**CHAPTER 6**

**MUNICIPAL FINANCIAL MANAGEMENT**

**6.4 Unauthorised, Irregular, Fruitless and Wasteful Expenditure Framework**

**6.4.1 Purpose**

The framework sets out the process to address cases of unauthorized, irregular, fruitless and wasteful expenditure incurred by municipalities.

**6.4.2 Legislative Mandate**

Section 32 of the Municipal Finance Management Act provides –

**“32.** (1) Without limiting liability in terms of the common law or other legislation—

*(a)* a political office-bearer of a municipality is liable for unauthorised expenditure if that office-bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;

*(b)* the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);

*(c)* any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or

*(d)* any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

(2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—

*(a)* in the case of unauthorised expenditure, is—

(i) authorised in an adjustments budget; or

(ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and

*(b)* in the case of irregular or fruitless and wasteful expenditure, is, after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

(3) If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

(4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—

*(a)* any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;

*(b)* whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and

*(c)* the steps that have been taken—

(i) to recover or rectify such expenditure; and

(ii) to prevent a recurrence of such expenditure.

(5) The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.

(6) The accounting officer must report to the South African Police Service all cases of alleged—

*(a)* irregular expenditure that constitute a criminal offence; and

*(b)* theft and fraud that occurred in the municipality.

(7) The council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if—

*(a)* the charge is against the accounting officer; or

*(b)* the accounting officer fails to comply with that subsection.

(8) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may regulate the application of this section by regulation in terms of section 168.

**6.4.3 Application**

1. **PURPOSE**

The purpose of this document is to provide a framework to all municipal office bearers and officials on the procedures to be followed when dealing with unauthorised, irregular, fruitless and wasteful expenditure in the municipal environment.

1. **LEGISLATIVE FRAMEWORK**

The legislation applicable to this framework is the Municipal Finance Management Act, No 56 of 2003 (MFMA). The applicable sections for unauthorised, irregular, fruitless and wasteful expenditure are detailed below:

**Withdrawals from municipal bank accounts**

*Section 11:*

(1) Only the accounting officer or the chief financial officer of a municipality or any other senior financial official of the municipality acting on the written authority of the accounting officer may withdraw money or authorise the withdrawal of money from any of the municipality's bank accounts, and may do so only:

1. to defray expenditure appropriated in terms of an approved budget;
2. to defray expenditure authorised in terms of section 26(4);
3. to defray unforeseeable and unavoidable expenditure authorised in terms of section 29( 1);
4. in the case of a bank account opened in terms of section 12 to make payments from the account in accordance with subsection (4) of that section;
5. to pay over to a person or organ of state money received by the municipality on behalf of that person or organ of state, including-
   1. money collected by the municipality on behalf of that person or organ of state by agreement or
   2. any insurance or other payments received by the municipality for that person or organ of state;
6. to refund money incorrectly paid into a bank account;
7. to refund guarantees, sureties and security deposits;
8. for cash management and investment purposes in accordance with section 13;
9. to defray increased expenditure in terms of section 31; or
10. for such other purposes as may be prescribed.

(2) Any authorisation in terms of subsection (1) to a senior financial official to withdraw money or to authorise the withdrawal of money from a bank account must be in accordance with a framework as may be prescribed. The accounting officer may not authorise any official other than the chief financial officer to withdraw money or to authorise the withdrawal of money from the municipality's primary bank account if the municipality has a primary bank account which is separate from its other bank accounts.

(3) Money may be withdrawn from a bank account in terms of subsection (1) (b) to (j) without appropriation in terms of an approved budget.

***Appropriation of funds for expenditure***

*Section 15*

Amunicipality may except where otherwise provided in this Act, incur expenditure only*:*

1. in terms of an approved budget; and
2. within the limits of the amounts appropriated for the different votes in an approved budget.

***Consequences of failure to approve budget before start of budget year***

*Section 26*

(4) Until a budget for the municipality is approved in terms of subsection (1) funds for the requirements of the municipality may, with the approval of the MEC for Finance in the province be withdrawn from the municipality's bank accounts in accordance with subsection (5).

(5) Funds withdrawn from a municipality's bank accounts in terms of section (4)-

(a) may be used only to defray current and capital expenditure in connection with votes for which funds were appropriated in the approved budget for the previous financial year: and

(b) May not

(i) during any month, exceed eight per cent of the total amount appropriated in that approved budget for current expenditure, which percentage must be scaled down proportionately if revenue flows are not at least at the same level as the previous financial year: and continued functioning of the municipality.

(ii) exceed the amount actually available.

***Unforeseen and unavoidable expenditure***

*Section 29*

(1) The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.

(2) Any such expenditure-

(a)must be in accordance with any framework that may be prescribed;

(b) may not exceed a prescribed percentage of the approved annual budget;

(c) must be reported by the mayor to the municipal council at its next meeting and

(d) must be appropriated in an adjustments budget.

(3) If such adjustments budget is not passed within 60 days after the expenditure was incurred, the expenditure is unauthorised and section 32 applies.

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

*Section 32*

(1) Without limiting liability in terms of the common law or other legislation:

1. a political office-bearer of a municipality is liable for unauthorised expenditureif that office-bearer knowingly or after having been advised by the accounting officer of the municipality that the expenditure is likely to result inunauthorised expenditure, instructed an official-of the municipality to incur the expenditure;
2. the accounting officer is liable for unauthorised expenditure deliberately ornegligently incurred by the accounting officer subject *to* subsection (3);
3. any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure is liable for that expenditure; or
4. any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.

(2) Amunicipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure:

(a) in the case of unauthorised expenditure, is-

(i) authorised in an adjustments budget; or

(ii) certified by the municipal council, after investigation by a council committee as irrecoverable and written off by the council and

(b) in the case of irregular or fruitless and wasteful expenditure is after investigation by a council committee, certified by the council as irrecoverable and written off by the council.

(3) If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.

(4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing of:

(a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality

(b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure and

(c) the steps that have been taken -

(i) to recover or rectify such expenditure; and

(ii) to prevent a recurrence of such expenditure.

(5) The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.

(6) The accounting officer must report to the South African Police Service all cases of alleged:

(a) irregular expenditure that constitute a criminal offence; and

(b) theft and fraud that occurred in the municipality.

(7) The council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if-

(a) the charge is against the accounting officer; or

(b) the accounting officer fails to comply with that subsection.

(8) The Minister, acting with the concurrence of the Cabinet member responsible for local government may regulate the application of this section by regulation in terms of section 168.

***General financial management functions***

*Section 62*

(1) The accounting officer of a municipality is responsible for managing the financial administration of the municipality, and must for this purpose take all reasonable steps to ensure:

(a) that the resources of the municipality are used effectively efficiently and economically;

(b) that full and proper records of the financial affairs of the municipality are kept in accordance with any prescribed norms and standards;

(c) that the municipality has and maintains effective, efficient and transparent systems-

(i) of financial and risk management and internal control; and

(ii) of internal audit operating in accordance with any prescribed norms and standards;

(d) that unauthorised, irregular or fruitless and wasteful expenditure and other losses are prevented;

(e) that disciplinary or, when appropriate, criminal proceedings are instituted against any official of the municipality who has allegedly committed an act of financial misconduct or an offence in terms of Chapter 15:

***Other compulsory disclosures***

*Section 125*

(2)The notes to the annual financial statements of a municipality or municipal entity must disclose the following information:

*(d)* particulars of:

(i) any material losses and any material irregular or fruitless and wasteful expenditures, including in the case of a municipality, any material unauthorised expenditure, that occurred during the financial year and whether these are recoverable;

(ii) any criminal or disciplinary steps taken as a result of such losses or such unauthorised, irregular or fruitless and wasteful expenditures and

(iii) any material losses recovered or written off

***Departures from treasury regulations or conditions***

*Section 170*

(1) The National Treasury may on good grounds approve a departure from a treasury regulation or from any condition imposed in terms of this Act

(2) Non-compliance with a regulation made in terms of section 168, or with a condition imposed in terms of this Act, may on good grounds shown be condoned by the Treasury.

***Financial misconduct***

*Section 171*

(1) The accounting officer of a municipality commits an act of financial misconduct if that accounting officer deliberately or negligently:

*(a)* contravenes a provision of this Act;

*(b)* fails to comply with a duty imposed by a provision of this Act on the accounting officer of a municipality;

*(c)* makes or permits, or instructs another official of the municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure.

(2) The chief financial officer of a municipality commits an act of financial misconduct if that officer deliberately or negligently:

*(c)* makes or permits, or instructs another official of the municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure.

(2) A senior manager or other official of a municipality exercising financial management responsibilities commits an act of financial misconduct if that senior manager or official deliberately or negligently:

*(c)* makes or permits, or instructs another official of the municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure.

