national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

GUIDELINE ON FRUITLESS AND WASTEFUL EXPENDITURE

OFFICE OF THE ACCOUNTANT-GENERAL

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PURPOSE

1. The purpose of this guideline is to provide clarity on the interpretation of matters related to fruitless and wasteful expenditure, as defined in section 1 of the Public Finance Management Act (PFMA), 1999 (Act No. 1 of 1999) and the application of procedures related thereto.

DEFINITION

2. Section 1 of the PFMA defines fruitless and wasteful expenditure as "expenditure which was made in vain and would have been avoided had reasonable care been exercised".

3. The words ***in vain*** as contained in the definition of fruitless and wasteful refers to a transaction, event or condition which was undertaken without value or substance and which did not yield any desired results or outcome. ***Reasonable care*** means applying due diligence (careful application, attentiveness, caution) to ensure that the probability of a transaction, event or condition not being achieved as planned is being managed to an acceptable level.

APPLICABILTY

4. This *Guideline* applies to all departments, constitutional institutions and public entities listed in Schedule 2 and 3 to the PFMA.

PFMA PROVISIONS RELATED TO FRUITLESS AND WASTEFUL EXPENDITURE

Departments and constitutional institutions

5. Section 38 of the PFMA spells out the following general responsibilities of accounting officers related to fruitless and wasteful expenditure:

   (i) **Section 38 (1) (c) (ii):** The accounting officer must take effective and appropriate steps to prevent fruitless and wasteful expenditure;

   (ii) **Section 38 (1) (g)**: The accounting officer must on discovery of fruitless and wasteful expenditure, immediately report, in writing, particulars of the expenditure to the relevant treasury;

(iii) **Section 38 (1) (h):** The accounting officer must take effective and appropriate disciplinary steps against any official in the service of the department or constitutional institution who makes or permits fruitless and wasteful expenditure; and

(iv) **Section 40(3) (b):** The annual report and audited financial statements must include particulars of fruitless and wasteful expenditure that occurred during the financial year and any disciplinary steps taken as a result of such fruitless and wasteful expenditure.

6. Section 45(c) of the PFMA requires an official of a department and constitutional institution to take effective and appropriate steps to prevent fruitless and wasteful expenditure within that official's area of responsibility.

Public entities

7. Section 51 of the PFMA spells out the following general responsibilities of accounting authorities related to fruitless and wasteful expenditure:

(i) **Section 51(1)(b)(ii):** The accounting authority must take effective and appropriate steps to prevent fruitless and wasteful expenditure;

(ii) **Section 51(1)(e)(iii):** The accounting authority must take effective and appropriate disciplinary steps against any employee who makes or permits fruitless and wasteful expenditure;

(iii) **Section 55(2)(b)(i) & (ii):** The annual report and financial statements must include particulars of fruitless and wasteful expenditure that occurred during the financial year and any disciplinary steps taken as a consequence of such fruitless and wasteful expenditure; and

(iv) **Section 57(c):** An official in a public entity must take effective and appropriate steps to prevent any fruitless and wasteful expenditure within that official's area of responsibility.

TREASURY REGULATION PROVISIONS RELATED TO FRUITLESS AND WASTEFUL EXPENDITURE

Treasury Regulations	Description
Treasury Regulation 9.1.1	The accounting officer of a department, trading entity or constitutional institution must exercise all reasonable care to prevent and detect fruitless and wasteful expenditure and must, for this purpose, implement effective, efficient and transparent processes of financial and risk management.
Treasury Regulation 9.1.2	When an official of a department, trading entity or constitutional institution discovers fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the department's monthly report to the relevant treasury, as required in terms of section 40(4)(b) of the PFMA.
Treasury Regulation 9.1.3	When an accounting officer of a department, trading entity or constitutional institution determines the appropriateness of disciplinary steps to be taken against an official in terms of section 38(1)(h) of the PFMA, the accounting officer 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.
Treasury Regulation 9.1.4	The recovery of losses or damages resulting from fruitless and wasteful expenditure must be dealt with in accordance with Treasury Regulation 12 related to the Management of Losses.
Treasury Regulation 9.1.5	The amount of the fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements.

PRINCIPLES FOR FRUITLESS AND WASTEFUL EXPENDITURE

8. Fruitless and wasteful expenditure will always emanate from an action or lack of action instigated by an official that resulted in a financial loss to the institution.

9. If an investigation reveals that the employee is liable in law, then accountability for the fruitless and wasteful expenditure and any losses relating thereto shall be vested with that official.

