



# NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY

## MUNICIPAL BUDGET POLICY



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**“Leaders in Intergrated Municipal Governance”**



## PREAMBLE

**WHEREAS** section 16, read with section 24 of the Local Government: Municipal Finance Management Act, Act 56 of 2003 (hereinafter referred to as “the MFMA”), also read with the provisions of the Municipal Budget and Reporting Regulations, 2008 (hereinafter referred to as “the Regulations”) determines that the Council of the Ngaka Modiri Molema District Municipality (hereinafter referred to as “the Municipality”) must approve an annual budget for the Municipality before the start of each financial year in terms of the procedure set out in Chapter 4 of the MFMA and the Regulations;

**AND WHEREAS** section 11(3)(h) and section 11(3)(i) of the Local Government: Municipal Systems Act, Act 32 of 2000 (hereinafter referred to as “the Systems Act”) determines that a Municipality exercises its legislative and executive authority by preparing, approving and implementing its budgets and by imposing and recovering levies, duties, service fees and surcharges on fees;

**AND WHEREAS** section 11(3)(m) of the Systems Act determines that determines that a Municipality exercises its legislative and executive authority by passing by-laws and taking decisions on any of the abovementioned matters;

**NOW THEREFORE** the Municipality adopts the following Municipal Budget Policy to assist the Municipality in complying with the relevant provisions of the MFMA and the Regulations, to be known as the Municipal Budget Policy (hereinafter referred to as “this policy”).

# THE NGAKA MODIRI MOLEMA

## DISTRICT MUNICIPALITY

### MUNICIPAL BUDGET POLICY

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## CHAPTER 1 GENERAL PROVISIONS

### 1. DEFINITIONS

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- (1) In this policy, except where the context otherwise indicates, or it is expressly stipulated otherwise, the following words and expressions shall have the respective meanings assigned to them hereunder, and words and expressions to which a meaning has been assigned in terms of the provisions of the MFMA, Systems Act and Regulations, will have a corresponding meaning assigned thereto in terms of the said act. All headings are included for convenience only and shall not be used in the interpretation of any of the provisions of this policy.

NO.	WORD/EXPRESSION	DEFINITION
<b>“A”</b>		
1.1	<b>“Accounting Officer”</b>	Means the Municipal Manager appointed in terms of section 60 of the MFMA. Also referred to the definition of “Municipal Manager”.
1.2	<b>“annual budget”</b>	Means the budget approved by the Council of the Municipality for a particular financial year, and shall include any adjustments to such a budget.
<b>“C”</b>		
1.3	<b>“Chief Financial Officer”</b>	Means the person appointed by the Council and designated by the Municipal Manager to manage the financial administration of the Municipality and who remains directly

		accountable to the Municipal Manager as contemplated in terms of the provisions of section 80(2)(a) of the MFMA read with section 1 and section 81 of the MFMA.
1.4	<b>“Constitution”</b>	Means the Constitution of the Republic of South Africa, 108 of 1996.
1.5	<b>“contract”</b>	Means a written agreement resulting from the acceptance of a bid or quotation from a bidder by the Municipality and as contemplated in the provisions of section 116 of the MFMA.
1.6	<b>“Council”</b>	Means the Municipal Council of the Municipality as referred to and constituted in terms of the provisions of section 157 of the Constitution of the Republic of South Africa, its legal successors in title and its delegates.
<b>“D”</b>		
1.7	<b>“days”</b>	Means calendar days, unless the context indicates otherwise.
1.8	<b>“Division of Revenue Act”</b>	Means the Division of Revenue Act, Act 2 of 2013.
<b>“E”</b>		
1.9	<b>“Executive Mayor”</b>	Means the councilor elected as the Executive Mayor of the Municipality in terms of section 55 of the Structures Act.
<b>“F”</b>		
1.10	<b>“financial year”</b>	Means the period starting from 1 July in any year and ending on 30 June of the following year.
<b>“G”</b>		

1.11	<b>“goods”</b>	Apart from the normal grammatical meaning, also includes engineering and construction works and consultant works.
<b>“I”</b>		
1.12	<b>“Integrated Development Plan” or “IDP”</b>	The plan envisaged in terms of the provisions of section 25 of the Systems Act.
1.13	<b>“in-year reports”</b>	In relation to a Municipality, means: (a) a monthly budget statement of the Municipality contemplated in section 71(1) of the MFMA; (b) a quarterly report on the implementation of the budget and financial state of affairs of the Municipality contemplated in section 52(d) of the MFMA; or (c) a mid-year budget and performance assessment of the Municipality contemplated in section 72 of the MFMA.
<b>“M”</b>		
1.14	<b>“Municipal Manager”</b>	Means a person appointed in terms of section 82 (1) (a) or (b) of the Structures Act, the Municipal Manager and Accounting Officer of the Municipality appointed in terms of the provisions of section 54A of the Systems Act and as referred to in the definition of “Accounting Officer” in section 1 of the MFMA, and also referred to in section 60 of the MFMA, and includes a person acting as an Accounting Officer, or the

		person to whom the Accounting Officer has delegated his/her authority to act.
1.15	<b>“Municipality”</b>	<p>Means the NGAKA MODIRI MOLEMA DISTRICT MUNICIPALITY (also referred to as “the Municipality”) a local government and legal entity with full legal capacity as contemplated in section 2 of the Systems Act read with the provisions of Chapter 7 of the Constitution and sections 12 and 14 of the Structures Act, with its main place of business and the offices of the Municipal Manager, as envisaged in terms of the provisions of section 115(3) of the Systems Act, at: c/o Carrington Street &amp; First Avenue, Industrial Site, MAFIKENG, NORTH WEST PROVINCE, and may, depending on the context, include:</p> <ul style="list-style-type: none"> <li>(a) its successor in title; or</li> <li>(b) a functionary, employee or official exercising a delegated power or carrying out an instruction, in the event of any power being delegated as contemplated in terms of the provisions of section 59 of the Systems Act, or exercising any lawful act in the furtherance of the Municipality’s duties, functions and powers; or</li> <li>(c) an authorised service provider fulfilling a responsibility assigned to it by the Municipality through a service delivery agreement.</li> </ul>
<b>“N”</b>		

1.16	<b>“National Treasury”</b>	Means the National Treasury established by section 5 of the Public Finance Management Act; Act 1 of 1999.
<b>“O”</b>		
1.17	<b>“official”</b>	<p>In relation to a Municipality means:</p> <ul style="list-style-type: none"> <li>(a) an employee of a Municipality;</li> <li>(b) a person seconded to a Municipality to work as a member of the staff of the Municipality or municipal entity; or</li> <li>(c) a person contracted by a Municipality to work as a member of the staff of the Municipality or municipal entity otherwise than as an employee.</li> </ul>
1.18	<b>“organ of state”</b>	<p>Means:</p> <ul style="list-style-type: none"> <li>(a) any department of state or administration in the national, provincial or local sphere of government or</li> <li>(b) any other functionary or institution: <ul style="list-style-type: none"> <li>(i) exercising a power of performing a function in terms of the Constitution or a provincial constitution; or</li> <li>(ii) exerting a public power of performing a public function in terms of any legislation, but does not include a court or a judicial officer.</li> </ul> </li> </ul>
1.19	<b>“own revenue”</b>	In relation to regulation 72 of the Municipal Budget and Reporting Regulations, 2008 means total revenue

		as reflected in the Municipality's financial performance budget by standard classification less national and provincial conditional transfers
<b>“P”</b>		
1.20	<b>“Promotion of Access to Information Act” or “PAIA”</b>	The Promotion of Access to Information Act, Act 2 of 2000.
1.21	<b>“Provincial Treasury” or “relevant provincial treasury”</b>	Means a treasury established in terms of section 17 of the Public Finance Management Act, Act 1 of 1999, in in the instance of the Municipality means the provincial treasury of the North West Province.
<b>“Q”</b>		
1.22	<b>“quality certificate”</b>	In relation to a Municipality, means a certificate issued and signed by the Municipal Manager confirming the accuracy and reliability of the contents of a document prepared or issued by the Municipality.
<b>“R”</b>		
1.23	<b>“Regulation” or “Regulations”</b>	Means the Local Government: Municipal Finance Management Act, Municipal Budget and Reporting Regulations, 2008 promulgated in terms of the MFMA and published in Government Gazette No 32141 of 17 April 2009 under Government Notice GenN 393.
<b>“S”</b>		
1.24	<b>“Structures Act”</b>	Means the Local Government: Municipal