***Criminal Proceedings***

*Section 173*

(1) The accounting officer of a municipality is guilty of an offence if that accounting officer-

*(a)* deliberately or in a grossly negligent way-

(i) contravenes or fails to comply with a provision of section 61(2)(b), 62(1), 63(2)(a) or (c), 64(2)(a) or (d) or 65(2)(a), (b), (c). (d), (f) or (i ) ;

(ii) fails to take reasonable steps to implement the municipality’s supply chain management policy referred to in section 111;

(iii) fails to take all reasonable steps to prevent unauthorised. irregular or fruitless and wasteful expenditure; or

(iv) fails to take all reasonable steps to prevent corruptive practices-

*(aa)* in the management of the municipality’s assets or receipt of money;

*(bb)* in the implementation of the municipality’s supply chain management policy.

(4) A councillor of a municipality is guilty of an offence if that councillor-

*(a)* deliberately influences or attempts to influence the accounting officer, the chief financial officer, a senior manager or any other official of the municipality to contravene a provision of this Act or to refrain from complying with a requirement of this Act;

*(b)* interferes in the financial management responsibilities or functions assigned in terms of this Act to the accounting officer of the municipality or delegated to the chief financial officer of the municipality in terms of this Act.

**See paragraph 6.4.4 infra for case law**

1. **UNAUTHORISED EXPENDITURE**
   1. **Definitions relating to unauthorised expenditure**

***Unauthorised expenditure***

In relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3) and includes:

1. overspending of the total amount appropriated in the municipality’s approved budget;
2. overspending of the total amount appropriated for a vote in the approved budget;
3. expenditure from a vote unrelated to the department or functional area covered by the vote;
4. expenditure of money appropriated for a specific purpose otherwise than for that specific purpose;
5. spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of allocation otherwise than in accordance with any conditions of the allocation; or
6. a grant by the municipality otherwise than in accordance with this Act.

***Vote***

1. one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
2. which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.

***Overspending***

(a) in relation to the budget of a municipality means causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year’s budget for its operational or capital expenditure, as the case may be;

(b) in relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or

(c) in relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5)of that section.

* 1. **Understanding the definition of unauthorised expenditure**

1. ***Overspending of the total amount appropriated in the municipality’s approved budget***

A municipality’s budget is divided into an operational budget and a capital budget therefore the overspending must be determined in relation to both the operational budget and the capital budget.

1. ***Overspending of the total amount appropriated for a vote in the approved budget***

A municipality’s operational and capital budgets are divided into ‘votes’ which represent those components of the budget that have amounts appropriated for the financial year, for different departments or functional areas.

The Municipal Budget and Reporting Regulations (MBRR) prescribe the structure and formats of municipal budgets in Tables A1 to A10. Table A3 informs the votes and table A5 the capital expenditure per vote, per standard classification and funding. Tables A4, budget by revenue and expenditure, is approved by the council and as such must also be taken into consideration when determining unauthorised expenditure. Refer to annexure F for tables A3, A4 and A5

Overspending must also be determined in relation to each of the votes on *both* the operational budget and the capital budget.

1. ***Expenditure from a vote unrelated to the department or functional area covered by the vote***

Funds allocated to one department may not be used for purposes of another department or for purposes that are not provided for in the budget.

1. ***Expenditure of money appropriated for a specific purpose otherwise than for that specific purpose***

Funds that have been designated for a specific purpose or project may not be used for any other purpose.

1. ***Spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of allocation otherwise than in accordance with any conditions of the allocation***

Any use of conditional grant funds for a purpose other than that specified in the relevant conditional grant framework is classified as unauthorised expenditure.

1. ***A grant by the municipality otherwise than in accordance with this Act***

In terms of section 67 of the MFMA, a municipality may only provide grants to organizations and NOT individuals. Therefore any grant to an individual is unauthorised expenditure, unless it is in terms of the municipality’s indigent policy or bursary scheme.

1. ***Virements***

Where a Council has approved a virement policy, shifts made in accordance with that policy may be allowed, and must be taken into account when reviewing such expenditure.

1. ***Expenditure not classified as unauthorised***

The following are examples of expenditures that are NOT unauthorised expenditure:

1. Any over-collection on the revenue side of the budget as this is not expenditure;
2. Any expenditure incurred in respect of:
   * any of the transactions mentioned in section 11(1)(a) to (j) of the MFMA;
   * overspending of an amount allocated by standard classification on the main budget Table A2 (Budgeted Financial Performance: revenue and expenditure by standard classification), as long as it does not result in overspending of a ‘vote’ on the main budget Table A3 (Budgeted Financial Performance: revenue and expenditure by municipal vote) and Table A4 (Budgeted Financial Performance: revenue and expenditure (read in conjunction with supporting Table SA1) of the MBRR; and
   * overspending of an amount allocated by standard classification on the main budget Table A5 (Budgeted Capital Expenditure by vote, standard classification and funding) of the MBRR so long as it does not result in overspending of a ‘vote’ on the main budget Table A5.
3. ***Non-cash items***

Although expenditure items such as debt impairment, depreciation, asset impairment, transfers and grants are considered non-cash items as there is no transaction with any service provider or supplier, an under provision during the budget compilation process is a material misstatement of the surplus or deficit position of the municipality. This could be the result of poor budgeting or financial management, or unknown events that gave rise to the asset and debt impairment after the adoption of the budget. Therefore the non-cash items must be taken into account in the calculation of the unauthorised expenditure.

* 1. **Examples of unauthorised expenditure**

1. Detailed below is an extract of the budgeted amount and the actual expenditure per functional area, for the operational budget for a municipality for the year. What amount will be reported as unauthorised expenditure:

|  |  |  |  |
| --- | --- | --- | --- |
| *Functional Area/Vote* | Budget Amount (after approved virements) | Actual Expenditure | (Overspending)/ under spending |
|  | **R** | **R** | **R** |
| ***Governance and administration*** | ***15,000*** | ***10,000*** | ***5,000*** |
| Executive and council | 10,000 | 8,000 | 2,000 |
| Corporate services | 5,000 | 2,000 | 3,000 |
| ***Community and public safety*** | ***9,000*** | ***8,800*** | ***800*** |
| Community and social services | 4,000 | 5,000 | (1,000) |
| Public safety | 5,000 | 3,800 | 1,800 |
| ***Trading services*** | ***15,000*** | ***18,700*** | ***(3,700)*** |
| Electricity | 12,000 | 14,500 | (2,500) |
| Waste management | 3,000 | 4,200 | (1,200) |
| **Total Expenditure - Standard** | **39,000** | **37,500** | **1,500** |

The unauthorised expenditure is the overspending on the vote/main segment/functional area. The following functional areas has overspent

|  |  |  |  |
| --- | --- | --- | --- |
| ***Functional Area/Vote*** | **Budget Amount** | **Actual Expenditure** | **(Overspending)/ underspending** |
|  | **R** | **R** | **R** |
| **Community and social services** | 4,000 | 5,000 | (1,000) |
| **Electricity** | 12,000 | 14,500 | (2,500) |
| **Waste management** | 3,000 | 4,200 | (1,200) |
| **Total** | **19,000** | **23,700** | **(4,700)** |

The same method of calculating the unauthorised expenditure for the operating budget will be used for the capital budget.

When comparing the budget to the expenditure, the budget amount must be the amount after any approved virements, in accordance with the municipality’s virement policy.

1. The municipality received a conditional grant of R 1,200,000 for the construction of a sport and recreation facility. At the end of the 3rd quarter, there was R 250,000 still unspent and the municipality utilised these unspent funds to fund administration expenditure of the municipality. This R 250,000 will be regarded as unauthorised expenditure.
2. It is important when calculating the overspending per vote, any savings on conditional grants are first removed from the calculations. (The budget amount will be reduced by the conditional grant and the expenditure will be reduced by the spending on the conditional grant.)

Detailed below is an extract of the budgeted amount and the actual expenditure per functional area, for the operational budget for a municipality for the year. Included in the budget and expenditure for Budget and Treasury Office is a conditional grant for financial management improvement of R1,000. The municipality only spent R200 on the conditional grant therefore R800 is still reflected as unspent. What amount will be reported as unauthorised expenditure:

|  |  |  |  |
| --- | --- | --- | --- |
| *Functional Area/Vote* | Budget Amount (after approved virements) | Actual Expenditure | (Overspending)/ under spending |
|  | **R** | **R** | **R** |
| ***Governance and administration*** | ***14,000*** | ***11,500*** | ***2,500*** |
| Executive and council | 10,000 | 8,000 | 2,000 |
| **Budget and Treasury office** | 4,000 | 3,500 | 500 |
| **Total Expenditure - Standard** | **14,000** | **11,500** | **2,500** |

Calculation of unauthorised expenditure:

|  |  |  |  |
| --- | --- | --- | --- |
| *Functional Area/Vote* | Budget Amount (after approved virements) | Actual Expenditure | (Overspending)/ under spending |
|  | **R** | **R** | **R** |
| **Budget and Treasury office** | 4,000 | 3,500 | 500 |
| **Less conditional grant** | (1,000) | (200) | (800) |
| **Amended allocations** | 3,000 | 3,300 | (300) |

Therefore the unauthorised expenditure if R300.

