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**SCHEDULE**

**Draft National Treasury Regulations  
for departments, constitutional  
institutions and public entities**

**Issued in terms of the  
Public Finance Management Act, 1999**

**National Treasury  
Republic of South Africa  
November 2012**



# **DRAFT NATIONAL TREASURY REGULATIONS**

## **PART 1**

**General definitions, application,  
departures from treasury regulations,  
instructions or conditions, repeal of  
instructions and date of  
commencement**

# 1

## General definitions, application, departures from treasury regulations, instructions or conditions, repeal of treasury regulations and date of commencement

### 1.1 General definitions

In these Treasury Regulations, unless the contexts indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and –

**“debt”** means an amount owing to the institution;

**“designated accounting officer”** means the accounting officer of a designated department;

**“designated department”** in relation to a public entity, means the department designated by its executive authority as the department responsible for the public entity;

**“division of revenue grants”** mean allocations from the national government to provinces and local government as listed in the schedules to the annual Division of Revenue Act, including transfers in terms of that Act;

**“employee”** means a person employed in terms of section 8 of the Public Service Act, 1994 or persons employed by constitutional institutions and public entities listed in Schedules 3A or 3C to the Act but excludes any person employed in terms of section 12A of the Public Service Act, 1994;

**“executive authority”** in relation to a constitutional institution consists of a body of persons, means the chairperson of the constitutional institution, and in relation to a constitutional institution that has a single office bearer, means the incumbent of that office;

**“financial system”** for departments, mean the transversal Basic Accounting System (BAS) or such other system as approved by the National Treasury or, in the case of constitutional institutions or public entities listed in Schedules 3A or

3C to the Act, the in-house financial systems used by constitutional institutions or by the relevant public entities;

**“head official of the treasury”** means the administrative head of the department responsible for financial and fiscal matters, which forms part of the relevant treasury;

**“human resource management and payroll system”** for departments, mean the Personnel and Salary (PERSAL) administration system or such other system as approved by the National Treasury or, in the case of constitutional institutions or public entities listed in Schedules 3A or 3C to the Act, the in-house human resource management and payroll systems used by constitutional institution or by the relevant public entities;

**“institution”** means a department, constitutional institution or a public entity listed in Schedules 3A or 3C to the Act;

**“logistical information system”** for departments, mean the Logistical Information System (LOGIS) or such other system as approved by the National Treasury or, in the case of constitutional institutions or public entities listed in Schedules 3A or 3C to the Act, the in-house logistical information systems used by constitutional institutions or by the relevant public entities;

**“PFMA”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999), as amended by Act No. 29 of 1999;

**“standard operating procedures”** means the method of functioning that has been established over time to execute a specific task or react to a specific set of circumstances or situation or process. Standard operating procedures document the normal or accepted methodology and help form the basis for evaluating conformance.

## **1.2 Application**

1.2.1 Read in context, these National Treasury Regulations apply to departments, constitutional institutions and public entities listed in Schedules 2, 3A, 3B, 3C and 3D to the Act.

## **1.3 Departures from Treasury Regulations, Instructions or conditions**

The National Treasury may on good grounds approve a departure from a treasury regulation or instruction or any condition imposed in terms of the Act and must promptly and in writing inform the Auditor-General when it does so.

## **1.4 Date of commencement**

1.4.1 These National Treasury Regulations take effect from 1 April 2013, except for those *Regulations* determined by the Minister by Notice

in the National Government Gazette, which shall take effect on a date determined in the Notice but such a date or dates may not be later than 1 April 2014.

## **1.5 Repeal of National Treasury Regulations**

1.5.1 The National Treasury Regulations issued in Government Gazette No. 27388 dated 15 March 2005 and in Government Gazette No. 29644 dated 20 February 2007 are hereby repealed.

## **PART 2**

# **Regulatory Framework for Financial Management**

# Regulatory framework for financial management

## 2.1 National Treasury norms and standards

- 2.1.1 In terms of sections 76, of the Act, the National Treasury may make regulations or issue instructions applicable to all institutions to which the Act applies to promote and enforce transparency and effective management in respect of revenue, expenditure, assets and liabilities.
- 2.1.2 The National Treasury is also empowered to issue regulations on financial misconduct (section 85 of the Act) and on the Accounting Standards Board (section 91 of the Act).

## 2.2 Provincial Treasury norms and standards

- 2.2.1 In terms of section 18(1)(c) of the Act, a provincial treasury must promote and enforce transparency and effective management in respect of revenue, expenditure, assets and liabilities of provincial departments and provincial public entities.
- 2.2.2 To the extent necessary to perform the functions mentioned in paragraph 2.2.1, a provincial treasury must, in terms of section 18(2)(a) of the Act, issue provincial treasury instructions that are not inconsistent with the Act.

## 2.3 Institutional norms and standards

- 2.3.1 In terms of section 38 of the Act, the accounting officer of a department or constitutional institution must ensure that the department or constitutional institutions has and maintains an effective, efficient and transparent system of financial management.
- 2.3.2 In terms of section 51 of the Act, an accounting authority of a public entity must ensure that the public entity has and maintains an effective, efficient and transparent system of financial management.
- 2.3.3 The system of financial management referred to in paragraph 2.3.1 and 2.3.2 must provide for:

- (a) institutional instructions that are approved and formally issued to ensure that the National Treasury norms and standards are applied uniformly and that compliance with the Act is enforced; and
- (b) in the case of provincial institutions, institutional instructions that are approved and formally issued to ensure that, in addition to the National Treasury norms and standards, the relevant provincial treasury norms and standards are applied uniformly and that compliance with the Act is enforced; and
- (c) standard operating procedures which comprise a manual of operations as it relates to a specific subject.

## **2.4 Hierarchy of regulatory frameworks**

2.4.1 Should there be a conflict between this Act, the National Treasury Regulations, National and Provincial Treasury Instructions, Institutional Instructions and Standard Operating Procedures referred to in paragraphs 2.1, 2.2 and 2.3 of these *Regulations*, the following frameworks shall prevail in the order as prescribed from (a) to (f) below:

- (a) Public Finance Management Act, 1999 (Act 1 of 1999);
- (b) National Treasury Regulations;
- (c) National Treasury Instructions;
- (d) Provincial Treasury Instructions;
- (e) Institutional Instructions; and
- (f) Standard Operating Procedures.

## **2.5 Consultation process in relation to issuing of instructions**

2.5.1 Prior to instructions referred to in paragraphs 2.4.1 (c), (d) and (e) taking effect, the relevant treasury or institution must consult with the relevant target audience on the contents of such instructions.

## **2.6 Administrative actions**

2.6.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that when employees execute an administrative action as contemplated in the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000), the following considerations are made:

- (a) all relevant and permissible facts and circumstances were taken into consideration, mindful of previous precedence created;
- (b) adherence to the regulatory framework;
- (c) the administrative action falls within the ambit of delegation or legislative power;
- (d) the result of the administrative action must serve a legal permissible purpose; and

(e) the result of the administrative action falls within the ambit of that institution's budget, budget description and strategic goals and objectives.

## **PART 3**

# **Institutional Arrangements**

# 3

## Institutional arrangements

### 3.1 Chief financial officer

- 3.1.1 Unless directed otherwise by the relevant treasury, the accounting officer or accounting authority of an institution must appoint a person with appropriate qualifications and experience as a chief financial officer of the institution.
- 3.1.2 Whilst the chief financial officer referred to in paragraph 3.1.1 may report administratively to another functionary within the institution, the incumbent must, without exception, be functionally accountable directly to the accounting officer or accounting authority. The chief financial officer's performance agreement must be entered into only with the accounting officer or accounting authority, whichever applicable.
- 3.1.3 During a vacancy or when the chief financial officer of an institution is absent or otherwise unable to perform his or her functions, the person acting in his or her place must perform the functions of the chief financial officer.
- 3.1.4 All institutional correspondence that has financial implications may only be directed to the executive authority, accounting officer, accounting authority or to the relevant treasury after such correspondence has been signed off by the respective institution's chief financial officer.
- 3.1.5 The general responsibilities of the chief financial officer must at least include the following:
- (a) assisting the accounting officer or accounting authority in discharging the duties prescribed in Part 2 of Chapter 5 or Part 2 of Chapter 6 of the Act, whichever applicable;
  - (b) establishing and maintaining financial management structures;
  - (c) establishing, implementing and monitoring financial management and internal control systems;
  - (d) contributing to the development of strategic, corporate, annual performance and operational plans, whichever applicable, including co-ordinating, analysing and advising;
  - (e) overseeing the budget preparation process, providing advice and support to stakeholders and reviewing budget proposals prior to its submission to the relevant approval authority;

- (f) overseeing and managing the budget monitoring process, including the production of monthly and quarterly financial and performance reports and providing recommendations and advice to the relevant functionaries on how to address significant variances;
- (g) regularly monitoring the institution's controls over financial and logistical systems and their procedures in order to protect the integrity of financial information;
- (h) overseeing and optimising the utilisation of electronic financial, logistic and management information systems.
- (i) Managing the finalisation of interim and annual financial statements and the reviewing thereof; and
- (j) managing engagements with assurance providers.

3.1.6 The organisational structure of the chief financial officer's component must be established in accordance with norms and standards as may be prescribed periodically by the National Treasury.

3.1.7 In order to ensure effective and efficient financial management, the accounting officer or accounting authority of an institution may not allocate non-financial related responsibilities to the chief financial officer.

### **3.2 Required competencies for the chief financial officer's component**

3.2.1 The accounting officer or accounting authority of an institution must ensure that persons employed in the chief financial officer's component possess the necessary knowledge (general and specific) and skills as set out in the following dictionaries and occupational profiles, as may be prescribed periodically by the National Treasury:

- (a) internal control;
- (b) management accounting;
- (c) financial accounting;
- (d) revenue management;
- (e) expenditure management;
- (f) supply chain management;
- (g) moveable asset management;
- (h) immovable asset management; and
- (i) any other related dictionaries and occupational profiles.

### **3.3 Training of financial practitioners and other employees**

3.3.1 The accounting officer or accounting authority of an institution must ensure that finance practitioners and other employees involved in financial management are capacitated to fulfil their responsibilities.

- 3.3.2 The accounting officer or accounting authority must ensure that sufficient funding is available on the institution's training budget for the purposes mentioned in paragraph 3.3.1 above.
- 3.3.3 Notwithstanding paragraph 3.3.1 above, the relevant treasury may facilitate training interventions to address institutional needs.
- 3.3.4 The National Treasury may prescribe formal qualifications and/or may require membership of professional bodies for practitioners in the various disciplines of financial management.

### **3.4 Delegations of authority**

- 3.4.1 An accounting officer of a department or constitution institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act, may in terms of sections 44 and 56 of the Act respectively, delegate in writing any of the powers entrusted or delegated to the accounting officer or accounting authority in terms of the Act to an employee in the relevant institution or instruct any employee in the relevant institution to perform any of the duties assigned to the accounting officer or accounting authority in terms of the Act.
- 3.4.2 When the accounting officer or accounting authority of an institution considers the delegation of powers or instructions to perform duties, the following principles must apply to minimise the risks associated with such delegations or instructions:
- (a) delegations and instructions are within the scope permitted by the legislative framework;
  - (b) employees are familiar with their roles and responsibilities;
  - (c) employees possess the necessary skills and competencies to exercise the delegation or instruction;
  - (d) effective performance management, feedback and reporting mechanisms are in place;
  - (e) appropriate controls are in place;
  - (f) clear directions or instructions are specified and that conditions are set such that, where applicable, restrictions are imposed on the exercise of the delegations;
  - (g) delegations and instructions are reviewed regularly, as prescribed by the accounting officer or accounting authority, for appropriateness and accuracy, particularly following policy changes or within thirty (30) working days after the date of publication or approval, whichever applicable, in respect of revised norms and standards referred to in paragraphs 2.1, 2.2 and 2.3 of these *Regulations* and as may be applicable to institutions; and
  - (h) applicable thresholds must be taken into consideration in instances where certain responsibilities have financial implications attached to it.

3.4.3 Financial management delegations of authority must be structured in accordance with the minimum standards, as prescribed by the National Treasury to promote uniformity and constituency in the application of the Act.

**3.5 Public entity oversight**

3.5.1 The accounting officer of a designated department must ensure that capacity exists within his or her department to exercise administrative oversight over the public entity reporting to the executive authority responsible for the designated department.

3.5.2 The capacity referred to in paragraph 3.5.1 of these Regulations must be established in terms of norms and standards as may be prescribed periodically by the National Treasury by way of Treasury Instructions.

# **PART 4**

## **Corporate Governance**

# 4

## Internal control

### 4.1 System of internal control

4.1.1 The accounting officer of departments and constitutional institutions and the accounting authority of public entities listed in Schedules 2 or 3 to the Act must ensure that their respective institutions have and maintain effective, efficient and transparent systems of internal control.

4.1.2 The internal control system referred to in paragraph 4.1.1 of these Regulations must provide reasonable assurance that the goals and objectives of the institutions referred to in paragraph 4.1.1 of these Regulations are achieved through, amongst others:

- (a) executing effective and efficient strategic and operational processes;
- (b) providing useful information to internal and external users for timely and informed decision making;
- (c) ensuring conformance with applicable laws and regulations as well as with institutional instructions and standard operating procedures;
- (d) safeguarding the institution's resources against loss, fraud, misuse and damage; and
- (e) safeguarding the availability, confidentiality and integrity of the information systems.

### 4.2 Control environment

4.2.1 The accounting officer of departments and constitutional institutions and the accounting authority of public entities listed in Schedule 2 or 3 to the Act must ensure that an appropriate control environment is established throughout the institution that sets a positive and supportive attitude towards internal control. This must include:

- (a) a commitment to high levels of integrity and ethical values;
- (b) an appropriate degree of management oversight and supervision;
- (c) appropriate delegations of authority and responsibility;
- (d) appropriate institutional instructions and standard operating procedures;
- (e) the establishment of appropriate lines of reporting;
- (f) the establishment of an effective and efficient internal audit function and audit committee;
- (g) commitment to well trained employees; and

(h) an institutional structure that is aligned to strategic and annual performance plans to ensure effective implementation.

### **4.3 System of enterprise risk management**

4.3.1 The accounting officer or accounting authority of institutions referred to in paragraph 4.1.1 of these Regulations must ensure that the institution has and maintains an effective, efficient and transparent system of enterprise risk management in accordance with the Risk Management Framework, issued by the National Treasury.

### **4.4 Enterprise risk management strategy**

4.4.1 The system of enterprise risk management referred to in paragraph 4.3.1 of these Regulations must provide for an enterprise risk management strategy which must at least include:

- (a) a systematic effort to identify and document the key risks;
- (b) identification of all risks, regardless of whether or not such risks are within the direct control of the institution;
- (c) on-going risk assessments are performed but at least once a year to ascertain the shift in the magnitude of risk and the need for further management action as a result thereof;
- (d) the designing of control activities to mitigate identified risks;
- (e) the development and implementation of a fraud prevention plan; and
- (f) the establishment and maintenance of a risk management committee.

4.4.2 The accounting officer or accounting authority of institutions referred to in paragraph 4.1.1 of these Regulations must ensure that their organisation's risk data is captured in a risk register.

4.4.3 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that the respective institution's chief risk officer provides its chief audit executive annually, with a consolidated inherent and residual risk profile of the institution on a date as may be determined by the chief audit executive.

4.4.4 If considered feasible, a designated accounting officer may, after consultation with the accounting authority of a public entity listed in Schedule 3A or 3C to the Act, perform the enterprise risk management function in that public entity, which reports to the executive authority responsible for the accounting officer's department.

4.4.5 If agreement has been reached between the designated accounting officer and the accounting authority of the relevant public entity for the arrangement in terms of paragraph 4.4.4 of these Regulations, the designated accounting officer must inform

the relevant treasury of the arrangement within thirty (30) days of reaching such agreement with the relevant accounting authority.

- 4.4.6 The accounting officer or accounting authority of institutions referred to in paragraph 4.1.1 of these Regulations must ensure that their respective institution's enterprise risk management processes are independently assessed at least every two years.

#### **4.5 Enterprise risk management committee**

- 4.5.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must establish an enterprise risk management committee to oversee implementation of the respective institution's enterprise risk management strategy.

- 4.5.2 The responsibilities of the enterprise risk management committee must be formally defined in a charter, be approved by the accounting officer or accounting authority, whichever applicable, and must at least include the following:

- (a) regular review of the institution's enterprise risk management strategy;
- (b) evaluate the extent and effectiveness of the integration of risk management within the institution;
- (c) evaluate the effectiveness of mitigating strategies implemented to address the institution's material risks;
- (d) review of any material findings and recommendations by assurance providers on the system of enterprise risk management;
- (e) interact with the audit committee to share information relating to material risks of the institution; and
- (f) provide the accounting officer or accounting authority of the institution with regular reports on the status of enterprise risk management within the institution.

#### **4.6 Control activities**

- 4.6.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that control activities established within their respective institutions are clearly documented and available to employees responsible for its implementation.

- 4.6.2 The control activities referred to in paragraph 4.6.1 of these Regulations must provide for preventative, detective and corrective controls and must, amongst others, at least cover the following:

- (a) compliance with laws, regulations, institutional instructions and standard operating procedures;
- (b) safeguarding of assets;
- (c) accomplishment of goals and objectives;

- (d) reliability of information; and
- (e) effective and efficient use of resources.

#### **4.7 Information and communication**

- 4.7.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that measures are implemented to collate and communicate relevant information to all role-players within the institution.
- 4.7.2 The communication referred to in paragraph 4.7.1 of these Regulations is necessary to support the achievement of goals and objectives and to provide all role-players within the institution with the information needed to carry out their day to day internal control activities.
- 4.7.3 The measures referred to in paragraph 4.7.1 of these Regulations must include:
  - (a) identification of internal and external sources of information which are most relevant and useful for the institution;
  - (b) identification and defining of relevant information requirements for all levels with the institution; and
  - (c) selection of the method of communication for both internal and external communication with due consideration of timeliness, cost and regulatory requirements; and
  - (d) the establishment and implementation of a reporting framework for all components within the institution.

#### **4.8 Monitoring and review**

- 4.8.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must implement an effective and efficient monitoring and review system to ensure that the institution's goals and objectives are achieved and to implement corrective actions in cases of under-performance.
- 4.8.2 The monitoring and review system must at least provide for the following:
  - (a) identification of key stakeholders through a process of assessing control and influence and regular reporting to these stakeholders;
  - (b) on-going monitoring and review of goals and objectives as set out in the strategic plan, corporate plan, the annual performance plan and the operational plan of the institution, whichever applicable;
  - (c) monitoring of compliance with applicable laws, regulations, institutional instructions and standard operating procedures; and

- (d) timeously addressing non-compliance with the matters mentioned in (b) and (c).

#### **4.9 Compliance monitoring capacity**

4.9.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 3A or 3C to the PFMA, must ensure that capacity exists within the institution to prevent and detect matters of non-compliance in the institution's internal control system.

4.9.2 The responsibilities of the compliance monitoring function must include, but is not limited to:

- (a) facilitation and overseeing implementation and maintenance of the internal control system;
- (b) detecting non-compliance with the established internal control system within the institution;
- (c) for purposes of paragraph (a) and (b) above, conducting inspections at institutional components in accordance with a pre-determined program;
- (d) submitting reports on inspection findings to relevant managers;
- (e) establishing whether non-compliance is being addressed by the relevant managers;
- (f) providing assistance, where necessary, with the development of corrective action plans for institutional components;
- (g) monitoring implementation of corrective action plans;
- (h) facilitation and overseeing development of institutional instructions and standard operating procedures;
- (i) implementing and maintaining appropriate frameworks for delegations of authority; and
- (j) interacting with assurance providers, such as internal audit, the audit committee and external audit.

#### **4.10 Development of internal control schedules**

4.10.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 3A or 3C to the PFMA must develop, implement and maintain internal control schedules.

4.10.2 The internal control schedules referred to in paragraph 4.10.1 must provide for the complete transaction life cycle in respect of the following areas:

- (a) Governance, including human resource matters;
- (b) Management Accounting, including performance management;
- (c) Financial Accounting, including reporting;
- (d) Supply Chain Management; and
- (e) Service delivery

- 4.10.3 The internal control schedules referred to in paragraph 4.10.1 must at least include the following details:
- (a) identified risks;
  - (b) control activities;
  - (c) type of control activity (management, administrative and accounting);
  - (d) preventative, detective and corrective control activities;
  - (e) responsible employee; and
  - (f) management's assessment.
- 4.10.4 The relevant treasury must prescribe the format and content of the internal control schedules referred to in paragraph 4.10.1.

## Internal audit

### 5.1 Internal audit function

- 5.1.1 All departments, constitutional institutions and public entities listed in Schedules 2 or 3 to the Act must have an internal audit function.
- 5.1.2 If considered feasible, the relevant treasury may approve that the institutions referred to in paragraph 5.1.1 of these Regulations share internal audit functions. If such a determination is made, the relevant treasury must inform the Auditor-General within 30 days of such a determination.
- 5.1.3 An internal audit function may be partly or wholly contracted to an external body with specialist internal audit expertise, provided that its selection takes place in accordance with the competitive bidding procedures which, for a department, constitutional institution or a public entity listed in Schedule 3A or 3C to the Act, is prescribed in Part 7 of these Regulations.
- 5.1.4 The purpose, authority and responsibility of the internal audit function must, in consultation with the audit committee, be formally defined in an internal audit charter and must be consistent with the Institute of Internal Auditor's ("IIA") definition of internal auditing.
- 5.1.5 Internal audit must be conducted in accordance with the standards set by the Institute of Internal Auditors.
- 5.1.6 The internal audit function of institutions referred to in paragraph 5.1.1 of these Regulations must prepare the following documentation, in consultation with and for approval by the audit committee:
- (a) a rolling three year strategic internal audit plan based on its assessment of key areas of risk for the institution, having regard to its current operations, those proposed in its strategic plan and its risk management strategy;
  - (b) an annual internal audit plan for the first year of the rolling three year strategic internal audit plan;
  - (c) plans indicating the proposed scope of each audit in the internal audit plan; and
  - (d) a quarterly report to the audit committee detailing its performance against the approved internal audit plan, to allow for effective monitoring and possible intervention.

- 5.1.7 The internal audit function of a department, constitutional institution or a public entity listed in Schedule 3A or 3C to the Act must assess the operational procedures and monitoring mechanisms over all transfers made and received, including transfers in terms of the annual Division of Revenue Act, if applicable.
- 5.1.8 The internal audit function of institutions referred to in paragraph 5.1.1 of these Regulations must report functionally to the audit committee and administratively to the accounting officer or accounting authority, whichever applicable, and must report at all audit committee meetings. The internal audit function must be independent of the activities that are audited, with no limitation on its access to information.
- 5.1.9 The internal audit function of institutions referred to in paragraph 5.1.1 of these Regulations must co-ordinate with other internal and external assurance providers to ensure proper coverage and to minimise duplication of effort based on a combined assurance framework approved by the audit committee.
- 5.1.10 The internal audit function of a department, constitutional institution or a public entity listed in Schedule 2 or 3 to the Act must assist the accounting officer or accounting authority, whichever applicable, in maintaining efficient and effective internal controls by independently evaluating those controls to determine their effectiveness and efficiency and by developing recommendations for enhancement or improvement. The controls subject to evaluation must at least encompass the following:
- (a) the information systems environment;
  - (b) the reliability and integrity of financial and operational information;
  - (c) the effectiveness of operations;
  - (d) safeguarding of assets; and
  - (e) compliance with laws, regulations, institutional instructions and standard operating procedures.
- 5.1.11 The internal audit function of institutions referred to in paragraph 5.1.1 of these Regulations must assist the accounting officer or accounting authority, whichever applicable, in achieving the institution's objectives by evaluating and developing recommendations for the enhancement or improvement of processes through which:
- (a) goals, objectives and values are established and communicated;
  - (b) the accomplishment of goals and objectives is monitored;
  - (c) accountability is ensured; and
  - (d) corporate values are preserved.

5.1.12 The chief audit executive of a department, constitutional institution or a public entity listed in Schedule 2 or 3 to the Act must:

- (a) ensure that an external quality assurance review is conducted on the internal audit function at least every five years;
- (b) report the outcome of the external quality assurance review to the accounting officer or accounting authority, the audit committee and to the relevant treasury; and
- (c) implement corrective actions based on the outcomes of the external quality assurance review referred to in paragraph 5.1.12(a) of these Regulations.

# 6

## Audit committees

### 6.1 Establishment of audit committees

- 6.1.1 All departments, constitutional institutions and public entities listed in Schedules 2 or 3 to the Act must have an audit committee.
- 6.1.2 The accounting authority of a public entity must establish an audit committee as a sub-committee of the accounting authority.
- 6.1.3 If considered feasible, the relevant treasury may approve that the institutions referred to in paragraph 6.1.1 of these Regulations share audit committees.
- 6.1.4 The relevant treasury may also approve that a shared audit committee be established for a public entity and any of its subsidiaries under the ownership and control of that entity.
- 6.1.5 In the case of a shared audit committee, the relevant treasury must facilitate the appointment of audit committee members in consultation with the relevant executive authorities.
- 6.1.6 If the relevant treasury makes a determination for institutions to share audit committees as per paragraphs 6.1.3 and 6.1.4 of these Regulations, the relevant treasury must inform the Auditor-General within thirty (30) days of making such a determination.
- 6.1.7 In the case of a non-shared audit committee, the accounting officer or accounting authority must appoint audit committee members in consultation with the relevant executive authority.
- 6.1.8 Audit committees must be constituted so as to ensure their independence and their membership must be disclosed in the annual report of the institution.
- 6.1.9 Members of an audit committee who have been appointed from outside the public service pursuant to section 77(a)(i) of the Act must have appropriate experience, be appointed on contract and be remunerated in accordance with remuneration scales approved by the National Treasury, as provided for in paragraph 35.2.2 of these Regulations. Should it be deemed necessary, such members may be remunerated in accordance with paragraph 35.2.3 of these Regulations.
- 6.1.10 The chairperson of an audit committee must be independent, be knowledgeable of the status of the position, have the requisite business, financial and leadership skills and may not be a political

office bearer. In the case of a public entity, the chairperson may also not be the chairperson of the accounting authority or a person who fulfils an executive function in the public entity.

- 6.1.11 In the case of public entities, the majority of members of an audit committee shall consist of non-executive members appointed by the accounting authority, although committee members need not all be members of the accounting authority. The majority of persons serving on an audit committee must be financially literate.
- 6.1.12 The relevant executive authority must concur with any premature termination of the services of a person serving on an audit committee.
- 6.1.13 The audit committee must operate in terms of a written term of reference, which must deal adequately with its membership, authority and responsibilities. The terms of reference must be reviewed at least annually to ensure its relevance.
- 6.1.14 The annual report of an institution referred to in paragraph 6.1.1 of the Regulations must disclose information whether or not the audit committee has adopted a formal terms of reference and if so, whether the committee satisfied its responsibilities for the year, in compliance with its terms of reference.
- 6.1.15 The audit committee of a department, constitutional institution or public entity listed in Schedule 2 or 3 to the Act must at least oversee the following:
- (a) the effectiveness of the internal control systems;
  - (b) the effectiveness of the internal audit function;
  - (c) the risk areas of the institution's operations to be covered in the scope of internal and external audits;
  - (d) the adequacy, reliability and accuracy of the financial information provided to management and to other users of such information;
  - (e) any accounting and auditing concerns identified as a result of internal and external audits;
  - (f) the institution's compliance with laws, regulations, institutional instructions and standard operating procedures; and
  - (g) the activities of the internal audit function, including its annual work programme, co-ordination with the external auditors, the reports of significant investigations and the responses of management to specific recommendations.
- 6.1.16 The audit committee of an institution referred to in paragraph 6.1.15 must have explicit authority to investigate matters within its powers, as identified in the written terms of reference. The audit committee must be provided with the resources it needs to investigate such matters and shall have full access to information. The audit committee must safeguard all the information supplied to it within the ambit of the law.

- 6.1.17 The audit committee referred to in paragraph 6.1.16 of these Regulations must report and make recommendations to the accounting officer or accounting authority, whichever applicable, but the accounting officer or accounting authority retains the responsibility for the implementation of such recommendations.
- 6.1.18 The audit committee must, in the annual report of institutions referred to in paragraph 6.1.15 comment on:
- (a) the effectiveness of the institution's internal control system;
  - (b) the quality of in year management and monthly/quarterly reports submitted in terms of the Act and the Division of Revenue Act; and
  - (c) its evaluation of the institution's annual financial statements.
- 6.1.19 Should a report to an audit committee, whether from the internal audit function or from any other source implicate the accounting officer or accounting authority in transactions related to fraud, corruption or gross negligence, the chairperson of the audit committee must promptly and in writing report this to the relevant executive authority and to the relevant treasury.
- 6.1.20 An audit committee may communicate any concerns it may have to the executive authority, the relevant treasury and to the Auditor-General.
- 6.1.21 The audit committee must meet at least annually with the Auditor-General to ensure that there are no unresolved issues of concern.

## Financial misconduct

- 7.1 Investigation of alleged financial misconduct** [SECTIONS 85(1) (b), (c) and (d) OF THE PFMA]
- 7.1.1 If an employee is alleged to have committed financial misconduct, the accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that an investigation is conducted into the matter and if confirmed, must ensure that a disciplinary hearing is held in accordance with the relevant prescripts and agreements regulating the employment of employees in the relevant department, constitutional institution or public entity.
- 7.1.2 The accounting officer or accounting authority must ensure that the investigation referred to in paragraph 7.1.1 of these Regulations is instituted within thirty (30) days from the date of discovery of the alleged financial misconduct.
- 7.1.3 If the accounting officer or accounting authority of an institution referred to in paragraph 7.1.1 of these Regulations is alleged to have committed financial misconduct, the relevant treasury, as soon as it becomes aware of the alleged misconduct, must ensure that the relevant executive authority initiates an investigation into the matter, and if the allegations are confirmed, holds a disciplinary hearing in accordance with the relevant prescripts and agreements regulating the employment of the accounting officer or accounting authority.
- 7.1.4 The relevant treasury may:
- (a) direct that a person or an employee other than an employee of the institution conducts the investigation; or
  - (b) issue any reasonable requirement regarding the way in which the investigation should be performed.
- 7.1.5 If the accounting officer or accounting authority fails to institute an investigation into any alleged financial misconduct, as required in terms of paragraphs 7.1.1 and 7.1.2 of these Regulations, the relevant treasury must, as soon as it becomes aware of such a failure, ensure that an investigation is initiated into the matter.
- 7.1.6 If after the investigation the allegations in paragraph 7.1.5 of these Regulations are confirmed, the relevant treasury must ensure that a disciplinary hearing is held in accordance with the relevant prescripts

and agreements regulating the employment of employees in the relevant institution.

