocations from the Parent Municipality in accordance with MFMA section 87 (6b)
4. Revisions approved in accordance approved in accordance with MFMA section 87 (6c)







Rental of facilities and equipment									-
Interest earned – external Investments									-
Interest earned – outstanding debtors									-
Dividends received									-
Fines									-
Licences and permits									-
Agency services									-
Transfers recognised – operational									-
Other revenue									-
Gains on disposal of PPE									-
<b>Total Revenue (excluding capital transfers and contributions)</b>		-	-	-	-	-	-	-	-
<b>Expenditure By Type</b>									
Employee related costs									-
Remuneration of Directors									-
Debt impairment									-
Collection costs									-
Depreciation & asset impairment									-
Finance charges									-
Bulk purchases	2								-
Other materials									-
Contracted services									-
Transfers and grants									-
Other expenditure									-
Loss on disposal of PPE									-
<b>Total Expenditure</b>	3	-	-	-	-	-	-	-	-
<b>Surplus/(Deficit)</b>		-	-	-	-	-	-	-	-
Transfers recognised – capital									-
Contributions recognised – capital									-
Contributions of PPE									-
<b>Surplus/(Deficit) before taxation</b>		-	-	-	-	-	-	-	-
Taxation									-
<b>Surplus/(Deficit) for the year</b>		-	-	-	-	-	-	-	-

References

1. Revenue includes sales of: (insert description)
2. Bulk purchases – electricity
2. Bulk purchases – water
3. Expenditure includes repairs & maintenance of:
4. List operating expenditure on allocations as a note (MFMA section 87 (1) (f))
5. Material variances to be explained in Table SF1 (materiality to be defined by the parent municipality)

**(c) Table F3 Monthly Budget Statement – Capital Expenditure**



<b>Internally generated funds</b>									-
<b>Total Capital Funding</b>		-	-	-	-	-	-	-	-

*References*

1. Include finance leases and PPP capital funding component of unitary payment
2. List capital expenditure on allocations as a note (MFMA section 87)

**(d) Table F4 Monthly Budget Statement – Financial Position**

*Schedule F – Table F4 Monthly Budget Statement – Financial Position*

<i>Description</i>	<i>Ref</i>	<i>Budget Year – 1</i>	<i>Budget Year</i>				
			<i>Audited Outcome</i>	<i>Original Budget</i>	<i>Adjusted Budget</i>	<i>Year TD actual</i>	<i>Full</i>
<i>R thousands</i>							
<b>ASSETS</b>							
<b>Current assets</b>							
Cash							
Call investment deposits							
Consumer debtors							
Other debtors							
Current portion of long-term receivables							
Inventory							
<b>Total current assets</b>			-	-	-	-	
<b>Non current assets</b>							
Long-term receivables							
Investments							
Investment property							
Property, plant and equipment							
Agricultural assets							
Biological assets							
Intangible assets							
<b>Total non current assets</b>			-	-	-	-	
<b>TOTAL ASSETS</b>			-	-	-	-	
<b>LIABILITIES</b>							
<b>Current liabilities</b>							
Bank overdraft							
Borrowing							
Consumer deposits							
Trade and other payables							
Provisions							
<b>Total current liabilities</b>			-	-	-	-	
<b>Non current liabilities</b>							
Borrowing							
Provisions							
<b>Total non current liabilities</b>			-	-	-	-	
<b>TOTAL LIABILITIES</b>			-	-	-	-	
<b>NET ASSETS</b>	1		-	-	-	-	



Borrowing long term/refinancing									-
Increase in consumer deposits									-
<b>Payments</b>									-
Repayment of borrowing									-
<b>NET CASH FROM/(USED) FINANCING ACTIVITIES</b>		-	-	-	-	-	-	-	-
<b>NET INCREASE/ (DECREASE) IN CASH HELD</b>		-	-	-	-	-	-	-	-
Cash/cash equivalents at the year begin	2	-	-	-	-	-	-	-	-
Cash/cash equivalents at the year end	2	-	-	-	-	-	-	-	-

References

1. List as a note the details of any operational allocations received (MFMA section 87 (11) (e))
2. Cash equivalents includes investments maturities of 3 months or less



# Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA  
REPUBLIEK VAN SUID-AFRIKA

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Januarie 2006

**No. 28411**



**AIDS HELPLINE: 0800-0123-22 Prevention is the cure**

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**GOVERNMENT NOTICE**

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**NATIONAL TREASURY****No. 44****18 January 2006****LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003:  
EXEMPTIONS FROM SUPPLY CHAIN MANAGEMENT REGULATIONS, 2005**

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I, Trevor A. Manuel, Minister of Finance, acting in terms of section 177(1)(b) of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), hereby exempt all municipalities and municipal entities from regulation 44 of the Supply Chain Management Regulations to the extent set out in the Schedule hereto.



**TREVOR A MANUEL, MP  
MINISTER OF FINANCE**

**SCHEDULE****Definition**

1. In this Notice –

“**Supply Chain Management Regulations**” means the Supply Chain Management Regulations, 2005, published in terms of section 168 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), by Government Notice 868 of 2005.

**Exemption from regulation 44 of the Supply Chain Management Regulations**

2. (1) All municipalities and municipal entities are, subject to subclauses (2) and (3), exempted from regulation 44 of the Supply Chain Management Regulations but only insofar as that regulation prohibits municipalities and municipal entities from making awards to a person on any of the following grounds:

- (a) That person is a non-executive member of the Board of Directors of a municipal entity; or



- (b) that person is not a natural person and any of its directors, managers, principal shareholders or stakeholders is a non-executive member of the Board of Directors of a municipal entity.

(2) The exemption contained in subclause (1) does not apply to the municipal entity on whose Board of Directors a person referred to in paragraph (a), or a director, manager, principal shareholder or stakeholders referred to in paragraph (b), serves as a member, and that municipal entity remains fully bound by regulation 44.

(3) The exemption contained in subclause (1) is subject to the following conditions:

- (a) Municipalities and municipal entities must require all bidders bidding for an award to disclose in their bids –
- (i) in the case of a bidder who is a natural person, whether that bidder serves on the Board of Directors of any municipal entity, and if so –
    - (aa) whether that person serves as an executive or non-executive member of the Board; and
    - (bb) the name of the relevant municipal entity;
  - (ii) in the case of a bidder which is not a natural person, whether any director, manager, principal shareholder or stakeholder of that bidder serves on the Board of Directors of any municipal entity, and if so –
    - (aa) whether that person serves as an executive or non-executive member of the Board; and
    - (bb) the name of the relevant municipal entity;
- (b) a disclosure in terms of paragraph (a) by the successful bidder must be placed on the website of the municipality or municipal entity making the award; and
- (c) the notes to the financial statements of a municipality or municipal entity must disclose particulars of any award to a person by that municipality or municipal entity which would have been prohibited in terms of regulation 44 if it were not for the exemption contained in subclause (1).