* 1. **Business processes for unauthorised expenditure**

1. When an official discovers unauthorised expenditure, the official must immediately report such expenditure to the accounting officer, through the normal communication channels of the department.
2. The accounting officer must investigate the unauthorised expenditure to determine if it meets the definition of unauthorised expenditure.
3. If it meets the definition of unauthorised expenditure, the register must be updated.
4. The incident must be investigated and the register must be updated with the outcome of the investigation.
5. Where unauthorised expenditure is discovered by the accounting officer he/she must immediately report in writing to the Mayor, MEC for Co-operative Governance and Traditional Affairs in the province and the Auditor General. The following information must be reported:
   1. whether any person is responsible or under investigation
   2. the steps taken to recover or rectify the expenditure and to prevent a recurrence of such expenditure
6. The accounting officer must submit a report to the Municipal Public Accounts Committee (MPAC) on unauthorised expenditure.
7. The MPAC will review the reasons for the unauthorised expenditure and make recommendations to Council. MPAC may take a decision to appoint a Council Committee to conduct further investigations. The Council Committee will report back to MPAC on their findings. The composition of a Council Committee will vary from municipality to municipality.
8. Based on the representations made by the MPAC, the Council will make the final decisions. The Speaker must ensure the submission of the MPAC report to council for consideration.
9. The register for unauthorised expenditure must be updated with the decisions taken by the Council.
10. If the unauthorised expenditure is approved, this must be accounted for in the adjusted budget process.
11. If the main adjusted budget process has passed then a special adjusted budget must be approved.
12. If Council does not approve the unauthorised expenditure, the amounts must be recovered from officials responsible for the unauthorised expenditure. A debt must be raised for the amounts to be recovered. If subsequently amounts are considered to be irrecoverable, these amounts must be approved in accordance with the municipality’s debt write off policy.
13. The register must be updated for the outcomes of each investigation.
14. The accounting officer must take the appropriate disciplinary action against the responsible official.
15. During the financial year the relevant department head will be informed, in writing, by the chief financial officer if there is possible unauthorised expenditure to be incurred on the associated department’s budget. Should no attempt be made by the department head to institute remedial steps in conjunction with the chief financial officer then that department head will be held accountable for the unauthorised expenditure in terms of the MFMA.
16. Only the Mayor may authorise expenditure in emergency or other exceptional circumstances unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.
17. The amount of expenditure which may be approved as unforeseeable and unavoidable expenditure is limited as follows:

* 4 % of the municipality’s revenue, where the total revenue in the annual budget does not exceed R250,000,000,
* 3 % of the municipality’s revenue, where the total revenue in the annual budget is greater than R250,000,000 but less than R500,000,000, and
* 1 % of the municipality’s revenue, where the total revenue in the annual budget is greater than R500,000,000

1. Any amounts approved above these limits will be regarded as unauthorised expenditure.
2. The amounts approved as unforeseen and unavoidable must be tabled with Council within 60 days of the expenditure being authorised by the Mayor, otherwise this will be regarded as unauthorised expenditure.
3. Should a department head be required to proceed with a project that was not originally budgeted for there must be consultation with the chief financial officer and accounting officer to secure funding for the project **PRIOR** to incurring the expenditure.
   1. **Key controls to prevent unauthorised expenditure**
4. Transactions are only processed once the delegated officials have checked the need and relevancy of such expenditure to the municipality.
5. Goods and services must only be procured if the relevant department head confirms in writing that funds are available and that the purpose for which goods and services will be used is in accordance with the purpose of the budget.
6. If funds have not been budgeted for, ensure that the necessary approvals have been obtained and the appropriate virements are completed in accordance with the municipality’s virements policy.
7. Monthly monitoring of actual expenditure and projections for the remainder of the year in comparison to the budget to prevent overspending on the budget.
   1. **Approval of unauthorised expenditure**
8. Only the council may authorise unauthorised expenditure.
9. Council must consider the following factors when authorising unauthorised expenditure:

* The nature, extent, grounds and value of the unauthorised expenditure,
* Has it been established whether the accounting officer or official or public office bearer that made, permitted or authorised the unauthorised expenditure acted deliberately or in a negligent or grossly negligent manner,
* Has the accounting officer informed Council, the mayor or the executive committee that a particular decision would result in an unauthorised expenditure,
* Are there good grounds shown as to why unauthorised expenditure should be authorised? For example:
* the mayor, accounting officer or official was acting in the best interests of the municipality and the local community by making and permitting unauthorised expenditure;
* the mayor, accounting officer or official was acting in good faith when making and permitting unauthorised expenditure; and
* the municipality has not suffered any material loss as a result of the action.
* The measures already taken to recover the expenditure,
* The cost of the measures to recover the expenditure.

1. The mayor may authorise unforeseen and unavoidable expenditure if failure to authorise such expenditure may:
   * result in significant financial loss for the municipality,
   * cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;
   * lead to loss of life or serious injury or significant damage to property or
   * obstruct the municipality from instituting or defending legal proceedings on an urgent basis.
2. The mayor may not authorise unforeseen and unavoidable expenditure if the expenditure is required for:
   * price increases for goods and services
   * new or an extension of municipal services/functions
   * appointment of personnel
   * allocating discretionary appropriations to any vote
   * the ratification of irregular or fruitless and wasteful expenditure
3. Council must approve the unauthorised expenditure through an adjustment budget that is approved by the municipal council. The 3 different adjustment estimates as follows:

***Adjustments budget for unforeseen and unavoidable expenditure***:

An adjustments budget to allow council to provide *ex post* authorisation for unforeseen and unavoidable expenditure that was authorised by the mayor, in accordance with section 29, at the first available opportunity or within 60 days after the expenditure is incurred. If these timeframes are missed it must be authorised in the same manner as any other unauthorised expenditure.

***Main adjustments budget***

Council may authorise unauthorised expenditure in the adjustments budget which may be tabled in council “at any time after the mid-year budget and performance assessment has been tabled in the council, but not later than 28 February of the current year”.

Therefore unauthorised expenditure that occurred in the first half of the current financial year may be authorised by council in this adjustments budget. Where unauthorised expenditure from this period is not identified or investigated in time to include in this adjustments budget, it must be held over to special adjustments budget process.

***Special adjustments budget***

Council may authorise unauthorised expenditure in a special adjustments budget tabled in council when the mayor tables the annual report. This special adjustments budget may only deal with unauthorised expenditure from the previous financial year which the council is being requested to authorise in terms of section 32(2)(a)(i) of the Act. This special adjustments budget therefore deals with:

* unauthorised expenditure that occurred in the first half of the previous financial year that was not included in the main adjustments budget or that was included but referred back for further investigation or further information;
* unauthorised expenditure that occurred in the second half of the previous financial year, and
* any unauthorised expenditure identified by the Auditor-General during the annual audit process.

The special adjustment estimates is tabled after the audit of the municipality’s annual financial statements.

* 1. **Reporting for unauthorised expenditure**

1. *Report by the Accounting Officer*

Once unauthorised expenditure has been identified by the accounting officer, this must be reported to the Mayor, MEC for Co-operative Governance and Traditional Affairs in the province and the Auditor General. Refer to annexure D for the format of the letter to be submitted.

1. *Quarterly Reporting by the Accounting Officer*

On a quarterly basis the accounting officer must submit the register for unauthorised expenditure to the Mayor and MEC for Co-operative Governance and Traditional Affairs. The accounting officer must report to MPAC on a quarterly basis. Refer to Annexure A for the format of the register.

1. *Quarterly reporting by MPAC to Council*

On a quarterly basis, MPAC must report to Council on the unauthorised expenditure identified together with the reasons for the unauthorised expenditure. Refer to annexure E for the format of the report.

1. *Report to MPAC and Council on an annual basis*

On an annual basis, once the financial statements have been audited, the Accounting Officer must prepare a report to MPAC and Council on the unauthorised expenditure identified together with the reasons for the unauthorised expenditure. Refer to annexure E for the format of the report.

1. *Register for unauthorised expenditure*

The accounting officer must set-up and maintain a register of unauthorised expenditure. The aim of the register serves as a tool for recording all unauthorised expenditure and for tracking the progress in dealing with the each incident until each incident is resolved. The register must be updated for all new incidents of unauthorised expenditure and the status of the investigations, disciplinary action, recovery, write-off’s and transfers to receivables.

The register will form part of the working papers for the preparation of the annual financial statements. Refer to annexure A for the format of the register.

*4.5.4 Reporting in the annual financial statements*

***Accounting Policy***

Unauthorised expenditure is accounted for as an expense in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

There are no adjusting entries to be processed in the books of accounts for unauthorised expenditure awaiting investigation. The details of the unauthorised expenditure are disclosed as supplementary information in the notes to the annual financial statements.