7.1.7 If the investigation referred to in paragraph 7.1.6 of these Regulations is undertaken at a constitutional institution, the National Treasury must ensure that the report referred to in paragraph 7.1.6 of these Regulations is submitted to the relevant parliamentary committee that oversees the activities of that constitutional institution.

7.1.8 When conducting any investigations in terms of paragraph 7.1.5 of these Regulations, departments and constitutional institutions must, in terms of section 41 of the Act, provide the relevant treasury with any information that may be required as part of the investigation whilst public entities are required to provide such information to the relevant treasury in terms of section 51(1)(f) of the Act.

## **7.2 Criminal proceedings [SECTION 41, 51 (1)(f) and 86 OF THE Act]**

7.2.1 If the investigation referred to in paragraphs 7.1.2, 7.1.3 and 7.1.5 of these Regulations confirms that the financial misconduct is of a criminal nature, the accounting officer, accounting authority or relevant treasury, whichever applicable, must, within 7 days after finalisation of the investigation, ensure that a criminal charge is laid with the South African Police Service against the employee concerned.

7.2.2 The accounting officer or accounting authority of a public entity listed in Schedules 2 or 3 to the Act must, within seven (7) days after laying a criminal charge of financial misconduct against any employee(s), inform the relevant treasury and the Auditor-General of such charges.

7.2.3 The executive authority or relevant treasury may direct an institution referred to in paragraph 7.1.1 to lay criminal charges against any employee or person should the accounting officer or accounting authority fail to take appropriate action.

## **7.3 Reporting [SECTION 85(1) (a) AND (e) OF THE PFMA]**

7.3.1 The accounting officer of a department must, within 30 days after finalisation of disciplinary proceedings, provide a report to the executive authority, the Department of Public Service and Administration, the Public Service Commission and, if applicable, to the Department of the Premier on the outcome of such proceedings, including:

- (a) the name and rank of the employee against whom the proceedings were instituted;
- (b) the charges, indicating the financial misconduct the employee is alleged to have committed;
- (c) information on the amounts involved for each case;
- (d) the findings;
- (e) information on the amounts recovered for each case;
- (f) any sanction imposed on the employee; and

- (g) any further action to be taken against the employee, including criminal charges or civil proceedings.
- 7.3.2 The accounting officer of a constitutional institution must report the information required in terms of paragraph 7.3.1 (a) to (g) of these Regulations to the parliamentary committee responsible for exercising oversight over that constitutional institution within the same time period prescribed in paragraph 7.3.1.
- 7.3.3 The accounting authority of a public listed in Schedules 2 or 3 to the Act must report the information required in terms of paragraph 7.3.1 (a) to (g) of these Regulations to the executive authority through the designated accounting within the same time period prescribed in paragraph 7.3.1.
- 7.3.4 If the relevant treasury instituted disciplinary proceedings at a department, constitutional institution or public entity listed in Schedule 2 or 3 to the Act in terms of paragraph 7.1.6 of these Regulations, the treasury must provide a report on the outcome of such proceedings to the relevant executive authority, the Department of Public Service and Administration, the Public Service Commission and, if applicable, to the Department of the Premier and to the National Treasury. The report must include the information as prescribed in paragraph 7.3.1 (a) to (g) of these Regulations within the same time period as prescribed in paragraph 7.3.1.
- 7.3.5 Within thirty (30) days after the finalisation of any criminal proceedings, the accounting officer of a department must inform the executive authority of the outcome of such proceedings, including the sanction(s) as imposed by a court of law in respect of financial misconduct charges instituted against any employee in terms of section 86 of the Act. Information related to the outcome of the criminal proceedings and the related sanctions must also be provided to the following Departments:
- (a) relevant treasury;
  - (b) Department of Public Service and Administration;
  - (c) Public Service Commission; and
  - (d) Department of the Premier, in the case of provincial departments.
- 7.3.6 The accounting officer of a constitutional institution must inform the parliamentary committee exercising oversight over that constitutional institution of the outcome referred to in paragraph 7.3.5 of these Regulations within the same time period prescribed in paragraph 7.3.5.
- 7.3.7 The accounting authority of a public entity listed in Schedules 2 or 3 to the Act must inform the executive authority, the relevant treasury and the Auditor-General of the outcome referred to in paragraph 7.3.5 of these Regulations within the same time period prescribed in paragraph 7.3.5.
- 7.3.8 If the relevant treasury laid a criminal charge against an employee in terms of paragraph 7.2.1 of these Regulations, the treasury must provide the information as required in terms of paragraph 7.3.5 to the relevant executive authority, the Department of Public Service and Administration,

the Public Service Commission and, if applicable, to the Department of the Premier and to the National Treasury.

- 7.3.9 By 31 May of each year, the accounting officer of a department must, in relation to the previous financial year, submit a schedule of information as listed in (a) to (e) below to the executive authority, the relevant treasury, the Public Service Commission, the Auditor-General and, if applicable, to the Department of the Premier:
- (a) the outcome of any disciplinary proceedings and/or criminal charges taken against employees;
  - (b) the names and ranks of employees involved;
  - (c) information on the amounts involved for each case;
  - (d) information on the amounts recovered for each case; and
  - (e) sanctions and any further actions taken against these employees.
- 7.3.10 The accounting officer of a constitutional institution must report the information required in terms of paragraph 7.3.9 of these Regulations to the parliamentary committee responsible for exercising oversight over that constitutional institution within the same time period prescribed in paragraph 7.3.9.
- 7.3.11 The accounting authority of a public listed in Schedule 2 or 3 to the Act must report the information required in terms of paragraph 7.3.9 of these Regulations to the executive authority through the designated accounting officer within the same time period prescribed in paragraph 7.3.9.
- 7.3.12 If an investigation into financial misconduct was conducted in terms of paragraph 7.1.5 of these Regulations, the relevant treasury must provide the information required in paragraph 7.3.9 (a) to (e) of these Regulations to the executive authority, the Public Service Commission, the Auditor-General and, if applicable, to the Department of the Premier and to the National Treasury within the same time period provided for in paragraph 7.3.9.
- 7.3.13 The schedule referred to in paragraph 7.3.9 of these Regulations must be accompanied by a report which refers to any changes that the department, constitutional institution or public entity listed in Schedule 2 or 3 has made to its systems of financial and risk management and internal control as a result of any investigation.
- 7.3.14 The report and schedule referred to paragraphs in 7.3.1 and 7.3.9 of these Regulations respectively must be prepared in accordance with formats as prescribed by the National Treasury.

#### **7.4 Disciplinary board [Section 85(1)(d) of the PFMA]**

- 7.4.1 The National Treasury must, by way of a Treasury Instruction, establish a list of persons with expertise in state finances or public accounting which must

also describe the circumstances when such persons must form part of a disciplinary board that hears a charge of financial misconduct.

# 8

## Management of losses and claims

### 8.1 General

- 8.1.1 Unless determined otherwise by law, institutions will bear their own damages and accident risks and be responsible for all claims and losses of the institution's property where these arise from institutional activities by an employee who is liable in law and who is or was employed by an institution.
- 8.1.2 Notwithstanding paragraph 8.1.1, the accounting officer or accounting authority of a an institution may, if deemed economical and based on a risk assessment, insure motor vehicles, including hired vehicles, or such other movable assets as determined by the relevant treasury.
- 8.1.3 The insurance premiums related to costs referred to in paragraph 8.1.2 of these Regulations may not, in the case of institutions, exceed an amount or a percentage of the institution's budget, as may be prescribed by the National Treasury by way of a Treasury Instruction.

### 8.2 Claims against institution through acts or omissions [section 76(1) (h) of the PFMA]

- 8.2.1 An institution must accept liability for any loss or damage suffered by an employee or by another person, which arose from an act or omission of an employee as a claim against the institution and does not recover compensation from an employee, provided that the employee shall forfeit this cover if he or she, with regard to the act or omission, is liable in law and:
- (a) intentionally exceeded his or her powers;
  - (b) made use of alcohol or drugs;
  - (c) did not act in the course and scope of his or her employment;
  - (d) acted recklessly or intentionally;
  - (e) in the case of an employee of a department, without prior consultation with the State Attorney, made an admission that was detrimental to the department; or
  - (f) in the case of an employee of a constitutional institution or public entity listed in Schedules 3A or 3C to the Act, without prior consultation with its legal representative, made an admission that was detrimental to the constitutional institution or to such public entity;
  - (g) failed to comply with or ignored standing instructions, of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim, excluding damage or a claim arising from the use of the institution's vehicle; and

(h) in the case of a loss, damage or claim arising from the use of the institution's vehicle, the employee:

- (i) used the vehicle without authorisation;
- (ii) did not possess a valid driver's licence or other appropriate license;
- (iii) did not use the vehicle in the interest of the institution;
- (iv) allowed unauthorised persons to handle the vehicle; or
- (v) deviated materially from the journey or route without prior authorisation from an appropriate official.

8.2.2 If in doubt, the accounting officer or accounting authority of an institution must consult the State Attorney or its legal representative, whichever applicable, on questions of law on the implementation of paragraph 8.2.1.

8.2.3 Where an employee has forfeited his or her cover in terms of paragraph 8.2.1 of these Regulations, the amount paid by the institution for the loss, damage or claim arising from an act or omission must be recovered from the employee concerned.

8.2.4 The State Attorney, in the case of a department or its legal representative, in the case of a constitutional institution or public entity listed in Schedule 3A or 3C to the Act, may not obligate the funds of the institution without the prior written approval of the relevant accounting officer or accounting authority, whichever applicable.

### **8.3 Claims by institution against other persons**

8.3.1 If the institution suffers a loss or damage and the other person denies liability, the accounting officer or accounting authority must, if deemed economical, refer the matter to the State Attorney or to its legal representative, whichever applicable, for legal action, including the recovery of the value of the loss or damage.

### **8.4 Claims by employees against institution**

8.4.1 If an employee sustains a loss or damage in the execution of the employee's duties and is not compensated, the accounting officer or accounting authority of the institution may make good the loss or damage provided that the employee can prove such loss or damage.

**8.5 Losses or damages through criminal acts or omissions**

[SECTION 76(1) (f) OF THE PFMA]

- 8.5.1 When it appears that the institution has suffered losses or damages through criminal acts or possible criminal acts or omissions, the matter must be reported, in writing, to the accounting officer or accounting authority of the institution and to the South African Police Service. If liability can be determined, the accounting officer or accounting authority of the institution must recover the value of the loss or damage from the person responsible.
- 8.5.2 The accounting officer or accounting authority of the institution may write off losses or damages arising from criminal acts or omissions if, after a thorough investigation, it is found that the loss or damage is irrecoverable.
- 8.5.3 When movable assets are written off, appropriate notations to this effect must be recorded in the institution's asset register.

**8.6 Losses and damages through *vis major* and other unavoidable causes** [section 76(1) (e) of the PFMA]

- 8.6.1 The accounting officer or accounting authority of an institution may write off losses and damages that result from *vis major* and other unavoidable causes.

**8.7 Losses or damages through acts committed or omitted by employees** [section 76(1) (b) and 76(4) (a) of the PFMA]

- 8.7.1 Losses or damages suffered by an institution due to an act committed or omitted by an employee, must be recovered from such an employee if that employee is liable in law.
- 8.7.2 The accounting officer or accounting authority of an institution must determine the amount of the loss or damage and, in writing, request that employee to pay the amount within 30 days or in reasonable instalments, as approved by the accounting officer or accounting authority. If the employee fails to comply with the request, the matter must be referred to the State Attorney or to its legal representative, whichever applicable, for the recovery of the loss or damage.
- 8.7.3 A claim against an employee must be waived if the conditions in paragraph 8.2.1(a) to (h) are not applicable.
- 8.7.4 If in doubt, the accounting officer or accounting authority of an institution must consult the State Attorney or its legal representative, whichever applicable, on questions of law in the implementation of paragraphs 8.7.1 and 8.7.3.

## **PART 5**

# **Management Accounting**

# Planning

## 9.1 Definitions

In this Regulation, unless the contexts indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and –

**“budget year”** in relation to –

- (a) an annual budget of departments, means the financial year for which an annual budget of such departments is to be approved; and
- (b) an annual budget of a constitutional institution and a public entity listed in Schedule 3A or 3C to the Act, means the financial year for which an annual budget of such an institution is to be approved.”

**“main function/objective”** in relation to a constitution institution or a public entity listed in Schedule 3A or 3C to the Act refers to an integrated group of activities that are key in relation to specific organisational priorities. This is equivalent to programmes for departments.

## 9.2 Planning processes and plans

9.2.1 The accounting officer or accounting authority of an institution must ensure that the processes through which the institution executes its mandate promotes effective, efficient, economical and equitable service delivery.

9.2.2 The accounting officer or accounting authority of an institution must, for purposes of paragraph 9.2.1 of these *Regulations*, ensure that the institution has:

- (a) a strategic plan with a planning horizon of at least five years that complies with paragraph 9.3 of these *Regulations*;
- (b) an annual performance plan covering the medium term expenditure framework (MTEF) period that complies with paragraph 9.4 of these *Regulations*;
- (c) operational plans tailored to meet the needs of the institution that complies with the requirements of paragraph 9.5 of these *Regulations*; or

(d) in the case of public entity's listed in Schedules 2, 3B and 3 D to the Act, a corporate plan and shareholders compact that complies with paragraph 9.6 of these Regulations.

9.2.3 The accounting officer or accounting authority of an institution must ensure that the strategic plan and the annual performance plan referred to in paragraph 9.2.2(a) and (b) of these *Regulations* are compiled in accordance with the Framework for Strategic Plans and Annual Performance Plans, as may be periodically prescribed by the National Treasury and any Circular issued by provincial treasuries in this regard.

### **9.3 Strategic plans**

9.3.1 The strategic plan referred to in paragraph 9.2.2 (a) must at least include the following:

- (a) the vision, mission and values of the institution;
- (b) an overview of the constitutional, legislative and related mandates of the institution;
- (c) a situational analysis of the institution's service delivery and organisational environment;
- (d) the strategic goals of the institution, equivalent in meaning to outcomes, for the period covered by the strategic plan and which are aligned with the strategic objectives issued by the Department of Performance Monitoring and Evaluation or the Department of the Premier, whichever applicable;
- (e) for departments, strategic objectives, equivalent in meaning to high level outputs, for each of the main divisions, which must be agreed with the relevant treasury;
- (f) for constitutional institutions and public entities listed in Schedule 3A or 3C to the Act, strategic objectives, equivalent in meaning to high level outputs, for each of its main function/objectives which, in the case of constitutional institutions and public entities listed in Schedule 3A or 3C, must be agreed with the relevant executive authority;
- (g) an analysis of the institution's resource implications in relation to its strategic goals and strategic objectives, analysed per main division/sub-division or main function/objective;
- (h) an analysis of the institution's key risks that may impact on the realisation of the strategic objectives stated for each main division or main function/objective;
- (i) a list and brief description of the capital projects the institution intends implementing during the period covered by the strategic plan, including information on:
  - (i) the municipalities where the projects are located, where applicable;
  - (ii) the estimated total cost of each project;
  - (iii) expenditure on each project to date (if any); and
  - (iv) the planned start and completion dates of each project

- (j) a list and brief description of the conditional grants the department administers, including an indication as to whether any of the grants will be ending during the period covered by the plan;
- (k) a list and brief description of all public entities that report to the executive authority of the designated department, including an indication of which public entities, as may be prescribed, will be evaluated during the period covered by the plan;
- (l) a list and brief description of the public-private partnership contracts that the institution is currently responsible for managing, including information on which contracts will be ending during the period covered by the plan; and
- (m) for departments, include the requirements of Chapter 1, Part III B of the Public Service Regulations, 2001.

9.3.2 Institutions must align their strategic planning processes in accordance with the electoral cycle which implies that new strategic plans must be prepared during the course of the first budget cycle following a national general election.

9.3.3 The accounting officer or accounting authority of an institution, in consultation with its executive authority:

- (a) may revise the strategic plan when there are significant policy changes or significant changes in the service delivery environment, by issuing:
  - (i) an annexure to the existing strategic plan, which can either be published separately or as an annexure to the annual performance plan; or
  - (ii) a new strategic plan that replaces the preceding plan.

9.3.4 Departments must, by a date as determined by the relevant treasury, submit the first draft and second drafts of their new strategic plans or revised versions of such plans to the relevant treasury, the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, for assessment and comments.

9.3.5 A strategic plan referred to in paragraph 9.3.4 should only be submitted to the relevant treasury and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, once during the five year period, unless a new or revised strategic plan is issued in accordance with paragraph 9.3.3 (a) of these Regulations.

9.3.6 A strategic plan or a revised version of such a plan of a department or constitutional institution must be submitted to Parliament or to the relevant provincial legislature, whichever applicable, no later than the date determined by Parliament or the relevant provincial legislature.

- 9.3.7 If Parliament or the relevant provincial legislature does not issue a date by which departments must submit their strategic plans or revised versions of such plans to the relevant legislature, departments must submit such plans no later than 10 working days before a committee of the relevant legislature considers the department's budget vote.
- 9.3.8 If Parliament does not issue a date by which constitutional institutions must submit their strategic plans or revised versions of such plans to the legislature, constitutional institutions must submit such plans no later than 10 working days before a committee of Parliament considers the budget vote of the department from which the constitutional institution receives its transfers.
- 9.3.9 A department or constitutional institution must submit a copy of its approved strategic plan or a revised version thereof to the relevant treasury and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, within the same time period in paragraph 9.3.7 when that strategic plan or revised version thereof is submitted to Parliament or to the relevant provincial legislature, whichever applicable.
- 9.3.10 A public entity listed in Schedule 3A or 3C to the Act must submit its strategic plan or any revised version thereof to the designated department by the end of January prior to the commencement of the first year covered in the plan or the first year covered by the revised plan. The plan must be submitted to the executive authority for approval through the designated accounting officer.
- 9.3.11 A strategic plan or a revised version thereof of a public entity listed in Schedule 3A or 3C to the Act must, after its approval by the relevant executive authority, be submitted to Parliament or to the relevant provincial legislature, whichever applicable, together with the departmental strategic plan, in accordance with the time frames as referred to in paragraphs 9.3.6 or 9.3.7 of these *Regulations*.
- 9.3.12 The designated department must submit a copy of the approved strategic plan or a revised version thereof to the relevant treasury and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, within the same time period referred to in paragraphs 9.3.6 or 9.3.7 of these *Regulations* when that strategic plan or revised version thereof is submitted to Parliament or to the relevant provincial legislature, whichever applicable.
- 9.3.13 The accounting officer or accounting authority of an institution must, towards the end of the period covered by the institution's strategic plan, compile an end-term review that reports on the extent to which the institution has succeed in achieving each of its

strategic orientated goals and objectives, as set out at the beginning of the five year period.

- 9.3.14 The end-term review report referred to in paragraph 9.3.13 must, by a date and in a format as determined by the relevant treasury, be submitted to Parliament or to the relevant provincial legislature, whichever applicable, to the relevant executive authority and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable.

## **9.4 Annual performance plans**

- 9.4.1 The annual performance plan referred to in paragraph 9.2.2 (b) of these *Regulations* must at least include the following:

- (a) an updated situational analysis of the institution's service delivery and organisational environment;
- (b) details of significant revisions to the legislative and related mandates, effected since the previous year, or proposed for the current year;
- (c) expenditure outcomes and estimates of expenditure for the three years preceding the current year, the current year, the budget year and the two financial years following the budget year, and explanations of the link between those estimates and the institution's strategic goals, equivalent in meaning to outcomes, specified in the institution's strategic plan and delivery agreement, where applicable;
- (d) performance outcomes and targets for each of the strategic objectives, equivalent in meaning to outputs specified in the institution's strategic plan and delivery agreement, where applicable, in respect of the three years preceding the current year, the current year, the budget year and the two financial years following the budget year;
- (e) for departments, key performance indicators for measuring the performance of each of the department's main divisions, as agreed with the relevant treasury, including performance outcomes and targets in respect of the three years preceding the current year, the current year, the budget year and the two financial years following the budget year. Targets for indicators in the delivery agreement, as agreed with the Department of Performance Monitoring and Evaluation or the Department of the Premier, whichever applicable, must be included in the annual performance plans;
- (f) for constitutional institutions, key performance indicators for measuring the performance of each of the institution's main functions/objectives, as agreed with Parliament, including performance outcomes and targets in respect of the three years preceding the current year, the current year, the budget year and the two financial years following the budget year;
- (g) for public entities, key performance indicators, as agreed with the designated department, for measuring the performance

- of each of the entity's main functions/objectives, including performance outcomes and targets in respect of the three years preceding the current year, the current year, the budget year and the two financial years following the budget year;
- (h) any other additional performance indicators for measuring the performance of each of the institution's main divisions or main functions/objectives, whichever applicable, including performance outcomes and targets in respect of the three years preceding the current year, the current year, the budget year and the two financial years following the budget year;
  - (i) for departments, indicators and targets for programme one (administration), in line with requirements of the relevant treasury, the Department of Performance Monitoring and Evaluation or the Department of the Premier, whichever applicable;
  - (j) quarterly performance targets in respect of paragraph 9.4.1 (e), (f) and (g) for the budget year, except where not appropriate;
  - (k) expenditure outcomes and estimates of expenditure for each main division or main functions/objectives, whichever applicable, for the three years preceding the current year, the current year, the budget year and the two financial years following the budget year, and explanations of the link between those estimates and the performance targets referred to in paragraph 9.4.1 (d), (e), (f) and (g) of these Regulations;
  - (l) a discussion of factors influencing the institution's ability to deliver on the capital projects identified in its strategic plan or any revisions thereto, including information on:
    - (i) expenditure outcomes related to each capital project for the three years preceding the current year; and
    - (ii) expenditure estimates for the current year, the budget year and the two financial years following the budget year.;
  - (m) an account of any significant changes relating to the conditional grants the institution manages, giving specific attention to plans to introduce, review or end a particular grant during the period of the plan;
  - (n) an account of any significant changes relating to the public entities for which the department is the designated department, indicating plans (if any) to evaluate public entities during the period of the plan;
  - (o) an indication of which public-private partnerships will be ending during the period of the plan, and an account of steps that are being put in place to ensure a smooth transfer of responsibilities to the institution in the case of agreements that will expire during the period of the plan; and

(p) for departments, include details of the Service Delivery Improvement Programme, as required in terms of Chapter 1, Part III C of the Public Service Regulations, 2001.

- 9.4.2 Departments must submit the first and second drafts of their annual performance plans to the relevant treasury for assessment and comments and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, by dates as prescribed by the relevant treasury.
- 9.4.3 The annual performance plan of a department or a constitutional institution must, after approval by the relevant executive authority, be submitted to Parliament or to the relevant provincial legislature, whichever applicable, by a date as determined by the relevant legislature.
- 9.4.4 If Parliament or the relevant provincial legislature does not issue a date by which departments or constitutional institutions must submit their annual performance plans to the relevant legislature, these departments or constitutional institutions must submit such plans no later than 10 working days before a committee of the relevant legislature discusses the department's budget vote or the constitutional institutions budget..
- 9.4.5 A department or constitutional institution must submit a copy of its annual performance plan to the relevant treasury within the same time period determined in paragraphs 9.4.3 or 9.4.4. Departments must, within the same time period as it submits its annual performance plan to Parliament or the relevant provincial legislature, also submit a copy of such a plan to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, in accordance.
- 9.4.6 A public entity listed in Schedule 3A or 3C to the Act must, by the end of January prior to the commencement of its budget year, submit its annual performance plan, as approved by its accounting authority, for final approval by its executive authority. The submission to the executive authority must be forwarded through the accounting officer of the designated department.
- 9.4.7 The annual performance plan of a public entity must, after its approval by the relevant executive authority, be submitted to Parliament or to the relevant provincial legislature, whichever applicable, together with the annual performance plan of the designated department.
- 9.4.8 The designated department must submit a copy of the approved annual performance plan to the relevant treasury, the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, within the same time period in paragraphs 9.4.3 or 9.4.4 of these Regulations

when that annual performance plan is submitted to Parliament or to the relevant provincial legislature, whichever applicable.

9.4.9 The annual performance plan must form the basis for compilation of the institution's annual report, as required by section 40 and 55 of the Act, whichever applicable.

9.4.10 Deviations from targets relating to budget adjustments must be reflected in the annual report for the relevant financial year with appropriate explanations.

## **9.5 Operational plans**

9.5.1 The accounting officer of a department must ensure that operational plans are developed for branches, chief directorates, directorates and as well as for specific projects or areas of the department including, but not limited to, procurement, human resources, information technology and infrastructure or capital programmes.

9.5.2 The accounting officer of a constitutional institution or the accounting authority of a Schedule 3A or 3C public entity must ensure that operational plans are developed for all components as contained in the organogram of the constitutional institution or public entity as well as for specific projects including, but not limited to, procurement, human resources, information technology and infrastructure or capital programmes.

9.5.3 Individual operational plans of institutions must link to the contents of their strategic and annual performance plans.

## **9.6 Corporate plans**

9.6.1 The corporate plan of a public entity listed in Schedule 2, 3B or 3 D to the Act and referred to in paragraph 9.2.2 (d) must cover a period of three (3) years and must at least include the following:

- (a) strategic objectives and outcomes identified and agreed on by the executive authority in the shareholders compact;
- (b) strategic and business initiatives as embodied in business function strategies;
- (c) key performance indicators and targets for assessing the entity's performance in delivering the desired goals and objectives;
- (d) a risk management plan;
- (e) a fraud prevention plan;
- (f) a materiality and significant framework;
- (g) a financial plan addressing:
  - (i) projections of revenue, expenditure and borrowings;
  - (ii) asset and liability management;
  - (iii) cash flow projections;
  - (iv) capital expenditure programmes; and

(v) dividend policies.

9.6.2 The executive authority of a public entity referred to in paragraph 9.6.1 of these Regulations or the relevant treasury may request additional information to be included in the corporate plan.

9.6.3 Public entities listed in Schedule 2 or 3B must:

- (a) submit a three-year borrowing programme (beginning with the first financial year of the corporate plan) with their corporate plan to the National Treasury; and
- (b) submit quarterly reports on the borrowing programme to the National Treasury, reflecting actual borrowing for that quarter and any update of the borrowing programme.

9.6.4 Provincial government business enterprises listed in Schedule 3D to the Act and authorised to borrow by the Minister of Finance must:

- (a) submit to the relevant treasury, with their corporate plans, a three-year borrowing programme beginning with the first financial year of the corporate plan. The programme must be in terms of approvals and limits determined by the Minister, and in terms of the Borrowing Powers of Provincial Governments Act; and
- (b) submit to the relevant treasury, quarterly reports on the approved borrowing programme, reflecting actual borrowing for that quarter and any update of the borrowing programme.

9.6.5 Provincial treasuries must, in respect of Schedule 3D public entities, forward to the National Treasury:

- (a) a copy of the entity's corporate plan and approved borrowing plan;
- (b) quarterly updates reflecting actual borrowing for that quarter; and
- (c) any update on the borrowing programme of provincial government business enterprises that are authorised to borrow.

9.6.6 The borrowing programmes of public entities listed in Schedules 2, 3B or 3D to the Act must include:

- (a) the terms and conditions on which the money is borrowed;
- (b) information on proposed domestic borrowing;
- (c) for Schedule 2 or 3B public entities, information on proposed foreign borrowing within the prescribed limit, where applicable;
- (d) short and long-term borrowing;
- (e) borrowing in relation to a pre-approved corporate plan;
- (f) the maturity profile of the debt;
- (g) the confirmation of compliance with existing and proposed loan covenants;
- (h) debts guaranteed by the government;

- (i) motivations for government guarantees, if required, and
- (j) the executive authority's approval of the borrowing programme, if required by the legislation in terms of which the public entity was established.

## **9.7 Shareholder's compact**

- 9.7.1 The accounting authority of a public entity listed in Schedule 2, 3B or 3D must, in consultation with its executive authority, annually conclude a shareholder's compact.
- 9.7.2 The shareholder's compact must document the mandated key performance measures and indicators to be attained by the public entity, as agreed between the accounting authority and the executive authority.

## **9.8 Performance agreements**

- 9.8.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that the performance agreements of individual employees are linked to the achievement of deliverables contained in the strategic plan, the corporate plan, the shareholder's compact, the implementation of the annual performance plan and other operational plans, whichever applicable.

## **9.9 Performance indicators and targets**

- 9.9.1 The accounting officer of a department or constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act must ensure that performance indicators and targets specified in the annual performance plan, corporate plan, shareholders compact, the shareholder's compact and other operational plans, whichever applicable, meet the following criteria:

### **(a) Performance indicators**

- (i) Reliable: the indicator should be accurate enough for its intended use and respond to changes in the level of performance;
- (ii) Well-defined: the indicator needs to have a clear, unambiguous definition so that data will be collected consistently, and be easy to understand and use;
- (iii) Verifiable: it must be possible to validate the processes and systems that produce the indicator;
- (iv) Cost effective: the usefulness of the indicator must justify the cost of collecting the data;
- (v) Appropriate: the indicator must avoid unintended consequences and encourage service delivery improvements, and not give managers incentives to carry out activities simply to meet a particular target; and

- (vi) Relevant: the indicator must relate logically and directly to an aspect of the institution's mandate, and the realisation of strategic goals and objectives.

**(b) Performance targets**

- (i) Specific: the nature and the required level of performance can be clearly identified;
- (ii) Measurable: the required performance can be measured;
- (iii) Achievable: the target is realistic given existing capacity;
- (iv) Relevant: the required performance is linked to identified performance indicators; and
- (v) Time-bound: the time period or date for delivery is specified

## Budgeting and related matters

### 10.1 **Medium term expenditure framework**

- 10.1.1 The accounting officer of a department must comply with any annual budget circulars issued by the relevant treasury. Budget circulars issued by provincial treasuries must be consistent with any budget circular issued by the National Treasury to provincial treasuries.
- 10.1.2 The accounting officer of a constitutional institution or the accounting authority of a public entity listed in Schedule 3A or 3C to the Act who receives transfers and subsidies appropriated by vote must provide such information as may be required by the accounting officer responsible for the vote for the purposes of complying with a budget circular
- 10.1.3 Budget submissions by constitutional institutions or public entities listed in Schedules 3A or 3C to the Act must be made through the accounting officer of the designated department responsible for transfers and subsidies to that constitutional institution or public entity.
- 10.1.4 The accounting officer or accounting authority must ensure that the budget submission for that vote is presented timeously and includes appropriate supporting information also in respect of constitutional institutions and public entities receiving transfers from that vote.