#### **Period of validity of exemption**

3. This Notice lapses on 30 June 2010 unless repealed at an earlier date.

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# GOVERNMENT NOTICE

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## NATIONAL TREASURY

No. 772

25 June 2004

### LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 COMMENCEMENT DATES

I, Trevor A Manuel, Minister of Finance, hereby determine in terms of section 180 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), that the provisions of the Act will take effect on 1 July 2004 except those provisions of the Act specified in the first column of the Table which will take effect on a different date as indicated in the second column.

### TABLE

PROVISION OF ACT	EFFECTIVE DATE
Sections 62 (1) (f) (iv), 71, 110 to 116 and 120	1 December 2004
Sections 9, 38, 39, 40, 41 and 42.	1 April 2005
Sections 5 (3), (4) and (8), 28,34 (3), 73, 91, 123, 126 to 134, Chapter 13 and section 179	1 July 2005
Sections 83, 107 and 119	1 July 2006
Section 45 (4) (a)	1 July 2008

Signed at Cape Town on this 24th day of June 2004.



TREVOR A MANUEL, MP  
MINISTER OF FINANCE

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# GOVERNMENT NOTICE

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## NATIONAL TREASURY

No. 773

1 July 2004

### LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003 DELAYS AND EXEMPTIONS

I, Trevor A Manuel, Minister of Finance, acting in terms of section 177 of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), hereby –

- (a) delay the implementation of provisions of the Act as set out in the Schedule hereto; and
- (b) exempt municipalities and municipal entities from or in respect of provisions of the Act as set out in the Schedule hereto.

Signed at .....on this ..... day of ..... 2004



TREVOR A MANUEL, MP  
MINISTER OF FINANCE

## SCHEDULE

### Definitions

1. In this Schedule -

**"high capacity municipality"** means a municipality classified in terms of the Annexure to this Schedule as a high capacity municipality;

**"low capacity municipality"** means a municipality classified in terms of the Annexure to this Schedule as a low capacity municipality;

**"medium capacity municipality"** means a municipality classified in terms of the Annexure to this Schedule as a medium capacity municipality;

**"the Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003).

### All municipalities

2. High, medium and low capacity municipalities are exempted from or in respect of the following provisions of the Act insofar as those provisions are applicable to their annual budgets for the 2004/05 financial year, including any revisions of those budgets:

Section 15 (b);

section 16 (2);

section 17 (1) (a), (b) and (d) (i), (2) and (3) (a) and (c) to (m);

sections 18, 21, 22 and 23;

section 24 (1), (2) (a), (b), (c) (i), (ii), (iv) and (v);

section 25 (1) and (2);

section 31;

section 37 (2) and

section 53 (1) (a), (b) and (c) (i) and (2)

### All municipal entities

3. (1) The implementation of section 121 of the Act is delayed until 30 June 2005 for all municipal entities.

(2) Municipal entities are exempted from or in respect of section 87 (1) to (10) insofar as that section is applicable to their annual budgets for the 2004/05 financial year.

**High capacity municipalities**

4. (1) High capacity municipalities are exempted from or in respect of the following provisions of the Act insofar as those provisions are applicable to their annual budgets for the 2004/05 financial year, including any revisions of those budgets:

section 17 (1) (c) and (d) (ii) and 17 (3) (b); and  
section 24 (2) (c) (iii).

(2) High capacity municipalities are exempted from or in respect of the following provisions of the Act insofar as those provisions are applicable to their service delivery and budget implementation plans for the 2004/05 financial year:

Section 53 (1) (c) (ii) and (iii) and (3); and  
section 69 (3).

(3) (a) The implementation of the following provisions of the Act are delayed for high capacity municipalities until 30 June 2005:

section 54 (1) (b), (c) and (d) (i) and (3);

section 62 (1) (c) and (f) (i) (ii) and (iii);

section 63 (2);

section 65 (2) (j);

section 71 (1) (c), (d), (g) (i) (ii);

section 72 (1) (a) (ii);

section 75;

section 80; and

sections 165 and 166.

(b) The implementation of section 122 (3) of the Act is delayed for high capacity municipalities until 30 June 2006.

**Medium capacity municipalities**

5. (1) (a) The implementation of the following provisions of the Act are delayed for medium capacity municipalities until 30 June 2005:

Section 17 (1) (c) and (d) (ii) and (3) (b);

section 19;

section 24 (2) (c) (iii);

section 71 (1) (a), (b), (g) (iii), (2), (3) and (4);

section 72 (1) (a) (i), (iii) and (iv) and (b), (2) and (3);

section 80; and

section 122 (2).

(b) After 30 June 2005 medium capacity municipalities are exempted from or in respect of sections 17 (1) (c) and (d) (ii), 17 (3) (b), 19 and 24 (2) (c) (iii) insofar as those sections are applicable to their annual budgets for the 2005/06 budget year.

(c) Medium capacity municipalities are exempted from or in respect of the following provisions of the Act insofar as those provisions are applicable to their service delivery and budget implementation plans for the 2004/05 and 2005/06 financial years: Section 53 (1) (c) (ii) and (iii) and (3); and section 69 (3).

(2) The implementation of the following provisions of the Act are delayed for medium capacity municipalities until 30 June 2006:

section 54 (1) (b), (c) and (d) (i) and (3);

section 62 (1) (c) and (f);

section 63 (2);

section 65 (2) (j);

section 71 (1) (c), (d), (g) (i) (ii);

section 72 (1) (a) (ii);

sections 75, 111 and 112;

section 115 (1) (a);

section 116 (2) (c);

section 121; and

sections 165 and 166.

(3) The implementation of the section 122 (3) of the Act is delayed for medium capacity municipalities until 30 June 2007.

### **Low capacity municipalities**

6. (1) (a) The implementation of the following provisions of the Act are delayed for low capacity municipalities until 30 June 2006:

Section 17 (1) (c) and (d) (ii), and (3) (b);

section 19;

section 24 (2) (c) (iii);

section 71 (1) (a), (b), (g) (iii), (2), (3) and (4);

section 72 (1) (a) (i), (iii) and (iv) and (b), (2) and (3);

section 80; and

section 122 (2).

(b) After 30 June 2006 low capacity municipalities are exempted from or in respect of sections 17 (1) (c) and (d) (ii), 17 (3) (b), 19 and 24 (2) (c) (iii) insofar as those sections are applicable to their annual budgets for the 2006/07 budget year.

(c) Low capacity municipalities are exempted from or in respect of the following provisions of the Act insofar as those provisions are applicable to their service delivery and budget implementation plans for the 2004/05, 2005/06 and 2006/07 financial years:  
section 53 (1) (c) (ii) and (iii) and (3); and  
section 69 (3).

(2) The implementation of the following provisions of the Act are delayed for low capacity municipalities until 30 June 2007:

section 54 (1) (b), (c) and (d) (i) and (3);

section 62 (1) (c) and (f);

section 63 (2);

section 65 (2) (j);

section 71 (1) (c), (d), (g) (i) (ii);

section 72 (1) (a) (ii);

sections 75, 111 and 112;

section 115 (1) (a);

section 116 (2) (c);

section 121; and

sections 165 and 166.