***Disclosure note in the annual financial statements***

**Unauthorised expenditure**

**Reconciliation of unauthorised expenditure**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Notes** | **2012/13**  **R’000** | **2011/12 R’000** |
| Opening balance |  |  |  |
| Add: Unauthorised expenditure identified in the current year | A |  |  |
| Less: Amounts written off/approved/condoned | B |  |  |
| Less: Amounts transferred to receivables | C |  |  |
| **Closing balance, unauthorised expenditure awaiting authorisation** | D |  |  |

**A: Unauthorised expenditure identified in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Unauthorised Expenditure** | **Status of investigation** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**B: Amount written off/approved/condoned in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Unauthorised Expenditure** | **Disciplinary steps taken/criminal proceedings** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**C: Amount transferred to receivables in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Unauthorised Expenditure** | **Disciplinary steps taken/criminal proceedings** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**D: Closing balance, unauthorised expenditure awaiting authorisation**

|  |  |  |
| --- | --- | --- |
| **Nature of Unauthorised Expenditure** | **Year identified** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

* 1. **Process flow for unauthorised expenditure**

The diagram below shows the process to follow for unauthorised expenditure.

Alleged unauthorised expenditure is discovered

Report to Accounting Officer

Conduct investigation

Valid expenditure and it is not unauthorised expenditure

Unauthorised Expenditure

No Further action

The Accounting Officer must immediately report the unauthorised expenditure to the Mayor, MEC for COGTA and Auditor General

Accounting Officer submits a report on unauthorised expenditure to MPAC

Municipal Council approves the unauthorised expenditure

Funds made available in the adjusted budget or special adjusted budget

MPAC to investigate and prepare a report to Council

Municipal Council recommends recovery of funds

Take disciplinary action and recover amounts from the official and debt raised

1. **IRREGULAR EXPENDITURE**
2. **Definition of irregular expenditure**

In relation to a municipality or municipal entity means-

(a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;

(b) expenditure incurred by a municipality or municipal entity in Contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;

(c) expenditure incurred by a municipality in contravention of, or that is not in accordance with. a requirement of the Public Office-Bearers Act, 1998 (Act 30 No. 20 of 1998): or

(d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality‘s by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law, but excludes expenditure by a municipality which falls within the definition of “unauthorised expenditure”.

1. **Understanding the definition of irregular expenditure**

Expenditure refers to any use of municipal funds that is in contravention of the following legislation:

* Municipal Finance Management Act, Act 56 of 2003, and its regulations;
* Municipal Systems Act, Act 32 of 2000, and its regulations;
* Public Office-Bearers Act, Act 20 of 1998, and its regulations; and
* The municipality’s supply chain management policy, and any by-laws giving effect to that policy

Although a transaction or an event may trigger irregular expenditure, a municipality will only identify irregular expenditure when a payment is made. If the possibility of irregular expenditure is determined prior to a payment being made, the transgression shall be regarded as a matter of non-compliance and only once the payment is made will it be regarded as irregular expenditure.

1. **Examples of irregular expenditure**
2. The municipality’s SCM policy states that for purchases less than R200,000, 3 written quotes must be obtained. The Corporate Services department requires stationery, and only 2 suppliers are contacted to provide a quote. The cheapest quote is accepted, the goods are delivered and the supplier is paid. All other SCM processes are complied with. Since the municipality did not comply with the SCM policy, this payment (expenditure) meets the definition of irregular expenditure.
3. The municipality’s SCM policy states that deviations from procurement processes must be approved by the accounting officer. It also states that for purchases less than R200,000, 3 written quotes must be obtained. The Corporate Services department requires stationery, and 3 suppliers are contacted to provide a quote. Only 2 suppliers submitted a quote, the cheapest quote is accepted, the goods are delivered and the supplier is paid, this was not approved by the accounting officer. All other SCM processes are complied with. Since the accounting officer did not approve the deviation of only accepting 2 quotes, the municipality did not comply with the SCM policy, this payment (expenditure meets the definition of irregular expenditure.
4. The municipality has taken out a 3 year rental contract for the photocopier. The contract expired on 31 December 2012 and it is not renewed, but the municipality continued to use the photocopier and pay the monthly charge up to 30 June 2013, after which the new contract was entered into. This expenditure is irregular expenditure, as the municipality paid for service outside of the contract period.
5. The municipality needs to procure office furniture and equipment for the new wing that has been added to the office building. The cost of the furniture is estimated to be R350,000. As per the SCM policy, the procurement of all goods and services above R200,000 must be through a competitive bidding process. The municipality splits the goods required based on each office and 3 quotes are then requested for each office. The competitive bidding process was followed and there is a deliberate splitting of the order and therefore these transactions will be regarded as irregular expenditure.
6. The municipality issues an order to a supplier who has not completed the MBD 4 form, “Declaration of Interest”, this is regarded as irregular expenditure.
7. The municipality awards a contract to a supplier whose tax affairs are not in order then this is regarded as irregular expenditure.
8. **Business processes for irregular expenditure**
9. When an official discovers irregular expenditure, the official must immediately report, in writing, such expenditure to the accounting officer.
10. The accounting officer must investigate the matter to determine if the expenditure meets the definition of irregular expenditure.
11. The register for irregular expenditure must be updated once the irregular expenditure has been identified.
12. The accounting officer must on discovery of any irregular expenditure, immediately report in writing particulars of the irregular expenditure to the Mayor, Council, MEC for Co-operative Governance and Traditional Affairs in the province and the Auditor General. The following information must be reported:
    1. whether any person is responsible or under investigation
    2. the steps taken to recover or rectify the expenditure and to prevent a recurrence of such expenditure
13. MPAC must review the outcomes of the investigation of the irregular expenditure and make require further investigations or information to be provided. The further investigations may be conducted by a Council Committee. A council committee must investigate the irregular expenditure and prepare a report for the recommendations of the irregular expenditure to MPAC. The council committee may be the Internal Audit or any other appropriate committee to investigate the incident.
14. MPAC must make recommendations to the Council for condonement (approval as expenditure) or certified as irrecoverable or disciplinary action/recovery from responsible official. The Speaker must ensure the submission of the MPAC report to council for consideration.
15. Council will review the recommendations from MPAC and forward to National Treasury for final condonement, as only National Treasury can condone non-compliance in terms of the MFMA.
16. The register must be updated for the outcomes of each investigation.
17. If irregular expenditure is not approved, the accounting officer must take appropriate steps to recover the amount from the official responsible. A debt must be set up for the amounts to be recovered. If subsequently amounts are considered to be irrecoverable, these amounts must be approved in accordance with the municipality’s debt write off policy.
18. If, after the investigations, the council concludes that the political office-bearer or official responsible for the irregular expenditure did not act in good faith, then the municipality must consider instituting disciplinary action and/or criminal charges against the responsible political office-bearer or official.
19. The accounting officer must report to the South African Police Service all alleged cases irregular expenditure that constitute a criminal offence.
20. **Key controls to prevent irregular expenditure**
21. There must be adequate planning of when goods and services will be required to enable SCM to follow all SCM processes timeously without delaying service delivery.
22. Prior to goods and services being procured a reasonable estimate of the cost of the goods and services must be completed to determine which procurement process will be followed i.e. quotation or competitive bidding process.
23. Prior to procuring goods and services, a checklist must be completed to ensure all the supply chain management requirements as per the policy have been applied.
24. Internal control/internal audit should perform regular reviews of expenditure to ensure that all laws, regulations and municipal policies are adhered to.
25. **Condonement of irregular expenditure**
26. Only National Treasury may condone non-compliance with the MFMA or a regulation issued in terms of the MFMA.
27. Non-compliance with the Municipal Systems Act should be condoned by the Minister of Co-operative Governance and Traditional Affairs, who is responsible for administering the MSA.
28. Irregular expenditure resulting from a contravention of the Public-Office Bearers Act cannot be condoned and must be recovered from the public office bearer concerned.
29. Council may condone a contravention of a council approved policy or a by-law giving effect to that policy, provided that the contravention is not also a contravention of the MFMA or regulations, in which case National Treasury needs to condone the irregular expenditure.
30. The SCM policy of a municipality may allow the accounting officer to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely technical in nature. Where a municipality’s supply chain management policy does not include this provision the accounting officer cannot exercise this ratification power. The accounting officer may only ratify a breach of *process*, and not the irregular expenditure itself, which means that the ‘irregular’ expenditure will still remain irregular.
31. The accounting officer must determine if the breach of the SCM policy is minor or material by considering the following factors:

* the specific nature of the breach - is it simply technical in nature, not impacting in any significant way on the essential fairness, equity, transparency, competitiveness or cost effectiveness of the procurement process,
* the circumstance surrounding the breach - are the circumstances justifiable or, at least, excusable
* the intent of those responsible for the breach - were they acting in good faith
* the financial implication as a result of the breach - what was the extent of the loss or benefit.