		Structures Act, Act 117 of 1998 and any regulations promulgated in terms of the MFMA.
1.25	<b>“supporting documentation”</b>	In relation to-  (a) an annual budget of a Municipality, means documentation referred to in section 17(3) of the MFMA;  (b) an annual budget of a municipal entity, means documentation that informs the annual budget;  (c) an adjustments budget of a Municipality, means documentation referred to in section 28(5)(d) of the MFMA; or  (d) an adjustments budget of a municipal entity, means documentation that informs the adjustments budget.
1.26	<b>“Systems Act”</b>	Means the Local Government: Municipal Systems Act, Act 32 of 2000, as amended, by Act 44 of 2003 and any regulations promulgated of the MFMA.
<b>“T”</b>		
1.27	<b>“total revenue”</b>	In relation to regulation 13(2) Municipal Budget and Reporting Regulations, 2008 means total revenue as reflected in the Municipality's financial performance budget by standard classification.

## **2. LEGISLATIVE CONTEXT**

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This policy is mandated, designed and must be implemented within the framework of inter alia the following legislation:

- (a) the Constitution;
- (b) the Systems Act;
- (c) the MFMA;
- (d) the Municipal Budget and Reporting Regulations, 2008;
- (e) all relevant directives and guidelines issued by National Treasury from time to time.

### **3. ADOPTION AND COMMENCEMENT OF THIS POLICY**

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This policy, being a budgetary policy, shall come into full force and effect upon the adoption thereof by the Council of the Municipality by resolution, which resolution will be part of the adoption process of the Municipality's annual budget as referred to in section 16 read with section 24 of the MFMA and the contents of this policy.

### **4. TITLE AND APPLICATION**

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- (1) This policy shall be known as the Municipal Budget Policy of the Municipality and is applicable to the municipal area of the Municipality.
- (2) This policy revokes all previous policies, decisions and/or *ad hoc* clauses within any other policy, regarding the subject matter of this policy.

### **5. OBJECTIVE OF THIS POLICY**

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The objective of this policy is to ensure the sound and sustainable management of the preparation, approval and implementation of the municipal budget, in accordance with the provisions of the Constitution, the Systems Act, Chapter 4 of the MFMA and the Municipal Budget and Reporting Regulations, 2008.



## CHAPTER 2 MUNICIPAL BUDGETS

### **6. BUDGET STEERING COMMITTEE (REGULATION 4)**

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- (1) The Executive Mayor must establish a budget steering committee to provide technical assistance to the Executive Mayor in discharging the responsibilities set out in section 53 of the MFMA.
  
- (2) The budget steering committee must consist of at least the following persons:
  - (a) the councillor responsible for financial matters;
  - (b) the Municipal Manager;
  - (c) the chief financial officer;
  - (d) the senior managers responsible for at least the three largest votes in the Municipality;
  - (e) the manager responsible for budgeting;
  - (f) the manager responsible for planning; and
  - (g) any technical experts on infrastructure.

### **7. QUALITY CERTIFICATION (REGULATION 5)**

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- (1) A quality certificate, signed by the Municipal Manager, must accompany:
  - (a) an annual budget and supporting documentation;
  - (b) an adjustments budget and supporting documentation; or
  - (c) an in-year report of a Municipality;whenever one of the above is:
  - (a) submitted to the Executive Mayor;
  - (b) tabled in the Council;
  - (c) made public; o

- (d) submitted to another organ of state.
- (2) The quality certificate must comply with Schedule A, B or C to the Regulations, as the case may be.

## **8. CONSISTENCY IN BASES OF MEASUREMENT AND ACCOUNTING POLICIES (REGULATION 6)**

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The Municipal Manager must take all reasonable steps to ensure that:

- (a) the basis of measurement and accounting policies underpinning the Municipality's annual financial statements are the same as those used in the preparation of the Municipality's:
  - (i) annual budget and supporting documentation;
  - (ii) adjustments budgets and supporting documentation; and
  - (iii) in-year reports; and
- (b) any differences or changes between financial years are explicitly noted.

## **9. APPROPRIATION OF FUNDS FOR EXPENDITURE (SECTION 15)**

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- (1) The Municipality may only incur expenditure, except where otherwise provided in the MFMA:
  - (a) in terms of an approved budget; and
  - (b) within the limits of the amounts appropriated for the different votes in an approved budget.
- (2) All departments of the Municipality must adhere strictly to the stipulation set out in paragraph (1) above.

## **10. ANNUAL BUDGETS (SECTION 16)**

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- (1) The council of the Municipality must for each financial year approve an annual budget for the Municipality before the start of that financial year.
- (2) In order for the Municipality to comply with paragraph (1), the Executive Mayor must table the annual budget at a meeting of the Council at least 90 days before the start of the budget year.
- (3) Paragraph (1) does not preclude the appropriation of money for capital expenditure for a period not exceeding three financial years, provided a separate appropriation is made for each of those financial years.

## **11. FORMAT OF ANNUAL BUDGETS (REGULATION 9)**

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- (1) The annual budget and supporting documentation of the Municipality must:
  - (a) be in the format specified in Schedule A to the Regulations;
  - (b) include all the required tables, charts and explanatory information; and
  - (c) take into account any guidelines issued by the Minister in terms of section 168(1) of the MFMA, as well as the MFMA Budget Formats Guide published on the National Treasury's website.

## **12. CONTENTS OF ANNUAL BUDGET AND SUPPORTING DOCUMENTS (SECTION 17)**

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### Contents:

- (1) The annual budget of the Municipality must be a schedule in the prescribed format:
  - (a) setting out realistically anticipated revenue for the budget year from each revenue source;

- (b) appropriating expenditure for the budget year under the different votes of the Municipality;
  - (c) setting out indicative revenue per revenue source and projected expenditure by vote for the two financial years following the budget year;
  - (d) setting out:
    - (i) estimated revenue and expenditure by vote for the current year; and
    - (ii) actual revenue and expenditure by vote for the financial year preceding the current year; and
  - (e) a statement containing any other information required by section 215(3) of the Constitution or as may be prescribed including:
    - (i) estimates of revenue and expenditure, differentiating between capital and current expenditure; and
    - (ii) proposals for financing any anticipated deficit for the period to which they apply; and
    - (iii) an indication of intensions regarding borrowing and other forms of public liability that will increase public debt during the ensuing year.
- (2) The annual budget must generally be divided into a capital and an operating budget in accordance with international best practice, as may be prescribed.