(3) The implementation of section 122 (3) of the Act is delayed for low capacity municipalities until 30 June 2008.

## ANNEXURE

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Western Cape</b>			
Metro		City of Cape Town	H
DC1	WC011	Matzikama	M
DC1	WC012	Cederberg	L
DC1	WC013	Bergrivier	M
DC1	WC014	Saldanha Bay	H
DC1	WC015	Swartland	M
DC1	DC1	West Coast District Municipality	M
DC2	WC022	Witzenberg	L
DC2	WC023	Drakenstein	H
DC2	WC024	Stellenbosch	H
DC2	WC025	Breede Valley	H
DC2	WC026	Breede River/Winelands	M
DC2	DC2	Boland District Municipality	M
DC3	WC031	Theewaterskloof	M
DC3	WC032	Overstrand	H
DC3	WC033	Cape Agulhas	L
DC3	WC034	Swellendam	L
DC3	DC3	Overberg District Municipality	M
DC4	WC041	Kannaland	M
DC4	WC042	Langeberg	M
DC4	WC043	Mossel Bay	H
DC4	WC044	George	H
DC4	WC045	Oudtshoorn	M
DC4	WC047	Bitou	M
DC4	WC048	Knysna	M
DC4	DC4	Eden District Municipality	M
DC5	WC051	Laingsburg	M
DC5	WC052	Prince Albert	M
DC5	WC053	Beaufort West	M
DC5	DC5	Central Karoo District Municipality	M



DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Northern Cape</b>			
CBDC1	NC01B1	Gamagara	M
CBDC1	NW1a1	Moshaweng	L
CDDC1	CBLC1	Ga-Segonyana	M
CBDC1	CBDC1	Kgalagadi District Municipality	M
DC6	NC061	Richtersveld	M
DC6	NC062	Nama Khoi	M
DC6	NC064	Kamiesberg	L
DC6	NC065	Hantam	L
DC6	NC066	Karoo Hoogland	M
DC6	NC067	Khai-Ma	L
DC6	DC6	Namakwa District Municipality	M
DC7	NC071	Ubuntu	M
DC7	NC072	Umsombomvu	L
DC7	NC073	Emthanjeni	M
DC7	NC074	Kareeberg	M
DC7	NC075	Renosterberg	M
DC7	NC076	Thembelihle	L
DC7	NC077	Siyathemba	M
DC7	NC078	Siyancuma	M
DC7	DC7	Karoo District Municipality	M
DC8	NC081	Mier	L
DC8	NC082	Kai ! Garib	L
DC8	NC083	//Khara Hais	M
DC8	NC084	!Kheis	L
DC8	NC085	Tsantsabane	L
DC8	NC086	Kgatelopele	L
DC8	DC8	Siyanda District Municipality	M
DC9	NC091	Sol Plaatje	H
DC9	NC092	Dikgatlong	L
DC9	NC093	Magareng	L
DC9	CBLC7	Phokwane	M
DC9	DC9	Frances Baard District Municipality	M

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Eastern Cape</b>			
Metro		Nelson Mandela	H
DC10	EC101	Camdeboo	L
DC10	EC102	Blue Crane Route	L
DC10	EC103	Ikwezi	L
DC10	EC104	Makana	M
DC10	EC105	Ndlambe	L
DC10	EC106	Sunday's River Valley	M
DC10	EC107	Baviaans	L
DC10	EC108	Kouga	M
DC10	EC109	Koukamma	M
DC10	DC10	Cacadu District Municipality	M
DC12	EC121	Mbhashe	L
DC12	EC122	Mnquma	M
DC12	EC123	Great Kei	L
DC12	EC124	Amahlathi	L
DC12	EC125	Buffalo City	H
DC12	EC126	Ngqushwa	M
DC12	EC127	Nkonkobe	L
DC12	EC128	Nxuba	L
DC12	DC12	Amatole District Municipality	H
DC13	EC131	Inxuba Yethemba	L
DC13	EC132	Tsolwana	L
DC13	EC133	Inkwanca	L
DC13	EC134	Lukhanji	M
DC13	EC135	Intsika Yethu	L
DC13	EC136	Emalahleni	L
DC13	EC137	Engcobo	M
DC13	EC138	Sakhisizwe	L
DC13	DC 13	Chris Hani District Municipality	M

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Eastern Cape 2</b>			
DC14	EC141	Elundini	L
DC14	EC142	Senqu	M
DC14	EC143	Maletswai	L
DC14	EC144	Gariep	L
DC14	DC14	Ukhahlamba District Municipality	H
DC15	EC151	Mbizana	M
DC15	EC152	Ntabankulu	L
DC15	EC153	Qaukeni	L
DC15	EC154	Port St Johns	M
DC15	EC155	Nyandeni	L
DC15	EC156	Mhlontlo	L
DC15	EC157	King Sabata Dalindyebo	H
DC15	DC15	O.R Tambo District Municipality	H
DC44	EC05b1	Umzimkulu	M
DC44	EC05b2	Umzimvubu	M
DC44	DC44	Alfred Nzo District Municipality	M

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Free State</b>			
DC16	FS161	Letsemeng	M
DC16	FS162	Kopanong	M
DC16	FS163	Mohokare	L
DC16	DC16	Xhariep District Municipality	L
DC17	FS171	Naledi	L
DC17	FS172	Mangaung	H
DC17	FS173	Mantsopa	M
DC17	DC17	Motheo District Municipality	L
DC18	FS181	Masilonyana	L
DC18	FS182	Tokologo	L
DC18	FS183	Tswelopele	M
DC18	FS184	Matjhabeng	H
DC18	FS185	Nala	M
DC18	DC18	Lejweleputswa District Municipality	L
DC19	FS191	Setsoto	M
DC19	FS192	Dihlabeng	M
DC19	FS193	Nketoana	M
DC19	FS194	Maluti a Phofung	H
DC19	FS195	Phumelela	L
DC19	DC19	Thabo Mofutsanyane District Municipality	L
DC20	FS201	Moqhaka	H
DC20	FS203	Ngwathe	M
DC20	FS204	Metsimaholo	H
DC20	FS205	Mafube	M
DC20	DC20	Northern Free State District Municipality	L

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Kwazulu-Natal</b>			
Metro		eThekwini	H
DC21	KZ211	Vulamehlo	L
DC21	KZ212	Umdoni	M
DC21	KZ213	Umzumbe	L
DC21	KZ214	uMuziwabantu	L
DC21	KZ215	Ezingoleni	L
DC21	KZ216	Hibiscus Coast	H
DC21	DC21	Ugu District Municipality	H
DC22	KZ221	Umshwathi	L
DC22	KZ222	uMngeni	M
DC22	KZ223	Mpofana	L
DC22	KZ224	Impendle	L
DC22	KZ225	Msunduzi	H
DC22	KZ226	Mkhambathini	M
DC22	KZ227	Richmond	L
DC22	DC22	Umgungundlovu District Municipality	M
DC23	KZ232	Emnambithi/Ladysmith	H
DC23	KZ233	Indaka	L
DC23	KZ234	Umtshezi	M
DC23	KZ235	Okhahlamba	L
DC23	KZ236	imbabazane	L
DC23	DC23	Uthukela District Municipality	M
DC24	KZ241	Endumeni	M
DC24	KZ242	Nquthu	L
DC24	KZ244	Msinga	L
DC24	KZ245	Umvoti	M
DC24	DC24	Umzinyathi District Municipality	L
DC25	KZ252	Newcastle	H
DC25	KZ253	Utrecht	L
DC25	KZ254	Dannhauser	L
DC25	DC25	Amajuba District Municipality	L

