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Department:
Co-operative Governance and Traditional Affairs
PROVINCE OF KWAZULU-NATAL

POLICY ON IRREGULAR, UNAUTHORISED, FRUITLESS AND WASTEFUL EXPENDITURE

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INTRODUCTION

1.(1) The aim of the policy is to ensure effective, efficient and transparent systems of internal control, financial and risk management.

(2) To demonstrate commitment to preventing fruitless, wasteful and irregular expenditure the department must–

- (a) identify activities and transactions that can be construed as fruitless, wasteful and irregular expenditure within their operations; and
- (b) implement systems and processes that monitor and take appropriate action against fruitless, wasteful and irregular expenditure.

(3) This document sets out processes for the identification, recording and disclosure of irregular, fruitless and wasteful, and unauthorised expenditure in terms of section 38(1)(c)(ii) and (g) of the public Finance Management Act, 1999 (Act No. 1 of 1999).

DEFINITIONS

2. In this policy, unless the context indicates otherwise–

- (a) a word or expression, to which a meaning has been assigned in the Public Finance Management Act, 1999 and the National Treasury Regulations, has the same meaning;
- (b) clause headings are for convenience only and will not be used in its interpretation, and the following expressions bear the meanings assigned to them and similar expressions bear corresponding meanings:

“**CFO**” means the Chief Financial Officer;

“**condonation**” means obtaining retrospective approval by the relevant authority for expenditure that was incurred through non-compliance with policies and or legislation;

“**Department**” means the Kwazulu-Natal Department of Co-operative Government and Traditional Affairs;

“**irregular expenditure**” means expenditure, other than unauthorised expenditure, incurred in contravention of, or that is not in accordance with, a requirement of any applicable legislation;

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“fruitless and wasteful expenditure” means expenditure which was made in vain with no advantage to the Department and that may have been avoided had reasonable care been exercised;

“PFMA” means the Public Management Finance Act, 1999 (Act 1 of 1999);

“SCM” means supply chain management;

“Treasury Regulations” means the Regulations promulgated in terms of the PFMA on 15 March 2005;

“unauthorised expenditure” means the overspending of a vote or a main division within a vote, or expenditure that was not made in accordance with the purpose of a vote, or in the case of a main division not in accordance with the purpose of the main division; and

“virement” means an approved transfer of funds from one section of budget to another essentially as a means of utilising funds set aside for one purpose within a budget for expenditure of a different purpose.

OBJECTIVE

3. The objectives of this policy are to—

- (a) ensure that employees have a clear and comprehensive understanding of the procedures regarding irregular expenditure;
- (b) provide clarity on relevant legislation and regulations applicable to irregular, fruitless and wasteful, and unauthorised expenditure;
- (c) ensure that resources made available to employees are utilised efficiently, effectively, economically and for authorised official purposes only;
- (d) enhance ability of officials of the department to prevent, detect and record irregular, fruitless and wasteful, and unauthorised expenditure;
- (e) strengthen the internal control environment with regard to management of irregular, fruitless and wasteful; and unauthorised expenditure;
- (f) re-enforce the need for authorisation of all expenditure in terms of the delegation of authority framework and the significance and materiality of the framework; and

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(g) ensure proper authorisation and accountability for expenditure that falls within the ambit of this policy.

APPLICATION

4. This policy applies to all employees of the Department of Co-operative Governance and Traditional Affairs, employed in terms of the Public Service Act, 1994 and any person employed by the Department on a temporary or contractual capacity.