Supporting documents:

- (3) When the draft of the annual budget is tabled, it must be accompanied by the following documents:
  - (a) Draft resolutions:
    - (i) approving the budget of the Municipality;

- (ii) imposing any municipal tax and setting any municipal tariffs as may be required for the budget year; and
  - (iii) approving any other matter that may be prescribed;
- (b) measurable performance objectives for revenue from each source and for each vote in the budget, taking into account the Municipality's integrated development plan;
- (c) a projection of cash flow for the budget year by revenue source, broken down per month;
- (d) any proposed amendments to the Municipality's integrated development plan following the annual review of the integrated development plan in terms of section 34 of the Systems Act;
- (e) any proposed amendments to the budget-related policies of the Municipality;
- (f) particulars of the Municipality's investments;
- (g) any prescribed budget information on municipal entities under the sole or shared control of the Municipality;
- (h) particulars of all proposed new municipal entities which the Municipality intends to establish or in which the Municipality intends to participate;
- (i) particulars of any proposed service delivery agreements, including material amendments to existing service delivery agreements;
- (j) particulars of any proposed allocations or grants by the Municipality to-
  - (i) other municipalities;
  - (ii) any municipal entities and other external mechanisms assisting the Municipality in the exercise of its functions or powers;
  - (iii) any other organs of state;
  - (iv) any organisations or bodies referred to in section 67(1) of the MFMA;

- (k) the proposed cost to the Municipality for the budget year of the salary, allowances and benefits of:
  - (i) each political office-bearer of the Municipality;
  - (ii) councillors of the Municipality; and
  - (iii) the Municipal Manager, the chief financial officer, each senior manager of the Municipality and any other official of the Municipality having a remuneration package greater than or equal to that of a senior manager;
- (l) the proposed cost for the budget year to a municipal entity under the sole or shared control of the Municipality of the salary, allowances and benefits of:
  - (i) each member of the entity's board of directors; and
  - (ii) the chief executive officer and each senior manager of the entity; and
- (m) any other supporting documentation as may be prescribed.

### **13. FUNDING OF EXPENDITURE (SECTION 18 & REGULATION 10)**

- (1) An annual budget may only be funded from:
  - (a) realistically anticipated revenues to be collected;
  - (b) cash-backed accumulated funds from previous years' surpluses not committed for other purposes; and
  - (c) borrowed funds, but only for the capital budget referred to in section 17(2) of the MFMA.
- (2) Revenue projections in the budget must be realistic, taking the following into account:
  - (a) projected revenue for the current year based on collection levels to date; and
  - (b) actual revenue collected in previous financial years.

- (3) The funding of an annual budget must:
- (a) be estimated in accordance with the assumptions and methodologies set out in the funding and reserves policy of the Municipality referred to in regulation 8; and
  - (b) be consistent with the trends, current and past, of actual funding collected or received.
- (4) Realistically anticipated revenues to be received from national or provincial government, national or provincial public entities, other municipalities, municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds. Acceptable documentation is constituted by:
- (a) in the case of allocations or transfers from national or provincial government, the latest available:
    - (i) gazetted allocations or transfers to the Municipality following the approval of the current year's Division of Revenue Act, national annual budget, national adjustments budget, relevant provincial annual budget or provincial adjustments budget;
    - (ii) proposed allocations or transfers to the Municipality contained in the tabled national and provincial budgets as detailed in accordance with section 36(2) of the MFMA;
    - (iii) written notifications from the relevant treasury of proposed allocations or transfers subsequent to the previous year's national or provincial approved annual budgets and latest adjustment budgets, but prior to the current year's budgets being tabled; or
-

- (iv) the previous years' allocations or transfers in the national and provincial annual budgets and adjustments budgets as gazetted;
  - (b) in the case of transfers from other municipalities, the latest available:
    - (i) transfers in the approved annual budget or any subsequent approved adjustments budget of the transferring Municipality;
    - (ii) proposed transfers contained in the tabled annual budget of the relevant transferring Municipality;
    - (iii) written notification of proposed transfers from transferring municipalities communicated to the Municipality in terms of section 37(2) of the MFMA: or
    - (iv) the previous year's transfers in the approved annual budget or any adjustments budget of the transferring Municipality; and
  - (c) in the case of agency payments, public contributions, donations, donor grants or any other grants, subsidies or contributions, the relevant service level agreement, contract or other legally binding document which guarantees the funding.
- (5) Estimated provision for revenue from rates, taxes, levies or other charges that will not be collected must be budgeted for separately and reflected on the expenditure side of the Municipality's annual budget and not netted out from budgeted revenue.
- (6) The cash flow budget required in terms of Schedule A to the Regulations must reflect all funds realistically forecast to be collected, including arrears.



- (7) The Municipal Manager in signing the quality certificate in Schedule A to the Regulations, certifies that all ratepayers and consumers are accounted for in the annual budget calculations and that billing systems including property records and metering information are up to date and consistent with the revenue projections in the annual budget.
- (8) To determine whether an annual budget is funded in accordance with section 18 of the MFMA, a simultaneous analysis is required of the financial performance, financial position, cash flow, and capital expenditure budgets together with any requirements for working capital and cash investments held for statutory or contractual purposes.
- (9) Reference must also be made to the supporting table annexed to the latest MFMA Funding Compliance Guideline publishes by National Treasury, as well as the contents of the said guideline.

#### **14. FUNDING OF CAPITAL EXPENDITURE (REGULATION 11)**

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- (1) An annual budget must show total capital expenditure and the different sources of funding.
- (2) All sources of funding shown in terms of paragraph (1) above must be available, and must not have been committed for other purposes.
- (3) The total budgeted capital funding by source must equal the total budgeted capital expenditure.
- (4) In this regard reference must be made to the contents of table A5 annexed to the Budgeted Capital Expenditure by Vote, Standard Classification and Funding as contained in Schedule A to the Regulations.

## **15. CAPITAL PROJECTS (SECTION 19)**

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- (1) The Municipality may spend money on a capital project only if:
  - (a) the money for the project, excluding the cost of feasibility studies conducted by or on behalf of the Municipality, has been appropriated in the capital budget referred to in section 17(2) of the MFMA;
  - (b) the project, including the total cost, has been approved by the Council;
  - (c) the provisions of section 33 of the MFMA has been complied with, to the extent that that section may be applicable to the project; and
  - (d) the sources of funding have been considered, are available and have not been committed for other purposes.
  
- (2) Before approving a capital project, the council of the Municipality must consider:
  - (a) the projected cost covering all financial years until the project is operational; and
  - (b) the future operational costs and revenue on the project, including municipal tax and tariff implications.
  
- (3) The Council may approve capital projects below a prescribed value either individually or as part of a consolidated capital programme.

## **16. APPROVAL OF CAPITAL PROJECTS (REGULATION 13)**

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- (1) Within ten working days after the Council has given individual approval for a capital project, the Municipal Manager must in accordance with section 21A of the Systems Act make public:

- (a) the Council resolution approving the capital project; and
  - (b) details of the nature, location and total projected cost of the approved capital project.
- (2) The following capital projects may be approved by a council either individually or as part of a consolidated capital programme:
- (a) capital projects of which the total projected cost is below 5% of the Municipality's revenue, in the case of a Municipality with approved total revenue in its current annual budget not exceeding R250 million;
  - (b) capital projects of which the total projected cost is below 8% of the Municipality's revenue, in the case of a Municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and
  - (c) capital projects of which the total projected cost is below R50 million, in the case of a Municipality with approved total revenue in its current annual budget greater than R500 million.
- (3) Paragraph (1) above does not apply to capital projects whose total projected cost when the annual budget is approved is below the values set out in paragraph (2) above.
- (4) Expenditure needed for capital projects below the values set out in paragraph (2) above may be included in the annual budget before the project is approved.
- (5) Section 19 of the MFMA regulates budgetary matters in relation to capital projects. The Municipality may not spend any money on a capital project unless the council has approved the specific project including the total cost. However, capital projects below a prescribed

value may be approved either individually or as part of a consolidated capital programme.