1. Below are some of the factors to be considered when ratifying/condoning/approving irregular expenditure:

* The reason for deviating from SCM policy,
* Even though there was a deviation from the SCM policy was there a fair, fairness, equity, transparency, competitiveness or cost effectiveness,
* Did the municipality receive the goods and services,
* Was there value for money,
* Was there a financial loss to the municipality,
* Is there abuse of delegated powers,
* Is there potential fraud or corruption,
* Was the deviation intentional?

1. **Reporting requirements for irregular expenditure**
2. *Report by the Accounting Officer*

Once irregular expenditure has been identified by the accounting officer, this must be reported to the Mayor, MEC for Co-operative Governance and Traditional Affairs in the province and the Auditor General. Refer to annexure D for the format of the letter to be submitted.

1. *Quarterly Reporting by the Accounting Officer*

On a quarterly basis the accounting officer must submit the register for irregular expenditure to the Mayor and the MEC for Co-operative Governance and Traditional Affairs in the province. The accounting officer must report to MPAC on a quarterly basis. Refer to Annexure B for the format of the register.

1. *Quarterly reporting by MPAC to Council*

On a quarterly basis, MPAC must report to Council on the irregular expenditure identified together with the reasons for the irregular expenditure. Refer to annexure E for the format of the report.

1. *Report to MPAC and Council on an annual basis*

On an annual basis, once the financial statements have been audited, the accounting officer must prepare a report to MPAC and Council on the irregular expenditure identified together with the reasons for the irregular expenditure. Refer to annexure E for the format of the report.

1. *Register for irregular expenditure*

The accounting officer must set-up and maintain a register of irregular expenditure. The aim of the register serves as a tool for recording all irregular expenditure and for tracking the progress in dealing with the each incident until each incident is resolved. The register must be updated for all new incidents of irregular expenditure and the status of the investigations, disciplinary action, recovery, write-off’s and transfers to receivables. The register will form part of the working papers for the preparation of the annual financial statements. Refer to annexure B for the format of the register.

1. *Reporting in the annual financial statements*

***Accounting Policy***

Irregular expenditure is accounted for as an expense in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

There are no adjusting entries to be processed in the books of accounts for irregular expenditure awaiting investigation. The details of the irregular expenditure are disclosed a note to the annual financial statements.

***Disclosure note in the annual financial statements***

**Irregular expenditure**

**Reconciliation of irregular expenditure**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Notes** | **2012/13**  **R’000** | **2011/12 R’000** |
| Opening balance |  |  |  |
| Add: Irregular expenditure identified in the current year | A |  |  |
| Less: Amounts written off/approved/condoned | B |  |  |
| Less: Amounts transferred to receivables | C |  |  |
| **Closing balance, irregular expenditure awaiting condonement** | D |  |  |

**A: Irregular expenditure identified in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Irregular Expenditure** | **Status of investigation** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**B: Amount written off/approved/condoned in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Irregular Expenditure** | **Disciplinary steps taken/criminal proceedings** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**C: Amount transferred to receivables in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Irregular Expenditure** | **Disciplinary steps taken/criminal proceedings** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**D: Closing balance, irregular expenditure awaiting condonement**

|  |  |  |
| --- | --- | --- |
| **Nature of Irregular Expenditure** | **Year identified** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

1. **Process flow for irregular expenditure**

Alleged irregular expenditure is discovered

Report to Accounting Officer

Determine if it meets the definition of irregular expenditure

Valid expenditure and it is not irregular

Irregular Expenditure

No Further action

The Accounting Officer must immediately report the irregular expenditure to the Mayor, MEC for COGTA and Auditor General

Accounting Officer submits a report on irregular expenditure to MPAC

Municipal Council approves the write off(condones) of the expenditure

Consider if disciplinary action should be taken

MPAC to prepare a report to Council

Municipal Council recommends recovery of funds

Take disciplinary action and recover amounts from the official and debt raised

Update the register

MPAC appoints council committee to investigate the incident and report to MPAC

1. **FRUITLESS AND WASTEFUL EXPENDITURE**
2. **Definition for fruitless and wasteful expenditure**

Fruitless and wasteful expenditure, is expenditure that was made in vain and would have been avoided had reasonable care been exercised.

1. **Understanding the definition of fruitless and wasteful expenditure**

The concept of fruitless and wasteful expenditure is founded on public administration and accountability principles, to promote “efficient, economic and effective use of resources and the attainment of value for money”. The council, the mayor, the accounting officer and all senior officials have a fiduciary responsibility to ensure that municipal resources are used in the best interests of the municipality and the local community.

The phrase ‘made in vain’ indicates that the municipality derived no value for money from the expenditure or the use of other resources. Fruitless and wasteful expenditure must meet both the conditions in the definition, namely, that it was made in vain and it would have been avoided had reasonable care been exercised.

1. **Examples of fruitless and wasteful expenditure**
2. The municipality has booked and paid for an official to attend a training session. The official does not attend and does not cancel the booking. The training service provider charges the municipality the full cost of the training, as the municipality did not cancel. This will be considered to be fruitless and wasteful expenditure.
3. If the municipality does not pay suppliers within the specified payment period, as agreed with the supplier and the supplier charges the municipality interest and this will be considered to be fruitless and wasteful expenditure.
4. **Business processes for fruitless and wasteful expenditure**
5. When an official of the municipality discovers fruitless and wasteful expenditure, the official must immediately report, in writing, such expenditure to the accounting officer.
6. The accounting officer must investigate the matter to determine if the expenditure meets the definition of fruitless and wasteful expenditure.
7. The register for fruitless and wasteful expenditure must be updated once the fruitless and wasteful expenditure has been identified.
8. The accounting officer must on discovery of any fruitless and wasteful expenditure, immediately report in writing particulars of the expenditure to the Mayor, Council, MEC for Co-operative Governance and Traditional Affairs in the province and the Auditor General. The following information must be reported:

* whether any person is responsible or under investigation
* the steps taken to recover or rectify the expenditure and to prevent a recurrence of such expenditure

1. MPAC must review the outcomes of the investigation of the fruitless and wasteful expenditure and make require further investigations or information to be provided. The further investigations may be conducted by a Council Committee. A council committee must investigate the irregular expenditure and prepare a report for the recommendations of the fruitless and wasteful expenditure to MPAC. The council committee may be the Internal Audit or any other appropriate committee to investigate the incident. The Speaker must ensure the submission of the MPAC report to council for consideration.
2. Council will approve the expenditure or certified as irrecoverable or recommend recovery from the person responsible or undertake disciplinary action.
3. The register must be updated for the outcomes of each investigation.
4. If fruitless and wasteful expenditure is not approved, the accounting officer must take appropriate steps to recover the amount from the official responsible. If subsequently amounts are considered to be irrecoverable, these amounts must be approved in accordance with the municipality’s debt write off policy.
5. If, after the investigations, the council concludes that the political office-bearer or official responsible for the fruitless and wasteful expenditure did not act in good faith, then the municipality must consider instituting disciplinary action against the responsible political office-bearer or official.
6. **Key controls to prevent fruitless and wasteful expenditure**
7. Ensure that due care is exercised when authorising or incurring expenditure.
8. Prior to expenditure being incurred consider the value for money proposition.
9. Ensure that all the contract obligations are adhered to timeously.
10. Ensure all payment terms of suppliers are adhered to so that interest and penalties are not incurred.
11. **Reporting for fruitless and wasteful expenditure**
12. *Report by the Accounting Officer*

Once fruitless and wasteful expenditure has been identified by the accounting officer, this must be reported to the Mayor, MEC for Co-operative Governance and Traditional Affairs in the province and the Auditor General. Refer to annexure D for the format of the letter to be submitted.

1. *Quarterly Reporting by the Accounting Officer*

On a quarterly basis the Accounting Officer must submit the register for fruitless and wasteful expenditure to the Mayor and MEC for Co-operative Governance and Traditional Affairs in the province. The accounting officer must report to MPAC on a quarterly basis. Refer to Annexure C for the format of the register.

1. *Quarterly reporting by MPAC to Council*

On a quarterly basis, MPAC must report to Council on the fruitless and wasteful expenditure identified together with the reasons for the irregular expenditure. Refer to annexure E for the format of the report.

1. *Report to MPAC and Council on an annual basis*

On an annual basis, once the financial statements have been audited, the Accounting Officer must prepare a report to MPAC and Council on the fruitless and wasteful expenditure identified together with the reasons for the fruitless and wasteful expenditure. Refer to annexure E for the format of the report.

1. *Register for fruitless and wasteful expenditure*

The accounting officer must set-up and maintain a register of fruitless and wasteful expenditure. The aim of the register serves as a tool for recording all fruitless and wasteful expenditure and for tracking the progress in dealing with the each incident until each incident is resolved. The register must be updated for all new incidents of fruitless and wasteful expenditure and the status of the investigations, disciplinary action, recovery, write-off’s and transfers to receivables.