### 10.2 **Annual estimates of revenue and expenditure**

- 10.2.1 The accounting officer of a department must ensure compliance with annual circulars on estimates of revenue and expenditure, as issued periodically by the relevant treasury. Circulars related to the annual revenue and expenditure estimates issued by provincial treasuries may not be inconsistent with any circular issued by the National Treasury to provincial treasuries.
- 10.2.2 The annual estimates of revenue and expenditure, as presented to Parliament or to the relevant provincial legislature, must conform to the formats as determined by the National Treasury.
- 10.2.3 Departments must, in consultation with the relevant treasury, review their budget programme structures annually to ensure its continued relevance.

10.2.4 The review referred to in paragraph 10.2.3 of these *Regulations* must be consistent with guidelines and circulars that are issued periodically by the National Treasury. Circulars related to programme budget structures issued by provincial treasuries may not be inconsistent with any related circular or guideline issued by the National Treasury to provincial treasuries.

### **10.3 Annual adjustments estimates**

10.3.1 The accounting officer of a department must ensure compliance with annual adjustments estimates circulars issued periodically by the relevant treasury. Circulars related to the annual adjustments estimates issued by provincial treasuries may not be inconsistent with any related circular or guideline issued by the National Treasury to provincial treasuries.

10.3.2 The annual adjustments estimates of departments, as presented to Parliament or to the provincial legislature, must conform to formats as prescribed by the National Treasury.

10.3.3 For purposes of sections 30(2)(b) and 31(2)(b) of the Act, the following will not be considered unforeseeable and unavoidable expenditure:

- (a) expenditure that, although known when finalising the estimates of expenditure, could not be accommodated within allocations;
- (b) tariff adjustments and price increases; and
- (c) extensions of existing services and the creation of new services that is not unforeseeable and unavoidable.

10.3.4 An accounting officer of a department requesting additional funds through an adjustments budget must, by a date determined by the relevant treasury, submit a memorandum to the relevant treasury, to the Cabinet/EXCO and to any committee of the Cabinet/EXCO.

10.3.5 Where a national adjustments budget allocates funds to a province, the relevant provincial treasury must table an adjustments budget within thirty (30) days of tabling of the national adjustments budget, or within such longer period as the National Treasury may approve.

### **10.4 Capturing of the budget on the financial management system**

10.4.1 The accounting officer or accounting authority of an institution must ensure that its approved budget for a particular financial year is captured on the financial system before commencement of the financial year on 1 April.

10.4.2 Adjustments to the approved budget, referred to in paragraph 10.4.1 of these Regulations, through an annual Adjustments

Appropriation Bill must be captured on the institution's financial system within ten (10) days after promulgation of the Adjustments Appropriation Act.

## **10.5 Cash flow projections**

10.5.1 The accounting officer of a department must each year submit to the relevant treasury a statement containing a breakdown per month of anticipated revenue and expenditure of that department for the financial year, in a format as prescribed by the National Treasury.

10.5.2 The statement referred to in paragraph 10.5.1 of these Regulations must be submitted to the relevant treasury not later than the last working day of February preceding the financial year to which it relates and must contain:

- (a) particulars of any allocation to municipalities expected to be administered by the department during the relevant financial year; and
- (b) a proposed transfer schedule for each of those allocations during that financial year, per municipality.

10.5.3 After approval of the anticipated revenue and expenditure by the relevant treasury, the accounting officer may not draw from the relevant revenue fund more than the amount approved for a particular month, without the prior written approval of the relevant treasury.

10.5.4 In the event of an accounting officer needing to adjust the approved projections following the tabling of an adjustment estimate, the proposed adjustments must be submitted for approval to the relevant treasury by a date as prescribed by the relevant treasury.

## **10.6 Virement**

10.6.1 For purposes of section 43(1) of the Act:

- (a) compensation of employees and transfers and subsidies to other institutions, excluding transfers and subsidies to other levels of government for purposes of paying levies and taxes imposed by legislation, may not be increased without the prior written approval of the relevant treasury;
- (b) savings on compensation of employees may not be utilised for other purposes without the prior written approval of the relevant treasury;
- (c) new transfers and subsidies to other institutions, excluding transfers referred to in paragraphs 14.16 and 14.7 of these Regulations, may not be introduced without the prior written approval of the relevant treasury;

- (d) allocations earmarked by the relevant treasury for a specific purpose may not be used for other purposes, except with its prior written approval; and
- (e) virement of funds from compensation of employees to transfers and subsidies for the payment of severance/exit packages are excluded from the provisions of (a) and (c).

10.6.2 Accounting officers of departments must apply section 43 of the Act as follows:

- (a) after promulgation of the Appropriation Act, the accounting officer may shift up to eight per cent savings under a main division, subject to the limitations specified in section 43 (4) of the Act and paragraph 10.6.1 of these Regulations to defray excess expenditure under another main division;
- (b) the shifting of funds in accordance with paragraph 10.6.2 (a) of these Regulations must be reported to the relevant treasury within seven (7) days of the shift to ensure that such is reflected in the adjustments estimates;
- (c) apart from the shifting of funds in accordance with paragraph 10.6.2 (a) of these Regulations, further adjustments may be facilitated through the adjustments estimate process without any percentage limitation, subject to approval by the relevant legislature;
- (d) after promulgation of the Adjustments Appropriation Act, the accounting officer may again shift up to eight per cent of savings under a main division to defray excess expenditure under another main division, subject to the limitations specified in section 43(4) of the Act and paragraph 10.6.1 of these Regulations; and
- (e) the shifting of funds by the accounting officer after promulgation of the Adjustments Appropriation Act must be reflected in the annual financial statements, which must be submitted to Parliament or to the relevant provincial legislature for discussion.

10.6.3 Accounting officers of departments may shift funds between sub-programmes and economic classifications within a main division in accordance with departmental instructions without approval by the relevant treasury.

## **10.7 Surrender of voted surplus funds by departments and the retention of surplus funds by constitutional institutions and public entities**

10.7.1 The accounting officer of a department must, at the end of each financial year and after the books of account of a department have been closed, surrender to the relevant treasury any unexpended voted money for re-depositing into the Exchequer Bank Account of the relevant revenue fund.

- 10.7.2 The unexpended voted money referred to in paragraph 10.7.1 must be transferred to the relevant treasury by no later than 31 May of each year in a manner as may be prescribed by the relevant treasury.
- 10.7.3 Constitutional institutions may retain all interest earned on bank accounts as opposed to depositing such into the National Revenue Fund and must declare all surpluses to the National Treasury at the end of each financial year.
- 10.7.4 Upon declaration of year end surpluses by constitutional institutions, the National Treasury may:
- (a) grant approval for the constitutional institution to retain the entire surplus;
  - (b) decide to apply such surpluses to reduce future transfers to the constitutional institution; or
  - (c) require that all or part of the surplus be deposited into the Exchequer Bank Account of the National Revenue Fund.
- 10.7.5 The National Treasury must issue Treasury Instructions related to the budgeting of a deficit or the accumulation of surpluses by public entities listed in Schedule 3A or 3C to the Act.

## **10.8 Roll-over of funds**

- 10.8.1 Funds appropriated but not spent in a particular financial year may be rolled over to a subsequent financial year subject to approval by the relevant treasury. Such approval will be guided by the following limitations:
- (a) Payments for capital assets: unspent funds on payments for capital assets may only be rolled over to finalise projects or asset acquisitions still in progress;
  - (b) Transfers and subsidies: savings on transfers and subsidies may not be rolled over for purposes other than originally voted for; and
  - (c) Current payments: savings on compensation of employees may not be rolled over. A maximum of five per cent of a department's payments for goods and services may be rolled over.
- 10.8.2 Accounting officers must submit requests for roll-overs to the relevant treasury on or before the last working day of April, in a prescribe format and within limitations as may be determined by the relevant treasury and must include:
- (a) the purpose for which the funds were appropriated;
  - (b) the reason why the funds were not spent;
  - (c) proposed changes to the use of the funds, if any; and
  - (d) a disbursement schedule indicating the month(s) in which the expenditure is expected to be incurred.

10.8.3 Funds appropriated for a specific purpose may not be rolled over for more than one financial year, unless approved in advance by the relevant treasury.

10.8.4 The roll-over of funds appropriated for conditional grants in a particular financial year to a subsequent financial year must be dealt with in accordance with the annual Division of Revenue Act.

## **10.9 Transfer of functions**

10.9.1 Where a function is to be transferred between votes during a financial year, the relevant treasury must be consulted in advance, to facilitate any request for the resulting transfer of funds voted for the function in terms of section 33 of the Act. In the absence of agreement between the affected departments on the amount of funds to be transferred, the relevant treasury will determine the funds to be shifted.

10.9.2 Should the Minister of Public Service and Administration or the Premier of a province make a determination regarding the transfer of a function between departments in terms of the Public Service Act, 1994, that determination must accompany a request for the transfer of funds as per paragraph 10.9.1.

10.9.3 Before seeking formal approval from the Minister of Public Service and Administration or from the Premier for any transfer of functions to another sphere of government, the transferring accounting officer must first seek the approval of the relevant treasury on any funding arrangements.

10.9.4 The transfer of functions to other provinces and municipalities must be dealt with in terms of the annual Division of Revenue Act and the Local Government Municipal Finance Management Act (MFMA), 2003 (Act No. 56 of 2003).

## Monitoring and reporting

### 11.1 Monthly revenue and expenditure reports

11.1.1 The accounting officer or accounting authority of an institution must implement an efficient and effective system to monitor and report on the performance of the institution against the approved budget for the relevant financial year.

11.1.2 The information generated by the monitoring and reporting system must be:

- (a) accurate, for meaningful decisions and steps to be taken;
- (b) timely;
- (c) reliable;
- (d) clear and unambiguous;
- (e) economically justified, and avoid the production of unnecessary data;
- (f) flexible and easy to adjust as needs change;
- (g) comparable to ensure that decisions have a baseline; and
- (h) relevant to each managers area of responsibility.

11.1.3 The accounting officer for a department must within 15 days of the end of each month submit to the executive authority of that department and to the relevant treasury in the prescribed format:

- (a) details of actual revenue and expenditure for that month and of the corresponding amounts anticipated for that month in terms of paragraph 10.5 of these Regulations;
- (b) a projection of expected expenditure and revenue to be collected for the remainder of the current financial year;
- (c) information on any impending:

- (i) overspending of the vote of the department or main division within the vote; or
- (ii) under-spending of the vote of the department or main division within the vote;
- (iii) under collection of revenue due;
- (iv) shortfalls in budgeted revenue; and
- (v) information on any steps taken to prevent such overspending or under spending or under collection of revenue.

(d) The accounting officer for a department must comply with any remedial measures imposed by the executive authority of the department or by the relevant treasury to prevent

overspending or under-spending of the vote of the department or main division within the vote or under collection of revenue due and shortfalls in budgeted revenue.

## **11.2 Quarterly performance reports**

- 11.2.1 The accounting officer or accounting authority of an institution must establish procedures for quarterly reporting on performance data related to the quarterly performance targets referred to in paragraph 9.4.1 (i) of these Regulations for departments and constitutional institutions and paragraph 9.6.1 (c) of these Regulations for public entities listed in Schedule 2 or 3 to this Act.
- 11.2.2 Accounting officers of constitutional institutions and accounting authorities of public entities listed in Schedules 2, 3B or 3D to the Act must establish procedures for quarterly reporting to the executive authority in order to facilitate effective performance monitoring, evaluation and corrective action.
- 11.2.3 Departments must submit the quarterly reports referred to in paragraph 11.2.1 to:
- (a) the executive authority to facilitate effective performance monitoring, evaluation and corrective action; and
  - (b) to the relevant treasury and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, by a date and in a format as prescribed by the relevant treasury.
- 11.2.4 Public entities listed in Schedules 3A or 3C to the Act must submit the quarterly reports referred to in paragraph 11.2.1 to:
- (a) the executive authority, via the designated accounting officer, to facilitate effective performance monitoring, evaluation and corrective action; and
  - (b) the relevant treasury and to the Department of Performance Monitoring and Evaluation or to the Department of the Premier, whichever applicable, by a date and in a format as prescribed by the relevant treasury.
- 11.2.5 After submission of the quarterly reports, institutions must comply with any remedial measures imposed by the executive authority, the relevant treasury or by the Department of Performance Monitoring and Evaluation or the Department of the Premier, whichever applicable,.
- 11.2.6 The accounting officer or accounting authority of an institution must ensure that the content of the quarterly reports are consolidated into the performance section of the institution's annual report.

### **11.3 Quarterly revenue and expenditure reports by public entities**

11.3.1 The accounting authority of a public entity listed in Schedule 3A or 3C to the Act must, on a quarterly basis, submit a report to the designated department and to the relevant treasury on the revenue and expenditure of the public entity in a format and in accordance with time frames as prescribed periodically by the relevant treasury.

### **11.4 Preparation of annual reports**

11.4.1 When preparing the annual report of the department, constitutional institution or public entity listed in Schedule 3A or 3C to the Act in terms of section 40 (1)(d)(i) and 55 (1)(d)(i) of the Act respectively, the accounting officer or accounting authority must:

- (a) include information about the institution's performance in achieving its strategic goals and objectives against the performance indicators and targets set out in its annual performance plan for the year under consideration;
- (b) include information on progress made with the implementation of capital projects referred to in paragraph 9.3.1 (i);
- (c) include information required in terms of the annual Division of Revenue Act;
- (d) include information on progress made with the implementation of public-private partnership contracts the institution is responsible for;
- (e) include information on transfers and subsidies per organisation for the entire financial year as well as a report on compliance with section 38 (i) (j) of the Act;
- (f) include a report on the use of foreign aid assistance, detailing the source and intended use of the assistance (including the value of any aid-in-kind in rand), performance information on the institutions use of the assistance and any pending applications for assistance;
- (g) include any additional information as may be required by Parliament or the relevant provincial legislature;
- (h) for departments controlling trading entities and who are designated departments for public entities, a list of all trading entities and/or public entities, together with:
  - (i) an indication of the legislation under which the trading and/or public entity was established;
  - (ii) a statement of the functions of each trading and /or public entity;
  - (iii) the accountability arrangements established between the accounting or executive authority and the management of the trading and/or public entity;
  - (iv) the outcome of the evaluation of any of the public entities; and

(i) in the case of a department, complies with the requirements prescribed in Chapter 1, Part III J of the Public Service Regulations, 2001.

11.4.2 The accounting officer or accounting authority of an institution must submit its annual report, including the information on the institution's performance in achieving the strategic goals and objectives against the performance indicators and targets referred to in paragraph 11.4.1 (a) to the Auditor-General or relevant auditors on or before 31 May of each year.

11.4.3 The accounting officer or accounting authority of an institution must ensure that when compiling the information referred to in paragraph 11.4.1 (a) for purposes of the annual report that:

- (a) actual performance information included in the required tables and other information included in the annual report is consistent;
- (b) material differences between actual and planned performances is well explained;
- (c) information included in the annual report on actual performances is consistent with information included in the annual performance plan;
- (d) actual performance included has occurred and could be verified; and
- (e) all actual performance information recorded for the relevant period has been included in the annual report.

## **PART 6**

### **FINANCIAL ACCOUNTING**

## Revenue management

### 12.1 Efficient and effective system for revenue management

12.1.1 The accounting officer or accounting authority of an institution must manage revenue efficiently and effectively by developing and implementing appropriate institutional instructions and standard operating procedures that provide for the identification, collection, recording, reconciliation and safe-guarding of revenue.

12.1.2 The accounting officer or accounting authority of an institution must ensure that appropriate internal control measures in relation to revenue are implemented, which must include but are not limited to:

- (a) recording of revenue due from services rendered;
- (b) segregation of duties between employees receiving revenue, employees recording revenue transactions and employees depositing revenue at the bank;
- (c) monitoring and ensuring consistency of deposit dates;
- (d) daily recording of receipts;
- (e) verification process for recording receipts;
- (f) correct application of the standard chart of accounts or allocations/classification codes when transactions are recorded;
- (g) reconciliation of receipts to actual bank deposits; and
- (h) reconciliation of collection systems and revenue collected to deposit books used by collecting agencies, where applicable.

### 12.2 Cashier services

12.2.1 The accounting officer or accounting authority of an institution must ensure that the duties of employees responsible for the collection, receipting or banking of the institution's money are assigned such tasks in writing.

12.2.2 Employees whose duties include the receipt or disbursement of institutional money are responsible for the safe custody of all such money under their control.

12.2.3 Accounting officers or accounting authorities of institutions must ensure that employees entrusted with the receipt or handling of the institution's money are granted leave or a change of duties at regular intervals of not more than 12 months.

12.2.4 If an employee entrusted with the receipt or collection of the institution's money is relieved of his or her duties, the corresponding control accounts must be checked and balanced and the correctness of the balance and cash on hand certified by the signature of the employee being relieved, the employee taking over and the relevant supervisor. If the employee being relieved is for any reason not able to certify such, a third person (employee) must be called upon to certify the correctness of the balance by appending his or her signature to the relevant documentation.

12.2.5 All revenue received by an institution must be paid daily into its bank account or, for amounts less than one thousand rand (R1000), as soon as practicable, but not later than the last working day of the month.

### **12.3 Private money and cashing of private cheques**

12.3.1 Private money may not be deposited into an official bank account, except in accordance with the provisions relating to money held in trust for other persons or bodies.

12.3.2 Money belonging to the institution may not under any circumstances be paid into a private banking account.

12.3.3 Private money or personal belongings of the institution's employees or other persons may under no circumstances be lodged in any of the institution's safes or strong rooms.

12.3.4 The institution's money may not be used to cash private cheques.

### **12.4 Receipts not classified as revenue**

12.4.1 Money collected by an institution that is not classified as revenue must be paid into the institution's Paymaster-General Account or bank account and accounted for in its ledger.

12.4.2 The revenue referred to in paragraph 12.4.1 of these Regulations includes money received by the institution for agency services provided to another institution.

### **12.5 Services rendered by the institution**

12.5.1 The accounting officer or accounting authority of an institution must, at least annually when preparing the Medium Term Expenditure Framework (MTEF) submission, review all fees, charges or the rates, scales or tariffs of fees and charges that are not fixed or which cannot be fixed by any law and that relate to revenue accruing to the relevant revenue fund or to a public entity.

12.5.2 At least the following must be taken into consideration during the review process:

(a) types of products and/or services provided;

- (b) direct or indirect costs incurred to provide the products and/or services;
- (c) tariff structures and policies prescribed at national level;
- (d) exemptions, discounts and free services; and
- (e) any aspects of material influence.

12.5.3 As part of the review process referred to in paragraph 12.5.2 of these Regulations, accounting officers or accounting authorities of institutions must continuously examine their institution's operations to identify potential or new sources of revenue.

12.5.4 The accounting officer or accounting authority of an institution must obtain annual approval from the relevant treasury for the proposed tariff structure. Submissions for the approval of the tariff structure must be submitted together with the MTEF submission. In the event that the tariff structure is not amended for a particular financial year, it must be confirmed as such.

12.5.5 Information on the tariff structure must be disclosed in the annual report, including information on exemptions, discounts, free services and any other aspect that has a material influence on the revenue yield.

12.5.6 The accounting officer or accounting authority of an institution must maintain a tariff register in a format as prescribed by the relevant treasury.

## **12.6 Rendering of agency services**

12.6.1 When an institution renders an agency service on behalf of another institution, another province or another level of government, the full cost of rendering that service must be recovered.

12.6.2 Payments made by an institution on behalf of another institution, another province or another level of government must be recovered within thirty (30) days of receipt of the claim.

12.6.3 Claims for services rendered on behalf of another institution, province or another level of government must be accompanied by the original vouchers and must be reflected in the accounts of both transacting parties for the financial year in which the payments were actually made.

## **12.7 Acceptance of gifts, donations and sponsorships by the institution**

12.7.1 The accounting officer or accounting authority of an institution may approve the acceptance of any gift, donation or sponsorship to the institution, whether such gifts, donations or sponsorships are in cash or kind.

- 12.7.2 In the case of departments, all cash gifts, donations or sponsorships must be paid into the relevant revenue fund, except those donations received in terms of paragraph 12.7.6 of these Regulations.
- 12.7.3 Where it is not apparent for what purpose a gift, donation or sponsorship should be applied, the relevant executive authority may decide how such must be utilised.
- 12.7.4 Public entities may not grant cash donations and sponsorships to departments to augment the budgets of designated or other departments.
- 12.7.5 All gifts donations or sponsorships received during the course of the financial year must be disclosed as a note to the annual financial statements of the institution.
- 12.7.6 Donor funding received in terms of the Reconstruction and Development fund Act, 1994 (Act 7 of 1994), must be dealt with as determined periodically by the National Treasury.
- 12.7.7 Within ten (10) days after the end of each quarter, the accounting officer or accounting authority of an institution must report to the relevant treasury on all gifts, donations and sponsorships received by the institution.
- 12.7.8 The report referred to in paragraph 12.7.7 of these Regulations must include information on grants received by the institution in terms of paragraph 12.7.6 of these Regulations and the report must be compiled in a format and submitted to the relevant treasury in accordance with templates and dates as prescribed by the relevant treasury.
- 12.7.9 When a donor or sponsor requests to remain anonymous, the accounting officer or accounting authority of the institution must submit to the relevant treasury, a certificate from both the Public Protector and the Auditor-General, which states that the identity of the donor or sponsor has been revealed to them, that they have noted it and have no objection.
- 12.7.10 The provision in paragraph 12.7.9 does not limit the Auditor-General or the Public Protector from supplying information to their staff, and where they deem it in the public interest, to report on this.

## **12.8 Transfer of departmental revenue to the provincial revenue fund**

- 12.8.1 The accounting officer of a department must ensure that all departmental revenue accounted for in the financial system is transferred monthly at three (3) working days before the end of each month from the Paymaster-General Account to the

Provincial Exchequer Account of the relevant Provincial Revenue Fund in a manner as prescribed by the relevant treasury.

- 12.8.2 Departmental revenue still to be surrendered to the relevant Provincial Revenue Fund after books of account of a department have been closed, must be transferred from the Paymaster-General Account to the Provincial Exchequer Account of the relevant Provincial Revenue Fund by no later than 31 May of each year in a manner as prescribed by the relevant treasury.

## Debt management

### 13.1 Efficient and effective system for debt management

13.1.1 The accounting officer or accounting authority of an institution must ensure that effective and appropriate processes are implemented to timeously collect all money due to the institution including, but not limited to;

- (a) maintaining proper accounts and records for all debtors, including amounts received in part payment;
- (b) monthly issuing of debtor statements;
- (c) conducting monthly age analyses in respect of all debtors accounts;
- (d) in the case of departments and where economical, referring a matter to the State Attorney through the department's Legal Services component to consider a legal demand and possible legal proceedings in a court of law to recover money owing to the department;
- (e) in the case of constitutional institutions and public entities listed in Schedules 3A or 3C to the Act and where found economical, referring a matter to the legal representative of a constitutional institution or public entity to consider a legal demand and possible legal proceedings in a court of law to recover money owing to the institution; and
- (f) processes to ensure that debts owing to the institution do not become prescribed.

### 13.2 Recovery of debts in instalments

13.2.1 Unless otherwise determined by law or agreement, debts owing to the institution may be recovered in instalments at the discretion of the accounting officer or accounting authority of an institution.

13.2.2 When granting approval for the recovery of the debt in instalments, cognisance must be taken of the debtors standing and financial position in determining the period of repayment, which must be reviewed periodically, but at least annually.

### **13.3 Writing off of debts owing to the institution**

- 13.3.1 An accounting officer or accounting authority of an institution may write off debts owing to the institution if the accounting officer or accounting authority is satisfied that:
- (a) all reasonable steps have been taken to recover the debt and the debt is unrecoverable; or
  - (b) there is convincing reasons to believe that:
    - (i) recovery of the debt would be uneconomical;
    - (ii) recovery of the debt would cause undue hardship to the debtor or to his or her dependants; or
    - (iii) it would be to the advantage of the institution to effect a settlement of its claim or to waive the claim.
- 13.3.2 An accounting officer or accounting authority of an institution must ensure that all debts written off are done so in accordance with approved institutional instructions and standard operating procedures.
- 13.3.3 All debts written off must be disclosed in the institution's annual financial statements.

### **13.4 Reporting on debt owing to the institution**

- 13.4.1 The accounting officer or accounting authority of an institution must report quarterly to the relevant treasury information regarding outstanding debts as well as steps taken to address long outstanding amounts owed to the institution.
- 13.4.2 The reports referred to in paragraph 13.4.1 must be submitted in a format and on dates as prescribed periodically by the relevant treasury.

### **13.5 Interest payable on debts to the institution**

- 13.5.1 Interest must be charged on all debts owing to the institution at the interest rate determined by the Minister of Finance, in terms of section 80 of the Act.
- 13.5.2 The interest referred to in paragraph 13.5.2 is published on the National Treasury's PFMA web page [www.treasury.gov.za/pfma](http://www.treasury.gov.za/pfma)

### **13.6 Calculation of interest on debts owing to the institution**

- 13.6.1 Interest on debts owing to the institution must be dealt with as follows:
- (a) interest must be calculated on the decreasing balance of the debt and may not be capitalised. This implies that the simple interest method must be applied and that interest stops accruing as soon as the interest equals the amount of the capital debt;

- (b) before interest may start to accrue, the debtor must be placed in *mora*, which means that the debtor must be informed of the debt and be given an opportunity to settle the debt;
- (c) the *mora* period referred to in paragraph 13.6.1(b) lasts for 30 days. If the debt is not settled within the *mora* period, interest shall start to accrue thereafter; and
- (d) if interest is payable in accordance with an agreement such as study contracts, housing guarantees, etc., interest must start to accrue on the day that payment is due. No *mora* period is applicable in such instances since the debtor is aware of the debt in terms of the conditions of the agreement.

13.6.2 Debts owing to the institution resulting from the service relationship between employees and the institution shall be recovered **without** interest, with the exception of the following categories of debt, which shall be levied **with** interest at a rate as determined by the Minister in terms of section 80(1)(b) of the Act:

- (a) wrongly granted remuneration, as defined in section 38 of the Public Service Act, 1994 where the person concerned has left the employ of the institution, or where the monetary advantage resulted from his or her own fraudulent action; or
- (b) losses and/or damages which originates as a result of circumstances where *mala fides* (evil intention) or the intentional causing of losses or damages were present, or where the person concerned has left the employ of the institution; or
- (c) breach of contract or any delictual claim relating to the contractual relationship.

13.6.3 Debts owing to the institution by debtors who are not in the employ of the institution are to be recovered **with** interest at a rate as determined by the Minister of Finance in terms of section 80(1)(b) of the Act, with the exception of the following categories of debt, which are to be recovered **without** interest:

- (a) overpayment of amounts to a debtor for social and unemployment benefits; or
- (b) debts resulting from support provided by state medical institutions to state patients.

13.6.4 The Minister, by notice in the Government Gazette, determine the categories of state patients referred to in paragraph 13.6.3(b) of these Regulations.

## **13.7 Remission as an act of grace or favour**

13.7.1 Where no legislative authority exists, the accounting officer or accounting authority may approve as an act of grace or favour the remission of money due to the relevant revenue fund or to the public entity.

- 13.7.2 Where there is doubt as to whether an amount may be written off in terms of paragraph 13.3 of these Regulations or should be treated as a remission as an act of grace, it should be referred to the relevant treasury for a decision.
- 13.7.3 All remissions of money due to the relevant revenue fund or to a public entity as an act of grace or favour during a financial year must be disclosed as a note to the annual financial statements of the institution.

## Expenditure management

### 14.1 Efficient and effective system for expenditure management

14.1.1 The accounting officer or accounting authority of an institution must manage expenditure efficiently and effectively by developing and implementing appropriate processes for:

- (a) verification of source documents;
- (b) certification of source documents;
- (c) preparation of payment vouchers; and
- (d) authorisation of payments.

14.1.2 The accounting officer or accounting authority of an institution must ensure that standard operating procedures are developed and approved for all categories of expenditure which include:

- (a) goods and services;
- (b) interest and rent on land;
- (c) payments for financial assets;
- (d) expenditure for capital assets;
- (e) compensation of employees; and
- (f) transfers and subsidies.

14.1.3 The accounting officer or accounting authority of an institution must implement appropriate internal control measures in relation to expenditure, to ensure that:

- (a) transactions are executed in accordance with institutional instructions and standard operating procedures;
- (b) all transactions are promptly recorded at the correct amount and in the correct accounting period to which it relates;
- (c) all transactions are recorded appropriately in accordance with the standard chart of accounts or allocation/classification codes, whichever applicable;
- (d) commitment registers are maintained and updated on a regular basis;
- (e) payments are not unnecessarily deferred from one financial year to the next;
- (f) asset registers are updated timeously and reconciled to physical asset counts; and
- (g) programme managers are held accountable for expenditure management within their areas of responsibility.

## **14.2 Transaction checklists**

- 14.2.1 The accounting officer or accounting authority of an institution must implement transaction checklists which records all actions to be performed from the initiation of a request for specific goods or services to the final authorisation of the payment.
- 14.2.2 The transaction checklists referred to in paragraph 14.2.1 must provide for at least the following processes:
- (a) requisitioning;
  - (b) sourcing (form of procurement);
  - (c) procurement advice;
  - (d) ordering;
  - (e) delivery note;
  - (f) invoice; and
  - (g) payment authorisation.
- 14.2.3 The transaction checklists referred to in paragraph 14.2.2 must be supported by templates for the various forms of procurement referred to in paragraph 22.2 of these Regulations.
- 14.2.4 The relevant treasury may prescribe the format and content of the transaction checklists and templates referred to in paragraph 14.2.2 and 14.2.3 respectively.

## **14.3 Approval of commitments and expenditure**

- 14.3.1 An employee of an institution may not spend, or enter into a commitment to spend public money except with the express approval of an authorised or properly delegated employee.
- 14.3.2 Before approving expenditure or the incurring of a commitment to spend public money, the authorised or properly delegated employee must ensure that:
- (a) any limitations or conditions attached to the instrument of delegation or authorisation are complied with;
  - (b) the expenditure or commitment is strictly in accordance with the purposes of the appropriate vote for departments or approved budget for constitutional institutions and public entities listed in Schedule 3A or 3C to the Act;
  - (c) for departments, the amount of the expenditure or commitment can be met within the monetary limit of the department's budget and that the expenditure or commitment will not give rise to unauthorised, irregular, or fruitless and wasteful expenditure;
  - (d) for constitutional institutions and public entities listed in Schedule 3A or 3C to the Act, the amount of the expenditure or commitment can be met within the monetary limit of the institution's budget and that the expenditure or commitment will not give rise to irregular expenditure or fruitless and wasteful expenditure;

- (e) the purpose of the expenditure will contribute positively to the achievement of the relevant goals and objectives;
- (f) the expenditure represents best value for money for the institution; and
- (g) in the case of expenditure, that the amount to be paid is correct, paid to the correct beneficiary and that the goods or services have been delivered in accordance with the original approval.