- (6) Capital projects of which the total projected cost is above these values must be approved individually by the Council.

## CHAPTER 3

### PRESCRIBED PROCESSES & APPROVAL

#### **17. BUDGET PREPARATION PROCESS (SECTION 21)**

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- (1) The Executive Mayor of the Municipality must:
- (a) co-ordinate the processes for preparing the annual budget and for reviewing the Municipality's integrated development plan and budget-related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget-related policies are mutually consistent and credible;
  - (b) at least 10 months before the start of the budget year and not later than 1 September, table in the Council a time schedule outlining key deadlines for:
    - (i) the preparation, tabling and approval of the annual budget;
    - (ii) the annual review of:
      - (aa) the integrated development plan; and
      - (bb) the budget-related policies;
    - (iii) the tabling and adoption of any amendments to the integrated development plan and the budget-related policies; and
    - (iv) any consultative processes forming part of the processes referred to in subparagraphs (i), (ii) and (iii).
- (2) When preparing the annual budget, the Executive Mayor must:
- (a) take into account the Municipality's integrated development plan;
  - (b) take all reasonable steps to ensure that the Municipality revises the integrated development plan, taking into account realistic revenue and expenditure projections for future years;

- (c) take into account the national budget, the relevant provincial budget, the national government's fiscal and macro-economic policy, the annual Division of Revenue Act and any agreements reached in the Budget Forum;
  - (d) consult:
    - (i) all local municipalities within the Municipality's area;
    - (ii) the relevant provincial treasury, and when requested, the National Treasury; and
    - (iii) any national or provincial organs of state, as may be prescribed; and
  - (e) provide, on request, any information relating to the budget:
    - (i) to the National Treasury; and
    - (ii) subject to any limitations that may be prescribed, to:
      - (aa) the national departments responsible for water, sanitation, electricity and any other service as may be prescribed;
      - (bb) any other national and provincial organ of states, as may be prescribed; and
      - (cc) another Municipality affected by the budget.
- (3) The Municipal Manager must assist the Executive Mayor in performing the Executive Mayor's budgetary obligations and provide administrative support, resources and information necessary for the performing of the Executive Mayor's budgetary functions.

## **18. TABLING OF ANNUAL BUDGET IN COUNCIL (REGULATION 14)**

- (1) An annual budget and supporting documentation tabled in the Council must:
  - (a) be in the format in which it will eventually be approved by the council; and

- (b) be credible and realistic such that it is capable of being approved and implemented as tabled.
- (2) The Municipal Manager must submit the draft municipal service delivery and budget implementation plan to the Executive Mayor together with the annual budget to be considered by the Executive Mayor for.
- (3) For effective planning and implementation of the annual budget, the draft municipal service delivery and budget implementation plan may form part of the budget documentation and be tabled in the Council if so recommended by the budget steering committee.

#### **19. PUBLICATION AND SUBMISSION OF ANNUAL BUDGETS (SECTION 22 & REGULATION 15)**

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- (1) Immediately after an annual budget is tabled in the Council, the Municipal Manager must:
  - (a) in accordance with Chapter 4 of the Systems Act:
    - (i) make public the annual budget and the following documents :
      - (aa) Draft resolutions-
        - (I) approving the budget of the municipality;
        - (II) imposing any municipal tax and setting any municipal tariffs as may be required for the budget year; and
        - (III) approving any other matter that may be prescribed;
      - (bb) measurable performance objectives for revenue from each source and for each vote in the budget, taking into account the municipality's integrated development plan;

- (cc) a projection of cash flow for the budget year by revenue source, broken down per month;
- (dd) any proposed amendments to the municipality's integrated development plan following the annual review of the integrated development;
- (ee) any proposed amendments to the budget-related policies of the municipality;
- (ff) particulars of the municipality's investments;
- (gg) any prescribed budget information on municipal entities under the sole or shared control of the municipality;
- (hh) particulars of all proposed new municipal entities which the municipality intends to establish or in which the municipality intends to participate;
- (ii) particulars of any proposed service delivery agreements, including material amendments to existing service delivery agreements;
- (jj) particulars of any proposed allocations or grants by the municipality to-
  - (i) other municipalities;
  - (ii) any municipal entities and other external mechanisms assisting the municipality in the exercise of its functions or powers;
  - (iii) any other organs of state;
  - (iv) any organisations or bodies referred to in section 67 (1);
- (kk) the proposed cost to the municipality for the budget year of the salary, allowances and benefits of-
  - (i) each political office-bearer of the municipality;



- (ii) councillors of the municipality; and
    - (iii) the municipal manager, the chief financial officer, each senior manager of the municipality and any other official of the municipality having a remuneration package greater than or equal to that of a senior manager;
  - (ll) the proposed cost for the budget year to a municipal entity under the sole or shared control of the municipality of the salary, allowances and benefits of-
    - (i) each member of the entity's board of directors; and
    - (ii) the chief executive officer and each senior manager of the entity; and
  - (mm) any other supporting documentation as may be prescribed;
- and
- (ii) invite the local community to submit representations in connection with the budget; and
- (b) submit the annual budget:
- (i) in both printed and electronic formats to the National Treasury and the relevant provincial treasury; and
  - (ii) in either format to any prescribed national or provincial organs of state and to other municipalities affected by the budget.

- (2) When making public the annual budget and supporting documentation the Municipal Manager must also make public any other information that:

- (a) summaries of the annual budget and supporting documentation in alternate languages predominant in the community; and
  - (b) information relevant to each ward in the Municipality.
- (3) All information contemplated in paragraph (2) above must cover:
  - (a) the relevant financial and service delivery implications of the annual budget; and
  - (b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year, and the following two years.
- (4) When submitting the annual budget to the National Treasury and the relevant provincial treasury, the Municipal Manager must also submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form:
  - (a) the supporting documentation as tabled in the Council;
  - (b) the draft service delivery and budget implementation plan; and
  - (c) any other information as may be required by the National Treasury.
- (5) The Municipal Manager must send copies of the annual budget and supporting documentation as tabled in the Council, in both printed and electronic form to-
  - (a) any other Municipality affected by the annual budget within ten working days of the annual budget being tabled in the Council; and
  - (b) any other organ of state on receipt of a request from that organ of state.
- (6) The purpose of the prescribed public participation process is to inform the local community of the contents of the budget and to allow for the

local community to make comments on and inputs regarding the budget.