10. Fruitless and wasteful expenditure can arise from a range of events, activities and actions from a simple oversight in performing an administrative task to an intentional transgression of relevant laws and regulations.

PROCESSES FOR DEALING WITH FRUITLESS AND WASTEFUL EXPENDITURE

11. Upon the discovery of alleged fruitless and wasteful expenditure, an employee must immediately report the alleged fruitless and wasteful expenditure to the accounting officer of a department of constitutional institution in line with Treasury Regulation 9.1.2.

12. The accounting officer or accounting authority must maintain a fruitless and wasteful expenditure register which must contain detailed information on such expenditure for each financial year. A complete and accurate register will also ensure that fruitless and wasteful expenditure disclosed in the annual financial statements is complete and accurate. An example of such a register is contained in the enclosed template labeled **Annexure C** for departments and constitutional institutions and **Annexure D** for public entities.

13. The accounting officer or accounting authority must investigate the alleged expenditure to determine whether it meets the definition of fruitless and wasteful expenditure as contained in section 1 of the PFMA.

14. During the period of the investigation, the expenditure must remain in the expense account as the outcome of the investigation will determine the appropriate action that must be taken by the accounting officer or accounting authority with regard to the disclosure and recovery of such fruitless and wasteful expenditure.

15. Accounting officers and accounting authorities are encouraged to conclude all investigations and resolve all matters related to fruitless and wasteful expenditure within 90 days from the date on which the alleged fruitless and wasteful expenditure was discovered. If such investigations are not concluded by the date on which the annual financial statements are published, a narrative to this effect must be included as part of the fruitless and wasteful expenditure note to the annual financial statements.

16. Should the investigation reveal that the expenditure does not constitute fruitless and wasteful expenditure; the details of the expenditure must be retained in the register for purposes of completeness and to provide for an appropriate audit trail. The register must be updated to reflect the outcome of the investigation.

17. Once an investigation has been concluded and the result confirms that the expenditure constitutes fruitless and wasteful expenditure, the accounting officer of a department or constitutional institution must immediately, in writing, report the particulars of the fruitless and wasteful expenditure to the relevant treasury in terms of section 38(1)(g) PFMA.

18. In the case of a department, the accounting officer must also report such fruitless and wasteful expenditure to the relevant treasury in the monthly report on actual and anticipated revenue and expenditure, as required in terms of section 40(4)(b) of the PFMA and as contained in Treasury Regulations 9.1.2.

19. The accounting officer or accounting authority must ensure that the validity of fruitless and wasteful expenditure is confirmed before the annual financial statements are submitted for audit purposes. If fruitless and wasteful expenditure occurred during the year under review and is only discovered during the audit, the validity thereof must be confirmed before the audit is finalized.

20. The accounting officer or accounting authority must take all appropriate disciplinary steps against any official responsible for incurring fruitless and wasteful expenditure. When taking disciplinary steps in terms of sections 38(1)(h)(iii) and section 51(1)(e)(iii) of the PFMA, the accounting officer or accounting authority must take into consideration the circumstances of the transgression, the extent of the expenditure involved and the nature and seriousness of the transgression.

21. Fruitless and wasteful expenditure incurred during the financial year and any criminal or disciplinary steps taken as the result thereof must be disclosed in the notes to the annual financial statements of the institution.

22. Unlike unauthorised expenditure and irregular expenditure, fruitless and wasteful expenditure must either be recovered from the person liable person in law; and in instances where recovery is not possible, such fruitless and wasteful expenditure may be written off by the accounting officer or accounting authority in line with provisions of paragraph 28 below.

23. Fruitless and wasteful expenditure is recognized as expenditure in the Statement of Financial Performance according to the nature of the payment, e.g. payment for travel and subsistence and not as a separate line item on the face of the Statement of Financial Performance.

24. If an employee is held liable in terms of the law, recovery must be made and a debtor must be created in the Statement of Financial Position.

RECOVERY OF FRUITLESS AND WASTEFUL EXPENDITURE

25. The results of the investigation will provide the accounting officer or accounting authority with confirmation whether the expenditure in question is fruitless and wasteful.

26. Receivables comprise amounts due to the state as a result of the sales of goods, the provision of services or the recovery of expenditure incurred by the state. If an investigation into alleged fruitless and wasteful expenditure confirms that such expenditure has in fact been incurred, a receivable (debtor) for the recovery of the relevant amount must be raised.