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Kwazulu-Natal 2</b>			
DC26	KZ261	eDumbe	L
DC26	KZ262	uPhongolo	L
DC26	KZ263	Abaqulusi	L
DC26	KZ265	Nongoma	L
DC26	KZ266	Ulundi	L
DC26	DC26	Zululand District Municipality	M
DC27	KZ271	Umhlabuyalingana	M
DC27	KZ272	Jozini	L
DC27	KZ273	The Big 5 False Bay	L
DC27	KZ274	Hlabisa	L
DC27	KZ275	Mtubatuba	L
DC27	DC27	Umkhanyakude District Municipality	M
DC28	KZ281	Mbonambi	M
DC28	KZ282	uMhlathuze	H
DC28	KZ283	Ntambanana	L
DC28	KZ284	Umlalazi	L
DC28	KZ285	Mthonjaneni	L
DC28	KZ286	Nkandla	M
DC28	DC28	uThungulu District Municipality	H
DC29	KZ291	eNdodakusuka	L
DC29	KZ292	Kwa Dukuza	H
DC29	KZ293	Ndwedwe	L
DC29	KZ294	Maphumulo	M
DC29	DC29	Ilembe District Municipality	L
DC43	KZ5a1	Ingwe	M
DC43	KZ5a2	Kwa Sani	L
DC43	KZ5a3	Matatiele	M
DC43	KZ5a4	Kokstad	L
DC43	KZ5a5	Ubuhlebezwe	L
DC43	DC43	Sisonke District Municipality	L

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Mpumalanga</b>			
DC30	MP301	Albert Luthuli	M
DC30	MP302	Msukaligwa	L
DC30	MP303	Mkhondo	L
DC30	MP304	Seme	M
DC30	MP305	Lekwa	L
DC30	MP306	Dipaleseng	L
DC30	MP307	Goven Mbeki	H
DC30	DC30	Gert Sibande District Municipality	M
DC31	MP311	Delmas	M
DC31	MP312	Emalahleni	H
DC31	MP313	Steve Tshwete	H
DC31	MP314	Highlands	L
DC31	MP315	Thembisile	L
DC31	MP316	Dr JS Moroka	L
DC31	DC31	Nkangala District Municipality	H
DC32	MP321	Thaba Chweu	L
DC32	MP322	Mbombela	H
DC32	MP323	Umjindi	M
DC32	MP324	Nkomazi	M
DC32	DC32	Ehlanzeni District Municipality	H

DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>Limpopo Province</b>			
CBDC3	NP03A2	Makhuduthamaga	L
CBDC3	NP03A3	Fetakgomo	L
CBDC3	CBLC3	Greater Marble Hall	L
CBDC3	CBLC4	Greater Groblersdal	M
CBDC3	CBLC5	Greater Tubatse	L
CBDC3	CBDC3	Greater Sekhukhune Cross Boundary District Municipality	H
CBDC4	NP04A1	Maruleng	L
CDBC4	CBLC6	Bushbuckridge	L
CBDC4	CBDC4	Bohlabela District Municipality	L
DC33	NP331	Greater Giyani	L
DC33	NP332	Greater Letaba	L
DC33	NP333	Greater Tzaneen	H
DC33	NP334	Ba-Phalaborwa	M
DC33	DC33	Mopani District Municipality	L
DC34	NP341	Musina	L
DC34	NP342	Mutale	L
DC34	NP343	Thulamela	M
DC34	NP344	Makhado	M
DC34	DC34	Vhembe District Municipality	L
DC35	NP351	Blouberg	L
DC35	NP352	Aganang	L
DC35	NP353	Molemole	L
DC35	NP354	Polokwane	H
DC35	NP355	Lepelle-Nkumpi	L
DC35	DC35	Capricorn District Municipality	M
DC36	NP361	Thabazimbi	L
DC36	NP362	Lephalale	M
DC36	NP364	Mookgophong	M
DC36	NP365	Modimolle	L
DC36	NP366	Bela-Bela	M
DC36	NP367	Mogalakwena	L
DC36	DC36	Waterberg District Municipality	L



DC	Number	Municipality Name	Capacity Classification High(H) – Medium(M) – Low(L)
<b>North West</b>			
DC37	NW371	Moretele	L
DC37	NW372	Madibeng	H
DC37	NW373	Rustenburg	H
DC37	NW374	Kgetlengriver	L
DC37	NW375	Moses Kotane	M
DC37	DC37	Bojanala Platinum District Municipality	H
DC38	NW381	Ratlou	L
DC38	NW382	Tswaing	L
DC38	NW383	Mafikeng	L
DC38	NW384	Ditsobotla	L
DC38	NW385	Zeerust	L
DC38	DC38	Central District Municipality	L
DC39	NW391	Kagisano	M
DC39	NW392	Naledi	L
DC39	NW393	Mamusa	M
DC39	NW394	Greater Taung	M
DC39	NW395	Molopo	L
DC39	NW396	Lekwa-Teemane	L
DC39	DC39	Bophirima District Municipality	M
DC40	NW401	Ventersdorp	M
DC40	NW402	Potchefstroom	H
DC40	NW403	Klerksdorp	H
DC40	NW404	Maquassi Hills	M
DC40	DC40	Southern District Municipalities	M

<b>DC</b>	<b>Number</b>	<b>Municipality Name</b>	<b>Capacity Classification</b> High(H) – Medium(M) – Low(L)
<b>Gauteng</b>			
East Rand		Ekurhuleni	H
Johannesburg		City of Johannesburg	H
Pretoria		City of Tshwane	H
CBDC2	GT02b1	Nokeng Tsa Taemane	M
CBDC2	CBLC2	Kungwini	M
CBDC2	CBDC2	Metsweding District Municipality	L
DC42	GT421	Emfuleni	H
DC42	GT422	Midvaal	M
DC42	GT423	Lesedi	M
DC42	DC42	Sedibeng District Municipality	M
CBDC8	GT411	Mogale City	H
CBDC8	GT412	Randfontein	H
CBDC8	GT414	Westonaria	M
CBDC8	CBLC8	Merafong	H
CBDC8	CBDC8	West Rand District Municipality	M

**PREFERENTIAL PROCUREMENT  
POLICY FRAMEWORK ACT  
NO. 5 OF 2000**

[View Regulation]

[ASSENTED TO 2 FEBRUARY, 2000]  
[DATE OF COMMENCEMENT: 3 FEBRUARY, 2000]