- (7) All documents that must be made public by the Municipality, as referred to above, must be conveyed to the local community by:
- (a) displaying the documents at the Municipality's head and satellite offices and libraries;
  - (b) displaying the documents on the Municipality's official website; and
  - (c) notify the local community of the place(s), including the website address, where detail particulars concerning the documents can be obtained.
- (8) The Municipality shall also notify the local community of the above mentioned by publishing a notice in a newspaper, circulating in its area and determined by the Council as a newspaper of record. The said notice must:
- (a) inform the local community that the annual budget is tabled in the Council;
  - (b) inform the local community that a copy of the annual budget is available for public inspection during office hours in the main administrative office of the Municipality and other specified places as determined by the Municipal Manager;
  - (c) invite the local community to submit written representations in connection with the budget, within 30 (thirty) days after the date on which the notice was displayed;
  - (d) inform the local community that any person who cannot write may come during office hours to the main administrative office of the Municipality or other specified places as determined by

the Municipal Manager, where a staff member of the Municipality named in the invitation, will assist that person to transcribe that person's comments or representations; and

- (e) inform the local community of the website address of the Municipality where detailed particulars concerning the budget documentation can be obtained.
- (9) A copy of the above mentioned notice must also be displayed at the municipal offices and other specified places as determined by the Municipal Manger of the Municipality.
- (10) The Municipality shall also, its resources permitting, seek to convey the information as contained in the notice, to the local community by means of radio broadcast covering the area of jurisdiction of the Municipality.

## **20. CONSULTATIONS ON TABLED BUDGETS (SECTION 23)**

- (1) When the annual budget has been tabled, the Council must consider any views of:
- (a) the local community; and
  - (b) the National Treasury, the relevant provincial treasury and any provincial or national organs of state or municipalities which made submissions on the budget.
- (2) After considering all budget submissions, the council must give the Executive Mayor an opportunity:
- (a) to respond to the submissions; and
  - (b) if necessary, to revise the budget and table amendments for consideration by the council.

- (3) The National Treasury may issue guidelines on the manner in which Councils should process their annual budgets, including guidelines on the formation of a committee of the Council to consider the budget and to hold public hearings.
- (4) No guidelines issued in terms of paragraph (3) above are binding on a Council unless adopted by the Council.

## **21. CONSIDERATION OF ANNUAL BUDGETS BY THE COUNCIL (REGULATION 16)**

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- (1) At least 30 days before the start of the budget year the Executive Mayor must for consultation purposes table the following documents in the Council:
  - (a) a report summarising the local community's views on the annual budget;
  - (b) any comments on the annual budget received from the National Treasury and the relevant provincial treasury;
  - (c) any comments on the annual budget received from any other organ of state, including any affected Municipality; and
  - (d) any comments on the annual budget received from any other stakeholders.
- (2) The Municipal Manager must assist the Executive Mayor in the preparation of the documents referred to in paragraph (1).

## **22. APPROVAL OF ANNUAL BUDGETS (SECTION 24 & REGULATION 17)**

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- (1) The Council must at least 30 days before the start of the budget year consider approval of the annual budget.

- (2) An annual budget:
  - (a) must be approved before the start of the budget year;
  - (b) is approved by the adoption by the Council of a; and
  - (c) must be approved together with the adoption of resolutions as may be necessary:
    - (i) imposing any municipal tax for the budget year;
    - (ii) setting any municipal tariffs for the budget year;
    - (iii) approving measurable performance objectives for revenue from each source and for each vote in the budget;
    - (iv) approving any changes to the Municipality's integrated development plan; and
    - (v) approving any changes to the Municipality's budget-related policies.
- (3) The Municipal Manager must submit the approved annual budget to the National Treasury and the relevant provincial treasury.
- (4) A Council must consider the full implications, financial or otherwise, of the annual budget and supporting documentation before approving the annual budget.
- (5) When approving the annual budget, the Council must consider and adopt separate resolutions dealing with each of the matters.
- (6) The Council must approve an annual budget in accordance with the contents of this paragraph. Also refer to item 4 of schedule A to the Regulations.

**23. PUBLICATION OF APPROVED ANNUAL BUDGETS (REGULATION 18)**

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- (1) Within ten working days after the Council has approved the annual budget of the Municipality, the Municipal Manager must in accordance with section 21A of the Systems Act make public the approved annual budget and supporting documentation and the resolutions referred to in section 24(2)(c) of the MFMA.
- (2) The Municipal Manager must also make public any other information that the Council considers appropriate to facilitate public awareness of the annual budget, including:
  - (a) summaries of the annual budget and supporting documentation in alternate languages predominant in the community; and
  - (b) information relevant to each ward in the Municipality.
- (3) All information contemplated in paragraph (2) above must cover:
  - (a) the relevant financial and service delivery implications of the annual budget; and
  - (b) at least the previous year's actual outcome, the current year's forecast outcome, the budget year and the following two years.

**24. PUBLICATION OF APPROVED SERVICE DELIVERY AND BUDGET IMPLEMENTATION PLAN (REGULATION 19)**

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- (1) The Municipal Manager must in accordance with section 21A of the Systems Act make public the approved service delivery and budget implementation plan within ten working days after the Executive Mayor has approved the plan in terms of section 53(1)(c)(ii) of the MFMA.

**25. SUBMISSION OF APPROVED ANNUAL BUDGET AND OTHER DOCUMENTS (REGULATION 20)**

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- (1) The Municipal Manager must submit the approved annual budget to the National Treasury and the relevant provincial treasury within ten working days after the Council has approved the annual budget.
  
- (2) The Municipal Manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form-
  - (a) the supporting documentation within ten working days after the Council has approved the annual budget;
  - (b) the approved service delivery and budget implementation plan within ten working days after the Executive Mayor has approved the plan; and
  - (c) any other information as may be required by the National Treasury.
  
- (3) The Municipal Manager must send copies of the approved annual budget and supporting documentation, in both printed and electronic form to:
  - (a) any other Municipality affected by the annual budget within ten working days after the Council has approved the annual budget; and
  - (b) any other organ of state on receipt of a request from that organ of state.



## CHAPTER 4 ADJUSTMENT BUDGETS

### **26. ADJUSTMENTS BUDGET (SECTION 28 AND REGULATION 21)**

- (1) The Municipality may revise an approved annual budget through an adjustments budget.
  
- (2) An adjustments budget:
  - (a) must adjust the revenue and expenditure estimates downwards if there is material under-collection of revenue during the current year;
  - (b) may appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
  - (c) may, within a prescribed framework, authorise unforeseeable and unavoidable expenditure recommended by the Executive Mayor;
  - (d) may authorise the utilisation of projected savings in one vote towards spending under another vote;
  - (e) may authorise the spending of funds that were unspent at the end of the past financial year where the under-spending could not reasonably have been foreseen at the time to include projected roll-overs when the annual budget for the current year was approved by the Council;
  - (f) may correct any errors in the annual budget; and
  - (g) may provide for any other expenditure within a prescribed framework.

- (3) The adjustments budget and supporting documentation of the Municipality must be in the format specified in Schedule B to the Regulations and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the MFMA. In this regard reference should also be made to the MFMA Budget Formats Guide published on the National Treasury's website.
- (4) Only the Executive Mayor may table an adjustments budget in the Council, but an adjustments budget in terms of paragraph (2)(b) to (2)(g) above may only be tabled within any prescribed limitations as to timing or frequency.
- (5) When an adjustments budget is tabled, it must be accompanied by:
  - (a) an explanation how the adjustments budget affects the annual budget;
  - (b) a motivation of any material changes to the annual budget;
  - (c) an explanation of the impact of any increased spending on the annual budget and the annual budgets for the next two financial years; and
  - (d) any other supporting documentation that may be prescribed.
- (6) Municipal tax and tariffs may not be increased during a financial year.
- (7) Sections 22(b), 23(3) and 24(3) of the MFMA apply *mutatis mutandis* in respect of an adjustments budget, and in such application a reference in those sections to an annual budget must be read as a reference to an adjustments budget.