27. The accounting officer or accounting authority must in writing request that the responsible person pay the amount within 30 days or in reasonable installments. If the official fails to comply with the request, the matter may be handed to the State Attorney (in the case of departments) or appointed attorneys (in the case of constitutional institutions and public entities) for the recovery of the debt.

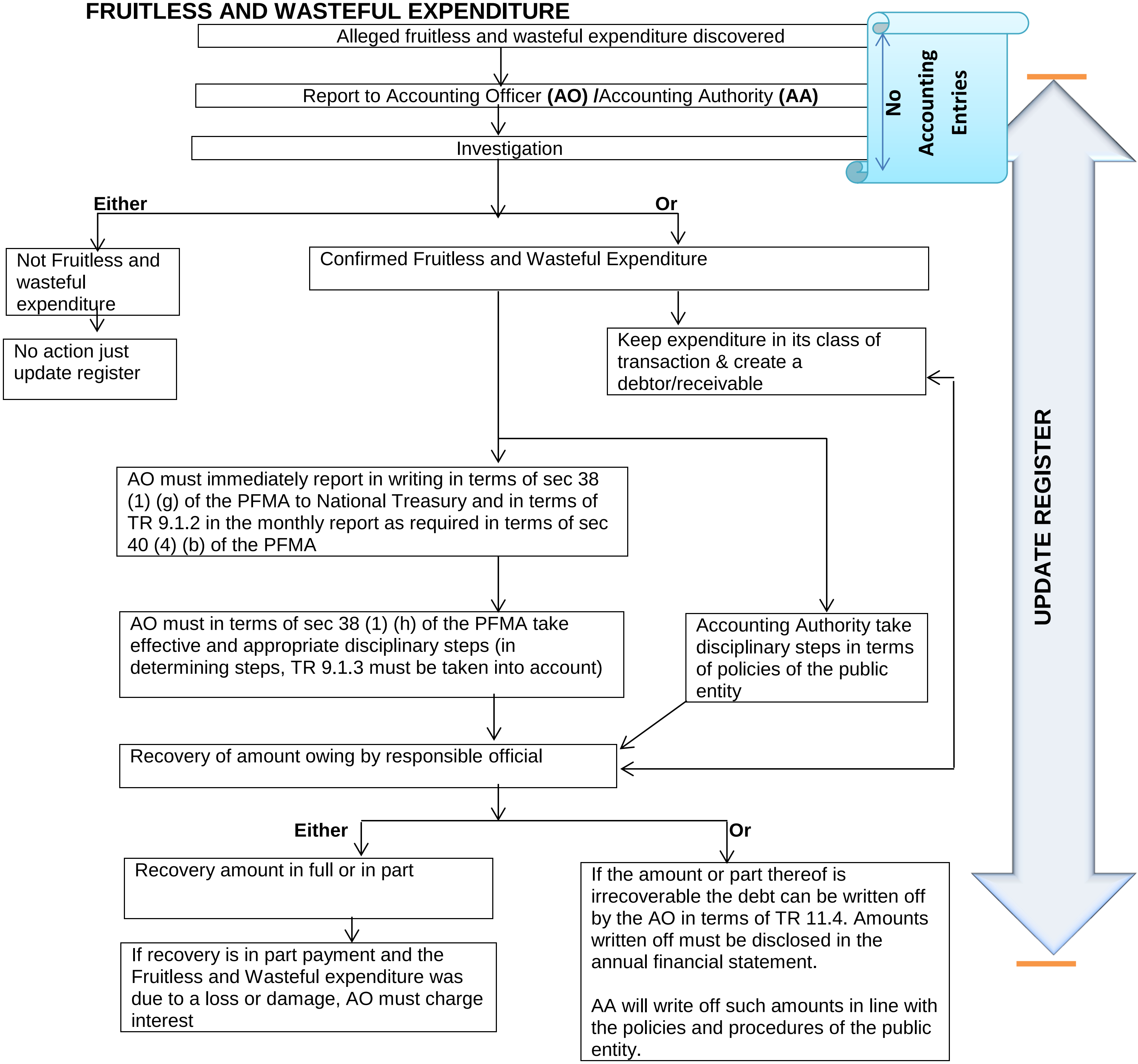
28. In terms of Treasury Regulation 9.1.4, accounting officer of a department and/or constitutional institution must deal with recovery of losses or damages resulting from fruitless and wasteful expenditure in accordance with Treasury Regulations 12 dealing with the Management of Losses. Accounting authority of a public entity will deal with recovery of losses or damages resulting from fruitless and wasteful expenditure in accordance with policies and procedures of the public entity.