#### **14.4 Warrant vouchers, cheques and electronic payments**

- 14.4.1 The accounting officer or accounting authority of an institution must assign authority in writing to employees to approve warrant vouchers, cheques or electronic payments.
- 14.4.2 Only employees with written authorisation may sign hand-drawn vouchers or cheques and must initial the counterfoils.
- 14.4.3 All payments in excess of a threshold prescribed by the National Treasury must be effected electronically.
- 14.4.4 All warrant vouchers and cheques must be crossed "NOT NEGOTIABLE" and "NOT TRANSFERABLE" between parallel lines and the cancellation of crossings is prohibited.
- 14.4.5 When an issued warrant voucher or cheque is lost, stolen or damaged, an instruction to stop payment must immediately be issued to the responsible bank. Once confirmation has been received from the bank that the warrant voucher or cheque has been stopped, the transaction must be reversed and a new warrant voucher or cheque must be issued and accounted for.
- 14.4.6 All cashed warrant vouchers of national departments that have not been captured on the respective financial systems will be returned as unpaid.

#### **14.5 Payments within the prescribed or agreed period**

- 14.5.1 The accounting officer or accounting authority of an institution must ensure that, unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within thirty (30) days from receipt of a valid and correct invoice or, in the case of civil claims, from the date of settlement or court judgement. Non-compliance with this Regulation constitutes financial misconduct.
- 14.5.2 Institutions must have in place systems (manual or electronic), processes and procedures that will enable the effective tracking of all invoices received and the subsequent tracing of progress with the processing of each invoice.
- 14.5.3 The system referred to in paragraph 14.5.2 must be able to provide information related to the date on which an invoice was

received, the date on which it was paid and the time period between the date of receipt and the date on which it was paid, if the invoice was indeed paid.

- 14.5.4 The accounting officer or accounting authority must ensure that their institution's conduct a monthly creditor analysis, including an age analysis, in respect of all the institution's creditor accounts.
- 14.5.5 The accounting officer or accounting authority of an institution must, each month, provide the relevant treasury with information on the number of invoices and the value thereof that have not been paid within the prescribed period of thirty (30) days from receipt together with reasons for not making the payments timeously. This information must include payments that were made late, i.e. after thirty (30) days from the date of receipt of an invoice as well as those invoices that have not been paid and where the time period has exceeded thirty (30) days.
- 14.5.6 The information required in paragraph 14.5.5 must be submitted to the relevant treasury within ten (10) days after the end of the preceding month in a format as prescribed by the National Treasury.
- 14.5.7 The accuracy of the information referred to in paragraph 14.5.5 must be confirmed by signature of the institution's accounting officer or accounting authority prior to its submission to the relevant treasury.
- 14.5.8 Institutions that have fully complied with the requirements of paragraph 14.5.1 of these Regulations must file a nil return with the relevant treasury, duly confirmed by the accounting officer or accounting authority of the institution.
- 14.5.9 If the accounting officer or accounting authority of the institution delegates the power to confirm the accuracy of information referred to in paragraph 14.5.5 to their respective institution's chief financial officer or to any other functionary, the accounting officer or accounting authority concerned is not divested of the responsibility concerning the exercising of the delegated power, as provided for in section 44 (2)(d) or 56 (2)(d) of Act.
- 14.5.10 Provincial treasuries must collate the information as submitted by institutions for submission to the National Treasury within 20 days after the end of the preceding month in a format as prescribed by the National Treasury.

## **14.6 Inter-departmental and inter-governmental transactions**

- 14.6.1 When an institution provides goods or services to another institution, to another province or to another level of government, such goods or services must be rendered at a price.
- 14.6.2 Claims for goods or services provided to another institution, province or level of government must be accompanied by complete supporting documentation.
- 14.6.3 The accounting officer or accounting authority of an institution must ensure that all inter-departmental or inter-governmental claims are settled within 30 days of receiving a claim.
- 14.6.4 Each month, the chief financial officer of the institution must report to the accounting officer or accounting authority, whichever applicable, on all inter-departmental and/or inter-governmental claims that are still outstanding after expiry of the 30 day period.

## **14.7 Petty cash**

- 14.7.1 Where a need exists in an institution to have cash available for the immediate payment of petty expenditure, the prior written approval of the accounting officer or accounting authority must be obtained for the establishment of a petty cash facility, including the maximum amount to be utilised for this purpose.
- 14.7.2 The following processes must be complied with:
- (a) the keeping of a petty cash register must be entrusted to an employee in writing;
  - (b) all payments and replenishments must be recorded in the petty cash register;
  - (c) supporting documents must be obtained for each payment;
  - (d) the petty cash register must be balanced weekly, checked by a delegated employee and verified with the actual cash on hand; and
  - (e) the amount required for the petty cash facility and the need for such facility must be reviewed annually.

## **14.8 Compensation of employees**

- 14.8.1 The accounting officer or accounting authority of an institution must ensure that its approved personnel establishment is captured on the relevant payroll administration system.
- 14.8.2 The employment of employees out of adjustment in departments must be properly authorised in terms of the Public Service Regulations or any other applicable requirements in the case of constitutional institution or public entities listed in Schedule 3A or 3C to the Act.

- 14.8.3 Activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments may not be performed by the same employee within the institution.
- 14.8.4 The accounting officer or accounting authority of an institution must ensure that the costs related to compensation of employees or personnel expenditure, whichever applicable, as well as promotions and costs related to salary increases can be met within the institution's approved budget.
- 14.8.5 Unless otherwise determined by the National Treasury, personnel of departments are divided into the following groups for the payment of salaries:
- (a) Group A: These include:
- (i) persons appointed permanently on the approved establishment and employed in terms of the Public Service Act, 1994 and other similar legislation; and
  - (ii) persons appointed on contract in terms of section 8 (1)(c) of the Public Service Act, 1994 and other similar legislation.
- (b) Group B: This group includes temporary and part-time employees and persons appointed on probation.

## **14.9 Certification of payroll reports**

- 14.9.1 The person in charge of a respective pay-point at a department or cost centre in the case of constitutional institution or public entity listed in Schedule 3A or 3C to the Act, must certify on the date of salary payment that all employees listed on their respective payroll reports are in the employ of the institution. Employees paid by cheque must sign the payroll report when collecting their cheques.
- 14.9.2 The certified payroll report must be returned to the chief financial officer within ten (10) days of being certified.
- 14.9.3 Unknown employees must be reported as such and referred to the human resources component for follow-up action and rectification.

## **14.10 Employee transfers between departments**

- 14.10.1 When an employee is transferred from one department to another, his or her new department must accept liability for:
- (a) payment of such an employee's salary and allowances:
- (i) from the first day of the salary month (irrespective of whether that day is a Saturday, Sunday or public holiday) following that on which he or she relinquished actual duty

in his or her old department for the purpose of proceeding on transfer ; or

- (ii) from the first day of the salary month (irrespective of whether that day is a Saturday, Sunday or public holiday) following that on which any period of leave authorised by his old department expires.

(b) the expenditure which may be met from institutional funds in connection with the transfer of the employee.

14.10.2 Where a person is transferred from one department to another during the course of a month, his or her old department must pay his or her salary and allowances up to the end of the particular month.

**14.11 Transfers and subsidies (excluding Division of Revenue grants and other allocations to municipalities)**

14.11.1 An accounting officer of a department must maintain appropriate measures to ensure that transfers and subsidies to entities are applied for their intended purposes. Such measures may include:

- (a) regular reporting procedures;
- (b) internal and external audit requirements and, where appropriate, submission of audited statements;
- (c) regular monitoring procedures;
- (d) scheduled or unscheduled inspection visits or reviews of performance; and
- (e) any other control measures deemed necessary.

14.11.2 An accounting officer of a department may withhold transfers and subsidies to an entity if he or she is satisfied that:

- (a) conditions attached to the transfer and subsidy have not been complied with;
- (b) financial assistance is no longer required;
- (c) the agreed objectives have not been attained; and
- (d) the transfer and subsidy does not provide value for money in relation to its purpose or objectives.

14.11.3 Paragraphs 14.11.1 and 14.11.2 do not apply to transfers and subsidies to other countries, international bodies, to other bodies in terms of economic and financial agreements and to levies and taxes imposed by other levels of government and which are classified as transfers and subsidies in the budgets of departments. Transfers and subsidies in respect of levies and taxes imposed by other levels and entities of government are governed by section 38 (1) (e) of the Act.

14.11.4 Transfers and subsidies to other countries, international bodies, other bodies in terms of economic and financial agreements and transfers and subsidies to other levels and entities of government

for purposes of paying levies and taxes imposed by legislation are exempt from the written assurance, as required by section 38 (1) (j) of the Act.

14.11.5 Departments may not request public entities to undertake departmental functions on its behalf nor shall departments request public entities to employ personnel on its behalf, the expenses for which are to be met by the public entity.

14.11.6 Departments may not transfer funds to an organ of state or to an entity outside government other than in terms of an appropriation by an Appropriation Act, unless otherwise approved by the relevant treasury in accordance with paragraph 10.6.1 (a) of these Regulations.

## **14.12 Division of Revenue grants**

14.12.1 Accounting officers of departments transferring funds to other spheres of government in terms of the annual Division of Revenue Act must comply with the provisions of that Act.

## **14.13 Other allocations to municipalities**

14.13.1 An accounting officer of a department transferring a grant from the relevant provincial revenue fund to a municipality in accordance with an assignment in terms of section 156(4) of the Constitution, 1996 (Act No. 108 of 1996) or a delegation in terms of section 238 of the Constitution, 1996 must comply with the relevant provisions of the annual Division of Revenue Act, the Local Government Municipal Finance Management Act (MFMA), 2003 (Act No. 56 of 2003), sections 9 and 10 of the Municipal Systems Act, 2000 (Act 32 of 2000) and any other relevant legislation.

## **14.14 Recovery, disallowance and adjustment of payments by departments**

14.14.1 Expenditure charged against a vote, which is recovered in the same financial year in which payment was made, shall on or before the closing of books of that financial year, be allocated to the main division that was originally debited.

14.14.2 Such amounts which are recovered after the closing of books of a financial year shall be paid to the relevant revenue fund, provided that such amounts have not been allocated to a clearing or suspense account during the financial year in which the payment was made.

## **14.15 Payments as an act of grace or favour**

- 14.15.1 Where no legislative authority exists, the accounting officer or accounting authority of an institution may approve, as an act of grace or favour, payments from the vote or from the budget of the institution, whichever applicable.
- 14.15.2 In the case of departments, where such payments from a vote will exceed R100 000 per case, parliament or provincial legislature approval must first be sought by including the item separately in the appropriation bill.
- 14.15.3 In the case of constitutional institutions or public entities listed in Schedule 3A or 3C to the ACT, where such payments from its budget will exceed R100 000 per case, prior written approval must be sought from the relevant treasury for payments as an act of grace or favour.
- 14.15.4 All payments made as an act of grace or favour during the financial year must be disclosed as a note to the annual financial statements of the institution.

## **14.16 Granting of gifts, donations and sponsorships**

- 14.16.1 The accounting officer or accounting authority of an institution may approve gifts, donations and sponsorships of institutional money and other movable property in the interest of the institution.
- 14.16.2 In the case of departments, where such cash amounts will exceed R100 000 per case, prior approval of Parliament or the relevant provincial legislature approval must first be sought by including the item separately in the appropriation bill.
- 14.16.3 In the case of constitutional institutions and public entities listed in Schedule 3A or 3C to the Act, where such payments from its budget will exceed R100 000 per case, prior written approval must be sought from the relevant treasury for cash payments related to gifts, donations and sponsorships.
- 14.16.4 The relevant treasury's approval must be obtained before institutions offer any gifts or donations of immovable property. The reasons for and the conditions under which the gifts or donation of immovable property is offered must be included in the submission to the relevant treasury.

**14.17 Charging of expenditure against a particular vote or main division of a vote in respect of departments**

14.17.1 Should a dispute arise over which vote or main division of a vote should be charged with any particular expenditure, the relevant treasury must settle the dispute and determine the vote or main division against which the expenditure must be charged.

**14.18 Unauthorised, irregular, fruitless and wasteful expenditure**

14.18.1 The accounting officer of a department must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure and must for this purpose implement effective, efficient and transparent processes of financial and risk management and internal control.

14.18.2 The accounting officer of a constitutional institution or the accounting authority of a public entity listed in Schedule 2 or 3 to the Act, must exercise all reasonable care to prevent and detect irregular expenditure and fruitless and wasteful expenditure and must for this purpose implement effective, efficient and transparent processes of financial and risk management and internal control.

14.18.3 When an employee of an institution discovers unauthorised expenditure (in the case of departments), irregular expenditure or fruitless and wasteful expenditure, that employee must immediately report such expenditure to the accounting officer or accounting authority. Such expenditure must:

- (a) in the case of a department, be included in the monthly report referred to in paragraph 11.1.3 of these Regulations; and
- (b) in the case of a public entity, in the quarterly report referred to in paragraph 11.3.1 of these Regulations.

14.18.4 When an accounting officer or accounting authority determines the appropriateness of disciplinary steps to be taken against an employee in terms of section 38(1)(h) or 51(1)(e) of the Act respectively, the accounting officer or accounting authority of the department, constitutional institution or public entity listed in Schedule 2 or 3 to the Act must take into account:

- (a) the circumstances of the transgression;
- (b) the extent of the expenditure involved; and
- (c) the nature and seriousness of the transgression.

14.18.5 The recovery of losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be dealt with in accordance with Chapter 8 of these Regulations.

14.18.6 The accounting officer or accounting authority of a department, constitutional institution or public entity listed in Schedule 2 or 3 to the Act must, in dealing with unauthorised expenditure (for

departments) and irregular expenditure, adhere to the following processes:

**(a) Unauthorised expenditure**

- (i) after an investigation has been concluded and the results verify that the expenditure constitutes unauthorised expenditure, the accounting officer of a department must immediately and in writing report the particulars of the unauthorised expenditure to the relevant treasury;
- (ii) based on the reports submitted by the relevant accounting officers, the Auditor-General's audit report and other sources of information, the relevant treasury must prepare a report detailing the various instances of unauthorised expenditure relating to all departments that incurred such expenditure;
- (iii) the report on unauthorised expenditure referred to in paragraph 14.18.6 (a) (ii) of these Regulations must be submitted to the relevant public accounts committee and advice must be provide on:
  - (aa) whether the unauthorised expenditure should be approved or declined; and
  - (bb) funding of the unauthorised expenditure, if approval is recommended by the relevant treasury.
- (iv) based on the relevant treasury's report submitted to the public accounts committee, the committee will recommend to Parliament or to the relevant provincial legislature whether or not the unauthorised expenditure should be approved. If the committee recommends approval of the unauthorised expenditure, it must also recommend whether the expenditure must be treated as an additional charge against the relevant revenue fund or a charge against the funds allocated for the next or future years under a relevant vote.
- (v) If Parliament or the relevant provincial legislature approves the unauthorised expenditure, the report must be provided to the Minister of Finance or to the Member of the Executive Council responsible for finance in a province, whichever applicable, for inclusion in the Finance Bill. Once the Finance Bill has been passed by Parliament or the relevant provincial legislature, the unauthorised expenditure is formally approved.
- (vi) If Parliament or the provincial legislature approves the amount of unauthorised expenditure but does not approve an additional amount for the overspending, then that amount shall become a charge against the funds allocated for the next or future financial years under the relevant vote.

**(b) Irregular expenditure**

- (i) after an investigation has been concluded and the results verify that the expenditure constitutes irregular expenditure, the accounting officer or accounting authority of a public entity listed in Schedule 2 or 3 to the Act must immediately and in writing report the particulars of the expenditure to the relevant treasury and to the relevant authority;
- (ii) The relevant authority referred to in (i) is the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation;
- (iii) as part of the submission referred to in paragraph 14.18.6 (b)(i) of these Regulations, the accounting officer or accounting authority of a public entity listed in Schedule 2 or 3 to the ACT may consider requesting the relevant authority to condone the non-compliance with the Act or any other legislation.
- (iv) although provision is made for condonation, submissions requesting condonation of irregular expenditure may only be submitted to the relevant authority, where good reason exists for condonation.
- (v) In instances where irregular expenditure is not considered relevant for condonation or where the relevant authority does not condone the irregular expenditure, immediate steps must be taken to recover the irregular expenditure from the responsible employee, if he or she is liable in law.

**(c) Fruitless and wasteful expenditure**

- (i) Fruitless and wasteful expenditure must be dealt with in accordance with paragraph 8.7 of these Regulations.

14.18.7 The accounting officer or accounting authority of a public entity listed in Schedule 2 or 3 to the ACT must, where applicable, maintain unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure registers in a format as prescribed periodically by the relevant treasury.

## Banking and cash management

### 15.1 Banking arrangements

- 15.1.1 The accounting officer of a department may not open any bank account without the prior written approval of the relevant treasury with the exception of those accounts provided for in paragraph 15.1.2 of these Regulations, which must be opened in the names of the respective national departments.
- 15.1.2 In terms of section 7(2)(a) of the Act, national departments may open the following bank accounts without the approval of the National Treasury:
- (a) Deposit Accounts;
  - (b) Petty Cash Accounts;
  - (c) Interest and Bank Charges Accounts required for the accounts referred to in paragraph 15.1.2 (a) and (b) of these Regulations.
- 15.1.3 The Deposit Account referred to in paragraph 15.1.2 (a) of these Regulations may only operate under the following conditions:
- (a) under no circumstances may cheques be issued from this account;
  - (b) no cheque, debit orders, electronic or any other withdrawal of funds from this account may be effected except for unpaid deposits and the daily transfer of funds to the South African Reserve Bank.
- 15.1.4 Interest on the Interest and Bank Charges Accounts must be calculated on the wholesale call rate and all interest earned must be credited to the Interest Account and, without exception, be paid monthly to the South African Revenue Services.
- 15.1.5 Under no circumstances may Interest Accounts (for votes) be offset against the Bank Charges Account.
- 15.1.6 Petty cash withdrawals at the clearing bank branch level must be administered as follows:
- (a) no cheque books may be issued on any imprest deposit account against which withdrawals are to be made;
  - (b) no overdraft facilities may be granted on this account; and
  - (c) no telephonic/telegraphic or telefax withdrawals shall be allowed against this account.

- 15.1.7 The relevant treasury will on a regular basis negotiate with the approved clearing banks for appropriate banking services for departments.
- 15.1.8 When the accounting authority of a public entity listed in Schedule 3 to the Act, intends to open a new bank account, the National Treasury must approve the bank.
- 15.1.9 If the National Treasury has not proposed a bank, a public entity listed in Schedule 3 to the Act must, when following a bidding process, taking the following into account:
- (a) that the bank is registered with the South African Registrar of Banks;
  - (b) that the bank must be a member or sponsored by a member of the Payments Association of South Africa;
  - (c) the cost effectiveness; and
  - (d) the ability of the bank to provide the required services through adequate systems, infrastructure and branch networks.
- 15.1.10 The adjudication and awarding of a bid by a public entity listed in Schedule 3 to the Act, must be done in accordance with Chapter 22 these Regulations and the Preferential Procurement Regulations, 2011.
- 15.1.11 Only the accounting authority of a public entity or the person to whom such authorisation has been delegated may open a bank account for the public entity.
- 15.1.12 The accounting authority of a provincial public entity may participate in the process referred to in paragraph 15.1.7 of these Regulations for an appropriate banking service.

## **15.2 Reporting on bank accounts**

- 15.2.1 The accounting authority of a public entity listed in Schedule 3 to the Act must, by 31 May of each year, submit to the National Treasury a list of all banking accounts of the public entity.
- 15.2.2 The accounting officer of a department or constitutional institution must, by 31 May of each year, provide the relevant treasury with a list of all the bank accounts held by the department or constitutional institution.
- 15.2.3 The list of bank accounts referred to in paragraphs 15.2.1 and 15.2.2 of these Regulations must include the following information per bank account:
- (a) the name of the banking institution where the account is held;
  - (b) the date on which the account was opened;
  - (c) the type of account;
  - (d) the account number;
  - (e) the purpose for which the account is held;

(f) the date on which the relevant treasury approved the opening of the bank account, with the exception of accounts related to deposit, petty cash, interest and bank charges referred to in paragraph 15.1.2 of these Regulations.

15.2.4 Departments with unauthorised bank accounts must close these accounts immediately and must refrain from depositing unspent funds and/or money received into any account other than the approved deposit account and ultimately into the relevant revenue fund.

### **15.3 Bank reconciliations**

15.3.1 The accounting officer or accounting authority of an institution must ensure that their respective institutions perform daily bank reconciliation to detect any unauthorised transactions.

15.3.2 All unauthorised transactions and any long outstanding amounts must be followed up and cleared.

15.3.3 The chief financial officer or a duly authorised person must review and approve (by signing) all bank reconciliations for the month.

15.3.4 Departments must, by the end of the month following the specific month closure, submit the bank reconciliation generated by the financial system to the relevant treasury together with the relevant bank statements and trial balance.

### **15.4 Cash management**

15.4.1 The accounting officer or accounting authority of an institution is responsible for establishing measures to ensure efficient and effective cash management.

15.4.2 The measures referred to in paragraph 15.4.1 must include, but is not limited to:

- (a) collecting revenue when it is due and banking it promptly;
- (b) making payments, including transfers and subsidies to other levels of government and non-government entities, no earlier than necessary, with due regard for efficient, effective and economical programme delivery and the governments normal terms for account payments;
- (c) prohibiting pre-payments for goods and services, i.e. refraining from making payments in advance of the receipt of goods or services, unless such pre-payment is provided for in terms of the contractual arrangements with the supplier in accordance with norms and standards as may be set by the relevant treasury;
- (d) accepting discounts to effect early payment only when the payment has been included in the monthly cash flow estimates provided to the relevant treasury;

- (e) pursuing debtors with appropriate sensitivity and rigour to ensure that amounts receivable are collected and banked promptly;
- (f) accurately forecasting the institution's cash flow requirements to ensure that the relevant treasury can optimise its central cash management responsibilities;
- (g) timing the in and out flow of cash;
- (h) recognising the time value of money, i.e. economically, efficiently and effectively managing cash;
- (i) taking any other action that avoids locking up money unnecessarily and inefficiently, such as managing inventories to the minimum level necessary for efficient and effective programme delivery, and selling surplus or underutilised assets;
- (j) the segregation of duties to minimise the incidence of fraud;
- (k) In the case of public entities:
  - (i) alignment of the approved budget with monthly cash flows;
  - (ii) making regular cash forecasts;
  - (iii) conducting variance analyses of actual cash flow with the approved budget; and
  - (iv) sweeping bank accounts to effectively utilise surplus cash.

## **15.5 Investment policy [Sections 7(4) and 53(3) of the PFMA]**

- 15.5.1 A public entity listed in Schedule 2 or 3 to the Act with funds under management must have an investment policy approved by the accounting authority.
- 15.5.2 The investment policy referred to in paragraph 15.5.1 must include –
- (a) selection of counter-parties through credit risk analyses;
  - (b) establishment of investment limits per institution;
  - (c) establishment of investment limits per investment instrument;
  - (d) monitoring of investments against limits;
  - (e) reassessment of investment policies on a regular basis;
  - (f) reassessment of counter-party credit risk based on credit ratings; and
  - (g) assessment of investment instruments based on liquidity requirements.
- 15.5.3 Unless exempted by the National Treasury, public entities listed in Schedule 3A or 3C to the Act must invest surplus funds with the Corporation for Public Deposits.
- 15.5.4 For purposes of paragraph 15.5.3 of these Regulations, surplus funds refer to all money in excess of a given day's projected cash flow

requirements plus a liquidity buffer needed to cover unforeseen expenditure on that day.

- 15.5.5 Public entities exempted by the National Treasury in terms of paragraph 15.5.3 of these Regulations must invest surplus funds in an institution with an investment grade rating and in line with an investment policy.

## Asset and liability management

### 16.1 Loans, guarantees, leases and other commitments

16.1.1 A public entity contemplated in section 66(5) of the Act may borrow money during a financial year for bridging purposes subject to the following conditions:

- (a) the debt must be repaid within 30 days of the end of the financial year;
- (b) borrowing may not exceed a limit determined in advance by the Minister of Finance, in consultation with the national executive authority or provincial MEC for finance, whichever appropriate;
- (c) foreign borrowing may not be undertaken;
- (d) a request for approval of the borrowing for bridging purposes must be submitted to the Minister of Finance at least 30 days before the borrowing, together with:
  - (i) detailed cash flow and income and expenditure statements indicating how the debt will be repaid during the thirty (30) day period; and
  - (ii) the terms and conditions on which the money is borrowed.

16.1.2 This regulation does not preclude:

- (a) the use of credit cards, fleet management cards or other credit facility repayable within 30 days of the date of statement; or
- (b) the entering into lease transactions, subject to regulation 16.7

### 16.2 Corporate credit cards

16.2.1 A department may implement a corporate credit card scheme with a registered financial institution in terms of the Banks Act, provided that such appointment is made after following the procurement processes, as prescribed in Part 7 of the Regulations.

16.2.2 Only the executive authority and the accounting officer of a department may apply for a corporate credit card referred to in paragraph 16.2.1 of these Regulations.

- 16.2.3 The credit cards referred to in paragraph 16.2.1 of these Regulations may only be utilised for expenses related to official transport, accommodation and subsistence.
- 16.2.4 All applications under the corporate credit card scheme must have the express authorisation of the accounting officer of the department prior to issuance of the card, which may only be issued in the individual's name.
- 16.2.5 Payments towards credit cards must be settled in full within thirty (30) days from receipt of a credit card statement.
- 16.2.6 The National Treasury may issue Treasury Instructions to further inform the use of corporate credit cards.

### **16.3 Loans, guarantees, leases and other commitments**

- 16.3.1 The accounting officer or accounting authority of an institution must ensure that no employee in the institution or any other person borrows money on behalf of that institution or issues an unauthorised guarantee, security or indemnity or enters into any other transaction<sup>1</sup> that binds or which may bind that institution or the relevant revenue fund to any future financial commitment. The accounting officer or accounting authority must ensure that appropriate misconduct or criminal proceedings are instituted against any person responsible for transgressions relating to borrowings, guarantees, securities or indemnities.
- 16.3.2 Should the accounting officer or accounting authority of an institution be responsible for transgressions relating to borrowings, guarantees, securities or indemnities or any other such transaction, the relevant treasury must, as soon as it becomes aware of the transgression, initiate appropriate misconduct or criminal proceedings against the accounting officer or accounting authority.
- 16.3.3 The accounting officer or accounting authority must report on all known contingent liabilities of the institution in its annual report.
- 16.3.4 This Regulation does not preclude lease transactions referred to in Regulation 16.7 of these Regulations or the use of credit cards, fleet management cards or other credit facilities repayable within 30 days from the date of statement.

### **16.4 Guarantees for housing loans**

- 16.4.1 The issuing of housing loan guarantees by departments must be administered in accordance with the Finance and Financial

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<sup>1</sup> The context in which the words "any other transaction" appear in Chapter 8 of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) indicates that they were never intended to refer to the broad spectrum of state transactions that have financial implications but were included to cover variations of borrowing, guarantee, indemnity and security transactions, i.e. transactions which are not borrowing, guarantee, indemnity or security related but which are of a similar nature.

Adjustments Acts Consolidation Act, 1977 (Act II of 1977) and the Procedure Manual: *Guarantee Scheme for Housing loans for Officials and Employees in the Public Sector* issued periodically by the National Treasury.

16.4.2 Departments must ensure that full records are maintained for all housing guarantees issued.

16.4.3 Departments must ensure that employees in receipt of housing loan guarantees liaise with the relevant financial institutions to conduct regular evaluations of their respective properties with a view to releasing the institution's obligations from these guarantees. Such property valuations must be conducted at least once in a calendar year.

## **16.5 Guarantees to secure financing for the purchase of motor vehicles**

16.5.1 The Department of Public Service and Administration (DPSA) prescribes the limit for which senior managers in departments may structure a motor allowance as part of their total remuneration package.

16.5.2 Should the DPSA determine that in the instance where an employee is unsuccessful in securing a loan for the purchase of a vehicle, the employee may request his or her department to apply to the relevant treasury to issue him or her with a state guarantee for the purchase of a vehicle.

16.5.3 Departments must forward applications for such guarantees to the relevant treasury for consideration by the Minister or Member of the Executive Council responsible for finance in the province.

16.5.4 Departments must ensure that full records are maintained for all motor vehicle guarantees issued.

16.5.5 The maximum amount of guarantees that may be awarded to senior managers on the various salary levels must be prescribed by the National Treasury.

## **16.6 Performance or construction guarantees**

16.6.1 The accounting officer or accounting authority of an institution must ensure that performance or construction guarantees are only accepted from:

- (a) a banking institution registered in terms of the Banks Act, 1965 (Act 23 of 1965); or
- (b) an insurer registered in terms of the Insurance Act, 1943 (Act 27 of 1943)

16.6.2 Any performance or construction guarantee must be referred to the legal services component within the institution prior to

acceptance to ensure that the contents of such guarantees are legally sound.

## **16.7 Lease transactions**

16.7.1 For the purpose of this Regulation, a lease is an agreement whereby the lessor conveys to the lessee in return for a payment or a series of payments the right to use an asset for an agreed period of time.

16.7.2 A lease is classified as a finance lease if it transfers substantially all the risks and rewards incidentals to ownership of an asset. Title may or may not eventually be transferred.

16.7.3 An operating lease is a lease other than a finance lease.

16.7.4 The accounting officer or accounting authority of an institution may, for the purpose of conducting the institution's business, enter into operating lease transactions without any limitations.

16.7.5 The accounting officer or accounting authority of an institution may enter into finance lease transactions without the approval of the relevant treasury provided that:

- (a) the finance lease is found to be more economical than an operating lease;
- (b) the period of the finance lease does not exceed 36 months or 60 months in respect of motor vehicles; and
- (c) the finance lease is for the acquisition of goods that is required for the day to day operational requirements of the institution, for which funds have been provided in the institution's approved budget.

16.7.6 In instances where the lease period mentioned in paragraph 16.7.5 (b) exceeds the period stipulated therein, the institution must obtain written approval from the relevant treasury prior to entering into such a lease.

16.7.7 Where found to be more economical than an operating lease, the National Department of Public Works (for national departments), the department responsible for works in a province, or any other relevant authority (in the case of constitutional institutions and public entities listed in Schedules 3A or 3C to the Act), may enter into finance lease transactions on behalf of the relevant institutions for the acquisition of land and buildings for operational purposes.