## **27. FUNDING OF ADJUSTMENTS BUDGET (REGULATION 22)**

- (1) The adjustments budget of the Municipality must be appropriately funded.
- (2) The supporting documentation to accompany the adjustments budget must contain an explanation of how the adjustments budget is funded.

## **28. TIMEFRAMES FOR TABLING OF ADJUSTMENTS BUDGET (REGULATION 23)**

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- (1) An adjustments budget which:
  - (a) appropriate additional revenues that have become available over and above those anticipated in the annual budget, but only to revise or accelerate spending programmes already budgeted for;
  - (b) authorise the utilisation of projected savings in one vote towards spending under another vote;
  - (c) correct any errors in the annual budget;may be tabled in the Council at any time after the mid-year budget and performance assessment has been tabled in the Council, but not later than 28 February of the current year.
- (2) Only one adjustments budget referred to in paragraph (1) may be tabled in the Council during a financial year, except when the adjustments budget deals with additional revenues that have become available over and above those anticipated in the annual budget, in which case paragraph (3) below applies.
- (3) If a national or provincial adjustments budget allocates or transfers additional revenues to the Municipality, the Executive Mayor must, at the next available meeting of the Council, but within 60 days of the approval of the relevant national or provincial adjustments budget,

table such an adjustments budget in the Council to appropriate these additional revenues.

- (4) An adjustments budget which authorises unforeseeable and unavoidable expenditure must be tabled in the Council at the first available opportunity after the unforeseeable and unavoidable expenditure contemplated was incurred and within 60 days after the expenditure was incurred.
- (5) An adjustments budget dealing with unspent funds as referred to in section 28(2)(e) of the MFMA may only be tabled after the end of the financial year to which the roll-overs relate, and must be approved by the Council by 25 August of the financial year following the financial year to which the roll-overs relate.
- (6) An adjustments budget dealing with any other expenditure within a prescribed framework may only authorise unauthorised expenditure as anticipated by section 32(2)(a)(i) of the MFMA, and must be:
  - (a) dealt with as part of the adjustments budget contemplated in paragraph (1) above; and
  - (b) a special adjustments budget tabled in the Council when the Executive Mayor tables the annual report in terms of section 127(2) of the MFMA, which may only deal with unauthorised expenditure from the previous financial year which the Council is being requested to authorise in terms of section 32(2)(a)(i) of the MFMA.
- (7) Any unauthorised expenditure not authorised by the Council must be recovered from the person liable for the expenditure unless it is certified as irrecoverable.

## **29. SUBMISSION OF TABLED ADJUSTMENTS BUDGETS (REGULATION 24)**

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- (1) The Municipal Manager must comply with the procedural steps set out in sections 22(b), section 23(3) and section 24(3) of the MFMA within ten working days after the Executive Mayor has tabled an adjustments budget in the Council.
  
- (2) When submitting the tabled adjustments budget to the National Treasury and the relevant provincial treasury, the Municipal Manager must submit in both printed and electronic form the following supporting documentation, within ten working days of the adjustments budget having been tabled in the Council:
  - (a) an explanation how the adjustments budget affects the annual budget;
  - (b) a motivation of any material changes to the annual budget;
  - (c) an explanation of the impact of any increased spending on the annual budget and the annual budgets for the next two financial years;
  - (d) any other supporting documentation that may be prescribed; and
  - (e) any other information as may be required by the National Treasury.
  
- (3) The Municipal Manager must send copies of an adjustments budget and supporting documentation, in both printed and electronic form to:
  - (a) any other Municipality affected by that adjustments budget within ten working days of the adjustments budget being tabled in the Council; and
  - (b) any other organ of state on receipt of a request from that organ of state.

### **30. APPROVAL OF ADJUSTMENTS BUDGET (REGULATION 25)**

- (1) The Council must consider the full implications, financial or otherwise, of the adjustments budget and supporting documentation comprising of all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the MFMA before approving the adjustments budget.
- (2) The Council may approve an adjustments budget dealing with authorised unforeseeable and unavoidable expenditure only if the expenditure was recommended by the Executive Mayor in accordance with the framework prescribed in chapter 5 of the Regulations.
- (3) When approving an adjustments budget, the Council must consider and adopt separate resolutions dealing with each of the following matters:
  - (a) approval of the annual budget of the Municipality, and specifically appropriating the amounts for the different votes, and for single-year and multi-year capital expenditures;
  - (b) noting the consolidated annual budget in instances where the Municipality has municipal entities;
  - (c) approval of all rates, taxes and tariffs for services provided by the Municipality;
  - (d) approval of measurable performance objectives for the annual budget for each year of the medium term revenue and expenditure framework;
  - (e) approval of the transfer of funds to a separate bank account for purposes contemplated in section 12 of the MFMA; and
  - (f) approval of all budget-related policies or amendments to such policies.

### **31. PUBLICATION OF APPROVED ADJUSTMENTS BUDGET (REGULATION 26)**

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- (1) Within ten working days after the Council has approved the adjustments budget, the Municipal Manager must in accordance with section 21A of the Systems Act make public the approved adjustments budget and supporting documentation, as well as the following resolutions:
- (a) approval of the adjustments budget;
  - (b) approval of any adjustments permitted in terms of section 28(2) of the Act;
  - (c) approval of the transfer of funds to a separate bank account for purposes contemplated in section 12 of the Act;
  - (d) approval of revisions to the monthly and quarterly service delivery targets and performance indicators in the service delivery and budget implementation plan, if any, to correspond with the approval of the adjustments budget; and
  - (e) approval of any amendments to budget-related policies (39) necessitated by the adjustments budget.
- (2) When making public an adjustments budget and supporting documentation in terms of paragraph (1), the Municipal Manager must make public any other information that the Council considers appropriate to facilitate public awareness of the adjustments budget, including:
- (a) summaries of the adjustments budget and supporting documentation in alternate languages predominant in the community;
  - (b) information relevant to each ward in the Municipality, if that ward is affected by the adjustments budget; and

- (c) any consequential amendment of the service delivery and budget implementation plan that is necessitated by the adjustments budget.

### **32. SUBMISSION OF APPROVED ADJUSTMENTS BUDGET AND OTHER DOCUMENTS (REGULATION 27)**

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- (1) The Municipal Manager must comply with the procedural steps set out in section 28(7) of the MFMA and submit the approved adjustments budget to the National Treasury and the relevant provincial treasury within ten working days after the Council has approved an adjustments budget.
- (2) When submitting an adjustments budget to the National Treasury and the relevant provincial treasury, the Municipal Manager must also submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form:
  - (a) the supporting documentation within ten working days after the Council has approved the adjustments budget;
  - (b) the amended service delivery and budget implementation plan, within ten working days after the Council has approved the amended plan; and
  - (c) any other information as may be required by the National Treasury.
- (3) The Municipal Manager must send copies of an approved adjustments budget and supporting documentation, in both printed and electronic form to:
  - (a) any other Municipality affected by that adjustments budget within ten working days after the Council has approved the adjustments budget; and



- (b) any other organ of state on receipt of a request from that organ of state.

## CHAPTER 5

### UNFORSEEN AND UNAVOIDABLE EXPENDITURE

#### **33. UNFORSEEN AND UNAVOIDABLE EXPENDITURE (SECTION 29)**

- (1) The Executive Mayor may in an 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 Executive Mayor to the 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 of the MFMA applies.