*(English text signed by the President)*

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**ACT**

**To give effect to section 217 (3) of the Constitution by providing a framework for the implementation of the procurement policy contemplated in section 217 (2) of the Constitution; and to provide for matters connected therewith.**

ARRANGEMENT OF SECTIONS

1. Definitions
2. Framework for implementation of preferential procurement policy
3. Exemption
4. Transitional provision
5. Regulations
6. Short title

**1. Definitions.**—In this Act, unless the context indicates otherwise—

“**acceptable tender**” means any tender which, in all respects, complies with the specifications and conditions of tender as set out in the tender document;

“**Minister**” means the Minister of Finance;

“**organ of state**” means—

- (a) a national or provincial department as defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) a municipality as contemplated in the Constitution;
- (c) a constitutional institution defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (d) Parliament;
- (e) a provincial legislature;
- (f) any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which this Act

applies;

**“preferential procurement policy”** means a procurement policy contemplated in section 217 (2) of the Constitution;

**“prescribed”** means prescribed by regulation made under section 5;

**“this Act”** includes any regulations made under section 5.

**2. Framework for implementation of preferential procurement policy.**—(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:

- (a) A preference point system must be followed;
- (b)
  - (i) for contracts with a Rand value above a prescribed amount a maximum of 10 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 90 points for price;
  - (ii) for contracts with a Rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points for price;
- (c) any other acceptable tenders which are higher in price must score fewer points, on a *pro rata* basis, calculated on their tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;
- (d) the specific goals may include—
  - (i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;
  - (ii) implementing the programmes of the Reconstruction and Development Programme as published in *Government Gazette* No. 16085 dated 23 November 1994;
- (e) any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender;
- (f) the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to another tenderer; and
- (g) any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of this Act, may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.

(2) Any goals contemplated in subsection (1) (e) must be measurable, quantifiable and monitored for compliance.

**3. Exemption.**—The Minister may, on request, exempt an organ of state from any or all the provisions of this Act if—

- (a) it is in the interests of national security;
- (b) the likely tenderers are international suppliers; or
- (c) it is in the public interest.

**4. Transitional provision.**—Any procurement process implemented under a preferential procurement policy where the invitation to tender was advertised before the commencement of this Act, must be finalised as if this Act had not come into operation.

**5. Regulations.**—(1) The Minister may make regulations regarding any matter that may be necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Draft regulations must be published for public comment in the *Government Gazette* and every *Provincial Gazette* before promulgation.

**6. Short title.**—This Act is called the Preferential Procurement Policy Framework Act, 2000.

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**NATIONAL TREASURY**

**NO. R. 32**

**20 JANUARY 2017**

**PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000:  
PREFERENTIAL PROCUREMENT REGULATIONS, 2017**

The Minister of Finance has, in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), made the regulations set out in the Schedule.

**SCHEDULE**

**Preferential Procurement Regulations, 2017**

**Contents**

1. Definitions
2. Application
3. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting
4. Prequalification criteria for preferential procurement
5. Tenders to be evaluated on functionality
6. 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million
7. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
8. Local production and content
9. Subcontracting as condition of tender
10. Criteria for breaking deadlock in scoring
11. Award of contracts to tenderers not scoring highest points
12. Subcontracting after award of tender
13. Cancellation of tender
14. Remedies
15. Circulars and guidelines
16. Repeal of Regulations and saving
17. Short title and commencement

## Definitions

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

“**B-BBEE**” means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

“**B-BBEE status level of contributor**” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**black designated groups**” has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**black people**” has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

“**Broad-Based Black Economic Empowerment Act**” means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

“**co-operative**” means a co-operative registered in terms of section 7 of the Co-operatives Act, 2005 (Act No. 14 of 2005);

“**designated group**” means-

- (a) black designated groups;
- (b) black people;
- (c) women;
- (d) people with disabilities; or
- (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

“**designated sector**” means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a);

“**EME**” means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**functionality**” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

“**military veteran**” has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

“**National Treasury**” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“**people with disabilities**” has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

“**price**” includes all applicable taxes less all unconditional discounts;

“**proof of B-BBEE status level of contributor**” means-

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

“**QSE**” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“**Rand value**” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

“**rural area**” means-

- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

“**stipulated minimum threshold**” means the minimum threshold stipulated in terms of regulation 8(1)(b);

“**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

“**township**” means an urban living area that any time from the late 19<sup>th</sup> century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

“**treasury**” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

“**youth**” has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

## Application

2. These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.<sup>1</sup>

## Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting

3. An organ of state must-
- (a) determine and stipulate in the tender documents-
    - (i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or

<sup>1</sup> The definition of “organ of state” in section 1 of the Act in paragraph (a) to (e) includes-

- a national or provincial department as defined in the Public Finance Management Act, 1999;
- a municipality as contemplated in the Constitution;
- a constitutional institution as defined in the Public Finance Management Act;
- Parliament;
- a provincial legislature.

Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.



- (ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
- (b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
- (c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

### **Pre-qualification criteria for preferential procurement**

4.(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
  - (i) an EME or QSE which is at least 51% owned by black people;
  - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
  - (iii) an EME or QSE which is at least 51% owned by black people who are women;
  - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (vi) a cooperative which is at least 51% owned by black people;
  - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
  - (viii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

### **Tenders to be evaluated on functionality**

5.(1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.

- (2) The evaluation criteria for measuring functionality must be objective.
- (3) The tender documents must specify-
  - (a) the evaluation criteria for measuring functionality;
  - (b) the points for each criteria and, if any, each sub-criterion; and

- (c) the minimum qualifying score for functionality.
- (4) The minimum qualifying score for functionality for a tender to be considered further-
- (a) must be determined separately for each tender; and
- (b) may not be so-
- (i) low that it may jeopardise the quality of the required goods or services; or
- (ii) high that it is unreasonably restrictive.
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- (7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

**80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million**

6.(1) The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

$$P_s = 80 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where-

- $P_s$  = Points scored for price of tender under consideration;
- $P_t$  = Price of tender under consideration; and
- $P_{\min}$  = Price of lowest acceptable tender.

(2) The following table must be used to calculate the score out of 20 for B-BBEE:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of Points</b>
1	20
2	18
3	14
4	12
5	8
6	6

7	4
8	2
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-

(a) may only score points out of 80 for price; and

(b) scores 0 points out of 20 for B-BBEE.

(5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

(6) The points scored by a tenderer for B-BBEE in terms of subregulation (2) must be added to the points scored for price under subregulation (1).

(7) The points scored must be rounded off to the nearest two decimal places.

(8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9)(a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

### **90/10 preference point system for acquisition of goods or services with Rand value above R50 million**

7.(1) The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

Where-

$$P_s = 90 \left( 1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

$P_s$  = Points scored for price of tender under consideration;

$P_t$  = Price of tender under consideration; and

$P_{\min}$  = Price of lowest acceptable tender.

(2) The following table must be used to calculate the points out of 10 for B-BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

(3) A tenderer must submit proof of its B-BBEE status level of contributor.