The register will form part of the working papers for the preparation of the annual financial statements. Refer to annexure C for the format of the register.

1. *Reporting in the annual financial statements*

***Accounting Policy***

Fruitless and wasteful expenditure is accounted for as an expense in the Statement of Financial Performance and where recovered, it is subsequently accounted for as revenue in the Statement of Financial Performance.

There are no adjusting entries to be processed in the books of accounts for fruitless and wasteful expenditure awaiting investigation. The details of the fruitless and wasteful expenditure are disclosed as a note to the annual financial statements.

***Disclosure note in the annual financial statements***

**Fruitless and wasteful expenditure**

**Reconciliation of fruitless and expenditure**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Notes** | **2012/13**  **R’000** | **2011/12 R’000** |
| Opening balance |  |  |  |
| Add: Fruitless and wasteful expenditure identified in the current year | A |  |  |
| Less: Amounts written off/approved/condoned | B |  |  |
| Less: Amounts transferred to receivables | C |  |  |
| **Closing balance, fruitless and wasteful expenditure awaiting condonement** | D |  |  |

**A: Fruitless and wasteful expenditure identified in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Fruitless and Wasteful Expenditure** | **Status of investigation** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**B: Amount written off/approved/condoned in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Fruitless and Wasteful Expenditure** | **Disciplinary steps taken/criminal proceedings** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**C: Amount transferred to receivables in the current year**

|  |  |  |
| --- | --- | --- |
| **Nature of Fruitless and Wasteful Expenditure** | **Disciplinary steps taken/criminal proceedings** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
|  |  |  |
| **Total** |  |  |

**D: Closing balance, fruitless and wasteful expenditure awaiting condonement**

|  |  |  |
| --- | --- | --- |
| **Nature of Fruitless and Wasteful Expenditure** | **Year identified** | **2012/13**  **R’000** |
|  |  |  |
|  |  |  |
| **Total** |  |  |

1. **Process flow for fruitless and wasteful expenditure**

Alleged fruitless and wasteful expenditure is discovered

Report to Accounting Officer

Determine if it meets the definition of fruitless and wasteful expenditure

Valid expenditure

Fruitless and Wasteful Expenditure

No Further action

The Accounting Officer must immediately report the fruitless and wasteful expenditure to the Mayor, MEC for COGTA and Auditor General

Accounting Officer submits a report on fruitless and wasteful expenditure to MPAC

Municipal Council approves the write off(condones) of the expenditure

Consider if disciplinary action should be taken

MPAC to investigate and prepare a report to Council

Municipal Council recommends recovery of funds

Take disciplinary action and recover amounts from the official and debt raised

Update the register

MPAC appoints council committee to investigate the incident and report to MPAC

1. **DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**
2. In accordance with Section 32 (1) (4), the accounting officer must promptly inform the MEC for local government in the province in writing of:

* any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality
* whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure and
* the steps that have been taken to recover or rectify such expenditure and to prevent a recurrence of such expenditure.

1. The accounting officer must submit the above information to the Chief Director: Municipal Finance at the Department of Co-operative Governance and Traditional Affairs.
2. The Chief Director: Municipal Finance or the delegated authority must update the register for the Section 32 reports as stated in 6.1. above received. Refer to annexure G for the format of the register.
3. The report received from the municipality must be reviewed to ensure that the relevant information has been provided.
4. Communicate in writing with the municipality acknowledging receipt of the report and also indicate if any additional information is required.
5. On a quarterly basis the municipalities is required to provide the Chief Director: Municipal Finance at COGTA, the updated registers for unauthorised, irregular and fruitless and wasteful expenditure.
6. The Chief Director: Municipal Finance or the delegated authority must review the registers and assess if it is being correctly completed and the progress made in addressing the unauthorised, irregular, fruitless and wasteful expenditure either by approving the expenditure, recovery the funds from the relevant official or taking disciplinary action against the responsible official.
7. The Chief Director: Municipal Finance or the delegated authority must then assess if the municipalities require any further guidance in addressing the outstanding amounts e.g. by attending the MPAC meetings and ensuring that the unauthorised, irregular, fruitless and wasteful expenditure is discussed at the meetings.
8. On a quarterly basis the Chief Director: Municipal Finance or the delegated authority, must report to the Accounting Officer on the status of the unauthorised, irregular and fruitless and wasteful expenditure for the municipalities. Refer to Annexure H for the format of the report.
9. On a quarterly basis the Accounting Officer, must report to the MEC for Co-operative Governance on the status of the unauthorised, irregular and fruitless and wasteful expenditure for the municipalities. Refer to Annexure H for the format of the report.
10. The Department must maintain a working paper file to track the reports submitted and the progress made by the municipalities in addressing unauthorised, irregular, fruitless and wasteful expenditure.
11. **ROLES AND RESPONSIBILITIES**

*Municipal Council and councillors*

The MFMA recognises the municipal council as the highest authority in the municipality and the council’s power is strengthened by significant vested powers of approval and oversight. Councillors are required to disclose conflicts of interest and councillors are prohibited from being involved in tender boards or the boards of municipal entities.

Councillors have an oversight responsibility and they should exercise oversight in the implementation of policies (not the policy development), procedures and directions that they have determined necessary for the community.

The financial management tasks that council is required to undertake so that it fulfils its oversight function include the following:

* + Consider and approve the annual budget and ensure that the budget and IDP are aligned;
  + Approve budget-related policies on relevant taxes, user charges, indigency policies, credit control and supply chain management;
  + Consider the views of the community and government regarding the budget and establishment of municipal entities;
  + Review the budget and performance of entities under council control;
  + Review of audit and annual reports, and adopt an oversight report once these are received;
  + Consider capital projects and contracts with financial implications of more than three budget years;
  + Take responsibility for incurring debt and determining security over debt (although some aspects of this may be delegated for short-term debt, subject to certain conditions);
  + Consider the sale, disposal or transfer of all capital assets (although this may be delegated to the municipal manager to a value determined by the council);
  + Review unauthorised and unforeseen expenditure and reporting on unauthorised, irregular and fruitless and wasteful expenditure; and
  + Investigate allegations of financial misconduct and take appropriate action where necessary.

*Municipal Public Accounts Committee*

The Council appoints the MPAC. The members consist of councillors. The MPAC plays an oversight role and does not get involved in the day-to day- operations of the municipality.

The MPAC can investigate the recoverability of any unauthorised, irregular or fruitless and wasteful expenditure and should consider –

(a) measures already taken to recover such expenditure;

(b) the cost of the measures already taken to recover such expenditure;

(c) the estimated cost and likely benefit of further measures that can be taken to recover such expenditure; and

(d) submit a report to Council with recommendations to the Council for final decision.

(e) The Speaker must ensure the submission of the MPAC report to council for consideration.

*Mayor*

As the executive authority of the council, the executive mayor or committee must provide political guidance over the policy, budget and financial affairs of the municipality and must ensure that the municipality complies with its legislative obligations.

The mayor should, without interfering in the day-to-day administration of the municipality, monitor and oversee the municipal manager and senior managers to ensure that they are carrying out their duties appropriately. The mayor remains accountable to Council. The Mayor’s specific financial management responsibilities are to:

* + Provide political guidance on the budget process;
  + Co-ordinate the budget process with the municipal manager;
  + Review IDP and budget-related policies and ensure consistency with the budget;
  + Ensure that the municipality complies with the legislative deadlines for the tabling and approval of the municipal budget;
  + Monitor the financial performance of the municipality through monthly financial reports submitted by the municipal manager;
  + Provide council with quarterly budget reports and take action where necessary;
  + Report instances of potential or real non-compliance with the budget chapter of the MFMA or in relation to issues that may necessitate provincial intervention;
  + Table an adjustments budget if necessary;
  + Report instances of unforeseeable or unavoidable expenditure;
  + Guide the municipality in its dealings with its municipal entities; and
  + Table an annual report to council each year.

*Municipal Manager (Accounting Officer)*

The municipal manager is accountable to the mayor for the implementation of specific agreed outputs and secondly the municipal manager is accountable to the council for the overall administration of the municipality. The municipal manager is therefore the key officer responsible to the mayor and council for the successful implementation of the relevant legislation.

The accounting officer must act with honesty and in the best interests of the municipality and disclose all available facts that may influence the decisions of the council. The position may not be used for personal gain or to improperly benefit others.

An accounting officer:

1. An accounting officer 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.
2. must take effective and appropriate disciplinary steps against any official who makes or permits an unauthorised, irregular, fruitless and wasteful expenditure
3. must recover unauthorised, irregular, fruitless and wasteful expenditure from the person liable for that expenditure
4. must maintain a register of unauthorised, irregular, fruitless and wasteful expenditure
5. the amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed in the annual financial statements

*Municipal Officials*

Although the MFMA vests responsibilities in the municipal manager as the accounting officer, the MFMA anticipates that such responsibilities will be shared with the top management team. This will be done by issuing written delegations. Therefore all officials will have a role to play in identifying, reporting and preventing unauthorised, irregular and fruitless and wasteful expenditure in a municipality.