#### **34. AUTHORISATION OF UNFORESEEN AND UNAVOIDABLE EXPENDITURE (REGULATION 71)**

- (1) The Executive Mayor may authorise unforeseen and unavoidable expenditure only if:
  - (a) the expenditure could not have been foreseen at the time the annual budget of the Municipality was passed; and
  - (b) the delay that will be caused pending approval of an adjustments budget by the Council to authorise such expenditure may:

- (i) result in significant financial loss for the Municipality;
  - (ii) cause a disruption or suspension, or a serious threat to the continuation, of a basic municipal service;
  - (iii) lead to loss of life or serious injury or significant damage to property; or
  - (iv) obstruct the Municipality from instituting or defending legal proceedings on an urgent basis.
- (2) The Executive Mayor of the Municipality may not authorise unforeseen and unavoidable expenditure if such expenditure:
- (a) was considered by the Council, but not approved in the annual budget or an adjustments budget;
  - (b) is required for:
    - (i) price increases of goods or services during the financial year;
    - (ii) new municipal services or functions during the financial year;
    - (iii) the extension of existing municipal services or functions during the financial year;
    - (iv) the appointment of personnel during the financial year; or
    - (v) allocating discretionary appropriations to any vote during the financial year; or
  - (c) would contravene any existing policy of the Council; or
  - (d) is intended to ratify irregular or fruitless and wasteful expenditure.

### **35. MONETARY LIMITS ON UNFORESEEN AND UNAVOIDABLE EXPENDITURE (REGULATION 72)**

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The amount of expenditure that the Executive Mayor may authorise unforeseen and unavoidable is limited to:

- (a) 5% of the Municipality's own revenue in the case of a Municipality with approved total revenue in its current annual budget not exceeding R250 million;
- (b) the greater of R5 million or 4% of the Municipality's own revenue in the case of a Municipality with approved total revenue in its current annual budget greater than R250 million but not exceeding R500 million; and
- (c) R15 million in the case of a Municipality with approved total revenue in its current annual budget greater than R500 million.

**CHAPTER 6**  
**UNSPENT FUNDS, SHIFTING OF FUNDS BETWEEN MULTI-YEAR APPROPRIATIONS, CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS AND UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE.**

**36. UNSPENT FUNDS (SECTION 30)**

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The appropriation of funds in an annual or adjustments budget lapses to the extent that those funds are unspent at the end of the financial year to which the budget relates, except in the case of an appropriation for expenditure made for a period longer than that financial year.

**37. SHIFTING OF FUNDS BETWEEN MULTI-YEAR APPROPRIATIONS (SECTION 31)**

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When funds for a capital programme are appropriated for more than one financial year, expenditure for that programme during a financial year may exceed the amount of that year's appropriation for that programme, provided that:

- (a) the increase does not exceed 20 per cent of that year's appropriation for the programme;
- (b) the increase is funded within the following year's appropriation for that programme;
- (c) the Municipal Manager certifies that:
  - (i) actual revenue for the financial year is expected to exceed budgeted revenue; and
  - (ii) sufficient funds are available for the increase without incurring further borrowing beyond the annual budget limit;
- (d) prior written approval is obtained from the Executive Mayor for the increase; and

- (e) the documents referred to in paragraphs (c) and (d) above are submitted to the relevant provincial treasury and the Auditor-General.

**38. UNAUTHORISED, IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE (SECTION 32 AND REGULATION 74)**

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- (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 Municipal Manager that the expenditure is likely to result in unauthorised expenditure, instructed an official of the Municipality to incur the expenditure;
  - (b) the Municipal Manager is liable for unauthorised expenditure deliberately or negligently incurred by the Municipal Manager, subject to paragraph (3) below;
  - (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) The 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 Council, after investigation by a council committee, as irrecoverable and written off by the Council; and
    - (iii) 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 Municipal Manager becomes aware that the Council or the Executive Mayor has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the Municipal Manager is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the Municipal Manager has informed the Council, the Executive Mayor, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.
- (4) The Municipal Manager must promptly inform the Executive 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 paragraph (2) above 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 the MFMA relating to such unauthorised, irregular or fruitless and wasteful expenditure.

- (6) The Municipal Manager 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 must take all reasonable steps to ensure that all cases referred to in paragraph (6) are reported to the South African Police Service if:
- (a) the charge is against the Municipal Manager; or
  - (b) the Municipal Manager fails to comply with that paragraph.

### **39. ISSUES TO BE CONSIDERED BY COUNCIL COMMITTEE (REGULATION 74)**

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- (1) A council committee contemplated in section 32(2)(a)(ii) of the MFMA to investigate the recoverability of any unauthorised, irregular or fruitless and wasteful expenditure must consider:
- (a) the measures already taken to recover such expenditure;
  - (b) the cost of the measures already taken to recover such expenditure;
  - (c) the estimated cost and likely benefit of further measures that can be taken to recover such expenditure; and
  - (d) submit a motivation explaining its recommendation to the Council for a final decision.
- (2) The Municipal Manager must provide all information required by the council committee referred to in paragraph (1), and any other information the council committee may require for the purpose of conducting a proper investigation.

### **40. CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS (SECTION 33)**

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- (1) The Municipality may enter into a contract which will impose financial obligations on the Municipality beyond a financial year, but if the contract will impose financial obligations on the Municipality beyond the three years covered in the annual budget for that financial year, it may do so only if:
- (a) the Municipal Manager, at least 60 days before the meeting of the Council at which the contract is to be approved:
    - (i) has in accordance with section 21A of the Systems Act:
      - (aa) made public the draft contract and an information statement summarising the Municipality's obligations in terms of the proposed contract; and
      - (bb) invited the local community and other interested persons to submit to the Municipality comments or representations in respect of the proposed contract; and
    - (ii) has solicited the views and recommendations of:
      - (aa) the National Treasury and the relevant provincial treasury;
      - (bb) the national department responsible for local government; and
      - (cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;
  - (b) the Council has taken into account:
    - (i) the Municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;

- (ii) the impact of those financial obligations on the Municipality's future municipal tariffs and revenue;
    - (iii) any comments or representations on the proposed contract received from the local community and other interested persons; and
    - (iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a)(ii)(cc) above; and
  - (c) the Council has adopted a resolution in which:
    - (i) it determines that the Municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;
    - (ii) it approves the entire contract exactly as it is to be executed; and
    - (iii) it authorises the Municipal Manager to sign the contract on behalf of the Municipality.
- (2) The process set out in paragraph (1) does not apply to:
- (a) contracts for long-term debt regulated in terms of section 46(3) of the MFMA;
  - (b) employment contracts; or
  - (c) contracts:
    - (i) for categories of goods as may be prescribed; or
    - (ii) in terms of which the financial obligation on the Municipality is below-
      - (aa) a prescribed value; or

- (bb) a prescribed percentage of the Municipality's approved budget for the year in which the contract is concluded.
  - (3) (a) All contracts referred to in paragraph (1) above and all other contracts that impose a financial obligation on a Municipality:
    - (i) must be made available in their entirety to the Council; and
    - (ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, Act 2 of 2000.
  - (b) Paragraph (3)(a)(i) does not apply to contracts in respect of which the financial obligation on the Municipality is below a prescribed value.
- (4) Section 33 of the MFMA may not be read as exempting the Municipality from the provisions of Chapter 11 of the MFMA to the extent that those provisions are applicable in a particular case.

## CHAPTER 7

### IN-YEAR REPORTS OF MUNICIPALITIES

#### **41. FORMAT OF MONTHLY BUDGET STATEMENTS (REGULATION 28)**

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The monthly budget statement of a Municipality must be in the format specified in Schedule C to the Regulations and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the MFMA.