(4) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but-

(a) may only score points out of 90 for price; and

(b) scores 0 points out of 10 for B-BBEE.

(5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

(6) The points scored by a tenderer for B-BBEE contribution in terms of subregulation (2) must be added to the points scored for price under subregulation (1).

(7) The points scored must be rounded off to the nearest two decimal places.

(8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

(9)(a) If the price offered by a tenderer scoring the highest points is not market-related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
  - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
  - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

### **Local production and content**

8.(1) The Department of Trade and Industry may, in consultation with the National Treasury-

- (a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
- (b) stipulate a minimum threshold for local production and content.

(2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

(3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.

(4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.

(b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.

(5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

### **Subcontracting as condition of tender**

9.(1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

(2) If an organ of state applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

- (a) an EME or QSE;

- (b) an EME or QSE which is at least 51% owned by black people;
- (c) an EME or QSE which is at least 51% owned by black people who are youth;
- (d) an EME or QSE which is at least 51% owned by black people who are women;
- (e) an EME or QSE which is at least 51% owned by black people with disabilities;
- (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- (g) a cooperative which is at least 51% owned by black people;
- (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
- (i) more than one of the categories referred to in paragraphs (a) to (h).

(3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

### **Criteria for breaking deadlock in scoring**

10.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.

(2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.

(3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

### **Award of contracts to tenderers not scoring highest points**

11.(1) A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.

(2) If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the tender documents.

### **Subcontracting after award of tender**

12.(1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.

(2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

(3) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

## Cancellation of tender

**13.** (1) An organ of state may, before the award of a tender, cancel a tender invitation if-

- (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
- (b) funds are no longer available to cover the total envisaged expenditure;
- (c) no acceptable tender is received; or
- (d) there is a material irregularity in the tender process.

(2) The decision to cancel a tender invitation in terms of subregulation (1) must be published in the same manner in which the original tender invitation was advertised.

(3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

## Remedies

**14.**(1) Upon detecting that a tenderer submitted false information regarding its B-BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- (a) inform the tenderer accordingly;
- (b) give the tenderer an opportunity to make representations within 14 days as to why-
  - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
  - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
  - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
- (c) if it concludes, after considering the representations referred to in subregulation (1)(b), that-
  - (i) such false information was submitted by the tenderer-
    - (aa) disqualify the tenderer or terminate the contract in whole or in part; and
    - (bb) if applicable, claim damages from the tenderer; or
  - (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.

(2)(a) An organ of state must-

- (i) inform the National Treasury, in writing, of any actions taken in terms of subregulation (1);



- (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
- (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
  - (b) The National Treasury may request an organ of state to submit further information pertaining to subregulation (1) within a specified period.
  - (3) The National Treasury must-
    - (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
    - (b) maintain and publish on its official website a list of restricted suppliers.

### **Circulars and guidelines**

**15.** The National Treasury may issue-

- (a) a circular to inform organs of state of any matter pertaining to these Regulations; or
- (b) a guideline to assist organs of state with the implementation of any provision of these Regulations.

### **Repeal of Regulations and saving**

**16.**(1) Subject to this regulation, the Preferential Procurement Regulations, 2011, published in Government Notice No R. 502 of 8 June 2011 (herein called "the 2011 Regulations), are hereby repealed with effect from the date referred to in regulation 17.

(2) Any sector designated and minimum threshold determined for local production and content for purposes of regulation 9 of the 2011 Regulations and in force immediately before the repeal of the 2011 Regulations, are regarded as having been done under regulation 8(1) of these Regulations.

(3) Any tender advertised before the date referred to in regulation 17 must be dealt with in terms of the 2011 Regulations.

### **Short title and commencement**

**17.** These Regulations are called the Preferential Procurement Regulations, 2017 and take effect on 1 April 2017.



# WET OP DIE RAAMWERK VIR VOORKEURVERKRYGINGSBELEID NO. 5 VAN 2000

[GOEDGEKEUR OP 2 FEBRUARIE 2000]  
[DATUM VAN INVOERING: 3 FEBRUARIE 2000]

(Engelse teks deur die President geteken)

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## WET

Om gevolg te gee aan artikel 217 (3) van die Grondwet deur voorsiening te maak vir 'n raamwerk vir die toepassing van die verkrygingsbeleid in artikel 217 (2) van die Grondwet beoog; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

## INDELING VAN ARTIKELS

1. Woordomskrywing
2. Raamwerk vir toepassing van voorkeurverkrygingsbeleid
3. Vrystelling
4. Oorgangsbepaling
5. Regulasies
6. Kort titel

**1. Woordomskrywing.**—In hierdie Wet, tensy uit die samehang anders blyk, beteken—

„**aanvaarbare tender**” ’n tender wat in alle opsigte aan die spesifikasies en voorwaardes van tender soos in die tenderdokument uiteengesit, voldoen;

„**hierdie Wet**” ook enige regulasies kragtens artikel 5 uitgevaardig;

„**Minister**” die Minister van Finansies;

„**staatsorgaan**”—

- (a) ’n nasionale of provinsiale departement soos omskryf in die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);
- (b) ’n munisipaliteit soos beoog in die Grondwet;
- (c) ’n grondwetlike instelling soos omskryf in die Wet op Openbare Finansiële Bestuur, 1999 (Wet No. 1 van 1999);
- (d) die Parlement;
- (e) ’n provinsiale wetgewer;
- (f) enige ander instelling of kategorie instellings wat by die omskrywing van “staatsorgaan” in artikel 239 van die Grondwet ingesluit is en wat deur die Minister by kennisgewing in die *Staatskoerant* as ’n instelling of kategorie instellings waarop hierdie Wet van toepassing is, erken word;

„**voorgeskryf**” voorgeskryf by regulasie kragtens artikel 5 uitgevaardig;

„voorkeurverkrygingsbeleid” ’n verkrygingsbeleid in artikel 217 (2) van die Grondwet beoog.

**2. Raamwerk vir toepassing van voorkeurverkrygingsbeleid.**—(1) ’n Staatsorgaan moet sy voorkeurverkrygingsbeleid bepaal en dit binne die volgende raamwerk toepas:

- (a) ’n Voorkeerpuntestelsel moet gevolg word;
- (b) (i) vir kontrakte met ’n Randwaarde hoër as ’n voorgeskrewe bedrag kan 10 punte toegeken word vir bepaalde doelwitte soos beoog in paragraaf (d) mits 90 punte vir prys aan die laagste aanvaarbare tender toegeken word;
- (ii) vir kontrakte met ’n Randwaarde gelyk aan of laer as ’n voorgeskrewe bedrag kan 20 punte toegeken word vir bepaalde doelwitte soos beoog in paragraaf (d) mits 80 punte vir prys aan die laagste aanvaarbare tender toegeken word;
- (c) enige ander aanvaarbare tenders waarvan die prys hoër is, tel op ’n *pro rata*-grondslag minder punte, bereken op hulle tenderpryse in verhouding tot die laagste aanvaarbare tender, in ooreenstemming met ’n voorgeskrewe formule;
- (d) die bepaalde doelwitte kan—
  - (i) kontraktering met persone, of kategorieë persone, wat in die verlede deur onbillike diskriminasie benadeel is op grond van ras, geslag of gestremdheid insluit;
  - (ii) toepassing van die programme van die Heropbou- en Ontwikkelingsprogram soos gepubliseer in *Staatskoerant* No. 16085 gedateer 23 November 1994 insluit;
- (e) die uitnodiging om te tender moet enige bepaalde doelwit waarvoor ’n punt toegeken kan word duidelik vermeld;
- (f) die kontrak moet toegeken word aan die tenderaar wat die hoogste punte behaal, tensy objektiewe maatstawwe bykomend tot dié in paragrawe (d) en (e) beoog die toekenning aan ’n ander tenderaar regverdig; en
- (g) ’n kontrak wat op grond van valse inligting wat deur die tenderaar verskaf is om voorkeur ingevolge hierdie Wet te verkry, toegeken is, kan na willekeur deur die staatsorgaan gekanselleer word sonder benadeling van enige ander regsmiddels wat die staatsorgaan het.

(2) Enige doelwitte beoog in subartikel 1 (e) moet meetbaar en kwantifiseerbaar wees, en vir nakoming gemoniteer word.

**3. Vrystelling.**—Die Minister kan op versoek ’n staatsorgaan van enige bepaling of al die bepalings van hierdie Wet vrystel indien—

- (a) dit in die belang van nasionale veiligheid is;
- (b) die waarskynlike tenderaars internasionale verskaffers is; of
- (c) dit in die openbare belang is.

**4. Oorgangsbepaling.**—Enige verkrygingsproses wat kragtens ’n voorkeurverkrygingsbeleid toegepas is en waarvan die uitnodiging om te tender voor die inwerkingtreding van hierdie Wet geadverteer was, moet afgehandel word asof hierdie Wet nie in werking getree het nie.

**5. Regulasies.**—(1) Die Minister kan regulasies uitvaardig met betrekking tot enige aangeleentheid wat nodig of dienstig is om voor te skryf ten einde die doelwitte van hierdie Wet te

bereik.

(2) Konsepregulasies moet voor promulgering in die *Staatskoerant* en elke *Provinsiale Koerant* vir openbare kommentaar gepubliseer word.

**6. Kort titel.**—Hierdie Wet heet die Wet op die Raamwerk vir Voorkeurverkrygingsbeleid, 2000.

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**CAPE WINELANDS DISTRICT**  
MUNICIPALITY • MUNISIPALITEIT • UMASIPALA

# **CAPE WINELANDS DISTRICT MUNICIPALITY**

## **COMMUNITY SUPPORT POLICY**

### **CONTENTS**

- 1. RATIONALE**
- 2. RESTRICTIONS**
- 3. PUBLIC ADVERTISEMENT**
- 4. APPLICATION PROCEDURES**
- 5. TRANSFERS BELOW PRESCRIBED LIMIT**
- 6. CONTRACTS**
- 7. CONTRACT MANAGEMENT**
- 8. SELECTION COMMITTEE**
- 9. MONTHLY REPORTS**

## **1. RATIONALE**

Since 4 December 2000 the Cape Winelands District Municipality has established a culture of supporting organisations that contribute to achieving the national and district aspirations of the country by serving communities and individuals who are most in need.

This policy aims to ensure that beneficiaries are identified in a fair and transparent manner and that funds transferred reaches the intended beneficiaries.

All transfers must be made in terms of:

- the Local Government: Municipal Finance Management Act, 56 of 2003 (MFMA) that is attached as Annexure;
- this policy; and
- any other applicable law

## **2. RESTRICTIONS**

Transfers are restricted to organisations that:

- i) operate as a separate legal entity and that is recognised as such by South African Law;
- ii) is located and serve communities and individuals who are most in need within the Cape Winelands municipal boundaries.

Funds may not be transferred to an organisation if it has not been budgeted for.

Funds may not be transferred to individuals.

## **3. PUBLIC ADVERTISEMENT**

Funds may not be transferred to any organisation that has not submitted a proposal in response to a public advertisement. In the event of a natural disaster, fire or an unforeseen event that causes hardship amongst individuals or communities, the Executives Mayor may authorise financial and / or other types of assistance to those affected, provided that the Executive Mayor tables a full report at the next Mayoral Committee and Council Meeting.

#### **4. APPLICATION PROCEDURES**

The proposal must be on the organisations letterhead, signed by a member of the organisations executive, and must include the following information:

- i) A brief description of who the applicant organisation is and what the applicant does. The date of establishment, details of the board / steering / management committee and past achievements must be included.
- ii) A brief description of the project and what it aims to achieve;
- iii) The budget for the project;
- iv) The duration of the project;
- v) Individuals or organisations whose support has been requested;
- vi) If the request is for general support then the organisations overall budget must be included;
- vii) A contact name, full street address, telephone number and e-mail address (if available);
- viii) The Non – Profit Organisation registration number if the organisation is registered as such;
- ix) The applicants legal name;
- x) References, independent of the organisation and organisations executive;
- xi) Most recent audited financial statements if any;
- xii) Founding Documents, Certificates of Incorporation

The above requirements may be relaxed if in the opinion of the Municipal Manager it would be reasonable and justifiable to do so.

#### **5. TRANSFERS BELOW PRESCRIBED LIMIT**

In principle all organisations must comply with Section 67(1) notwithstanding the monetary value of funds transferred. The Council does realise that in certain circumstances the exception in Section 67(4) of the MFMA exempts organisations who serve the poor from compliance because it would be unreasonable and uneconomical. To ensure good corporate and financial governance, if an organisation will receive less than the prescribed amount but can comply with Section 67(1) they must do so. The Municipal Manager or his delegated representative must be satisfied that Section 67(4) is relevant and should be applied before funds are transferred.

The head of the organisation must certify to the Municipal Manager, or his delegated representative, that the money was received in its bank account and that the amount is / will be utilised to the benefit and in accordance with the role they play in society.

The Municipal Manager, or his delegated representative, from time-to-time must verify and inspect the existence and activities of the organisation;

The transfer of funds must be made subject thereto that the organisation regularly report, where necessary, to Council regarding the activities conducted, the ward within which activities are conducted as well as the number of people benefiting from the activities.

## **6. CONTRACTS**

Before any funds are transferred to an organisation that serves the poor a contract must be concluded with the beneficiary to protect the interest of Council, to ensure that the funds reaches the intended beneficiaries, that the funds are used for the intended purpose and that the recipient of the funds main purpose has not changed.

## **7. CONTRACT MANAGEMENT**

It is the responsibility of the Municipal Manager or his delegated representative to manage contracts entered into with beneficiaries by receiving reports and doing the necessary site visits and inspections to ensure that this policy and contract is complied with.

## **8. SELECTION COMMITTEE**

The Municipal Manager must appoint a selection committee consisting of at least three senior officials, one of which who must be the Executive Director: Community and Developmental Services who will be the chairperson of the committee.