*Internal Control*

The purpose of the municipality’s internal audit and an audit committee is to strengthen the separation of functions relating to financial management. Internal audit and the audit committee are structures, permitted by the MFMA, to ensure that the municipality properly manages public resources entrusted to it; it also provides an opinion of whether the municipality’s internal controls are effective. Internal control will be responsible for ensuring compliance to this framework, report on deviations and make recommendations for improvements.

*Delegated Authority*

The accounting officer may delegate his/her responsible to another municipal official in writing.

1. **MONITORING, EVALUATION AND REVIEW**

The Accounting Officer or the delegated authority must regularly review the registers for unauthorised, irregular, fruitless and wasteful expenditure to identify the root cause of such expenditure.

The related internal controls must then be reviewed to identify improved controls to be implemented to prevent unauthorised, irregular, fruitless and wasteful expenditure from occurring.

1. **EFFECTIVE DATE**

This framework will be effective from 1 April 2020 and replaces any existing frameworks and policies on unauthorised, irregular, fruitless and wasteful expenditure prior to this date.

**6.4.4 CASE LAW**

1. In ***Pietersen v S (A309/2017) [2019] ZAWCHC 93 (6 February 2019),*** the appellant had been tried in the Oudtshoorn Regional Court on five counts of contravening the MFMA when he occupied the position of municipal manager and accounting officer of the Oudtshoorn Municipality. The charges were as follows, that during the period between 24 August 2010 and July 2011 the appellant contravened the following sections of the MFMA:

(a) s 173(1)(a)(i)read with s 61(2)(b), in that he deliberately or in a grossly negligent way used the position or privileges of accounting officer for personal gain or to improperly benefit another person ("the first count");

(b) s 173 (1)(a)(i) read with s 62(1), in that he deliberately or in a grossly negligent way failed to manage the financial administration of the Municipality and to take all reasonable steps to ensure that:

(i) the resources of the Municipality were used effectively, efficiently and economically; and/or

(ii) full and proper records of the financial affairs of the municipality were kept in accordance with any prescribed norms and standards; and/or

(iii) the Municipality had and maintained effective, efficient and transparent systems of financial risk management and internal control and/or of internal audit operating in accordance with any prescribed norms and standards; and/or

(iv) unauthorised, irregular or fruitless and wasteful expenditure and other losses were prevented; and/or

(v) the Municipality had and implemented a supply chain management policy in accordance with Chapter 11 of the MFMA ("the second count"):

(c) s 173(1)(a)(i) read with s 65(2)(a), in that he deliberately or in a grossly negligent way failed to take all reasonable steps to ensure that the Municipality had and maintained an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds ("the third count"):

(d) s 173(1)(a)(i)read with s 65(2)(i), in that he deliberately or in a grossly negligent way failed to take all reasonable steps to ensure that the Municipality's supply chain policy referred to in s 111 of the MFMA was implemented in a way that was fair, equitable, transparent, competitive and cost-effective ("the fourth count"):

(e) s 173 (1)(a)(iii) of the MFMA, in that he deliberately or in a grossly negligent way failed to take all reasonable steps to prevent unauthorised, irregular or fruitless and wasteful expenditure (“the fifth count").

The appellant was convicted on all counts on 7 December 2016 and sentenced on 31 March 2017 to a term of five years' imprisonment; all counts being taken together for purposes of sentence. The appellant appeals against his conviction with the leave of the court a *quo.* The appeal against the conviction on counts 1, 3 and 4 was upheld and the appellant's conviction on those counts was set aside. The appeal against the conviction on counts 2 and 5 was dismissed, and the convictions were confirmed. The sentence of five years' imprisonment imposed on the appellant was set aside and replaced with a sentence of two years' imprisonment in respect of counts 2 and 5 taken together as one for the purpose of sentencing.

The legal principle that was established was that municipal officials not only face potential civil liability for incurring irregular expenditure, but also criminal liability for deliberately, or even grossly negligently failing to take reasonable steps to prevent irregular expenditure. The judgment has set a precedent and municipal officials, in particular municipal managers and chief financial officers, should be mindful of the possibility of being held criminally liable and facing imprisonment for offences under the MFMA, irrespective of whether an official contravened the SCM process in good faith and in the best interests of the Municipality, to ensure service delivery or by acting on the instructions of political office-bearers.

**VERSION CONTROL**

|  |  |
| --- | --- |
| **Version No.** | **Effective Date** |
| Version 1 | April 2020 |

**Annexure A: Register for Unauthorised Expenditure**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **MunicipalitY:** | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Register for Unauthorised Expenditure** | | | | | | | | | | | | | | | | | |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Date identified** | **Date reported to Mayor** | **Description of incident** | **Classification** | **Payment date** | **Payment no** | **Supplier** | **Person Liable** | **Amt.** | **Amt. transferred to debt for recovery** | **Amt. approved by Council** | **Amt. still under investigation** | **Resolution No for approval** | **UI**  **(Y/N)** | **DP (Y/N)** | **DR (Y/N)** |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| **TOTAL** | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

Key:

UI- Under Investigations

**Annexure B: Register for Irregular Expenditure**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Municipality:** | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| **Register for Irregular Expenditure** | | | | | | | | | | | | | | | | | |
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| **No.** | **Date identified** | **Date reported to Mayor** | **Description of incident** | **Classification** | **Payment date** | **Payment no** | **Supplier** | **Person Liable** | **Amt.** | **Amt. transferred to debt for recovery** | **Amt. approved by Council** | **Amt. still under investigation** | **Resolution No for approval** | **UI**  **(Y/N)** | **DP (Y/N)** | **CC (Y/N)** | **DR (Y/N)** |
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| **TOTAL** | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

Key:

UI- Under Investigations

DP – Disciplinary Process

**Annexure C: Register for Fruitless and Wasteful Expenditure**

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **No.** | **Date identified** | **Date reported to Mayor** | **Description of incident** | **Classification** | **Payment date** | **Payment no** | **Supplier** | **Person Liable** | **Amt.** | **Amt. transferred to debt for recovery** | **Amt. approved by Council** | **Amt. still under investigation** | **Resolution No for approval** | **UI**  **(Y/N)** | **DP (Y/N)** | **DR (Y/N)** |
|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
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| **TOTAL** | |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |

Key:

UI- Under Investigations

DP – Disciplinary Process

DR – Debt being recovered

**Annexure D: Format of Report by Accounting Officer to Mayor**

To: Mayor/MEC for Traditional and Local Government /Auditor General

From: Accounting Officer

XXXX Municipality

Date:

**Re: Discovery of Unauthorised/ Irregular/ Fruitless and Wasteful Expenditure**

On 1 June 20--, Unauthorised/ Irregular/ Fruitless and Wasteful Expenditure was identified by the Municipality.

The expenditure relates to the following transaction:

This expenditure is currently being investigated and the appropriate action, including disciplinary action if necessary will be taken.

The following steps have/will be taken to recover or rectify such expenditure and to prevent the recurrence of such expenditure:

The register for Unauthorised/ Irregular/ Fruitless and Wasteful Expenditure has been accordingly updated.

**Annexure E: Format of Report by Accounting Officer to MPAC/ Council**

* + 1. **Objective**

Present to the Municipal Public Accounts Committee for the \_\_\_\_\_\_\_\_\_\_ Municipality the status of unauthorized expenditure as at 30 June 2012.

* + 1. **Background**

During the audit for the 2011/2012 financial year the following unauthorised, irregular and fruitless expenditure was identified:

|  |  |  |  |
| --- | --- | --- | --- |
| **Nature/ Incident** | **Unauthorised Expenditure** | **Irregular Expenditure** | **Fruitless and wasteful expenditure** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
| **TOTAL** |  |  |  |

* + 1. **Details of unauthorized expenditure by incident**

3.1 Incident 1

Vote:

Amount: R

Discussion: The unauthorised expenditure is the

Resolution No.:

Recommendation:

3.2 Incident 2

Vote:

Amount: R

Discussion: The unauthorised expenditure is the

Resolution No.:

Recommendation:

* + 1. **Details of irregular expenditure by incident**

4.1 Incident 1

Vote:

Amount: R

Discussion: The irregular expenditure is the

Resolution No.:

Recommendation:

4.2 Incident 2

Vote:

Amount: R

Discussion: The irregular expenditure is the

Resolution No.:

Recommendation:

* + 1. **Details of fruitless and wasteful expenditure by incident**

5.1 Incident 1

Vote:

Amount: R

Discussion: The fruitless and wasteful expenditure is the

Resolution No.:

Recommendation:

5.2 Incident 2

Vote:

Amount: R

Discussion: The fruitless and wasteful expenditure is the

Resolution No.:

Recommendation:

* + 1. **Final Recommendation**
    2. **Approval**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_**