LEGAL FRAMEWORK

5. This policy is informed by the following legislation:

- (a) sections 38(1)(c)(ii);(g) and 44 of the PFMA;
- (b) the Public Service Act, 1999 (Proclamation 103 of 1999);
- (c) the Treasury Regulations (2005); and
- (d) Tender Board Act, 1968 (Act No. 86 of 1968)

ROLES AND RESPONSIBILITIES

6.(1) Although all employees play a role in preventing fruitless, wasteful and irregular expenditure, Finance, and Line Function management are regarded as the key role players in the implementation of this policy with the following roles and responsibilities:

(2) Programme Managers of each Programme must ensure full implementation of this policy throughout their directorates and in particular must ensure that—

- (a) all relevant systems of control must not only be used to rubber stamp decisions but to interrogate them to prevent fruitless, wasteful and irregular expenditure and promote efficiency; and
- (b) as a minimum the identified potential sources of fruitless, wasteful and irregular expenditure are monitored quarterly and that preventative action is taken.

(3) Each Line Manager responsible for initiating or approving expenditure within his or her area of responsibility must ensure that fruitless, wasteful and irregular expenditure are prevented by—

- (a) identifying all possible sources thereof and taking preventative action;
- (b) ensuring that all expenditure approvals are strictly in terms of delegated authority;

- (c) reporting to the CFO and Accounting Officer on actual or potential incidents of fruitless, wasteful and irregular expenditure within her or his area of responsibility;
- (d) educating employees to prevent fruitless, wasteful and irregular expenditure; and
- (e) instituting disciplinary action where necessary.

(4) Finance Management must co-ordinate the process of identifying potential and real areas of fruitless, wasteful and irregular expenditure by—

- (a) proactively conducting management inspections or audits to identify instances of fruitless, wasteful and irregular expenditure;
- (b) ensuring that the SCM and financial delegations of authority are current, relevant and complied with;
- (c) ensuring that all expenditure is approved in terms of the Delegation of Authority Framework;
- (d) conducting regular reporting for the Department;
- (e) familiarising management and staff with the requirements of the PFMA with regard to fruitless, wasteful and irregular expenditure and related provisions; and
- (f) ensuring that the policy meets the PFMA requirements at all times.

PROCEDURE TO BE OBSERVED ON DISCOVERY OF IRREGULAR EXPENDITURE

7.(1) Any employee who becomes aware or suspects the occurrence of irregular expenditure must immediately report in writing such expenditure to the Accounting Officer or his or her delegate;

(2) The Accounting Officer or his or her delegate must investigate the alleged irregular expenditure, and must report on the steps that are taken to—

- (a) recover or rectify such expenditure;
- (b) prevent a recurrence of such expenditure; and
- (c) ensure that disciplinary proceedings against the person are instituted, where applicable.

(3) For the Department to incur irregular expenditure, the non-compliance must be linked to a financial transaction, provided that in the event that irregular expenditure is determined prior to a payment being made, the transgression must be regarded as a non-compliant matter.

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(4) Expenditure resulting from non-adherence to the department's delegations of authority is regarded as irregular expenditure as such delegations are issued in terms of section 44 of the PFMA.

(5) The department's irregular expenditure register, substantially compliant with the format contemplated in Annexure A, must be updated throughout the process until the case is finally closed.

CONDONATION OF IRREGULAR EXPENDITURE

8.(1) Irregular expenditure, which is identified and confirmed, may be considered for condonation by the relevant authority whose approval would have been required prior to entering into that transaction or incurring such expenditure.

(2) For the purpose of condonation, a detailed submission showing good cause for approval of condonation must be submitted to the relevant authority requesting condonation for non-compliance with the PFMA or any other applicable legislation.

(3) A submission for condonation must contain--

- (a) a detailed motivation as to why the irregular expenditure in question must be considered for condonation; and
- (b) a description of remedial steps taken to avoid the reoccurrence of this type of irregular expenditure.

(4) A submission for condonation must be structured as follows:

- (a) Purpose;
- (b) Background;
- (c) Applicable legislative framework;
- (d) Motivation for condonation, showing good cause;
- (e) Remedial steps to prevent reoccurrence;
- (f) Financial implications; and
- (g) Recommendation.

(5) The granting of condonation for irregular expenditure by the appropriate authority requires no further action by the Department, as the amount has been expended in the statement of financial performance.