The Selection Committee must make recommendations to the Executive Mayor together with the Mayoral Committee for final approval.

## **9. MONTHLY REPORTS**

The Accounting Officer must submit monthly reports to the Executive Mayor together with the Mayoral Committee, showing the effect of the implementation of the policy.

See Council Item for Approval:

**C.14.2 COMMUNITY SUPPORT POLICY FOR THE CAPE WINELANDS DISTRICT MUNICIPALITY (5/15/1/B)**

**PURPOSE OF SUBMISSION**

That the Executive Mayor together with the Mayoral Committee consider approving the attached Community Support Policy and determine an upper limit of R30 000 for purposes of Section 67(4)(a) of the MFMA, so that organisations that serve the poor are exempted from complying with Section 67(1) of the said act.

**BACKGROUND**

The transfer of funds to organisations and bodies outside government is regulated by section 67 of the MFMA. This section reads as follows:

80	No. 26019	GOVERNMENT GAZETTE, 13 FEBRUARY 2004
Act No. 56, 2003	LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003	
<b>Funds transferred to organisations and bodies outside government</b>		
67.	(1) Before transferring funds of the municipality to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction, the accounting officer must be satisfied that the organisation or body—	5
	(a) has the capacity and has agreed—	
	(i) to comply with any agreement with the municipality;	
	(ii) for the period of the agreement to comply with all reporting, financial management and auditing requirements as may be stipulated in the agreement;	10
	(iii) to report at least monthly to the accounting officer on actual expenditure against such transfer; and	
	(iv) to submit its audited financial statements for its financial year to the accounting officer promptly;	
	(b) implements effective, efficient and transparent financial management and internal control systems to guard against fraud, theft and financial mismanagement; and	15
	(c) has in respect of previous similar transfers complied with all the requirements of this section.	
	(2) If there has been a failure by an organisation or body to comply with the requirements of subsection (1) in respect of a previous transfer, the municipality may despite subsection (1)(c) make a further transfer to that organisation or body provided that—	20
	(a) subsection (1)(a) and (b) is complied with; and	
	(b) the relevant provincial treasury has approved the transfer.	25
	(3) The accounting officer must through contractual and other appropriate mechanisms enforce compliance with subsection (1).	
	(4) Subsection (1)(a) does not apply to an organisation or body serving the poor or used by government as an agency to serve the poor, provided—	
	(a) that the transfer does not exceed a prescribed limit; and	30
	(b) that the accounting officer—	
	(i) takes all reasonable steps to ensure that the targeted beneficiaries receive the benefit of the transferred funds; and	
	(ii) certifies to the Auditor-General that compliance by that organisation or body with subsection (1)(a) is uneconomical or unreasonable.	35



There are many organizations and bodies across the district that does invaluable work to ease the plight of the most vulnerable members of our community. There are those that operate on tight and very small budgets but make a huge impact on the lives of people most in need. It would be uneconomical and unreasonable for these organizations and bodies to comply with Section 67(1) of the MFMA. The legislator has acknowledged this and provided an exemption in Section 67(4).

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It is of critical importance that the rights and interests of Council are protected. All reasonable measures must be taken and safeguards must be put in place to ensure that funds transferred reach its intended beneficiaries. For this reason it is recommended that the exemption be applied in terms of the guidelines attached hereto as Annexure "A".

It is important to note that in terms of the MFMA, regulations published in the Government Gazette by the Minister of Finance must prescribe the upper limit. National Treasury has however confirmed in writing that a Municipal Council may prescribe the upper limit until the said regulations has been published by the Minister.

#### **IMPLICATIONS**

#### **FINANCIAL**

None.

*Comment prepared by: Mr. J.G. Marais*

#### **LEGAL**

Contained under background.

*Comment prepared by: Mr. S. Johaar*

#### **PERSONNEL**

None.

*Comment prepared by: Mr. G.F. Qonde*

#### **RECOMMENDATION:**

The Executive Mayor together with the Mayoral Committee resolve to recommend to Council that:

- (i) An upper limit of R30 000 be set in terms of section 67(4)(a) of the MFMA so that organisations and bodies that serve the poor are exempted from complying with section 67(1) of the same act;

- (ii) The guidelines attached hereto as Annexure "A" be used to ensure that the rights and interests of Council are protected.

**MAYORAL COMMITTEE: 20 SEPTEMBER 2005: ITEM MC. 7.4**

**RESOLVED :** That it be recommend to Council that :

- (a) The Community Support Policy attached as Annexure "A" to the agenda be approved to ensure that the rights and interests of the Cape Winelands District Municipality are protected, subject to the following amendments:
  - (i) Clause 8 be amended by the insertion of the following stipulation:  
"The Selection Committee must make recommendation to the Executive Mayor together with the Mayoral Committee for final approval."
  - (ii) The following Clause 9 be inserted:  
  
9. MONTHLY REPORTS  
  
The Accounting Officer must submit monthly reports to the Executive Mayor together with the Mayoral Committee, showing the effect of the implementation of the policy.
- (b) An upper limit of R30 000 be set in terms of Section 67(4)(a) of the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003) so that organisations and bodies that serve the poor are exempted from complying with Section 67(1) of the said Act.

**RECOMMENDATION:** That -

- (a) The Community Support Policy attached as Annexure "A" to the agenda be approved to ensure that the rights and interests of the Cape Winelands District Municipality are protected, subject to the following amendments:
  - (i) Clause 8 be amended by the insertion of the following stipulation :  
  
"The Selection Committee must make recommendation to the Executive Mayor together with the Mayoral Committee for final approval."
  - (ii) The following Clause 9 be inserted:

9. MONTHLY REPORTS

The Accounting Officer must submit monthly reports to the Executive Mayor together with the Mayoral Committee, showing the effect of the implementation of the policy.

- (b) An upper limit of R30 000 be set in terms of Section 67(4)(a) of the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003) so that organisations and bodies that serve the poor are exempted from complying with Section 67(1) of the said Act.

**COUNCIL MEETING: 29 SEPTEMBER 2005: ITEM C.14.2**

(The meeting adjourns for a caucus at 12:14 and resumes its business at 12:25)

**RESOLVED:** That -

- (a) The Community Support Policy attached as Annexure "A" to the agenda item, be approved to ensure that the rights and interests of the Cape Winelands District Municipality are protected, subject to the following amendments:

- (i) Clause 8 be amended by the insertion of the following stipulation:

"The Selection Committee must make recommendations to the Executive Mayor together with the Mayoral Committee for final approval."

- (ii) The following Clause 9 be inserted:

9. MONTHLY REPORTS

The Accounting Officer must submit monthly reports to the Executive Mayor together with the Mayoral Committee, showing the effect of the implementation of the policy;

- (b) An upper limit of R30 000 be set in terms of Section 67(4)(a) of the Local Government : Municipal Finance Management Act, 2003 (Act No. 56 of 2003) so that organisations and bodies that serve the poor are exempted from complying with Section 67(1) of the said Act.