Chairperson: MPAC Date

**Annexure F: Format of Budget Tables A3, A4 and A5**

**Table A3 Budgeted Financial Performance (revenue and expenditure by municipal vote)**

|  |
| --- |
| **Vote Description** |
| **Revenue by Vote** |
| Vote 1 - [NAME OF VOTE 1] |
| Vote 2 - [NAME OF VOTE 2] |
| Vote 3 - [NAME OF VOTE 3] |
| Vote 4 - [NAME OF VOTE 4] |
| Vote 5 - [NAME OF VOTE 5] |
| Vote 6 - [NAME OF VOTE 6] |
| Vote 7 - [NAME OF VOTE 7] |
| Vote 8 - [NAME OF VOTE 8] |
| Vote 9 - [NAME OF VOTE 9] |
| Vote 10 - [NAME OF VOTE 10] |
| **Total Revenue by Vote** |
|  |
| **Expenditure by Vote *to be appropriated*** |
| Vote 1 - [NAME OF VOTE 1] |
| Vote 2 - [NAME OF VOTE 2] |
| Vote 3 - [NAME OF VOTE 3] |
| Vote 4 - [NAME OF VOTE 4] |
| Vote 5 - [NAME OF VOTE 5] |
| Vote 6 - [NAME OF VOTE 6] |
| Vote 7 - [NAME OF VOTE 7] |
| Vote 8 - [NAME OF VOTE 8] |
| Vote 9 - [NAME OF VOTE 9] |
| Vote 10 - [NAME OF VOTE 10] |
| **Total Expenditure by Vote** |
| **Surplus/(Deficit) for the year** |

|  |
| --- |
| **Table A4 Budgeted Financial Performance (revenue and expenditure)** |
| **Description** |
| **Revenue By Source** |
| Property rates |
| Property rates - penalties & collection charges |
| Service charges - electricity revenue |
| Service charges - water revenue |
| Service charges - sanitation revenue |
| Service charges - refuse revenue |
| Service charges - other |
| Rental of facilities and equipment |
| Interest earned - external investments |
| Interest earned - outstanding debtors |
| Dividends received |
| Fines |
| Licences and permits |
| Agency services |
| Transfers recognised - operational |
| Other revenue |
| Gains on disposal of PPE |
| **Total Revenue (excluding capital transfers and contributions)** |
|  |
| **Expenditure By Type** |
| Employee related costs |
| Remuneration of councillors |
| Debt impairment |
| Depreciation & asset impairment |
| Finance charges |
| Bulk purchases |
| Other materials |
| Contracted services |
| Transfers and grants |
| Other expenditure |
| Loss on disposal of PPE |
| **Total Expenditure** |
| **Surplus/(Deficit)** |
| Transfers recognised - capital |
| Contributions recognised - capital |
| Contributed assets |
| **Surplus/(Deficit) after capital transfers & contributions** |
| Taxation |
| **Surplus/(Deficit) after taxation** |
| Attributable to minorities |
| **Surplus/(Deficit) attributable to municipality** |
| Share of surplus/ (deficit) of associate |
| **Surplus/(Deficit) for the year** |

|  |
| --- |
| **Table A5 Budgeted Capital Expenditure by vote, standard classification and funding** |
| **Vote Description** |
| **Capital expenditure - Vote** |
| **Multi-year expenditure *to be appropriated*** |
| Vote 1 - [NAME OF VOTE 1] |
| Vote 2 - [NAME OF VOTE 2] |
| Vote 3 - [NAME OF VOTE 3] |
| Vote 4 - [NAME OF VOTE 4] |
| Vote 5 - [NAME OF VOTE 5] |
| **Capital multi-year expenditure sub-total** |
| **Single-year expenditure *to be appropriated*** |
| Vote 1 - [NAME OF VOTE 1] |
| Vote 2 - [NAME OF VOTE 2] |
| Vote 3 - [NAME OF VOTE 3] |
| Vote 4 - [NAME OF VOTE 4] |
| Vote 5 - [NAME OF VOTE 5] |
| **Capital single-year expenditure sub-total** |
| **Total Capital Expenditure - Vote** |
|  |
| **Capital Expenditure - Standard** |
| ***Governance and administration*** |
| Executive and council |
| Budget and treasury office |
| Corporate services |
| ***Community and public safety*** |
| Community and social services |
| Sport and recreation |
| Public safety |
| Housing |
| Health |
| ***Economic and environmental services*** |
| Planning and development |
| Road transport |
| Environmental protection |
| ***Trading services*** |
| Electricity |
| Water |
| Waste water management |
| Waste management |
| ***Other*** |
| **Total Capital Expenditure - Standard** |
| **Funded by:** |
| National Government |
| Provincial Government |
| District Municipality |
| Other transfers and grants |
| **Transfers recognised - capital** |
| **Public contributions & donations** |
| **Borrowing** |
| **Internally generated funds** |
| **Total Capital Funding** |

**Annexure G: Format of Register of Section 32 reports received by the Department of Co-operative Governance and Traditional Affairs**

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Register of Unauthorised Expenditure reported to the Department in accordance with Section 32 of the MFMA** | | | | | | | | | | |
| **District:** | |  | | | | | | | | |
| **Municipal Financial Year:** | | **2013/2014** | | | | | | | | |
| **Date of letter received from the municipality** | **File Reference Number** | **Municipality** | **Month the Unauthorised occurred** | **Amount Unauthorised** | **Condoned by council** | **Recoveries Made** | **Action taken by municipality** | **Action by the COGTA** | **Resolved/Under Investigation** | **Description of incident** |
|  |  |  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |  |  |

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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Register of irregular expenditure reported to the Department in accordance with Section 32 of the MFMA** | | | | | | | | | | |
| **District:** | |  | | | | | | | | |
| **Municipal Financial Year:** | | **2013/2014** | | | | | | | | |
| **Date of letter received from the municipality** | **File Reference Number** | **Municipality** | **Month the irregular occurred** | **Amount Irregular** | **Condoned by Council** | **Recoveries Made** | **Action taken by municipality** | **Action by the COGTA** | **Resolved/Under Investigation** | **Description of incident** |
|  |  |  |  |  |  |  |  |  |  |  |
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| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Register of Fruitless and wasteful expenditure reported to the Department in accordance with Section 32 of the MFMA** | | | | | | | | | | |
| **District:** | |  | | | | | | | | |
| **Municipal Financial Year:** | | **2013/2014** | | | | | | | | |
| **Date of letter received from the municipality** | **File Reference Number** | **Municipality** | **Month the irregular occurred** | **Amount Fruitless and wasteful expenditure** | **Condoned by Council** | **Recoveries Made** | **Action taken by municipality** | **Action by the COGTA** | **Resolved/Under Investigation** | **Description of incident** |
|  |  |  |  |  |  |  |  |  |  |  |
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**Annexure H: Format of the Quarterly Report to the MEC for Co-operative Governance and Traditional Affairs**

To: MEC for Co-operative Governance and Traditional Affairs

From: Accounting Officer

Date:

**Re: Status of Unauthorised/ Irregular/ Fruitless and Wasteful Expenditure at the municipalities**

**Objective**

Present to the MEC the status of unauthorized, irregular, fruitless and wasteful expenditure at the KZN Municipalities as at 31 March 202-

**Analysis of unauthorised, irregular and fruitless and wasteful expenditure incurred by the municipalities**

During the quarter ended 31 March 20--, XX municipalities reported unauthorised, irregular and fruitless and wasteful expenditure totally R XXXXX, to the Department in accordance with Section 32 of the MFMA. The details of the municipalities are presented in the table below.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Municipality** | **Unauthorised Expenditure** | | **Irregular Expenditure** | | **Fruitless and wasteful expenditure** | |
|  | No of cases | R | No of cases | R | No of cases | R |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
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|  |  |  |  |  |  |  |
| **TOTAL** |  |  |  |  |  |  |

*Unauthorised expenditure*

The unauthorised expenditure related to . This has been presented to Council for approval.

*Irregular expenditure*

The irregular expenditure is categorised as . These cases are currently being investigated by the Municipality.

*Fruitless and wasteful expenditure*

The fruitless and wasteful expenditure is due to . These cases are currently being investigated by the Municipality.

**Unauthorised, irregular and fruitless and wasteful expenditure approved by Council**

During the quarter ended 31 March 202-, unauthorised, irregular and fruitless and wasteful expenditure totally R XXXX, has been condoned by the municipalities.

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Municipality** | **Unauthorised Expenditure** | | **Irregular Expenditure** | | **Fruitless and wasteful expenditure** | |
|  | No of cases | R | No of cases | R | No of cases | R |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
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| **TOTAL** |  |  |  |  |  |  |

**Review and support provided by the department to the municipalities**

The Department has reviewed the reports submitted and follow up queries have been forwarded to the municipalities. The department has attended the MPAC’s of the xxx Municipality on 28 February 20-- to assist them in addressing the issues.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Prepared by:

Chief Director: Municipal Finance

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Approved by:

Accounting Officer