16.7.8 The entering into finance lease transactions referred to in paragraph 16.7.7 is subject to:

- (a) expenses relating to the acquisition having been provided for in the approved budget of the institution; and

(b) prior written approval has been obtained from the relevant treasury for the acquisition.

16.7.9 The accounting officer or accounting authority of an institution must maintain finance and operating lease registers in a format as prescribed by the relevant treasury.

## Accounting and related matters

### 17.1 Accounting framework

17.1.1 The accounting officer or accounting authority of an institution must implement measures to ensure:

- (a) that all the transactions of the institution are supported by authentic and verifiable source documents; and
- (b) the correct application of the standard chart of accounts or allocation/classification codes, whichever applicable, when revenue, expenditure, assets and liabilities are recorded.

17.1.2 The accounting officer of a department must ensure that the financial treatment and disclosure of revenue, expenditure, assets and liabilities is performed in accordance with the requirements of the Departmental Financial Reporting Framework and the Basic Accounting Handbook for Departments, issued periodically by the National Treasury.

17.1.3 The accounting authority of a public entity listed in Schedules 3A or 3C to the Act must ensure that the financial treatment and disclosure of revenue, expenditure, assets and liabilities is performed in accordance with the prescribed Generally Recognised Accounting Practice (GRAP) Standards and any directives that may be issued by the Accounting Standards Board in this regard.

17.1.4 The accounting authority of a public entity listed in Schedule 2, 3B or 3D to the Act must ensure that the financial treatment and disclosure of revenue, expenditure, assets and liabilities is performed in accordance with the prescribed International Financial Reporting Standards (IFRS).

### 17.2 Clearing and suspense accounts

17.2.1 Should it be necessary, in exceptional cases, to account for revenue and expenditure transactions in a clearing or suspense account due to the classification not been resolved, the accounting officer or accounting authority of an institution must ensure that:

- (a) the sources of the transactions are readily identifiable;
- (b) accounts included in clearing or suspense accounts are cleared and correctly allocated to the relevant cost centres on a monthly basis;

- (c) monthly reconciliations are performed to confirm the balance of each account; and
- (d) monthly reports are provided to the accounting officer or accounting authority of an institution about un-cleared items;

### 17.3 Availability of financial information

17.3.1 The accounting officer or accounting authority of an institution must, subject to the provisions of the relevant national or provincial legislation, retain all financial information in its original form, as follows:

- (a) Information relating to one financial year – for one year after the audit report for the financial year in question has been tabled in Parliament or the relevant provincial legislature; or
- (b) Information relating to more than one financial year – for one year after the date of the audit report for the last of the financial years to which the information relates.

17.3.2 After expiry of the above-mentioned retention periods, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and ensures that the information can be reproduced, if necessary, as permissible evidence in a court of law.

17.3.3 Irrespective of paragraph 17.3.1 of these Regulations, the following standards apply to the retention of certain types of record:

Type of record	Years after which records can be disposed of
General ledger and cash books or similar records	15
Main transaction summary records, including general journals and transaction summaries: Internal audit reports System appraisals	10
Primary evidentiary records, including copies of forms issued for value, vouchers to support payments made, pay sheets, returned warrant vouchers or cheques, invoices and similar records associated with the receipt or payment of money.  Subsidiary ledgers, including inventory cards and records relating to assets no longer held or liabilities that have been discharged.	5
Supplementary accounting records, including, for example, cash register strips, bank statements and time sheets.	5
General and incidental source documents not included above, including stock issue and receivable notes, copies of official orders (other than copies for substantiating payments or for unperformed contracts), bank deposit books and post registers.	5

17.3.4 When financial information is required as evidence in proceedings before a court, Parliament, provincial legislature, an official inquiry or otherwise, or for purposes of an audit, it must be secured in its then current form until no longer required, even if the National Archivist has authorised its disposal.

**17.4 Changes to financial systems**

17.4.1 Departments may not amend existing or institute new computerised systems that will affect financial administration without the prior written approval of the National Treasury.

## Reporting

### 18.1 Monthly certificate and other returns

18.1.1 The accounting officer of a department must, on a monthly basis and prior to closure of the accounting month, provide the relevant treasury with a certificate confirming that for that month:

- (a) all transactions processed were supported by authentic and verifiable source documents;
- (b) all deposits and receipts have been recorded in the general ledger of the department and reconciled;
- (c) all Electronic Fund Transfers (EFT's) and/or bank credits have been recorded in the General Ledger of the department and the EFT control account has been reconciled;
- (d) departmental processes are aligned to ensure timeously month-end closure;
- (e) the Bank Adjustment/Exception Account has been reconciled;
- (f) all bank reconciliations have been performed and reconciling items have been cleared;
- (g) all interfaces in relation to the financial system for the month have taken place and have been reconciled;
- (h) all electronic logistical system integration transactions in relation to the financial system have taken place and failed transactions resubmitted;
- (i) all system's reconciliations, including those for the reporting month, were compiled, verified and signed off by the chief financial officer;
- (j) all journals have been recorded and duly authorised on the department's financial system;
- (k) all staff debts have been recorded and reconciled;
- (l) all claims received have been acknowledged within 15 working days after receipt of claims;
- (m) all payments due to creditors have been settled within 30 days from receipt of an invoice, or in the case of civil claims, from the date of settlement or court judgement;
- (n) supporting documents (authentic and verifiable) for disallowance/control and suspense accounts are readily available to enable the department to follow-up and clear balances within a reasonable period of time;
- (o) monthly reconciliation of all control or suspense accounts is performed to confirm the balance of each account;
- (p) amounts included in control or suspense accounts have been cleared and correctly allocated to the relevant cost centres or debt accounts on a monthly basis; and

(q) the chief financial officer has provided the accounting officer with a report on all un-cleared items in control or suspense accounts.

18.1.2 In addition to the requirements in paragraph 18.1.1, the accounting officers of departments must also certify that:

- (a) all departmental revenue for the month has been paid timeously into the relevant revenue fund;
- (b) all inter-departmental balances and debts have been recorded, reconciled and paid within the prescribed or agreed period;
- (c) all reporting requirements of the Annual Division of Revenue Act have been adhered to;
- (d) the department's approved budget or the adjusted budget has been captured on the financial system in accordance with the Standard Chart of Accounts per programme and sub-programme and is regularly reconciled;
- (e) all unauthorised, irregular and fruitless and wasteful expenditure identified have been recorded and reported to the relevant treasury;
- (f) all unauthorised, irregular and fruitless and wasteful expenditure identified have been updated in the respective registers;
- (g) lease agreement registers have been implemented and updated up to the current month;
- (h) all leases have been classified as either finance or operating leases;
- (i) expenditure resulting from finance leases were classified as capital expenditure; and
- (j) interest paid on finance leases were separated from the capital portion and have been classified as current expenditure;
- (k) information in relation to effecting payments within 30 days, as required in terms of paragraph 14.5 of these Regulations, have been submitted.

18.1.3 Accounting officers of departments must ensure that the closure of accounting months on the financial system and the closure of Paymasters-General Accounts are performed in accordance with dates prescribed by the National Treasury.

18.1.4 The National Treasury will annually and prior to the commencement of a financial year prescribe the format of the certificate referred to in paragraph 18.1.1 together with a schedule of dates referred to in paragraph 18.1.3.

18.1.5 The certificate referred to in paragraph 18.1.1 must be completed and signed monthly by the chief financial officer and the accounting officer prior to its submission to the relevant treasury.

## **18.2 Planning for preparation of financial statements**

- 18.2.1 The accounting officer or accounting authority of a department, constitution institution or public entity listed in Schedule 2 or 3 to the Act, must ensure that a proper planning process is initiated for the preparation and finalisation of interim and annual financial statements.
- 18.2.2 The planning process referred to in paragraph 18.2.1 must at least include the following activities:
- (a) annual asset and inventory count, including activities for updating and reconciling the asset register;
  - (b) identification and collection of information on commitments and accruals;
  - (c) preparation of comparative information, including opening balances;
  - (d) year-end reconciliations on control and suspense accounts;
  - (e) process for identifying related parties and related partly transactions requiring disclosure;
  - (f) process for identifying events after reporting dates requiring disclosure or adjustments to the financial statements;
  - (g) compilation of working papers and audit file;
  - (h) review by management (including internal audit) of the draft financial statements; and
  - (i) process for correcting errors identified during management review and audit;
  - (j) analysis and response to the management letter issued by the Auditor-General or the relevant auditors.

## **18.3 Interim financial statements**

- 18.3.1 The accounting officer of a department must prepare interim financial statements for that department on a modified cash basis of accounting in accordance with the formats prescribed by the National Treasury.
- 18.3.2 The interim financial statements referred to in paragraph 18.3.1 must be submitted to the relevant treasury in accordance with dates prescribed by the relevant treasury.
- 18.3.3 When submitting the interim financial statements, the accounting officer of a department must confirm that the interim financial statements:
- (a) have been prepared in accordance with the modified cash basis of accounting and in accordance with the formats as prescribed by the National Treasury;
  - (b) are complete and accurate; and
  - (c) are free from material misstatements, including omissions; and
  - (d) include accounting estimates that are reasonable in the circumstances.

## **18.4 Quarterly reporting on commitments and accruals**

- 18.4.1 The accounting officer of a department must, on a quarterly basis, submit a report to the relevant treasury containing information on commitments and accruals to the relevant treasury.
- 18.4.2 The report referred to in paragraph 18.4.1 must be submitted to the relevant treasury by the 15<sup>th</sup> of the month following the end of the quarter, duly approved by the chief financial officer and the accounting officer.

## **18.5 Annual financial statements**

- 18.5.1 The annual financial statements of a department must be prepared on a modified cash basis of accounting in accordance with the formats prescribed periodically by the National Treasury in the Departmental Financial Reporting Framework.
- 18.5.2 The annual financial statements within the annual report of a department, must comprise of the following reports and statements in ascending order:
- (a) report of the audit committees;
  - (b) report of the accounting officer;
  - (c) report of the auditor-general;
  - (d) appropriation statement;
  - (e) notes to the appropriation statement;
  - (f) statement of financial performance;
  - (g) statement of financial position;
  - (h) statement of changes in net assets;
  - (i) cash flow statement;
  - (j) notes to the financial statements, including accounting policies and disclosure notes;
  - (k) unaudited supplementary annexures; and
  - (l) such other statements as may be determined by the National Treasury.
- 18.5.3 A department may only deviate from the requirements set out in the Departmental Financial Reporting Framework with the prior written approval of the National Treasury.
- 18.5.4 The annual financial statements of a constitutional institution, trading entity and public entities listed in Schedules 3A or 3C to the Act must conform to the Standards of Generally Recognised Accounting Practice (GRAP). Should these statements depart materially from the Standards of GRAP, the financial statements must provide a disclosure of the departure, the particulars thereof, the reasons therefore and the financial effect of such a departure on the financial statements.
- 18.5.5 The accounting authority of a public entity listed in Schedules 2, 3B or 3D to the Act must prepare annual financial statements in accordance with International Financial Reporting Standards

(IFRS). Should the statements materially depart from IFRS, the financial statements must provide disclosure of the departure, the particulars thereof, the reasons therefore and the effect of such departure on the financial statements.

18.5.6 The annual financial statements of public entities listed in Schedules 2 and 3 to the Act must include a report by the accounting authority which must include the disclosure of remuneration in respect of:

- (a) all members of the accounting authority;
- (b) the chief executive officer or the person in charge of the public entity;
- (c) the chief financial officer;
- (d) persons serving on the public entity's senior management; and
- (e) members or persons in (a) to (d) above serving in other entities under the ownership control of the public entity.

18.5.7 Senior management referred to in paragraph 18.5.6 (b) of these Regulations refers to the level of management that is directly accountable to the chief executive officer or the other person in charge of the public entity.

18.5.8 Remuneration paid or receivable by the members or persons in paragraph 18.5.6 (a) to (e) shall be disclosed in aggregate and per member or person for the last financial period.

18.5.9 Disclosures in terms of paragraphs 18.5.6 and 18.5.7 is required whether such payment is receivable in the capacity as indicated in paragraph 18.5.6 (a) to (d) or in any other capacity.

18.5.10 The disclosure requirements in paragraphs 18.5.6 and 18.5.7 must include:

- (b) fees for services as a member or person in paragraph 18.5.6 (a) to (d);
- (c) basic salary;
- (d) bonuses and performance related payments;
- (e) sums paid by way of expense, salary or other allowances;
- (f) contributions made to any pension fund, medical aid, insurance scheme, etc.;
- (g) any commission, gain or profit sharing arrangement;
- (h) any share options, including their strike price and period; and
- (i) any other material benefits received.

18.5.11 Public entities listed in Schedules 3A or 3C to the Act may, after consultation with the designated accounting officer, submit their annual financial statements and any other information required in terms of the Act to the designated accounting officer for inclusion in the relevant department's annual report.

## **Electronic financial, logistical, human resource management and payroll systems**

### **19.1 Effective and efficient utilisation of electronic systems**

19.1.1 The accounting officer or accounting authority of an institution must ensure that institutional instructions and standard operating procedures are developed, implemented and maintained for the effective and efficient utilisation of electronic systems within the institution.

19.1.2 The institutional instructions and standard operating procedures referred to in paragraph 19.1.1 must, amongst others, provide for, the following:

- (a) setting up of new users;
- (b) amendments due to transfer or relocation of employees and termination of service;
- (c) identification of inactive user accounts;
- (d) regular verification of validity of access;
- (e) access control to the systems;
- (f) responsibilities of individual users;
- (g) investigation of suspicious transactions; and
- (h) co-ordination of formal training of system users.

### **19.2 Access control**

19.2.1 The accounting officer or accounting authority of an institution must ensure that appropriate access controls are in place to minimise the risks of confidentiality breaches, unauthorised access and changes to data (integrity) or loss of continuity of business (availability). These access controls must include, amongst others, the following:

- (a) standardised application forms for registration, modification and deregistration of system users that provide for adequate details of the users, supervisor or manager, type of access and required approvals;
- (b) processes for the safeguarding of the duly completed and approved application forms for inspection and audit purposes;
- (c) segregation of duties;

- (d) standardisation of user identities to salary/employee numbers, except in instances where the system programmatically generates identities and for interface purposes;
- (e) utilisation of the maximum password length provided for by the relevant system;
- (f) restriction of the password expiry date to a maximum of 30 days; and
- (g) implementation of additional access controls, as prescribed periodically by the relevant treasury.

### **19.3 Institutional system controller**

19.3.1 The accounting officer or accounting authority of an institution must, in writing, appoint an institutional system controller or administrator whose responsibilities must include the following:

- (a) ensuring compliance with institutional instructions and standard operating procedures;
- (b) orientation of system users;
- (c) identifying training needs and the roll-out of appropriate training or interventions;
- (d) evaluating and recommending system enhancements;
- (e) monitoring effective utilisation of the system at institutional level;
- (f) issuing of system notices, circulars and emphasising issues that require attention;
- (g) compilation and maintenance of standard operating procedures;
- (h) liaison with the relevant treasury, where applicable; and render an institutional user support (helpdesk) function; and
- (i) in the case of a department:
  - (i) inform the relevant treasury timeously, in the prescribed manner, to deactivate dormant users, users who have been promoted or rotated within the department and who do not perform the relevant functions anymore and users who have left the service of the department; and
  - (ii) inform administrators of in-house systems timeously of any amendments to segment details that can impact on the interface to the financial system.

## **19.4 Training of system users**

- 19.4.1 The accounting officer or accounting authority of an institution must ensure that new and current system users are subject to formal training in at least the system profile allocated to users to ensure the correct and optimal utilisation of the system.

## **19.5 Specific system requirements**

- 19.5.1 The accounting officer of a department must ensure that the following specific requirements for the various electronic systems are adhered to:

### **(a) Logistical system**

- (i) all goods or services are procured and accounted for on the relevant electronic logistical system, whether transversal or in-house, utilised by the institution;
- (ii) only the current years' projected expenditure in respect of a long term contract is committed in the current financial year;
- (iii) the relevant system utilised provides for, in addition to an invoice date, for an invoice receipt date, which must be captured on the system;
- (iv) input forms as prescribed by relevant treasury is utilised;
- (v) mandatory fields as prescribed are populated;
- (vi) available functionalities are optimally utilised for the sole purpose it was intended for;
- (vii) all captured transactions must be authorised on the same day, and if not possible, no later than the next working day;
- (viii) all authorised transactions are updated and any rejected transactions are addressed on a daily basis;
- (ix) the logistical system is regularly updated with discrepancies after stock counts and approved disposals of any assets;
- (x) the validity of commitments must be assessed on a monthly basis, and if required, removed;
- (xi) monthly reconciliations between the financial and logistical system are performed and verified;
- (xii) system generated reports and/or requested reports in relation to exceptions be addressed immediately;
- (xiii) compliance with the prescribed procedure in relation to internal and external transfers of inventories and assets;
- (xiv) in the event that the logistical system provides for an asset register, and an external solution is utilised for the management of assets, the asset register of the logistical system must be updated and reconciled with the external solution on a regular basis; and
- (xv) if the logistical system has not been implemented in a component of the department or there is no interface between the financial and logistical systems, the creditor cycle functionality of the financial system must be utilised to commit and account for procurement transactions.

**(b) Financial system**

- (i) the system controller within the relevant treasury must be informed timeously and in writing of any segment detail amendments which may impact on the financial system, to enable capturing of the approved budget before the financial year commences on 1 April of each year;
- (ii) the requirement in paragraph (i) is also applicable to adjustments to the approved budget which must be captured on the financial system within 10 days after promulgation of the Adjustments Appropriation Act;
- (iii) the budget captured on the financial system must be reconciled on a regular basis and must be equal to the approved budget throughout the financial year;
- (iv) the system controller within the relevant treasury must be informed timeously and in writing to deactivate any segment detail against which no budgeted amounts has been allocated, to limit the possibility of erroneous allocations;
- (v) available functionalities on the financial system must be utilised optimally and for the sole purpose that it was intended for;
- (vi) the closure of accounting months on the financial system must be executed in accordance with the dates as prescribed by the National Treasury and all applicable accounts must be cleared;
- (vii) the relevant treasury's system controller must be notified timeously and in writing of any amendments to departmental system parameters;
- (viii) input forms as prescribe by the relevant treasury must be utilised;
- (ix) all interfaces must be monitored and reconciled on a daily basis;
- (x) all payments for goods and services must be made via the logistical system, whether transversal or in-house, utilised by the department; and
- (xi) all transactions captured on the financial system must be authorised on the same day and if not possible, no later than the next working day.

**(c) Human resource management and payroll system**

- (i) the approved establishment must be captured and maintained on the relevant resource management and/or payroll system;
- (ii) all interfaces for a month must take place and reconciled before closure of the accounting month;
- (iii) all mandatory fields as prescribed from time to time must be populated;

- (iv) all declaration of business interest must be recorded;
- (v) all authorisations to perform work outside public service must be recorded;
- (vi) pay point control must be managed effectively by ensuring that all paymasters linked to a pay point is still in service and that no dormant pay points exist on the payroll system;
- (vii) all transactions on system generated exception reports as well as exception reports relating to programmatically actions must be addressed immediately;
- (viii) system validation warning must be addressed immediately;
- (ix) authorised transactions must be updated on a regular basis and any rejected transactions on the suspense file must be addressed timeously;
- (x) all captured transactions must be authorised on the same day and if not possible, at least before the next pay run;
- (xi) all payroll codes must be linked to the correct accounting segment detail codes and approved before the first salary processing run for a financial year and maintained throughout the year;
- (xii) any salary related payments made on the financial system must be updated on the human resource management and/or payroll system;
- (xiii) monthly reconciliations between the financial and payroll systems must be done and verified;
- (xiv) banking transactional limits must be monitored on a continuous basis and adjusted as required; and
- (xv) the functionalities available on the human resource and/or payroll system must be utilised optimally and for the sole purpose it was intended for.

## **PART 7**

# **SUPPLY CHAIN MANAGEMENT**

# 20

## Supply chain management system and other related matters

### 20.1 Definitions

In this Regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the same meaning; and –

“**asset**” means a resource that is controlled by an institution as a result of past events and from which future economic benefits or service potential are expected to flow to the institution;

“**bid**” means a written offer in a prescribed or stipulated form in response to an invitation by an institution for the provision of goods or services, through formal written price quotations, advertised competitive bidding processes or proposals;

“**bidder**” means any natural or legal person submitting a bid;

“**bid rigging**” Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise or lower prices or lower the quality of goods or services for purchasers who wish to acquire goods or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete;

“**business interest**” means –

- (a) a right or entitlement to share in profits, revenue or assets of an entity;
- (b) a real or personal right in property;
- (c) a right to remuneration or any other private gain or benefit, and
- (d) includes any interest contemplated in paragraph (a) to (c) acquired through an intermediary and any potential interest in terms of any of those paragraphs.

“**competitive bid**” means a bid in terms of a bidding process which provides for appropriate levels of competition to ensure cost-effective and best value outcomes;

“**contract**” means a formal written agreement which results from the acceptance of a bid;

**“contractor”** means any natural or legal person whose bid has been accepted;

**“contract management”** means maintaining control or influence over the contractual arrangement between the institution and the contractor or service provider including administering and regulating such agreement;

**“contract price”** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations;

**“delegate”** means a person assigned by the accounting officer or accounting authority to perform specific powers or duties as contemplated in terms of section 44 or 56 of the Act;

**“employee”** means a person employed by the national and provincial government or a public entity or a constitutional institution whether permanently or temporarily, including –

- (a) an employee as contemplated in section 8 of the Public Service Act, 1994 (Proclamation 103 of 1994);
- (b) a person appointed in terms of section 12A of the Public Service Act;
- (c) a person transferred or seconded to the national or provincial government or a provincial public entity in terms of section 15 of the Public Service Act; and
- (d) an educator as defined in the Employment of Educators Act, 1998 (Act 76 of 1998), and includes a member of the board or other controlling body of a public entity;

**“delivery”** means delivery in compliance with the conditions of the contract or order;

**“emergency”** means a situation where immediate action is necessary in order to avoid a dangerous or perilous condition or risky situation or misery or defect provided that the situation was unforeseen;

**“family member”** means a person's-

- (a) spouse; or
- (b) child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption;

**“final award”** in relation to bids submitted for a contract, means the final decision on which a bid is accepted;

**“fraudulent act”** means a misrepresentation of facts in order to influence an outcome;

**“fronting”** in the context of preferential procurement means a misrepresentation or the making of a misrepresentation in order to obtain undue preference points;

**“functionality”** means the measurement according to pre-determined norms, as set out in the bid documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, amongst other factors, the quality, reliability, viability and durability of a service or commodity and the technical capacity and ability of a bidder;

**“goods or services:”** “Goods” means “corporeal movable things, fixed property and any real right in any such thing or fixed property”. “Services” means “anything done or to be done, including the granting, assignment, cession or surrender of any right and the making available of any facility or advantage”;

**“institution”** means a national or provincial department, constitutional institution or public entity listed in Schedule 1, 3A and 3C to the Act;

**“intermediary”** means a person through whom an interest is acquired, and includes-

- (a) a person to whom is granted or from whom is received a general power of attorney; and
- (b) a representative or agent;

**“logistics”** is part of supply chain management that plans, implements, and controls the efficient, effective forward and reverse flow and storage of goods or services and related information between the point of origin and the point of consumption in order to meet customers' requirements;

**“movable assets”** means assets that are tangible in nature and mobile. All inventories and valuables and most non-current assets belong to this category;

**“multiple source bidding”** means a form of bidding where the market has been tested through a detailed market analysis, and there are only a few prospective service providers that are able to submit a proposal;

**“other applicable legislation”** means any other legislation applicable to or that may have an impact on the institution's supply chain management system;

**“single source bidding”** means a form of bidding where a pre-selection process, following a detailed market analysis, identified only one amongst a few prospective service providers to be requested to submit a final proposal;

**“sole source bidding”** means a form of bidding where there is no competition and only one service provider exist, following a detailed market analysis, to submit a proposal;

**“specific term contract”** means a contract entered into for the supply of goods or the rendering of services during a specified period of time for the specific repetitive requirements of only one institution.

**“spouse”** means a person's –

- (a) partner in marriage;
- (b) partner in a customary union according to indigenous law; and
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership;

**“standards”** means measurements which are established by authority, custom or general acceptance as a model;

**“standard operating procedures”** (SOPs) means a method of functioning that has been established over time in order to execute a specific task or react to a specific set of circumstances or situation or process. They document the normal or accepted methodology and help form the basis for conformance evaluation;

**“State”** means 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), municipality or municipal entity; provincial legislature; national assembly or the national council of provinces; or Parliament.

**“supply chain management”** means the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods or services, with the objective of creating net value and providing oversight and co-ordination of information and finances within the supply chain;

**“the Act”** means the Public Finance Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999);

**“transversal term contract”** means a contract facilitated by the relevant treasury for goods or services that are required by more than one institution to derive benefits from economies of scale;

**“Treasury Regulations”** means Treasury Regulations published in terms of the Act; and

**“Unsolicited bid”** means any bid received by an institution outside its normal bidding process;

**20.2 Accounting officer or accounting authority supply chain management system**

20.2.1 The accounting officer or accounting authority of an institution to which these Treasury Regulations apply must develop, document, maintain and implement an effective and efficient supply chain management system.

20.2.2 The supply chain management system referred to in paragraph 20.2.1 must be consistent with:

- (a) the Constitution of the Republic of South Africa, 1996;
- (b) the regulatory framework for financial management referred to in PART 2 of these Treasury Regulations;
- (c) the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000);
- (d) the Broad Based Black Economic Empowerment Act, 2003 (Act 53 of 2003);
- (e) the State Information Technology Act, 1998 (Act 88 of 1998);
- (f) the Construction Industry Development Board Act, 2000 (Act 38 of 2000);
- (g) the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004);
- (h) the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000);
- (i) the Promotion of Access to Information Act, 2000 (Act 2 of 2000);  
and
- (j) any other applicable legislation.

20.2.3 The supply chain management system referred to in paragraph 20.2.1 must provide for at least the following:

- (a) institutionalisation;
- (b) demand management;
- (c) acquisition management;
- (d) contract management;
- (e) logistics management;
- (f) asset management;
- (g) disposal management;
- (h) reporting of supply chain management information;
- (i) regular assessment of supply chain management performance;  
and
- (j) delivery and maintenance of infrastructure.

20.2.4 The accounting officer or accounting authority for an institution must ensure that internal procedures, risk management processes and internal control measures are in place to ensure compliance with the established supply chain management system.

## **20.3 CORE PRINCIPLES FOR AN APPROPRIATE SUPPLY CHAIN MANAGEMENT SYSTEM**

20.3.1 The accounting officer or accounting authority must ensure that the supply chain management system gives effect to the core principles of behaviour as envisaged by the Five Pillars of Procurement which are:

### **(a) Fairness (ethics and fair dealing)**

- (i) comply with ethical standards;
- (ii) recognise and deal with conflicts of interest or the potential therefor;
- (iii) deal with suppliers even – handed;
- (iv) do not compromise the standing of the state through acceptance of gifts or hospitality;
- (v) be scrupulous in the use of public property; and
- (vi) provide assistance in the elimination of fraud and corruption.

### **(b) Equity**

- (i) advance the development of small, medium and micro enterprises;
- (ii) empower black people including women, workers, youth, people with disabilities and people living in rural areas;
- (iii) support the creation of work opportunities;
- (iv) promote local enterprises; and
- (v) support local products.

### **(c) Transparency (accountability and reporting)**

- (i) individuals and institutions are answerable for their actions and outcomes; and
- (ii) openness and transparency in administration by external scrutiny through public reporting.

### **(d) Competiveness (open and effective competition)**

- (i) a framework of procurement legislation, policies, practices and procedures that is transparent;
- (ii) openness in procurement processes;
- (iii) encouragement of effective competition through procurement methods suited to market circumstances;
- (iv) observance of the provisions of the Preferential Procurement Policy Framework Act;
- (v) potential suppliers have reasonable access to procurement opportunities;
- (vi) where market circumstances limit competition – institutions recognise it and use procurement methods that take account of it;

- (vii) adequate and timely information is provided to suppliers to enable them to bid;
- (viii) bias and favouritism are eliminated;
- (ix) the cost of bidding for opportunities do not deter competent suppliers; and
- (x) costs incurred in promoting competition are at least commensurate with the benefits received.

**(e) Cost effectiveness (value for money)**

- (i) Avoid any unnecessary costs and delays for the institution or suppliers;
- (ii) monitor supply arrangements on an on-going basis and reconsider if existing arrangements cease to provide the expected benefits; and
- (iii) ensure continuous improvement in the effectiveness and efficiency of internal processes and systems.

**20.4 Establishment of supply chain management units**

20.4.1 The accounting officer or accounting authority must establish a separate supply chain management unit within the office of that institution's chief financial officer, unless determined otherwise by the relevant treasury.

20.4.2 The primary responsibilities of the supply chain management unit include the following:

- (a) implementation of the approved accounting officer's or accounting authority's supply chain management system;
- (b) on-going maintenance of the supply chain management system to improve the effectiveness and efficiency of the system;
- (c) regular reporting to the accounting officer or accounting authority on the performance of the supply chain management system;
- (d) enforcement of the regulatory framework for supply chain management within the institution;
- (e) render assistance and administrative support to the line function managers and other employees in the performance of their supply chain management responsibilities; and
- (f) capacity building and training of employees involved in supply chain management processes.

**20.5 Establishment of supply chain management bid committees**

20.5.1 The accounting officer's or accounting authority's supply chain management system must provide for a committee system for competitive bids consisting of at least:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and

(c) a bid adjudication committee.

20.5.2 The appointment of bid committee members must be communicated in writing by the accounting officer or accounting authority specifying the member's roles and responsibilities as well as the period of appointment.

20.5.3 In order to meet their obligations, committee members must be familiar with and adhere to all relevant SCM legislation, regulations and instructions.

20.5.4 The proceedings of committees must be recorded mechanically to enable the preparation of verbatim reports when required by a court of law. Recordings must be kept in a safe, conducive environment for a period of no less than five years after the lapse or cancellation of the contract or in terms of the Archive Act.

20.5.6 The accounting officer or accounting authority may apply the committee system for formal written price quotations.

## **20.6 Bid specification committee**

20.6.1 A bid specification committee must compile the specifications for each competitive bid invited by the institution for the procurement of goods and services.

20.6.2 Specifications –

- (a) must be drafted in an unbiased manner to allow all potential providers 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, 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 form of specifications, plans, drawings, designs, testing and test methods, packaging and marking or labelling of conformity certification;
- (e) may not make any particular reference to 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"; and
- (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 system of the institution.