29. If the amount of the fruitless and wasteful expenditure is irrecoverable from a person who is liable in law, the accounting officer may write off the debt in terms of Treasury Regulation 11.4. The accounting authority may perform similar in terms of the public entity's debt write off policy.

30. It is the responsibility of the accounting officer or accounting authority to deal with the recovery of such expenditure as prescribed in the policies and procedures of their respective institutions.

31. The enclosed **Annexure A** illustrates procedures for the treatment of fruitless and wasteful expenditure by departments, trading entities and constitutional institutions whilst **Annexure B** illustrates procedures to be followed by public entities.

THE DECISION TREE BELOW ILLUSTRATES THE PROCESS FOR TREATMENT OF FRUITLESS AND WASTEFUL EXPENDITURE



ANNEXURE A

PROCEDURE FOR THE TREATMENT OF FRUITLESS AND WASTEFULL EXPENDITURE: DEPARTMENTS AND CONSTITUTIONAL INSTITUTIONS

Fruitless and wasteful expenditure discovered by the Accounting Officer (AO) or the Auditor-General.

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AO must immediately report expenditure in writing in terms of section 38 (1)(g) of the PFMA to the relevant treasury and also in terms of Treasury Regulation 9.1.2 in a monthly report as required in terms of section 40 (4)(b) of the PFMA.

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AO must investigate the alleged fruitless and wasteful expenditure to determine whether the expenditure indeed meets the definition of fruitless and wasteful expenditure.

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AO must take appropriate disciplinary steps after reporting on the matter in terms of section 38 (1)(h) (iii) of the PFMA and Treasury Regulation 9.1.3.

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Once an investigation has been concluded and the results confirm that the expenditure constitute fruitless and wasteful expenditure and there is a person liable in law, the AO must recover such from a person who is liable law

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If the fruitless and wasteful expenditure is irrecoverable from the person who is liable in law, the AO may write off the amount and record such in the notes to the annual financial statements in line with Treasury Regulation 11.4

ANNEXURE B

PROCEDURE FOR THE TREATMENT OF FRUITLESS AND WASTEFUL EXPENDITURE: PUBLIC ENTITIES

Fruitless and wasteful expenditure discovered by the Accounting Authority (AA) and the Auditor-General.

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AA must investigate the alleged fruitless and wasteful expenditure to determine whether the expenditure indeed meets the definition of fruitless and wasteful expenditure.

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AA must take appropriate disciplinary steps in terms of section 51(1) (e)(iii) of the PFMA].

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Once an investigation has been concluded and the results confirm that the expenditure constitute fruitless and wasteful expenditure and there is a person liable in law, the AA must recover such from a person who is liable in law

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If the fruitless and wasteful expenditure is irrecoverable and there is no person who is liable in law, the AA may be write off the amount and record such in the notes to the annual financial statements in line with the policies and procedures of the public entity.

ANNEXURE C

REGISTER FOR FRUITLESS AND WASTEFUL EXPENDITURE (EXAMPLE ONLY)
Departments, trading entities and Constitutional Institutions

Name of Institution

			Transaction details					Status						
No	Date of discovery	Date Reported to Accounting Officer	Date of Payment	Payment Number	Amount	Description of Incident	Person responsible (committed irregular expenditure)	UI	C	DP	TR	P	WO	General comments

Abbreviations:

UI: Fruitless and wasteful expenditure currently under investigation;
C: Fruitless and wasteful expenditure confirmed;
DP: Disciplinary process initiated against responsible person;
TR: Transferred to receivables for recovery
P: Paid in or in the process of paying in installments; or
WO: Written-off by accounting officer as irrecoverable.

ANNEXURE D

REGISTER FOR FRUITLESS AND WASTEFUL EXPENDITURE (EXAMPLE ONLY)

Public entities

Name of Institution															
No	Date of discovery	Date Reported to Accounting Authority	Transaction details				Person responsible (committed irregular expenditure)	Status							
			Date of Payment	Payment Number	Amount	Description of Incident		UI	C	DP	TR	P	WO	General comments

Abbreviations:

UI: Fruitless and wasteful expenditure currently under investigation;
C: Fruitless and wasteful expenditure confirmed;
DP: Disciplinary process initiated against responsible person;
TR: Transferred to receivables for recovery
P: Paid in or in the process of paying in installments; or
WO: Written-off by accounting authority as irrecoverable.