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(6) The Department must determine if any person is liable in law for the irregular expenditure and immediate steps must be implemented to recover such expenses from the persons found to be liable in law.

(7) If the irregular expenditure has not been condoned and no person is liable in law, the expenditure related thereto must remain against the relevant programme or expenditure item and be disclosed as such in the note to the financial statements, provided that no journal may be passed.

FRUITLESS AND WASTEFUL EXPENDITURE

9.(1) The following constitutes fruitless and wasteful expenditure:

- (a) expenditure due to negligence;
- (b) interest on overdue accounts; and
- (c) penalties paid.

(2) The Accounting Officer must deal with all fruitless and wasteful expenditure as prescribed, and Provincial Treasury will only intervene and make recommendations on how to resolve the matter in exceptional circumstances.

UNAUTHORISED EXPENDITURE

10.(1) The following constitutes unauthorised expenditure:

- (a) over-spending on budget;
- (b) earmarked funds used for other purposes; and
- (c) funds used outside the mandate of the Department.

(2) The Department must spend approved funds for the purpose for which they were provided, and funds not utilised for the purpose of the vote, must be identified immediately.

(3) Over-spending on the budget must be identified before final closure of the Departmental books and after final virement.

(4) After identification and confirmation, unauthorised expenditure is recognised as an asset in the statement of financial position, until such time as the expenditure is either approved by the relevant authority, recovered from the responsible person, or written off as irrecoverable in the statement of financial performance.

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(5) Unauthorised expenditure approved with funding is recognised in the statement of financial position when the unauthorised expenditure is approved and the related funds are received.

(6) In the statement of financial performance, unauthorised expenditure approved without funding is recognised as expenditure on the date of approval.

(7) A transaction may not be accounted for as both unauthorised and irregular expenditure, and unauthorised expenditure takes precedence over irregular expenditure.

(8) Unauthorised expenditure must be reported in the annual report as a note to the financial statements in terms of Treasury Regulation 9.1.5.

(9) The Department's unauthorised, fruitless and wasteful expenditure register, substantially compliant with Annexure B, must be updated throughout the investigation process until the case is finally closed.

RECOVERY OF EXPENSES FROM EMPLOYEES LIABLE IN LAW

11.(a) A process to determine whether an employee is liable in law and whether he or she has forfeited the state cover must be conducted in consultation with the State Attorney.

(b) The State Attorney must be referred to the Labour Relations Directorate to confirm whether any disciplinary steps or actions must be instituted against the relevant employee.

(c) The SCM Unit as the central loss control office must immediately issue a written notice to recover the expenses from any employee found to be liable in law by the State Attorney within 30 days or in reasonable instalments.

(d) If an employee fails to comply with the request, the matter must be referred to the Debtors Unit in the Financial Administration and Accounting Directorate for recovery of the debt through the application of the Departmental debt management policy.

(e) When no employee is found to be liable in law, the expenditure related thereto must remain against the relevant programme or expenditure item and be disclosed as such in the note to the financial statements without passing a journal.

(f) The Accounting Officer may write off the amount as bad debt in terms of Treasury Regulation 11.4 when it is confirmed that recovery from any liable employee is not possible, and this must be disclosed in the financial statements

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PROCEDURE FOR REPORTING AND INVESTIGATING IRREGULAR, FRUITLESS, WASTEFUL AND UNAUTHORISED EXPENDITURE

12. The procedure for reporting and investigating irregular, fruitless and wasteful, and unauthorised expenditure is as follows:

- (a) any employee who becomes aware or suspects the occurrence of irregular, fruitless and wasteful, or unauthorised expenditure must immediately report such expenditure in writing to the Accounting Officer or his or her delegate;
- (b) on identification of alleged irregular, fruitless and wasteful, or unauthorised expenditure, such expenditure must be left in the expense account;
- (c) reporting on irregular, fruitless and wasteful or unauthorised expenditure may also occur during the various assurance processes of the Department, which include internal and audit, compilation of the annual financial statement or normal inspections;
- (d) the CFO must investigate the matter without delay to determine the validity thereof, whether it meets the definition of irregular expenditure, fruitless and wasteful expenditure or unauthorised expenditure, as per Section 1 of the PFMA;
- (e) Line Function Managers must co-operate with the CFO in every aspect of an investigation;
- (f) the loss control officer must immediately notify the Senior Manager: SCM of progress with, and the outcome of, an investigation, by way of a written report, accompanied by supporting documentation where necessary;
- (g) the SCM Unit must immediately record details of reported cases in the Departmental irregular, fruitless, wasteful and unauthorised expenditure registers;
- (h) for each reported case, the SCM Unit must open a case file containing all the evidence and reports received;
- (i) the Departmental irregular, fruitless, wasteful and unauthorised expenditure registers must be—
 - (i) available at all times for inspection and audit purposes;
 - (ii) kept in a safe place and protected against fire, water and damaged;
 - (iii) updated continually with the outcome of each investigation in the relevant register by the loss control officer; and
 - (iv) maintained in electronic format
- (j) during the period of investigation, the expenditure must remain in the expense account and the result of the investigation must determine the appropriate action to be taken regarding the expenditure;
- (k) where the investigation reveals that the irregular, fruitless, wasteful and unauthorised expenditure is in fact valid expenditure, the details of the expenditure must be retained in the relevant register to provide an appropriate audit trail;

- (l) the SCM Unit must monitor reported cases until such cases have been resolved or closed.
- (m) where the investigation indicates that the expenditure is irregular, fruitless and wasteful, or unauthorised, the particulars of the expenditure must be reported to the Provincial Treasury by the Accounting Officer;
- (n) the completeness of, and amendments to, the Departmental irregular, fruitless, wasteful, and unauthorised expenditure registers must be reported by the SCM Unit to management and the Provincial Treasury through monthly reports;
- (o) the SCM Manager must review the Departmental irregular, fruitless, wasteful and unauthorised expenditure registers for completeness and correctness on a quarterly basis;
- (p) the SCM Manager must compile statistics of irregular, fruitless, wasteful and unauthorised expenditure cases on an annual basis in order to identify trends such as risk areas, control weaknesses and areas of non-compliance; and
- (q) irregular, fruitless and wasteful, and unauthorised expenditure must be accounted for and disclosed in financial statements, according to the applicable Department Financial Reporting Framework Guide, which is updated annually and is available on the National Treasury website of the Office of the Accountant-General.

OPERATIONAL PROCESSES AND SYSTEMS TO DETER AND PREVENT RECURRENT

13. Processes and systems aimed at preventing irregular fruitless and wasteful expenditure must be in place and regularly audited or evaluated by management to assess their effectiveness, and include the following:

- (a) annual performance and procurement planning process;
- (b) a delegation of authority framework;
- (c) a fraud prevention plan;
- (d) a legal and regulatory compliance programme;
- (e) a Supply Chain Management policy;
- (f) programme and project management;
- (g) significance and materiality framework; and
- (h) a stock and inventory policy.

NON-COMPLIANCE

14. Any failure to comply with this policy and its provisions may constitute financial misconduct and any employee found to be transgressing this policy will be subjected to a disciplinary enquiry in terms of the Public Service Act, 1999 (Proclamation 103 of 1994).

MONITORING AND EVALUATION

15. The Chief Financial Officer through the Senior Manager: Supply Chain Management must monitor the implementation of the policy on a regular basis, provided that this policy may be reviewed and amended from time to time as and when the need arises.

EFFECTIVE DATE

16. This policy comes into effect on date of signature hereof by the Accounting Officer.



CHIEF FINANCIAL OFFICER

22/05/2014
DATE



ACCOUNTING OFFICER

23/5/14
DATE