20.6.3 The bid specification committee must also –

- (a) Compile bid documents;
- (b) Request proposals (if applicable);
- (c) Draw up terms of reference;
- (d) Draw up evaluation criteria; and
- (e) Include special conditions (if applicable).

20.6.4 Specifications together with all documents cited in paragraph 20.6.3 must be approved by the accounting officer or accounting authority, whichever applicable, or a delegated employee on recommendation by the bid adjudication committee, prior to the publication of the invitation for bids.

20.6.5 A bid specification committee must consist of at least three employees of the institution, including the manager responsible for the function involved and a supply chain management practitioner of the institution . If deemed appropriate, the bid specification committee may include external specialist advisors.

## **20.7 Bid evaluation committee**

20.7.1 The bid evaluation committee must evaluate each competitive bid in accordance with the criteria stipulated in the bid documentation, the points system as set out in the supply chain management system of the institution and as prescribed in terms of the PPPFA by -

- (a) verifying supplier detail;
- (b) taking cognizance of the bidders' declarations of interests;
- (c) scrutinising bids for completeness and technical correctness;
- (d) verifying claims in terms of preference points and status;
- (e) compliance with conditions of the bid (legitimacy tests);
- (f) compliance with specification;
- (g) consideration of latent and other factors that might have an influence on the award of the bid;
- (h) comparison of prices and allocation of preference points for the price and socio-economic objectives;
- (i) awarding points in terms of the evaluation criteria and preference claims;
- (j) calculating points awarded; and
- (k) evaluate each bidder's ability to execute the contract.

20.7.2 The committee must submit to the adjudication committee a report and recommendations with regard to the awarding of the bid or any other related matter; and re-evaluation of bids in cases where bid recommendations have been referred back to the bid evaluation committee by the bid adjudication committee.

20.7.3 The committee may, before bids are considered for acceptance or before a formal contract is concluded, examine and take into account the following, although not limited thereto:

- (i) the financial standing of Bidders;
- (ii) the Bidder's good standing with the South African Revenue Service;
- (iii) bidder's financial capability to deal with possible legal action from the institution in respect of non-compliance with a specific bid if so being awarded to them;
- (iv) bidder's ability to manufacture, and/or supply goods or to render a service;
- (v) bidders capacity to deliver on the contract taking into account current workload and resources; and
- (vi) that all bids duly lodged were taken into consideration by the committee.

20.7.4 A bid evaluation committee must as far as possible be composed of –

- (a) employees from the institution requiring the goods and services;
- (b) at least one supply chain management practitioner of the institution having experience in the evaluation of bids; and
- (c) with the chairperson being a senior employee who has supply chain management experience in the evaluation of bids.

## **20.8 Bid adjudication committee**

20.8.1 A bid adjudication committee must –

- (a) consider the report and recommendations of the bid evaluation committee; and either
  - (i) make a recommendation to the accounting officer, accounting authority or to a delegated employee to make the final award; or
  - (ii) make an alternate recommendation with the necessary rationale to the accounting officer or accounting authority on how to proceed with the procurement process.

20.8.2 The bid adjudication committee must ensure that –

- (a) all necessary bid documents are available for scrutiny;
- (b) disqualifications are justified and that valid and accountable reasons/motivations were furnished for passing over of bids;
- (c) scoring has been fair, consistent and correctly calculated and applied; and
- (d) bidders' declarations of interests have been taken cognisance of.

20.8.3 The bid adjudication committee must also consider and rule on all recommendations/reports regarding the amendment, variation, extension, cancellation or transfer of contracts awarded.

20.8.4 The bid adjudication committee must consider the recommendations of the bid specifications committee in order to ensure that–

- (a) proper and unbiased specifications was compiled for specific requirements;
  - (b) proper terms of reference were drawn up for the service required, clearly indicating the scope of the requirement, the ratio between price and functionality, the evaluation criteria, as well as weights and values;
  - (c) strategic sourcing principles were applied and that the market was properly researched and analysed;
  - (d) the necessary funds are available;
  - (e) the special conditions of contract are specified; if and when applicable, and
  - (f) the preference point system prescribed is consistent with the requirements of the Preferential Procurement Regulations.
- 20.8.5 Neither a member of the bid specification committee nor a member of the bid evaluation committee, nor an adviser or person assisting the bid specification/evaluation committee may be a member of the bid adjudication committee.
- 20.8.6 If a bid other than the one recommended by the bid evaluation committee is recommended by the bid adjudication committee-
- (a) the accounting officer or accounting authority, whichever applicable, or the delegated official must be notified;
  - (b) the accounting officer or accounting authority, whichever applicable, or the delegated official may after consideration of the reasons for the deviation, ratify or reject the recommendation of the bid adjudication committee;
  - (c) and if such a recommendation is approved by the accounting officer, accounting authority or the delegated official, the Auditor- General, the relevant provincial treasury and the National Treasury must be notified of the reasons for deviating from such a recommendation.
- 20.8.7 The bid adjudication committee must also consider and rule on all recommendations / reports regarding the amendment variation, extension, cancellation or transfer of contracts awarded.
- 20.8.8 A bid adjudication committee must consist of at least four senior managers of the institution which must include –
- (a) The Chairperson: were possible should be the chief financial officer;
  - (b) The Vice Chairperson: should be at least on a director level.
  - (c) Other Members –
    - (i) bid Adjudication members should be composed of cross-functional teams, comprising senior employees of whom at least one must be a supply chain practitioner;
    - (ii) where considered necessary, additional employees may be co-opted on account of their specialised knowledge.

## **20.9 Compliance with ethical standards and codes of conduct**

20.9.1 All employees involved in the supply chain management system of the institution must comply with the highest ethical standards 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.

20.9.2 A supply chain management employee and other employees involved in the supply chain process must:

- (a) recognise and disclose any conflict of interest that may arise;
- (b) treat all suppliers and potential suppliers equitably;
- (c) may not use their position for private gain or to improperly benefit another person;
- (d) ensure that they do not compromise the credibility or integrity of the supply chain management system by not accepting any gifts, favour, hospitality or any other similar acts; and
- (e) assist accounting officers or accounting authorities in combating corruption and fraud in the supply chain management system.

20.9.3 If a supply chain management employee or other employee involved in the supply chain, or any close family member, partner or associate of such employee, has any private or business interest in any contract to be awarded, that employee or other role player must –

- (a) disclose that interest; and
- (b) withdraw from participating in any manner whatsoever in the process relating to that contract.

20.9.4 An official in the supply chain management unit who becomes aware of a breach of or failure to comply with any aspect of the supply chain management system must immediately report the breach or failure to the accounting officer or accounting authority, in writing.

20.9.5 Employees or bid committee members involved in an institutions supply chain management system must sign and adhere to the Code of Ethics, Code of Conduct and other relevant codes issued periodically by the National Treasury and those that may be issued by provincial treasuries.

## **20.10 Avoiding abuse of the supply chain management system**

20.10.1 The accounting officer or accounting authority must –

- (a) take all reasonable steps to prevent abuse of the supply chain management system;

- (b) ensure that no person may interfere with the supply chain management system of the institution or is able to amend or tamper with any bid or contract;
- (c) investigate any allegations against an official or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified –
  - (i) take steps against such official or other role player and inform the relevant treasury of such steps; and
  - (ii) report any conduct that may constitute a criminal offence to the South African Police Service;
- (d) reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract; or
- (e) cancel a contract awarded to a supplier for goods or services –
  - (i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
  - (ii) if any employee or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract.

20.10.2 The accounting officer or accounting authority –

- (a) may disregard the bid of any bidder if that bidder, or any of its directors-
  - (i) have abused the institution's supply chain management system;
  - (ii) have committed fraud or any other improper conduct in relation to such system; or
  - (iii) have failed to perform on any previous contract; and
- (b) must inform the relevant treasury of any action taken in terms of paragraph (a) above and the reasons therefore.

20.10.3 An accounting officer or accounting authority must:

- (a) ensure that when bids are considered, all reasonable steps are taken to deter any form of bid rigging or collusive bidding; and
- (b) adhere to any instructions issued by the National Treasury regarding preventative measures to counter bid rigging or collusive bidding.

- 20.10.4 The National Treasury and each provincial treasury must establish a mechanism:-
- (a) to receive and consider complaints regarding alleged non-compliance with the prescribed minimum norms and standards; and
  - (b) to make recommendations for remedial actions to be taken if non-compliance of any norms and standards is established, including recommendations of criminal steps to be taken in the case of corruption, fraud or other criminal offences.

**20.11 Awards to persons in the service of the state**

- 20.11.1 Accounting officers or accounting authorities must ensure that bids are invited with a specific condition that potential bidders are compelled to declare and disclose whether or not any of its directors, trustees or members are in the employ of the state.
- 20.11.2 Accounting officers or accounting authorities are required to verify the identity numbers of the directors, trustees or members of the preferred bidder(s) against the institution's staff establishment in order to determine whether or not any of the directors, trustees or members is in the employ of the institution.
- 20.11.3 The verification referred to in sub paragraph 20.10.4(b) above must take place during the bid evaluation process. If a bidder, director, trustee or member is found to be in the employ of the institution awarding the bid and has failed to make such a declaration in the bid documents, the relevant bid must be disqualified and the accounting officer or accounting authority must take the necessary disciplinary steps against the official or employee concerned.
- 20.11.4 If a bidder, director, trustee or member declares that he or she is an employee of the state and furnishes, where applicable, proof that appropriate authority exists for him or her to undertake remunerative work outside his or her employment in the public service, such a bid must be evaluated in accordance with the normal procurement process, including determining the possible existence of any conflict of interest.
- 20.11.5 If it comes to light before or after the award of a bid that a director, trustee or member of the contractor (successful bidder) is in the employ of the state and has failed to declare such, the accounting officer or accounting authority must apply the available remedies contained in, but not limited to, the prescripts of the Public Service

Act and its Regulations,, the Preferential Procurement Regulations 2011 and the General Conditions of Contract.

**20.12 Monthly report on procurement transactions**

20.12.1 The head of the supply chain management unit of an institution must within 15 working days after the end of each month submit a report via, the chief financial officer, to the accounting officer or accounting authority containing information on procurement transactions during that month.

20.12.2 The report referred to in paragraph 20.12.1 must contain the following;

- (a) required information on procurement transactions for each form of procurement as specified in paragraph 22.2 of these Regulations;
- (b) compliance to norms and standards prescribed for the various forms of procurement;
- (c) any patterns observed that could be construed as irregular in the responses received from the issuance, management or handling of requests for quotations via the list of prospective suppliers;
- (d) any problems experienced with the invitation of price quotations through the list of prospective suppliers;
- (e) any problems experienced with the implementation of the accounting officer's or accounting authority's supply chain management system; and
- (f) any other information as prescribed by the relevant treasury.

20.12.3 A copy of the report referred to in paragraph 20.12.1 must also be submitted to the relevant treasury within 5 working days after submission to the accounting officer or accounting authority.

20.12.4 The relevant treasury must prescribe the format of the report referred to in paragraph 20.12.1.

## Demand management

### 21.1 System of demand management

- 21.1.1 The accounting officer or accounting authority must ensure that the supply chain management system of the institution provides for an effective and efficient system of demand management.
- 21.1.2 The demand management system must ensure that the goods or services required to support the strategic and operational commitments of the institution are delivered at the right price, to the correct location and that the quality and quantity satisfies the needs of the institution.

### 21.2 Strategic planning

- 21.2.1 The accounting officer or accounting authority of the institution must develop and implement a supply chain strategy for his or her supply chain management unit.
- 21.2.2 The strategy referred to in paragraph 21.2.1 must be reviewed on an annual basis.
- 21.2.3 The supply chain management strategy must at least deal with the following matters:
- (a) supply chain management vision of the institution;
  - (b) supply chain management goals and objectives linked to the institution's strategic objectives;
  - (c) commodity and market analysis in relation to the core functions of the institution;
  - (d) identified strategic and scarce commodities and procurement options;
  - (e) strategic partners;
  - (f) stakeholders involved in the supply chain cycle;
  - (g) identified cost drivers;
  - (h) risk analysis and mitigation measures; and
  - (i) goods or services to be procured over a 5 year period.

### 21.3 Operational planning

- 21.3.1 The accounting officer or accounting authority must develop and implement an annual operational plan for his or her supply chain management unit.

- 21.3.2 The annual operational plan referred to in paragraph 21.3.1 must be consistent with the supply chain strategy referred to in paragraph 21.2.1.
- 21.3.3 The annual operational plan must at least contain the following information:
- (a) goods or services to be procured;
  - (b) method of procurement;
  - (c) timelines to execute the procurement action;
  - (d) estimated value (including all applicable taxes);
  - (e) confirmation that funds are available; and
  - (f) responsible office or regional office.
- 21.3.4 The supply chain management unit of an institution must compile a bid register for each procurement requirement identified in the annual operational plan to monitor the procurement or acquisition process.
- 21.3.5 The accounting officer of a department must submit a procurement schedule containing all planned procurement for the financial year in respect of goods or services which exceed R500 000 (all applicable taxes included) to the relevant treasury within the prescribed timeframes and format for monitoring purposes.
- 21.3.6 Accounting authorities of public entities must submit the procurement schedule referred to in paragraph 21.3.5 to the relevant treasury through their parent departments within the same timeline.

## Acquisition management

### 22.1 System of acquisition management

22.1.1 The accounting officer or accounting authority must ensure that the supply chain management system of the institution provides for an effective and efficient system of acquisition management in order to ensure that:

- (a) goods or services are procured in accordance with authorised processes;
- (b) the threshold values for the different range of procurement processes as determined by the National Treasury are complied with;
- (c) bid documentation and general conditions of a contract, are in accordance with all applicable legislation; and
- (d) expenditure on goods or services are provided for in the approved budget of the institution.

### 22.2 Range of procurement processes

22.2.1 The accounting officer or accounting authority must apply the following when procuring goods or services, hiring or letting anything, acquiring or granting any right or disposing of movable state property:

#### (a) Petty Cash Purchases

- (i) The accounting officer or accounting authority may procure requirements without inviting competitive bids or price quotations by means of petty cash; and
- (ii) Accounting officer or accounting authorities must establish their own internal instructions and standard operating procedures to arrange procurement of goods or services by means of petty cash.

#### (b) Written or Verbal Quotations

- (i) The accounting officer or accounting authority may procure requirements by obtaining at least three (3) verbal or written quotations from, where applicable, a list of prospective suppliers. The order must, however, be placed

against written confirmation from the selected supplier if the quotation was submitted verbally; and

- (ii) If it is not possible to obtain at least three (3) quotations, the reasons must be recorded for audit purposes.

**(c) Formal Written Price Quotations**

- (i) The accounting officer or accounting authority must invite and accept formal written price quotations for requirements from as many suppliers as possible that are registered on the list of prospective suppliers;
- (ii) Where no suitable suppliers are available from the list of prospective suppliers, written price quotations may be obtained from other possible suppliers; and
- (iii) If it is not possible to obtain at least three (3) written price quotations, the reasons must be recorded for audit purposes.

**(d) Competitive Bids**

- (i) The accounting officer or accounting authority must invite competitive bids for all procurement above a transaction value as determined by the National Treasury from time to time; and
- (ii) Competitive bids must be advertised in at least the Government Tender Bulletin and in other appropriate media should an accounting officer or accounting authority deem it necessary to ensure greater exposure to potential bidders. The responsibility for advertisement costs will be that of the relevant accounting officer or accounting authority.

**(e) Limited bidding**

- (i) An accounting officer or accounting authority may procure goods or services by means of a limited bidding process if:
  - (aa) a business case was developed that clearly indicates that a limited bidding process is the appropriate form of procurement. The business case must, amongst others, reflect a market and expenditure analysis of the relevant goods or services (commodity), whether the commodity is available from a sole, single or multiple source as well as how it was determined;
  - (bb) an open invitation process was initiated which resulted in an approved list of service providers or only one service provider who could provide the goods or services. In such

- case proposals should be invited from the approved list of service providers or the single service provider if applicable;
- (cc) a competitive bidding process was initiated, but the bids received were all non-responsive or unaffordable and time is of the essence. In such cases re-invitation of bids can be limited to those service providers who initially submitted proposals; and
  - (dd) goods or services are designed or manufactured by the supplier or the supplier is the owner of the intellectual property. Written confirmation of such design, manufacturing or ownership of intellectual property must be obtained from the supplier and retained on the relevant bid file.
- (ii) when procuring goods or services through a limited bidding process, an accounting officer or accounting authority must ensure that, where relevant:
- (aa) the prescribed bidding documents have been completed;
  - (bb) the preferred bidders tax matters are in order;
  - (cc) the bid is evaluated in terms of the preference point system;
  - (dd) the required demand management process has been complied with;
  - (ee) all goods or services procured through a limited bidding process be recommended through the bid adjudication process prior to a final award being made by the accounting officer or accounting authority;
  - (ff) all limited bids over the value of R1 million (all applicable taxes included) must be reported to the relevant treasury and the Auditor General within 10 working days;
  - (gg) all limited bids over the value of R5 million (all applicable taxes included) be executed in consultation with the relevant treasury prior to the award being made by an institution; and
  - (hh) reasons for the decision are documented and readily available to give effect to the Promotion of Administrative Justice Act, 2000(Act 3 of 2000).

**(f) Emergency procurement**

- (i) The accounting officer or accounting authority of an institution may in cases of emergency dispense with the invitation of competitive bids if impractical and may obtain goods or services by means of quotations.
- (ii) The accounting officer's or accounting authority's supply chain management system must provide for a policy in relation to the management and treatment of emergency procurement. The policy must at least provide for the following:
  - (aa) the different categories of emergency procurement;

- (bb) an outline of the institution's planning efforts to limit or improve responsiveness during an emergency;
  - (cc) an indication of the pre-requisites to consider when awarding and administering contracts during emergencies;
  - (dd) options available to an institution during emergencies, including the procurement solutions of preference;
  - (ee) post execution assessment of the relevant emergency;
  - (ff) ex-post facto submission to the bid adjudication committee for ratification; and
  - (gg) processes to be followed in respect of the recording and approval of emergency procurement by the accounting officer or accounting authority.
- (iii) The accounting officer or accounting authority should preferably make use of the list of prospective suppliers to obtain quotations.
- (iv) Accounting officers or accounting authorities must within 10 working days after the finalisation of the procurement transaction report to the relevant treasury and the Auditor General all cases where goods or services above the value of R1 million (all applicable taxes included) were procured in terms of Treasury Regulation 22.2.1 (f).

**(g) Unsolicited bids**

- (i) The accounting officer or accounting authority of an institution is not obliged to consider an unsolicited proposal but may consider such a proposal only if the bid includes at least the following information:
- (aa) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement of the bidder;
  - (bb) an offer in writing clearly setting out the proposed cost of the goods or services; and
  - (cc) a value proposition which demonstrates a clear measurable, foreseeable efficiency gain for the institution.
- (ii) The accounting officer or accounting authority of an institution must reject the unsolicited proposal if the proposal:
- (aa) relates to known institutional requirements that can, within reasonable and practical limits, be acquired through conventional competitive bidding methods;
  - (bb) relates to goods or services which are generally available;
  - (cc) does not fall within the institutions powers and functions; and
  - (dd) does not comply with paragraph 22.1(g)(i) of these Treasury Regulations.

- (iii) The accounting officer or accounting authority of an institution must upon receipt of an unsolicited proposal in writing notify the relevant treasury within ten working days of such receipt.
- (iv) When procuring goods or services as a result of an unsolicited bid an accounting officer or accounting authority must ensure that:
  - (aa) the prescribed bidding documents have been completed; and
  - (bb) a recommendation is made through the bid adjudication process prior to a final award being made by the accounting officer or accounting authority.
- (v) The authority to approve a final award as a result of an unsolicited bid may not be delegated by the accounting officer or accounting authority.

**(h) Transversal term contracts**

- (i) The National Treasury and each provincial treasury must facilitate the arrangement of transversal term contracts for goods or services that have been identified by the relevant treasury for procurement through transversal term contracts.
- (ii) Accounting officers or accounting authorities are, unless authorized otherwise in writing by the relevant treasury, compelled to participate in any transversal term contract facilitated by the relevant treasury, if they have a need for any goods or services provided for in such a transversal term contract.
- (iii) The relevant treasury must furnish a list of such transversal term contracts to be arranged for the ensuing period to institutions in order to determine whether a need exists for any of the goods or services provided for in such contracts.
- (iv) If an institution participates in a transversal term contract that has been or will be facilitated by the relevant treasury, the accounting officer or accounting authority must not solicit bids for the same or similar goods or services during the tenure of the transversal term contract.
- (v) After a transversal term contract has been awarded by the relevant treasury, accounting officers or accounting authorities must ensure that, where appropriate, service level agreements are entered into by his or her institution. The provisions in the service level agreements must be consistent with the terms and conditions of the contract awarded by the relevant treasury.

**(i) Contracts procured by other organs of state**

- (a) The accounting officer or accounting authority of an institution may procure goods or services under a contract secured by another organ of state only if:
  - (aa) the contract secured by that other organ of state is supported by a business case, analysing the commodity, the market and the appropriate sourcing method;
  - (bb) the institution has no reason to believe that such contract was not validly procured;
  - (cc) the other organ of state and relevant service provider have consented to such procurement in writing;
  - (dd) the institution procures under the same terms and conditions as provided for in the original contract or more beneficial terms or conditions; and
  - (ee) a separate service level agreement is concluded for this purpose which clearly stipulates the duration of the contract with particular emphasis on the start and end date.

22.2.2 Goods or services may not deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through the prescribed procurement process. 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.

22.2.3 Accounting officers or accounting authorities of an institution may lower, but not increase, the various threshold values referred in paragraph 22.1.1 (b) of these Regulations.

**22.3 List of prospective suppliers per commodity and type of service**

22.3.1 The accounting officer or accounting authority of an institution must compile a list of prospective suppliers, per commodity and type of service to be used for the procurement requirements in terms of paragraphs 22.2.1 (b) and (c) of these Regulations.

22.3.2 The list of prospective suppliers referred to in paragraph 22.3.1 of these Regulations must be compiled in accordance with the minimum criteria for registration of supplier as prescribed periodically by the National Treasury by means of Treasury Instructions.

22.3.3 The accounting officer or accounting authority of an institution must at least once a year, through local representative newspapers or by any other means, invite prospective suppliers to apply for evaluation and listing as prospective suppliers. The list must be updated at least

quarterly in order to accommodate any additional suppliers and any new commodity or types of services, especially newly established black owned and empowered businesses and other newly established BEE suppliers.

22.3.4 The accounting officer or accounting authority of an institution must disallow the listing of any prospective supplier whose name appears on the National Treasury's Register for Tender Defaulters or Database of Restricted Suppliers as a supplier or person prohibited from doing business with the public sector.

22.3.5 Once the list has been compiled per commodity and type of service, price quotations should be invited from the list. The invitation of price quotations from the compiled list of prospective suppliers per commodity or service should be done on a rotation basis in such a manner that on-going competition amongst suppliers is promoted. The principles to be approved for the rotation of suppliers must be prescribed by the National Treasury by way of a Treasury Instruction.

22.3.6 Prospective suppliers must be allowed to submit applications for listing at any time.

22.3.7 Provincial Treasuries may facilitate a central database of suppliers to be utilised by provincial institutions for obtaining bids or quotations.

## **22.4 Tax clearance requirements**

22.4.1 The accounting officer or accounting authority of an institution may not make an award, above a threshold value as determined from time to time by the National Treasury, to a person whose tax matters have not been declared to be in order by the South African Revenue Services.

22.4.2 If an accounting officer or accounting authority of an institution is in possession of a supplier's original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a bid is submitted from that specific supplier. This provision may be applied only if at the time of award of the bid the tax clearance certificate that is in the accounting officer's or accounting authority's possession is still valid. Whenever this ruling is applied, cross-reference must be made to the original tax certificate for audit purposes.

22.4.3 The National Treasury must, in consultation with the South African Revenue Service, issue Treasury Instructions relating to the obtaining of tax clearance certificates and any other matter related thereto.

22.4.4 The tax clearance requirement is not applicable on foreign companies who operate solely outside the borders of the Republic of South Africa.

**22.5 Declaration of interest**

22.5.1 The accounting officer or accounting authority must ensure that –

(a) all bidders complete and submit the declaration of interest standard bidding document as part of their bid (including written price quotations, competitive bids and proposals) documentation; and

(b) all service providers that apply to be registered on the list of prospective suppliers referred to in paragraph 22.3 of these Treasury Regulations must complete and submit the declaration of interest standard bidding document as part of their application.

**22.6 General requirements for procurement of goods or services**

22.6.1 The accounting officer or accounting authority must ensure that –

(a) bid documentation and the general conditions of a contract are in accordance with the instructions of the National Treasury;

(b) bid documentation include evaluation and adjudication criteria, including the criteria prescribed in terms of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

(c) bids are advertised in at least the Government Tender Bulletin for a minimum period of 21 days before closure, except in urgent cases when bids may be advertised for such shorter period as the accounting officer or accounting authority may determine;

(d) awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised;

(e) Chapter 29 of this Treasury Regulation is complied with when goods or services are procured through public private partnerships or as part of a public private partnership;

(f) Bids are not invited with any specific conditions that promote any form of discrimination; and

(g) Bids are not invited with any specific conditions that use cost estimates of goods and services to disqualify potential bidders.

**22.7 National Industrial Participation Programme (NIPP)**

22.7.1 An accounting officer or accounting authority must ensure that the requirements of the NIPP are adhered to for all contracts in excess of the value as determined by the Department of Trade and Industry.

**22.8 Late bids**

22.8.1 Bids received late must not be taken into consideration and, where practical, should be returned unopened to the bidder accompanied by an explanation.

**22.9 Register for Tender Defaulters and Database of Restricted Suppliers**

22.9.1 In terms of paragraph 13 of the Preferential Procurement Regulations, 2011, issued in terms of the Preferential Procurement Policy Framework Act (PPPFA), 2000 (Act No. 5 of 2000), the accounting officer or accounting authority of an institution must ensure that defaulting suppliers are listed on the National Treasury's Database of Restricted Suppliers in accordance with criteria prescribed the National Treasury by way of Treasury Instructions.

22.9.2 Prior to listing the defaulting suppliers on the National Treasury Database of Restricted Suppliers referred to in paragraph 22.9.1 of these Regulations, the accounting officer or accounting authority must consider the listing of defaulting suppliers in accordance with criteria prescribed by the National Treasury in consultation with provincial treasuries.

22.9.3 The accounting officer or accounting authority must reject the bid of any bidder if that bidder or any of its directors has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004) or on the Database of Restricted Suppliers.

**22.10 Projects or services funded by grants in accordance with a Technical Assistance Agreement**

22.10.1 The accounting officer or accounting authority must ensure that:

(a) if a project or commodity is fully funded by means of a grant in accordance with a technical assistance agreement which does not prescribe the procurement procedures to be followed, the prescripts of the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and its associated Regulations must be applied.

- (b) if a project or commodity is fully funded by means of a grant in accordance with a technical assistance agreement which prescribes that the funds must be utilized in accordance with the donor's own procurement procedures, the prescripts of the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and its associated Regulations does not apply.
- (c) if a project or commodity is partially funded by means of a grant in accordance with a technical agreement which does not prescribe the procurement procedures to be followed and the remainder is funded by the spending institution itself, the prescripts of the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and its associated Regulations must be applied.
- (d) If a project or commodity is partially funded by means of a grant in accordance with a technical agreement which does prescribe the procurement procedures to be followed and the remainder is funded by the spending institution itself, the prescripts of the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and its associated Regulations must be applied for the funds provided by the institution.

## **22.11 Appointment of consultants**

- 22.11.1 Accounting officers or accounting authorities of institutions must ensure that if a contract for the provision of consultancy services is within the threshold value determined for competitive bids, such a contract must be procured by means of a competitive bidding process.
- 22.11.2 The appointment of transaction advisors to assist with the preparation, concluding and / or implementation of Public Private Partnerships (PPP) or part thereof must be done in accordance with Treasury Instructions as may be issued by the National Treasury.
- 22.11.3 The National Treasury may periodically issue Treasury Instructions on the appointment of consultants.

# 23

## Contracts and contract management

### 23.1 Contracts

- 23.1.1 The accounting officer or accounting authority must ensure that all contracts entered into by the institution are legally sound.
- 23.1.2 Contracts should be kept in a secure place for judicial reference.
- 23.1.3 The contract concluded must consist of at least:
- (a) the general conditions of contract issued by the National Treasury;
  - (b) where applicable, special conditions in relation to the specific goods or services procured;
  - (c) submitted bid documents;
  - (d) documentation for the claiming of preferential bidding points;
  - (e) tax clearance certificate;
  - (f) authority from the supplier to confirm with the South African Revenue Service on the tax status of the company during the duration of the contract; and
  - (g) letter of acceptance.
- 23.1.4 Contracts relating to information technology must be prepared in accordance with the State Information Technology Act, 1998 (Act 88 of 1988), and any regulations issued in terms of that Act.
- 23.1.5 The special conditions referred to in paragraph 23.1.3 (b) may include, but is not limited to:
- (a) a preamble that serves to explain the rationale for the conclusion of the contract or to provide contextual or back ground information;
  - (b) governance protocols;
  - (c) reporting on performance in terms of the contract or agreement in respect of contracts that extend over a period of time;
  - (d) a periodic review of the contract or agreement by the parties in respect of contracts that extend over a period of time;
  - (e) clauses that clearly and unambiguously set out the rights and obligations of the parties, relevant to the specific subject matter in respect of which the contract is entered into;
  - (f) service levels, if applicable; and
  - (g) incorporation of other documents as annexures.

## **23.2 Contract management**

23.2.1 The accounting officer or accounting authority of an institution must ensure that the supply chain management system of the institution provide for contract management to include, but not limited to:

- (a) recording of contracts in a contract register;
- (b) monitoring and regular reporting on contracts;
- (c) evaluation of compliance with transversal contracts in which the institution participates;
- (d) identification of institutional period contracts that are nearing expiry;
- (e) evaluation of applications for price adjustments;
- (f) evaluation of applications for variations, amendments, and cancellations; and
- (g) invoking of penalty clauses.

## **23.3 Evaluating performance of contracts**

23.3.1 Accounting officers or accounting authorities must continuously ensure that an assessment of the supplier's/service provider's (including consultants where applicable) performance is undertaken and that this assessment should be available for future reference.

23.3.2 The assessment must include the reliability of the supplier or service provider in terms of, among others:-

- (a) delivery periods;
- (b) quality; and
- (c) quantity.

## **23.4 Publications of awards**

23.4.1 The accounting officer or accounting authority must ensure that awards are published in the Government Tender Bulletin and other media by means of which the bids were advertised.

23.4.2 The following information on the successful bids must be published on the institution's website and/or in the Government Tender Bulletin and/or also in the media where the bid was originally advertised:

- (a) Contract numbers and descriptions;
- (b) Names of successful bidder(s) and preferences claimed;
- (c) Where possible, the contract price ; and
- (d) Brand names and dates for completion of the contract.

## **23.5 Management of expansions or variation of orders against the original contract**

- 23.5.1 Accounting officers or accounting authorities may expand contracts or vary from the original value of the contract by not more than 15% for goods or services.
- 23.5.2 Institutions must forward reports for all expansions or variations in excess of the thresholds indicated in paragraph 23.5.1 to the relevant treasury and Auditor-General within ten (10) working days after the accounting officer or accounting authority has granted approval for the expansion. Such reports must include, among others, the contract number, the description of the contract, the name(s) of the contractor(s), the original contract amount, the value and percentage of the expansion or variation and the reasons therefore.
- 23.5.3 The relevant treasuries must scrutinize the reports referred to in paragraph 23.5.2 and take appropriate action, if deemed necessary.

## Logistics management

### 24.1 System of logistics management

24.1.1 The accounting officer or accounting authority must ensure that the supply chain management system of the institution provides for an effective and efficient system of logistics management to ensure that:

- (a) processes, whether manual or electronic, and procedures are in place for the effective, efficient, economical and transparent use of the institution's resources;
- (b) a proper record of all the applicable assets and group of assets under the control of the institution is maintained;
- (c) proper control systems exist for assets and that:
  - (i) preventative mechanisms are in place to eliminate theft, losses, wastage and misuse; and
  - (ii) stock levels are at an optimum and economic level;
- (d) the reliability of suppliers in terms of delivery periods, quantity and quality is monitored and underperforming suppliers are reported and acted upon; and
- (e) full record of all procurement transactions is kept and maintained.

### 24.2 Policies and Standard Operating Procedures for logistics management

24.2.1 The accounting officer or accounting authority must ensure that the logistics management system of the institution provides for the following policies and standard operating procedures, including the checklists and templates referred to in paragraph 9.2:

- (a) requisition of goods or services;
- (b) placing of orders for goods or services;
- (c) receiving of goods;
- (d) distribution of goods;
- (e) preparation of payment vouchers; and
- (f) reconciliation of asset records with financial accounts.

## **24.3 Inventory management**

24.3.1 The accounting officer or accounting authority must ensure that the logistics management system of an institution must provide for the following policies and standard operating procedures in relation to inventory management:

### ***Policies***

- (a) measurement of inventory for reporting in the annual financial statements and associated disclosures;
- (b) coding system for the recording of inventory items;
- (c) systems in place, whether computerised or manual, for demand forecasting and material requirement planning;
- (d) approaches for inventory control;
- (e) stock levels for the different categories of inventory items;
- (f) quality and re-order point models to be used for categories of inventory items;
- (g) annual stocktake requirements;
- (h) mechanisms to eliminate theft, losses, wastage and misuse for each category of items;
- (i) warehouse and stockroom organisation; and
- (j) systems in place, whether manual or computerised, for recording of inventory transactions.

### ***Standard operating procedures***

- (a) demand forecasting and resource planning for stock items;
- (b) calculation of stock levels, safety stock, reorder quantities and reorder points;
- (c) stocktake;
- (d) restricted access areas;
- (e) disposal of damaged, spoiled or obsolete items;
- (f) losses and misuse of inventory items;
- (g) safe operation of storage facilities, plant and equipment;
- (h) recording of orders, receipts, issues and returns;
- (i) production of inventory management reports; and
- (j) reconciliation of inventory records with financial accounts.

## **24.4 Stock take committee**

24.4.1 The accounting officer or accounting authority must ensure that the logistics management system of the institution provides for the establishment, composition and functioning of a stock take committee to oversee the stock take processes within the institution.

24.4.2 The stock take committee must ensure that a stock take of all assets in stock or on distribution be conducted at least once a year. The process should entail a comparison of stock counted with official records of what should be in stock. Differences should be accounted for.

- 24.4.3 The results of the stock take and applicable corrective measures should be reported promptly to the accounting officer or accounting authority.

## Asset management

### **25.1 System of asset management**

25.1.1 The accounting officer or accounting authority must ensure that the supply chain management system of the institution provides for an efficient and effective system of asset management.

25.1.2 The asset management system referred to in paragraph 25.1.1 must provide for:

- (a) the planning phase: where the requirement for a new asset is planned for and established;
- (b) the acquisition phase: where the asset is purchased, constructed or otherwise created;
- (c) the operation and maintenance phase: where the asset is used for its intended purpose; and
- (d) the disposal phase: initiated when the economic life cycle of the asset has expired, or when the asset has become redundant.

25.1.3 The accounting officer or accounting authority must ensure that the following principles are captured in the asset management system of the institution:

- (a) asset management activities must be undertaken within the institution's strategic objectives that is driven by programme and service delivery needs;
- (b) asset management planning and decisions must be integrated into the strategic and operational planning processes as referred to in paragraphs 21.2 and 21.3 of these Treasury Regulations;
- (c) asset management decisions must be based on the evaluation of alternatives that take into account the full life cycle of costs, benefits and risks of assets; and
- (d) accountability and reporting requirements for both ownership and control are to be determined and clearly defined.

### **25.2 Asset management plans**

25.2.1 The accounting officer or accounting authority of the institution must develop and implement an asset strategic plan for his or her institution.

25.2.2 The asset strategic plan referred to in paragraph 25.2.1 must cover a five (5) year period and must be revised on an annual basis.

- 25.2.3 The asset strategic plan must include at least the following:
- (a) an acquisition plan which defines the assets to be acquired or replaced during the planning period and which establishes the sources and monetary value of funding acquisitions;
  - (b) an operational plan which defines the use of existing assets and which should include matters such as access, security, accountability, the monitoring of performance, training of staff in the use of assets and estimates of operating costs;
  - (c) a maintenance plan which defines assets to be maintained, the level of maintenance and the delivery of maintenance services which include an annual programme of routine preventative maintenance and a long term-programme for major repairs and maintenance;
  - (d) a disposal plan which identifies assets to be disposed of in the planning period, the expected proceeds of disposal and the treatment of the proceeds;
  - (e) a funding plan which defines the options available for funding capital and recurrent asset costs; and
  - (f) a risk management plan, which describes the risk management strategies and control activities to be implemented for the various categories of assets.

### **25.3 Immovable assets**

- 25.3.1 The accounting officer or accounting authority must take all reasonable care to ensure that:
- (a) activities carried out on the institutions property for which his/her institution is responsible are duly authorised;
  - (b) the risk of damage or destruction of such immovable asset is avoided; and
  - (c) no concession for utilisation of property is abused;
  - (d) The accounting officer or accounting authority must frequently evaluate the immovable property to ensure its proper utilisation;

### **25.4 Asset register**

- 25.4.1 The accounting officer or accounting authority must have and maintain an asset register for the institution which allows for:
- (a) integration to the extent practicable with purchasing and payments systems and the general ledger;
  - (b) structuring to allow the different classifications of assets to be distinguished;
  - (c) financial data on assets that is maintained down to a level which is important to decision-makers;
  - (d) a clear identification of the individual, or institutional unit responsible for the asset; and
  - (e) asset data that is:

- (i) updated as transactions and events occur;
- (ii) regularly reconciled with acquisition, disposal and transfer data as well as the general ledger; and
- (iii) readily available to asset managers, preferably on line.

## **25.5 Reporting of asset management information**

25.5.1 The accounting officer or accounting authority must report on the following matters in the Report of the accounting officer or accounting authority which form part of the interim and annual financial statements of the institution:

- (a) reasons if all the assets of the institution have not been recorded in the asset register;
- (b) reasons why compliance with the minimum requirements for credible asset registers have not been achieved and date when this is expected to be achieved;
- (c) reasons why compliance with the asset management reform milestones, as required by the relevant treasury, has not been achieved and date when this is expected to be achieved;
- (d) problems being experienced regarding the asset management reforms; and
- (e) reasons where disclosure of all stores and inventories in the prescribed annexure is not possible.

## Disposal management

### 26.1 System of disposal management

- 26.1.1 The accounting officer or accounting authority must establish an efficient and effective system of disposal management which is fair, equitable, transparent, cost effective and competitive.
- 26.1.2 The accounting officer or accounting authority must ensure that;
- (a) the supply chain management system sets the mechanism for determining the market value for different types of assets;
  - (b) the process is opened to the public and public scrutiny;
  - (c) consideration be given to the fair market value of the asset, and to the economic and community value to be received in exchange for the asset or by way of written price quotations, competitive bids, or auction, or by means of gifts, donations and sponsorships as contemplated in paragraph 14.6 of these regulations, unless determined otherwise by the relevant treasury;
  - (d) reasonable efforts are made to ensure that an appropriately competitive process for disposal is adopted; and
  - (e) Where applicable, the relevant standard bidding documents be utilized
- 26.1.3 Accounting officers or accounting authorities may transfer movable assets free of charge to other departments, constitutional institutions, public entities or municipalities / municipal entities by means of formal issue vouchers.
- 26.1.4 Any sale of immovable state property must be at market-related value, unless the relevant treasury approves otherwise.
- 26.1.5 The letting of immovable state property (excluding state housing for officials and political office bearers) must be at market-related tariffs, unless the relevant treasury approves otherwise. No state property may be let free of charge without the prior approval of the relevant treasury.
- 26.1.6 The accounting officer or accounting authority must review, at least annually when finalising the budget, all fees, charges, rates, tariffs or

scales of fees or other charges relating to the letting of state property to ensure sound financial planning and management.

26.1.7 In cases where stores (inventory) items or assets are traded in for other stores items or assets, the highest possible trade-in price is to be negotiated. The order placed should be for the net amount, as charged against the vote. The actual value of the new item should, however, be reflected on the relevant register.

26.1.8 The accounting officer or accounting authority must, when disposing of firearms, obtain the approval of the National Conventional Arms Control Committee for any sale or donation of firearms to any person or institution within or outside the Republic.

26.1.9 The accounting officer or accounting authority must, when disposing of computer equipment, firstly approach any state institution involved in education and/or training to determine whether such an institution requires such equipment. In the event of the computer equipment being required by such a state institution, the accounting officer or accounting authority may transfer such equipment free of charge to the identified institution.

## **26.2 Methods and options of disposal**

26.2.1 The accounting officer or accounting authority must make a decision on the method and options of disposal to follow prior to issuing state assets for disposal. Before deciding on a particular disposal method and option, the following should be considered:

- (a) the nature and the volume of the asset;
- (b) its potential market value or its trade-in price;
- (c) other intrinsic value of the asset;
- (d) its ability to support wider Government programmes;
- (e) environmental considerations;
- (f) market conditions; and
- (g) the asset's life.

26.2.2 The disposal management system of the institution must provide for the various disposal options and required by the categories of assets of the institution and may include:

- (a) public auction;
- (b) public tender;
- (c) transfer to another institution;
- (d) sale to another institution;
- (e) letting;
- (f) sale to employees

- (g) trade-in; and
- (h) controlled dumping.

**26.3 Sale and letting of assets**

- 26.3.1 The preference point systems prescribed in the Preferential Procurement Policy Framework Act, Act No 5 of 2000 and the Preferential Procurement Regulations, 2011 are not applicable to the sale and letting of assets.
- 26.3.2 In instances where assets are sold or leased by means of advertised competitive bids or written price quotations or by auctions the award must be made to the bidder with the highest price.
- 26.3.3 No assets may be sold or let to any person whose tax matters have not been declared to be in order by the South African Revenue Service.

**26.4 Establishment of a disposal committee**

- 26.4.1 The accounting officer or accounting authority of an institution must establish a disposal committee to make recommendations for the disposal of any assets.

## Reporting of supply chain management information

### 27.1 Reporting requirements

27.1.1 The accounting officer or accounting authority of an institution must ensure that the information required by the relevant treasury and other organs of state in relation to the supply chain management system is;

- (a) submitted timeously; and
- (b) is complete and accurate.

27.1.2 The accounting officer or accounting authority must adhere to the following monthly, annual and general reporting requirements:

#### **(a) Monthly Reporting**

- (i) Accounting officers or accounting authorities must capture the prescribed information for all institutional contracts awarded above the value of R100 000 on the National Treasury's Contract Registration Application (CRA) within ten working days after the end of each month.
- (ii) The head of the supply chain management unit of an institution must within 15 working days after the end of each month submit a report, via the chief financial officer, to the accounting officer or accounting authority containing information on procurement transactions during that month, and other related information.
- (iii) A copy of the report referred to in paragraph (iii) above must also be submitted to the relevant treasury within 5 working days after submission to the accounting officer or accounting authority.

#### **(b) Annual Reporting**

- (i) All concluded unsolicited proposal agreements must be reported by the accounting officer or accounting authority in the annual report of the institution.
- (ii) Accounting officers or accounting authorities must submit a procurement schedule containing all planned procurement

for the financial year in respect of goods or services which exceed R500 000 (applicable taxes included) to the relevant treasury by 30 April of each year in the prescribed format

**(c) General Reporting**

- (i) Accounting officers or accounting authorities must within 5 working days furnish the National Treasury with the prescribed information on the restriction of suppliers from doing business with the public sector in terms of the Preferential Procurement Regulations, 2011.
- (ii) All cases where goods or services above the value of R1 million (inclusive of all taxes) were procured in respect of 22.2.1.5 (b) (vi) must be reported, as prescribed, to the relevant treasury and the Auditor General within 10 working days.
- (iii) Accounting officers or accounting authorities must furnish the Department of Trade and Industry with the required information within 5 working days after the award of any contract where the NIPP obligations are applicable.
- (iv) Upon receipt of an unsolicited proposal, the accounting officer or accounting authority must, in writing, notify the relevant treasury within 10 working days.
- (v) The accounting officer must submit a copy of a concluded unsolicited proposal contract to the Auditor General and the relevant treasury.
- (vi) All cases where contracts were expanded or varied in excess of the threshold value prescribed in Regulation 3.5 must be reported to the relevant treasury and the Auditor-General within ten working days.
- (vii) Accounting officers or accounting authorities must furnish the relevant treasury with information relating to transversal term contracts in a format and at intervals as the relevant treasury may require.

27.1.3

The National Treasury may review the reporting requirements from time to time and issue new or revised reporting requirements when necessary.

# 28

## Regular assessment of supply chain management performance

### 28.1 System for performance monitoring and evaluation

28.1.1 The accounting officer or accounting authority must ensure that the supply chain management system provides for an effective internal performance monitoring and evaluation system in order to determine, on the basis of retrospective analysis, whether the authorised supply chain management processes are being followed and whether the desired objectives are being achieved.

28.1.2 The performance monitoring and evaluation system referred to in paragraph 12.1 must, amongst others, provide for:

- (a) a scorecard mechanism which describes the key strategic and operational performance targets to be met in relation to the strategic and operational planning processes referred to in Chapter 21 of these Treasury Regulations;
- (b) a system of performance reporting which describes the key reports to be produced, its contents and the frequency of distributing; and
- (c) a process for identifying, approving and implementing improvement interventions.

28.1.3 The accounting officer or accounting authority must ensure that the following objectives in respect of supply chain management are met through the performance monitoring and evaluation system:

- (a) the improvement of supply chain management as the primary objective;
- (b) the provision of information in respect of supply chain management as a basis for rational decisions;
- (c) continuous evaluation of the effectiveness of the supply chain;
- (d) identification of potential efficiency gains;
- (e) establishment of a rational basis for comparison or benchmarking with other institutions;
- (f) the retrospective analysis of past supply chain management performance against specific norms and standards set by the relevant treasury from time to time; and
- (g) the motivation and enhancement of personnel:

- (i) through the setting of performance evaluation standards against which personnel and bid committees can be measured; and
- (ii) which must serve as an incentive for enhancing personal and team performance.

## Public private partnerships

### 29.1 Definitions

29.1.1 In this regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the same meaning, and:

**“affordability”** means that the financial commitments to be incurred by an institution in terms of the PPP agreement can be met by funds:

- (a) designated within the institution's existing budget for the institutional function to which the agreement relates; and/or
- (b) destined for the institution in accordance with the relevant treasury's future budgetary projections for the institution;

**“institution”** means a department, a constitutional institution, a public entity listed, or required to be listed in Schedules 3A, 3B, 3C and 3D to the Act, or any subsidiary of any such public entity.

**“institution function”** means:

- (a) a service, task, assignment or other function that an institution is entitled or obliged to perform:
  - (i) in the public interest; or
  - (ii) on behalf of the public service generally; or
- (b) any part or component of or any service, task, assignment or other function performed or to be performed in support of such a service, task, assignment or other function;

**“private party”** means a party to a PPP agreement, other than:

- (a) an institution to which the Act applies;
- (b) a municipality or a municipal entity under the ownership control of one or more municipalities; or
- (c) the accounting officer, accounting authority or other person or body acting on behalf of an institution, municipality or municipal entity referred to in paragraph (a) or (b);

**“project officer”** means a person identified by the accounting officer or accounting authority of an institution, who is capable of managing and is appropriately qualified to manage a PPP to which that institution is party from its inception to its expiry or termination;

**“public private partnership”** or **“PPP”** means a commercial transaction between an institution and a private party in terms of which the private party:

- (a) performs an institutional function on behalf of the institution; and/or
- (b) acquires the use of state property for its own commercial purposes; and
- (c) assumes substantial financial, technical and operational risks in connection with the performance of the institutional function and/or use of state property; and
- (d) receives a benefit for performing the institutional function or from utilising the state property, either by way of:
  - (i) consideration to be paid by the institution which derives from a revenue fund or, where the institution is a national government business enterprise or a provincial government business enterprise, from the revenues of such institution; or
  - (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 such consideration and such charges or fees;

**“preferred bidder”** means the bidder, including any bidding consortium, to be appointed as preferred bidder in terms of Regulations 29.5.4;

**“PPP agreement”** means a written contract recording the terms of a PPP concluded between an institution and a private party;

**“relevant treasury”** means the National Treasury unless delegated in terms of section 10(1) (b) of the Act;

**“state property”** includes all movable and immovable property belonging to the state as well as intellectual property rights vested in the state;

**“transaction advisor”** means a person or persons appointed in writing by an accounting officer or accounting authority of an institution, who has or have appropriate skills and experience to assist and advise the institution in connection with a PPP, including the preparation and conclusion of a PPP agreement; and

**“value for money”** means that the provision of the institutional function or the use of state property by a private party in terms of the PPP agreement results in a net benefit to the institution defined in terms of cost, price, quality, quantity, risk transfer or a combination thereof.

## **29.2 Exclusive competency of accounting officers and accounting authorities**

29.2.1 Only the accounting officer or the accounting authority of an institution may enter into a PPP agreement on behalf of that institution.

## **29.3 Project inception**

29.3.1 As soon as the institution identifies a project that may be concluded as a PPP, the accounting officer or accounting authority must in writing:

- (a) register the PPP with the relevant treasury;
- (b) inform the relevant treasury of the expertise within that institution to proceed with a PPP;
- (c) appoint a project officer from within or outside the institution; and
- (d) appoint transaction advisor if the relevant treasury so requests.

## **29.4 Feasibility study – Treasury Approval: I**

29.4.1 To determine whether the proposed PPP is in the best interest of an institution, the accounting officer or the accounting authority of that institution must undertake a feasibility study that:

- (a) explains the strategic and operational benefits of the proposed PPP for the institution in terms of its strategic objectives and government policy;
- (b) describes in specific terms:
  - (i) in the case of a PPP involving the performance of an institutional function, the nature of the institutional function concerned and the extent to which this institutional function, both legally and by nature, may be performed by a private party; and
  - (ii) in the case of a PPP involving the use of state property, a description of the state property concerned, the uses, if any, to which such state property has been subject prior to the registration of the proposed PPP and a description of the types of use that a private party may legally subject such state property to;
- (c) in relation to a PPP pursuant to which an institution will incur any financial commitments, demonstrates the affordability of the PPP for the institutions;
- (d) sets out the proposed allocation of financial, technical and operational risks between the institution and the private party;
- (e) demonstrates the anticipated value for money to be achieved by the PPP; and
- (f) explains the capacity of the institution to procure, implement, manage, enforce, monitor and report on the PPP.

- 29.4.2 An institution may not proceed with the procurement phase of a PPP without prior written approval of the relevant treasury for the feasibility study.
- 29.4.3 The treasury approval referred to in Regulation 29.4.2 shall be regarded as Treasury Approval: I.
- 29.4.4 If at any time after Treasury Approval: I has been granted in respect of the feasibility study of a PPP, but before the grant of Treasury Approval: III in respect of the PPP agreement recording that PPP, any assumptions in such feasibility study are materially revised, including any assumptions concerning affordability, value for money and substantial technical, operational and financial risk transfer, then the accounting officer or accounting authority of the institution must immediately:
- (a) provide the relevant treasury with details of the intended revision, including a statement regarding the purpose and impact of the intended revision on the affordability, value for money and risk transfer evaluation contained in the feasibility study; and
  - (b) ensure that the relevant treasury is provided with a revised feasibility study after which the relevant treasury may grant a revised Treasury Approval: I.

## **29.5 Procurement – Treasury Approvals IIA AND IIB**

- 29.5.1 Prior to the issuing of any procurement documentation for a PPP to any prospective bidders, the institution must obtain approval from the relevant treasury for the procurement documentation, including the draft PPP agreement.
- 29.5.2 The treasury approval referred to in Regulation 29.5.1 shall be regarded as Treasury Approval: IIA.
- 29.5.3 The procurement procedure:
- (a) must be in accordance with a system that is fair, equitable, transparent, competitive and cost-effective; and
  - (b) must include a preference for the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination in compliance with relevant legislation.
- 29.5.4 After the evaluation of the bids, but prior to appointing the preferred bidder, the institution must submit a report for approval by the relevant treasury, demonstrating how the criteria of affordability, value for money and substantial technical, operational and financial risk transfer were applied in the evaluation of the bids, demonstrating how these criteria were satisfied in the preferred bid and including any other information as required by the relevant treasury.
- 29.5.5 The treasury approval referred to in Regulation 29.5.4 shall be regarded as Treasury Approval: IIB.

## **29.6 Contracting PPP Agreements – Treasury Approval: Iii**

- 29.6.1 After the procurement procedure has been concluded but before the accounting officer or accounting authority of an institution concludes a PPP agreement, that accounting officer or accounting authority must obtain approval from the relevant treasury:
- (a) that the PPP agreement meets the requirements of affordability, value for money and substantial technical, operational and financial risk transfer as approved in terms of Regulation 29.4.2 or as revised in terms of Regulation 29.4.4;
  - (b) for a management plan that explains the capacity of the institution, and its proposed mechanisms and procedures, to effectively implement, manage, enforce, monitor and report on the PPP; and
  - (c) that a satisfactory due diligence, including a legal due diligence, has been completed in respect of the accounting officer or accounting authority and the proposed private party in relation to matters of their respective competence and capacity to enter into the PPP agreement.
- 29.6.2 The treasury approval referred to in Regulation 29.6.1 shall be referred to as Treasury Approval: III.

## **29.7 Management of PPP Agreements**

- 29.7.1 The accounting officer or accounting authority of the institution that is party to a PPP agreement is responsible for ensuring that the PPP agreement is properly implemented, managed, enforced, monitored and reported on, and must maintain such mechanisms and procedures as approved in Treasury Approval: III for:
- (a) measuring the outputs of the PPP agreement;
  - (b) monitoring the implementation of the PPP agreement and performances under the PPP agreement;
  - (c) liaising with the private party;
  - (d) resolving disputes and differences with the private party;
  - (e) generally overseeing the day-to-day management of the PPP agreement; and
  - (f) reporting on the PPP agreement in the institution's annual report.
- 29.7.2 A PPP agreement involving the performance of an institutional function does not divest the accounting officer or accounting authority of the institution concerned of the responsibility for ensuring that such institutional function is effectively and efficiently performed in the public interest or on behalf of the public service.
- 29.7.3 A PPP agreement involving the use of state property by a private party does not divest the accounting officer or accounting authority of the institution concerned of the responsibility for ensuring that such state property is appropriately protected against forfeiture, theft, loss, wastage and misuse.

## **29.8 Amendment and variation of PPP agreements**

- 29.8.1 The prior written approval of the relevant treasury is required for any material amendments to a PPP agreement including any material variations to the outputs therein, or any waivers contemplated or provided for in the PPP agreement.
- 29.8.2 The relevant treasury must approve a material amendment only if it is satisfied that the PPP agreement, if so amended will continue to provide:
- (a) value for money;
  - (b) affordability; and
  - (c) substantial technical, operational and financial risk transfer to the private party.
- 29.8.3 The accounting officer or accounting authority must substantially follow the procedure prescribed by Regulations 29.4 and 29.6 for obtaining such treasury approval.

## **29.9 Agreements binding on the institution**

- 29.9.1 A PPP agreement or an agreement amending a PPP agreement, binds the state only if the agreement was entered into on behalf of an institution:
- (a) by the accounting officer or accounting authority of that institution; and
  - (b) if all treasury approvals required in terms of this Regulation 29 have been granted by the relevant treasury in respect of the PPP.

## **29.10 Exemptions**

- 29.10.1 The relevant treasury may, subject to any terms and conditions that it considers appropriate and upon written application from an institution, exempt that institution whether in relation to a specific PPP or in general, from complying with any or all of the provisions of this Regulation 29.

## Supply chain management for the delivery and maintenance of infrastructure

### 30.1 Definitions

In this regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and –

“**client**” means the institution or division within an institution which is ultimately responsible and accountable for the delivery of services requiring infrastructure;

“**control budget**” means the amount of money which is allocated or made available by the client to deliver or maintain infrastructure associated with a project or package including site costs, professional fees, all service and planning charges, applicable taxes, risk allowances and provision for price inflation which may be adjusted by the client from time to time;

“**construction procurement**” means procurement in the construction industry, including the invitation, award and management of contracts;

“**construction industry**” means the broad conglomeration of industries and sectors which add value in the creation and maintenance of fixed assets within the built environment;

“**custodian**” means the institution or division within an institution which acts as the caretaker of infrastructure throughout its lifecycle;

“**day-to-day maintenance**” means maintenance that takes place on an *ad hoc* basis including minor repairs, modifications or replacements;

“**emergency maintenance**” means repairs which are unforeseen and require urgent attention due to the presence of, or the imminent risk of, an extreme or emergency situation arising from one or more of the following:

- (a) human injury or death;
- (b) human suffering or deprivation of human rights;
- (c) serious damage to property or financial loss;
- (d) livestock or animal injury, suffering or death;

- (e) serious environmental damage or degradation; or
- (f) interruption of essential services;

**“framework agreement”** means an agreement between an institution and one or more contractors, the purpose of which is to establish the terms governing task, batch or package orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged;

**“gate”** means a control point at the end of a process where a decision is required before proceeding to the next process;

**“gateway review”** means a review of the available information at a gate upon which a decision to proceed or not to the next process is based;

**“implementer”** means an institution or division within an institution responsible for the physical delivery of infrastructure or maintenance projects;

**“infrastructure” means fixed assets that are constructed or result from construction operations including:**

- (a) buildings, structures and facilities;  
water supply, sanitation, electricity supply, transportation and storm water drainage systems; and
- (b) the related permanent fixtures that cannot be readily or economically removed or reused;

**“institution”** means a department, a constitutional institution, a public entity listed in Schedules 2, 3A, 3B, 3C and 3D to the Act, or any subsidiary of any such public entity;

**“maintenance”** means the combination of all technical and associated administrative actions during an item's service life with the aim of retaining it in a state in which it can perform its required functions;

**“major capital project”** means a project or a series of related packages involving the construction, alteration, extensions, refurbishment or the rehabilitation of infrastructure on a single site having an estimated control budget above a threshold value determined by National Treasury;

**“package”** means works which have been grouped together for delivery under a single contract or a package order;

**“procurement”** means the process which creates, manages and fulfils contracts relating to the provision of goods, services and engineering and construction works or disposals, or any combination thereof;

**“order”** means the instruction to provide goods, services or works under a framework agreement;

**“organ of state”** means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);

**“quality”** means the totality of features and characteristics of a product or service that bear on its ability to satisfy stated or implied needs;

**“routine maintenance”** means regular on-going maintenance necessary to keep infrastructure operating and to prevent premature failure including repairs;

**“Service Delivery Agreement”** means an agreement between two or more organs of state setting out the terms and conditions, and roles and responsibilities with respect to the delivery or maintenance of infrastructure which promotes and facilitates inter-institutional relations and the principles of participation, co-operation and co-ordination;

**“service life”** means the period of time after construction during which infrastructure or its parts meet or exceed the performance demanded or expected to be fulfilled;

**“scheduled maintenance”** means maintenance projects flowing out of condition assessments or service life planning and which are included in an infrastructure plan for implementation through the infrastructure gateway system;

**“supply chain management”** means the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods or services, with the objective of creating net value and providing oversight and co-ordination of information and finances within the supply chain.

## **30.2 Application**

30.2.1 This framework for the delivery and maintenance of infrastructure applies to all –

- (a) departments;
- (b) constitutional institutions;
- (c) public entities listed in Schedules 2, 3A, 3B, 3C and 3D to the Act.

## **30.3 Departures from requirements**

30.3.1 The National Treasury or, if applicable, a provincial treasury may on good grounds approve a departure from any requirement imposed by these Treasury Regulations and must promptly inform the Auditor General in writing of such approval.

### **30.4 Supply chain management system**

- 30.4.1 The accounting officer or accounting authority of an institution to which these *Treasury Regulations* apply must develop and implement an effective and efficient supply chain management system in his or her institution for the delivery and maintenance of infrastructure which must -
- (a) be fair, equitable, transparent, competitive and cost effective;
  - (b) be consistent with the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
  - (c) be consistent with the Broad Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
  - (d) be capable of tracking projects and monitoring performance;
  - (e) clearly allocate responsibilities for performing activities and making decisions at control points within processes;
  - (f) proactively manage risks; and
  - (g) be capable of being audited.
- 30.4.2 The supply chain management system referred to in Regulation 20 must –
- (a) provide infrastructure which -
    - (i) has a fitness of purpose;
    - (ii) provides value for money over its service life;
    - (iii) is safe, reliable and efficient;
    - (iv) is affordable taking into account life cycle costs; and
    - (v) is as far as is possible delivered within the control budget.
  - (b) provide infrastructure in the right quantity and quality, in the right places, at the right time, and in accordance with legislative mandates, strategic priorities, accepted norms and standards (planning guidelines) and which is affordable; and
  - (c) ensure that optimal utilisation is made of existing infrastructure as demand patterns shift over time;
  - (d) enable infrastructure to be maintained so that it remains fit for purpose in use; and
  - (e) ensure that there is an alignment of interest between those who design and construct a infrastructure and those who subsequently occupy, use or manage it.
- 30.4.3 Accounting officers and accounting authorities in institutions must apply the relevant provisions of National Treasury's Standard for an Infrastructure Delivery Management System when implementing the supply chain management system referred to in paragraph 30.4.1.
- 30.4.4 Notwithstanding the provisions of paragraph 30.4.3 accounting officers and accounting authorities in a public entity listed in Schedules 2, 3B

and 3D to the Act, or any subsidiary of any such public entity, may apply a modified version of the standard referred to in paragraph 30.4.3 provided that -

- (a) there are justifiable reasons for doing so; and
- (b) the modifications to the standard are consistent with the provision of paragraphs 30.4.1 and 30.4.2, documented and published on the institution's website.

30.4.5 Accounting officers and accounting authorities of an institution must:

- (a) delegate responsibility for the performance of duties assigned to a client, implementer or custodian in terms of the standard referred to in paragraph 30.4.3 to suitable units within their institution; and
- (b) delegate responsibility for the different types of maintenance to suitable units within their institution.

## **30.5 Supply chain management units**

30.5.1 The accounting officer or accounting authority to which these Regulations apply must establish a supply chain management unit within the office of that institution's chief financial officer, to implement the institution's supply chain management system.

30.5.2 The supply chain management unit must as necessary -

- (a) execute certain activities relating to the construction procurement process in accordance with the provisions of the standard referred to in paragraph 30.7.1(a);
- (b) render assistance and, where appropriate, administrative support to the line function managers and other officials in the performance of their supply chain management responsibilities;
- (c) measure the performance of the supply chain in terms of areas such as effectiveness, potential efficiency gains, weaknesses in performance, quality and value for money and identify corrective actions or interventions to improve performance;
- (d) co-ordinate and manage the interface between the institution and a relevant treasury in the implementation of these Regulations;
- (e) collate and compile reports to the accounting officer or accounting authority and to the relevant treasury;
- (f) ensure that management, control and accountability is maintained through comprehensive objective assessments;
- (g) enforce the regulatory framework for supply chain management within the institution;
- (h) perform an internal control function for the supply chain; and
- (i) identify, treat and report occurrences of fraud, corruption, collusion and abuse of the supply chain system.

## **30.6 Allocation of responsibilities between institutions**

30.6.1 Where an institution does not function as a client, implementer and custodian in terms of the standard referred to in paragraph 30.4.3 of these Regulations the relevant treasury must, following consultation with affected institutions -

- (a) assign responsibility to institutions or organs of state to perform such functions; and
- (b) allocate responsibilities to institutions or organs of state to assume responsibility for day-to-day, emergency, routine and planned maintenance; and
- (c) promptly inform the Auditor General in writing of such allocations and any amendments thereto.

30.6.2 Notwithstanding the provisions of paragraphs 30.6.1:

- (a) a public works department established in terms of the Public Service Act of 1994 which is allocated the function of implementer by a relevant treasury may -
  - (i) where it has insufficient capacity to act as an implementer, assign its responsibilities to another organ of state through a Service Delivery Agreement; or
  - (ii) if a school makes a substantial financial contribution to a project and subject to the approval of the relevant education department established in terms of the Public Service Act of 1994, assign its responsibilities to act as an implementer to a School Governing Body established in terms of section 16 of the South African Schools Act, 1996 (Act No. 84 of 1996) subject to the provisions of paragraph 30.13.
- (b) a human settlement department established in terms of the Public Service Act of 1994 may assign its responsibilities to act as an implementer to a municipality through a Service Delivery Agreement; and
- (c) any institution may, in the case of emergency maintenance where immediate repairs are essential, proceed with effecting of repairs or measures to arrest further damage or losses provided that -
  - (i) the official delegated by the institution allocated responsibility for emergency maintenance confirms that the institution is not in a position to effect the necessary repairs or such official cannot be contacted; and
  - (ii) such repairs and measures can be effected within 48 hours.

30.6.3 Matters of dispute, non-compliance or negligence on the part of different institutions in performing their duties as client, implementer or custodian shall, subject to the provisions of the Intergovernmental

Relations Framework Act, 2005 (Act 13 of 2005) be submitted to the head of the relevant treasury for resolution, provided that such institutions have used their best endeavours to resolve differences on an amicable basis. The head of the relevant treasury shall in the first instance mediate between the two institutions. Should the process of mediation prove unsuccessful and not result in resolution, the relevant treasury shall take on the role of adjudicator, and render a decision which shall be final and binding upon the institutions.

### **30.7 Construction procurement system**

30.7.1 Accounting officers and accounting authorities to which these Regulations apply must in order to serve their construction procurement needs either -

- (a) establish and implement a construction procurement system in accordance with the relevant provisions of the National treasury Standard for a Construction Procurement System; or
- (b) make use of a framework agreement put in place by another institution.

30.7.2 Notwithstanding the provisions of paragraph 30.7.1 (a) -

- (a) a supply chain management system established in terms of Regulation 20 may be applied where the value of a transaction is less than R30 000 including VAT;
- (b) an institution may in the case of emergency maintenance dispense with the calling for quotations or competitive tenders where immediate repairs are essential;
- (c) goods and equipment procured through the construction procurement system which are stored prior to being issued to an institution's officials or to contractors must following their receipt be subject to the applicable provisions of Regulation 24.3 relating to inventory control;
- (d) the construction procurement system may be applied to the provision of temporary facilities and to goods or services necessary for a new facility as delivered to be occupied and used.

30.7.3 Accounting officers and accounting authorities to which these Regulations apply must designate persons to undertake actions and perform activities in accordance with Annexure B of the National Treasury Standard for a Construction Procurement System.

30.7.4 Quality may be evaluated in tender offers together with preference points system as other objective criteria in terms of section 2(1)(f) of the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) in accordance with the provisions of the Standard for Uniformity in Construction Procurement issued in terms of the Construction Industry Development Board Act, 2000 (Act 38 of 2000).

- 30.7.5 Notwithstanding the provisions of paragraph 30.7.1, where the delivery or maintenance of infrastructure is fully financed by means of a grant in accordance with a technical assistance agreement in terms of the Reconstruction and Development Programme Act, 1994 (Act 7 of 1994), the following must be applied -
- (a) the procurement must be in accordance with the requirements of the donor as included in the technical assistance agreement if the procurement is fully funded by the donor;
  - (b) no approval is required from the Minister of Finance for exemption from the requirements of the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and its related Regulations if the procurement is required to be in accordance with the donor's own procurement procedures;
  - (c) if the procurement is partly funded by a donor and partly funded by an institution, the provisions of the Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and its related Regulations apply in relation to the institution's funds that are expended; and
  - (d) if it is not possible to identify contracts that are separately funded, the procurement must be in accordance with the requirements of -
    - (i) the donor if the bulk of the expenditure is funded by means of a grant, and
    - (i) this paragraph if the bulk of the expenditure is funded by an institution, provided that the donor agrees.

### **30.8 Required competencies and training**

- 30.8.1 The accounting officer or accounting authority to which these *Treasury Regulations* apply must ensure that employees employed for the delivery and maintenance of infrastructure and in the supply chain management unit possess the necessary knowledge (general and specific) and skills as set out in their institution's approved job descriptions which are reviewed every three years and are fully capacitated to fulfil their responsibilities.
- 30.7.2 Institutions must determine their training requirements to address institutional needs. The relevant treasury may facilitate such training.
- 30.7.3 The accounting officer or accounting authority must ensure that sufficient funding is available on the institution's training budget to address institutional needs.

### **30.9 Avoiding abuse of supply chain management system**

- 30.9.1 The accounting officer or accounting authority to which there Regulations apply must –

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an employee or other role player of corruption, improper conduct or failure to comply with the supply chain management system, and when justified –
  - (i) take steps against such official or other role player and inform the relevant treasury of such steps; and
  - (ii) report any conduct that may constitute an offence to the South African Police Service;
  - (iii) report any perceived breaches of the Construction Industry Development Board's Code of Conduct to the Construction Industry Development Board
- (c) check the National Treasury's Database of Restricted Suppliers and the Register for Tender Defaulters prior to awarding any contract to ensure that no recommended tenderer, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector;
- (d) reject any tender from a tenderer who fails to provide written proof from the South African Revenue Service that that contractor either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations;
- (e) reject a proposal for the award of a contract if the recommended tenderer has committed a corrupt or fraudulent act in competing for the particular contract; or
- (f) cancel a contract awarded to a contractor –
  - (i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or
  - (ii) if any employee or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.

30.9.2 The accounting officer or accounting authority –

- (a) may disregard the submission of any tenderer if that tenderer , or any of its directors –
  - (i) have abused the institution's supply chain management system
  - (ii) have committed fraud or any other improper conduct in relation to such system; or
  - (iii) have failed to perform on any previous contract; and
- (b) must inform the relevant treasury of any action taken in terms of paragraph (a).

30.9.3 The National Treasury and each provincial treasury must establish a mechanism:-

- (a) to receive and consider complaints regarding alleged non-compliance with the prescribed minimum norms and standards; and
- (b) to make recommendations for remedial actions to be taken if non-compliance of any norms and standards is established, including recommendations of criminal steps to be taken in the case of corruption, fraud or other criminal offences.

### **30.10 National Industrial Participation Program**

30.10.1 An accounting officer or accounting authority must obtain clearance for a recommended tenderer from the Department of Trade and Industry, in respect of contracts which are subject to the National Industrial Participation Program of that Department.

### **30.11 Reporting of supply chain management information**

30.11.1 The accounting officer or accounting authority to which these Regulations apply must:

- (a) timeously submit to the relevant treasury such supply chain management information as that treasury may require; and
- (b) ensure that the information that is submitted is complete and accurate.

30.11.2 A provincial treasury must submit to the National Treasury such supply chain management information as the National Treasury may require.

30.11.3 Information referred to in paragraphs 30.11.1 and 30.11.2 of these Regulations must be submitted to the relevant treasury in such format and at such intervals as that treasury may require.

### **30.12 Major capital projects**

30.12.1 Accounting officer and accounting authorities to which these regulations apply may be required by the relevant treasury to provide:

- (a) information on the expertise and resources available to implement a major capital project; and
- (b) provide copies of the tender evaluation reports, the recommendations to award a contract and the draft contract for treasury approval prior to a contract being entered into.

30.12.2 All major capital projects must be subjected to an independent gateway review prior to the acceptance of the concept report at the end of stage 4 in accordance with the provisions of the standard referred to in paragraph 30.4.3.

**30.13 Delivery of infrastructure through school governing bodies**

- 30.13.1 A Service Delivery Agreement must be entered into between the relevant public works and education departments established in terms of the Public Service Act of 1994 and a School Governing Body where a School Governing Body acts as an implementer pursuant to paragraph 30.6.2(b)(ii). Such an agreement must as a minimum -
- (a) require the School Governing Body to appoint suitably qualified persons registered in terms of one of the councils for the professions as defined in the Council for the Built Environment Act of 2000 (Act 43 of 2000) to assume responsibility for the management and design of the works; and
  - (b) apply a procurement system which -
    - (i) is fair, equitable, transparent, cost effective and competitive; and
    - (ii) complies with the prescripts of the Construction Industry Development Board issued in terms of the Construction Industry Development Board Act, 2000 (Act 38 of 2000).

# **PART 8**

## **Miscellaneous**

## Application and listing of public entities

### **31.1 Application** [Sections 47 and 76(4) of the PFMA]

- 31.1.1 These regulations apply to all public entities listed in Schedule 2 or 3 of the Act, unless the context indicates otherwise.
- 31.1.2 Public entities that should have been listed in terms of the Act but which are not listed, must deposit all money received into the relevant revenue fund.
- 31.1.3 Public entities must submit all information required by the National Treasury in terms of the Act and these regulations to the Registrar of Public Entities in the National Treasury.

### **31.2 Listing** [Section 47(2) of the PFMA]

- 31.2.1 An accounting authority of a public entity not listed in terms of the Act must submit the following information to the executive authority and the Registrar of Public Entities in support of its application for listing:
  - (a) name of the public entity;
  - (b) its main function;
  - (c) executive authority responsible for the public entity;
  - (d) legislation in terms of which the entity was established;
  - (e) dates of its incorporation and financial year end;
  - (f) names of members of the board or body controlling the public entity;
  - (g) its registered address and telephone numbers;
  - (h) name of the chief executive officer;
  - (i) name of the chief financial officer;
  - (j) name of the company secretary;
  - (k) authority responsible for appointing the chief executive officer;
  - (l) authority responsible for appointing the board of directors or controlling body;
  - (m) subsidiaries under the ownership control of the entity;
  - (n) latest audited financial statements;
  - (o) amount of budgetary transfers received over the past three financial years; and
  - (p) most recent corporate/strategic plan of the public entity.

## National and provincial revenue funds

- 32.1 Control of the National and provincial revenue funds** [SECTIONS 11 AND 21 OF THE PFMA]
- 32.1.1 Each treasury is responsible for the effective and efficient management of its revenue fund.
- 32.1.2 Each treasury must ensure that its revenue fund always has sufficient money for appropriated expenditure and direct charges to meet the progressive cash flow requirements.
- 32.1.3 Each revenue fund consists, at any point in time, of all cash balances of the fund, derived from the relevant treasury's operating, investing and financing activities.
- 32.2 Bank account configuration** [sections 7 and 21 of the PFMA]
- 32.2.1 The bank account configuration for the National Revenue Fund comprises an Exchequer bank account, Paymaster-General bank account with the South African Reserve Bank, the four tax and loan accounts with commercial banks, and any other bank account opened to facilitate the management of the National Revenue Fund. The National Treasury may open additional accounts on such terms and conditions as it may determine.
- 32.2.2 Each provincial revenue fund must have a bank account configuration that consists of at least an Exchequer bank account and a Paymaster-General bank account, opened with a commercial bank.
- 32.2.3 Each head of a provincial treasury must nominate one bank account, which is under the control of the provincial treasury and is part of the provincial revenue fund, as the accredited account into which all transfers from national departments must be deposited.
- 32.2.4 If the accounting for a department necessitates a separate bank account, the relevant treasury may approve one sub-account within the Paymaster-General account of the relevant revenue fund. Such subaccounts remain an integral part of the bank account configuration of the relevant revenue fund.

**32.3 Deposits into the revenue funds** [SECTION 13 AND 22 OF THE PFMA]

- 32.3.1 In terms of sections 11 (3) and 21 (2) of the Act, money is paid into a revenue fund by depositing it into a bank account in accordance with the configuration requirements prescribed above.
- 32.3.2 The National Treasury will issue an annual Treasury Instruction to provide accounting officers with banking details of all provincial revenue funds.
- 32.3.3 Under no circumstances may national departments deposit money (e.g. conditional grants) directly into the Paymaster-General Accounts of provincial departments.
- 32.3.4 No provincial department may receive transfers from a national department or public entity directly; such funds must be deposited into the nominated banking account of the province as required by paragraph 32.2.3.
- 32.3.5 Money deposited into the Paymaster-General account must immediately be available to the relevant treasury for funding expenditure or investment according to its central cash management responsibilities.

**32.4 Responsibilities of the South African Revenue Service** [SECTION 12 OF THE PFMA]

- 32.4.1 The South African Revenue Service must supply the relevant treasury with an annual revenue projection no later than the tenth working day of March preceding the start of the financial year. The South African Revenue Service must also submit the actual collection for the preceding month and an updated monthly revenue projection for the remainder of the year, no later than the 15<sup>th</sup> working day of each month.
- 32.4.2 For purposes of section 12 of the Act, the South African Revenue Service must implement measures to ensure that all taxes, levies, duties, fees and other money due to and collected by it for a revenue fund are accounted for and deposited daily into the relevant fund. The relevant treasury must be informed daily of such revenue and its standard revenue classifications.

**32.5 Withdrawals from and investments in revenue funds** [SECTIONS 7(4) AND 24(3) OF THE PFMA]

- 32.5.1 Provincial treasuries may, in accordance with section 24 of the Act, temporarily invest surplus money in the provincial revenue fund in an account in South Africa, approved as part of the bank account configuration of the fund.

**32.6 Requisitioning of funds by departments**

- 32.6.1 When requesting the transfer of appropriated funds, accounting officers of national departments must submit such requisitions to the National Treasury, in accordance with approved cash flow estimates, at least four

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full working days before the end of the month proceeding the month in which the funds are required. Provincial treasuries may determine their own arrangements in this regard.

- 32.6.2 Provincial treasuries will receive their grants from the National Revenue Fund in accordance with the payment schedule determined in terms of the annual Division of Revenue Act.

**32.7 Accounting and reporting**

- 32.7.1 Each treasury must account daily for the cash movements of all bank accounts in the books of its revenue fund.

**32.8 Cash flow projections**

- 32.8.1 Provincial treasuries must submit to the National Treasury, by the 15<sup>th</sup> working day of March, projections of their expenditure, revenue and borrowings for the ensuing financial year, in a format determined by the National Treasury.

## Money and property held in trust

### 33.1 General

33.1.1 Regulation 32 is not applicable to the management of trust money.

### 33.2 Responsibility for trust money and property [SECTION 76(1) (c) OF THE PFMA]

33.2.1 For purposes of this regulation, trust money or property is money or property that does not belong to the State and that is held by an institution on behalf of other persons or entities in terms of a deed of trust or equivalent instrument that details the specific purposes for which it may be used.

33.2.2 The accounting officer or accounting authority of an institution, through the chief financial officer or a duly authorised agent, is responsible for the safekeeping and proper use of trust money and property, in accordance with the relevant deed of trust or equivalent instrument.

33.2.3 The institution, or its duly authorised agent, may charge a fee for the administration of a trust account at rates approved by the board of trustees or, in its absence, as agreed with the trustee. Such fees are payable from the trust account and are revenue accruing to the relevant revenue fund.

### 33.3 Trust money must be kept in a trust account

33.3.1 The accounting officer or accounting authority of an institution must, for each separate portion of trust money:

- (a) open and maintain a separate bank account, called a trust account;
- (b) assign to the trust account a name or title that clearly identifies the account;
- (c) maintain separate accounting records for each trust account, of the transactions, including investment transactions, undertaken; and
- (d) annually prepare separate annual financial statements that comply with Statements of Generally Recognised Accounting Practice (GRAP).

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### **33.4 Investment of trust money**

- 33.4.1 The accounting officer or accounting authority of an institution may, provided that it does not conflict with the terms of the trust arrangement, invest any trust money on such terms and conditions as may be appropriate:
- (a) on deposit with any bank within or outside South Africa as approved by the National Treasury;
  - (b) in public securities issued by the government; or
  - (c) in other securities approved by the National Treasury.
- 33.4.2 The proceeds of an investment, including interest and realised capital gains, and all money received from the realisation, sale or conversion of securities, must be treated as money of the trust on whose behalf the money was invested.

## Trading entities

### 34.1 Definitions [SECTIONS 76(4) (b) OF THE PFMA]

34.1.1 In this regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the same meaning, and:

34.1.2 “**head of the trading entity**” refers to either:

- (a) the accounting officer appointed in terms of section 36(3) (b) of the Act;  
or
- (b) an employee assigned to head the trading entity in terms of section 44(1) (a) of the Act.

### 34.2 General

34.2.1 For purposes of this regulation, a trading entity is regarded as an entity operating within the administration of a department. All obligations on departments in these regulations apply to trading entities, unless the context indicates otherwise.

34.2.2 The accounting officer of the department operating a trading entity must ensure that the head of the trading entity complies with the Act and these *Regulations*.

34.2.3 Trading entities allowed to open bank accounts may not borrow for bridging purposes and may not run overdrafts on their banking accounts.

### 34.3 Policy and reporting framework

34.3.1 The accounting office of a department operating a trading entity must formulate a policy and reporting framework for the head of the trading entity.

34.3.2 The head of the trading entity is accountable to the accounting officer of the department operating that trading entity and must forward all reports or approvals required in the Act via the accounting officer of the department.

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## **34.4 Establishment**

34.4.1 Provincial treasuries may only establish a trading entity after consultation with the National Treasury.

## **34.5 Capital requirements and user charges**

34.5.1 The capital requirements of the trading entity must be determined in consultation with the relevant treasury, and increases in such requirements are also subject to treasury approval.

34.5.2 In determining charges for goods or services, the head of the trading entity must aim to recover the full cost of providing the goods or services, unless the relevant treasury approves lower charges.

34.5.3 The head must review rates for user charges at least annually before the budget, and any tariff increases are subject to approval by the relevant treasury.

## **34.6 Disposal of assets**

34.6.1 When assets are disposed of other than in the ordinary course of the business of the trading entity, the relevant treasury must approve the transaction.

## **34.7 Surrender of surplus funds**

34.7.1 The accounting officer of a department operating a trading entity must, at the end of each financial year and after books of account have been closed, declare any surplus or deficit to the relevant treasury.

34.7.2 A trading entity may only accumulate a surplus referred to in paragraph 34.7.1 with the prior written approval of the relevant treasury.

34.7.3 Where a trading entity suffers a deficit in trading, the accounting officer of the department operating the trading entity must investigate whether:

- (a) the head of the trading entity reported any foreseeable potential over expenditure in the monthly reports;
- (b) appropriate steps were taken to address the deficit; and
- (c) financial misconduct sanctions should be instituted if paragraphs (a) and (b) were not adhered to.

34.7.4 In the event of a trading entity incurring a deficit, the accounting officer of the department controlling the trading entity must disclose the financial impact of such a deficit on the department in its annual report.

## **34.8 Monthly and annual reporting**

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- 34.8.1 The accounting officer of a department controlling a trading entity must provide the monthly information as required by section 40(4) (b) and (c) of the Act in respect of such a trading entity in the monthly report of the department.
- 34.8.2 In the event of the accounting officer of the trading entity not being the accounting officer of the department, then such an accounting officer must provide the information required in Treasury Regulation 34.8.1 to the accounting officer of the department for inclusion in the department's monthly report.
- 34.8.3 The relevant treasury may direct that the annual report and financial statements of the trading entity be incorporated into those of the department responsible for that trading entity.
- 34.8.4 The annual financial statements in respect of a trading entity must be compiled in accordance with standards of Generally Recognised Accounting Practice (GRAP).

### **34.9 Closure of a trading entity**

- 34.9.1 Upon closure of a trading entity, all assets of the trading entity shall be transferred to the controlling department and taken on record.

## Commissions and committees of inquiry

### 35.1 Definitions

In this Regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the same meaning, and:

**“commission”** means a commission of inquiry appointed by the President or the Premier of a province to investigate a matter of public concern, and does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

**“committee”** means a committee of inquiry appointed by the executive authority and includes an interdepartmental committee of inquiry, but does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

**“non-official member”** means a person who is not an official member.

**“official member”** means a person as defined in section 8(1) of the Public Service Act, 1994 (Proclamation No. R.103 of 1994), a member of Parliament or a judge, as well as a person employed by a body that was established by an Act of Parliament and that receives its funds wholly, or in part, from the National Revenue Fund, where such a person represents the department or body where he or she is employed as a member of a commission or committee.

### 35.2 Remuneration of members

35.2.1 An official member may not receive additional remuneration. Subsistence and other allowances may be paid to the official member by the institution that employs the official member in accordance with his or her conditions of service.

35.2.2 A non-official member must be remunerated according to scales approved by the National Treasury.

35.2.3 Should the accounting officer deem it necessary, he or she can, in consultation with the executive authority, determine other remuneration, provided that:

- (a) the terms of reference are properly defined in terms of time and cost;
- and

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(b) if applicable, the remuneration is considered taking into account the tariffs as determined by the institute that regulates the profession that the non-official member belongs to.

35.2.4 The remuneration of all members of a commission or committee must be disclosed as notes to the financial statements of the institution.

### **35.3 Services rendered by members during private time**

35.3.1 Should the chairperson request a non-official member of a commission or committee to render services in his or her private time, other than the normal preparations for meetings, the person may be paid an honorarium (within the budget), as determined by the accounting officer and the executive authority. In the case of official members, section 30 of the Public Service Act of 1994 must be complied with.

## Government payroll deductions

### 36.1 Definitions

In this regulation, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act, has the same meaning, and:

**“Accountant –General”** means the officer of the National Treasury designated as the Accountant-General;

**“basic salary”** means the annual notch that an employee is employed on divided by 12. It excludes additional remuneration from overtime or other allowances;

**“benefit deduction”** means a deduction on PERSAL against an employee’s salary for a debt arising from employment benefits, including home owners allowance and the motor finance scheme for senior employees;

**“collective agreement deduction”** means a deduction on PERSAL against an employee’s salary arising from a collective agreement between the state and a union registered with the Public Service Coordinating Bargaining Council or similar body, in accordance with applicable law;

**“debt”** means an amount of money owed and already payable by an employee to any person and for the purposes of these regulations, includes insurance premiums deducted in terms of policies with long and short-term insurers;

**“deduction code”** means a code issued by the Accountant-General to enable a person to deduct money from an individual paid via the PERSAL system;

**“Director-General”** means the Director-General: National Treasury;

**“discretionary deduction”** means a deduction on PERSAL against an employee’s salary, other than benefit, collective agreement, state or statutory deductions;

**“official”** means a person in the employ of a department or a person in the employ of a constitutional institution who receives his or her salary via PERSAL, but excludes persons employed in terms of section 1 of the

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Magistrates Act, 1993 (Act No. 90 of 1993) and section 3 of the Intelligence Services Act, 2002 (Act No. 65 of 2002);

“**PERSAL**” means the personnel salary system of national and provincial government, and includes the **PERSOL** system;

“**person**” depending on the context, includes reference to the state or any other legal entity;

“**state deduction**” means a deduction on PERSAL against an employee's salary for a debt to a department that is subject to section 34 of the Basic Conditions of Employment Act (Act 75 of 1997);

“**statutory deduction**” means a deduction on PERSAL against an employee's salary, which is required or permitted in terms of a law, court order or arbitration award.

## **36.2 PERSAL deductions**

36.2.1 No employee of a department contracted to operate PERSAL may, whether for paying a debt or any other purpose, process a discretionary deduction except in accordance with the provisions of these regulations and the agreement as contemplated in paragraph 36.3.

36.2.2 Before a benefit, collective agreement, state or statutory deduction is processed on PERSAL, the accounting officer must certify that the deduction is due and that no portion of it is a discretionary deduction.

36.2.3 Where such certification is for an emolument attachment order issued against an employee in terms of section 65J of the Magistrates' Court Act (Act 32 of 1994), the accounting officer must be satisfied that:

(a) the documentation presented by the judgement creditor or his or her attorney *inter alia* reflects, as contemplated in this Act:

- (i) that the employee has given written consent to the issuing of the order or that a court has authorised it (on application or otherwise), and that this authorisation has not been suspended; or
- (ii) that the employee has first been sent a registered letter advising him or her of the amount of the judgement debt and costs, and warning that an emoluments attachment order will be issued if this amount is not paid within ten days of the date of its posting;

(b) after the deduction, the employee will have sufficient means for maintenance for him or herself and any dependants.

36.2.4 Should the deduction not leave the employee with sufficient means for maintenance or for that of his or her dependants, the accounting officer

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must advise the employee of his or her right to approach the court to either rescind the order or amend it to affect only the balance of the salary after provision for such maintenance.

### **36.3 Deduction codes**

- 36.3.1 Any person may apply for a deduction code for a discretionary deduction, subject to requirements as laid down by the Accountant-General.
- 36.3.2 Only the Accountant-General may approve the issuing of deduction codes, in terms of an agreement between the Accountant-General and a person qualifying for such a code.
- 36.3.3 A person applying for a deduction code must certify in the application that:
- (a) the code is required by;
    - (i) a department;
    - (ii) an insurance company (for insurance deduction codes) approved by the Financial Services Board;
    - (iii) a company (for loan deduction codes) that is registered under the Banks Act (Act 94 of 1990) or with the Micro Finance Regulatory Council (MFRC);
    - (iv) a public higher education institution; or
    - (v) a private higher education institution approved by the national Department of Education
  - (b) third parties, including brokers, will not be allowed access to the code;
  - (c) the person consents to:
    - (i) entering into an agreement with the Accountant-General, which is subject to annual review;
    - (ii) the oversight of the Financial Services Board and the National Treasury to monitor compliance with the agreement and this regulations; and
    - (iii) an audit, at own expense, by parties determined by the Accountant-General;
  - (d) the person is in good standing with the South African Revenue Services and will annually provide the Accountant-General with proof of such good standing.
- 36.3.4 The Accountant-General may levy a fee of up to 5 per cent of deductions for emolument attachment orders, except orders specifically for child maintenance.
- 36.3.5 The National Treasury may, for a discretionary loan deduction, determine the maximum loan period, the maximum loan amount and the interest rate (this will form part of the agreement with the Accountant-General):
- (a) for loans over R10 000, the Usury Act limit is the maximum, all inclusive interest rate;

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(b) for loans below R10 000, the maximum is 27 per cent plus an administrative cost subject to a limit set out in the agreement with the Accountant-General.

36.3.6 Discretionary deductions may not exceed 40 per cent of the employee's basic salary, provided that:

(a) deductions for insurance premiums do not exceed 15 per cent;  
(b) other discretionary deductions do not exceed 25 per cent; and  
(c) the minimum take-home pay is as specified in the agreement with the Accountant-General.

36.3.7 Notwithstanding the provisions of paragraph 36.3.6 discretionary deductions in excess of the limits prescribed by that paragraph may be deducted; provided that the Accountant-General is satisfied that not allowing such deductions will substantially prejudice the interests of the employee and that such deductions shall be limited to a period as determined by the Accountant-General.

36.3.8 The Minister of Finance may determine the future of the discretionary deductions system and the number of deduction codes on the Persal system.

36.3.9 Insurance companies to whom deduction codes are allocated may vary premiums periodically, provided that the annual increase does not exceed 15 per cent of the premium or ten rand (R10), whichever is greater.

#### **36.4 Contravention of regulations and penalties**

36.4.1 Any serious or persistent material non-compliance with this regulation or the terms of the agreement with the Accountant-General constitutes misconduct.

36.4.2 It is a serious contravention for any person to knowingly exceed the deduction limits described above.

36.4.3 The Accountant-General may penalise a person for contravening this regulation by:

(a) withdrawing or suspending the use of a deduction code;  
(b) refusing access to the PERSAL system for a specific period;  
(c) publishing the identity of the person and the details of the contravention;  
(d) laying criminal charges; and  
(e) if the person is an employee, direct that the contravention be dealt with in terms of the Act.

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36.4.4 Any person aggrieved by a decision of or penalty imposed by the Accountant-General may appeal to the Minister of Finance, whose decision will be final.