#### **42. TABLING OF MONTHLY BUDGET STATEMENTS (REGULATION 29)**

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The Executive Mayor may table in the Council a monthly budget statement submitted to the Executive Mayor. If the Executive Mayor does so, the monthly budget statement must be accompanied by an Executive Mayor's report in a format set out in Schedule C to the Regulations.

#### **43. PUBLICATION OF MONTHLY BUDGET STATEMENTS (REGULATION 30)**

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- (1) The monthly budget statement of a Municipality must be placed on the Municipality's website not later than five days after its tabling in the Council or on the date on which it must be made public, whichever occurs first.
- (2) The Municipal Manager must publish on the Municipality's website any other information that the Council considers appropriate to facilitate public awareness of the monthly budget statement, including:
  - (a) summaries of monthly budget statements in alternate languages predominant in the community; and

- (b) information relevant to each ward in the Municipality.

#### **44. QUARTERLY REPORTS ON IMPLEMENTATION OF BUDGET (REGULATION 31)**

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The Executive Mayor's quarterly report on the implementation of the budget and the financial state of affairs of the Municipality must be:

- (a) in the format specified in Schedule C to the Regulations and include all the required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the MFMA; and
- (b) consistent with the monthly budget statements for September, December, March and June as applicable; and
- (c) submitted to the National Treasury and the relevant provincial treasury within five days of tabling of the report in the Council.

#### **45. PUBLICATION OF QUARTERLY REPORTS ON IMPLEMENTATION OF BUDGET (REGULATION 32)**

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When publishing the quarterly reports on the implementation of the budget, the Municipal Manager must make public any other information that the Council considers appropriate to facilitate public awareness of the quarterly report on the implementation of the budget and the financial state of affairs of the Municipality, including:

- (a) summaries of quarterly report in alternate languages predominant in the community; and
- (b) information relevant to each ward in the Municipality.

#### **46. FORMAT OF A MID-YEAR BUDGET AND PERFORMANCE ASSESSMENT (REGULATION 33)**

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The mid-year budget and performance assessment of the Municipality must be in the format specified in Schedule C to the Regulations and include all the

required tables, charts and explanatory information, taking into account any guidelines issued by the Minister in terms of section 168(1) of the MFMA. In this regard reference must be made to the contents of the MFMA Budget Formats Guide published on the National Treasury's website.

#### **47. PUBLICATION OF MID-YEAR BUDGET AND PERFORMANCE ASSESSMENTS (REGULATION 34)**

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- (1) Within five working days of 25 January each year the Municipal Manager must make the mid-year budget and performance assessment public by placing it on the municipal website.
- (2) The Municipal Manager must make public any other information that the Council considers appropriate to facilitate public awareness of the mid-year budget and performance assessment, including:
  - (a) summaries in alternate languages predominant in the community; and
  - (b) information relevant to each ward in the Municipality.

#### **48. SUBMISSION OF MID-YEAR BUDGET AND PERFORMANCE ASSESSMENTS (REGULATION 35)**

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The Municipal Manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic form:

- (a) the mid-year budget and performance assessment by 25 January of each year; and
- (b) any other information relating to the mid-year budget and performance assessment as may be required by the National Treasury.

## CHAPTER 8 NON-COMPLIANCE

### **49. FAILURE TO APPROVE BUDGET (SECTION 25)**

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- (1) If the Council fails to approve an annual budget, including revenue-raising measures necessary to give effect to the budget, the Council must reconsider the budget and again vote on the budget, or on an amended version thereof, within seven days of the Council meeting that failed to approve the budget.
- (2) The process provided for in paragraph (1) above must be repeated until a budget, including revenue-raising measures necessary to give effect to the budget, is approved.
- (3) If the Municipality has not approved an annual budget, including revenue-raising measures necessary to give effect to the budget, by the first day of the budget year, the Executive Mayor:
  - (a) must immediately report the matter to the MEC for local government in the province; and
  - (b) may recommend to the MEC an appropriate provincial intervention in terms of section 139 of the Constitution.

### **50. CONSEQUENCES OF FAILURE TO APPROVE BUDGET (SECTION 26)**

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- (1) If by the start of the budget year the Council has not approved an annual budget or any revenue-raising measures necessary to give effect to the budget, the provincial executive of the relevant province must intervene in the Municipality in terms of section 139(4) of the Constitution by taking any appropriate steps to ensure that the budget

or those revenue-raising measures are approved, including dissolving the Council and:

- (a) appointing an administrator until a newly elected Council has been declared elected; and
  - (b) approving a temporary budget or revenue-raising measures to provide for the continued functioning of the Municipality.
- (2) Sections 34(3), section 34(4) and 35 of the Structures Act apply when a provincial executive dissolves the Council.
  - (3) When approving a temporary budget for a Municipality in terms of paragraph (1)(b), the provincial executive is not bound by any provision relating to the budget process applicable to a Municipality in terms of the MFMA or other legislation. Such a budget must, after the intervention has ended, be replaced by a budget approved by the newly elected Council, provided that the provisions of Chapter 4 of the MFMA relating to annual budgets are substantially complied with in line with any revised time frames approved by the MEC for finance in the province.
  - (4) Until a budget for the Municipality is approved in terms of paragraph (1) above, 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 paragraph (5) below.
  - (5) Funds withdrawn from the Municipality's bank accounts in terms of paragraph (4) above:
    - (a) may be used only to defray current and capital expenditure in connection with votes for which funds were appropriated in the approved budget for the previous financial year; and
    - (b) may not:



- (i) during any month, exceed eight per cent of the total amount appropriated in that approved budget for current expenditure, which percentage must be scaled down proportionately if revenue flows are not at least at the same level as the previous financial year; and
  - (ii) exceed the amount actually available.
- (6) The funds provided for in paragraph (4) above are not additional to funds appropriated for the budget year, and any funds withdrawn in terms of paragraph (5) above must be regarded as forming part of the funds appropriated in a subsequently approved annual budget for the budget year.

#### **51. NON-COMPLIANCE WITH THE MFMA RELATING TO BUDGETARY PROCEDURE (SECTION 27)**

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- (1) The Executive Mayor must, upon becoming aware of any impending non-compliance by the Municipality of any provisions of the MFMA or any other legislation pertaining to the tabling or approval of an annual budget or compulsory consultation processes, inform the MEC for finance in the province, in writing, of such impending non-compliance.
- (2) If the impending non-compliance pertains to a time provision, except time provisions pertaining to the approval of an annual budget for the Municipality before the start of that financial year as contained in section 16(1) of the MFMA, the MEC for finance may, on application by the Executive Mayor and on good cause shown, extend any time limit or deadline contained in that provision, provided that no such extension may compromise compliance with section 16(1) of the MFMA pertaining to the approval of an annual budget for the Municipality for each financial year before the start of that financial year. An MEC for finance must:

- (a) exercise the power contained in this subsection in accordance with a prescribed framework; and
  - (b) promptly notify the National Treasury, in writing, of any extensions given in terms of this subsection, together with the name of the Municipality and the reasons.
- (3) The Executive Mayor must, upon becoming aware of any actual non-compliance by the Municipality of a provision of Chapter 4 of the MFMA, inform the Council, the MEC for finance and the National Treasury, in writing, of:
- (a) such non-compliance; and
  - (b) any remedial or corrective measures the Municipality intends to implement to avoid a recurrence.
- (4) Non-compliance by the Municipality with a provision of Chapter 4 of the MFMA relating to the budget process or a provision in any legislation relating to the approval of a budget-related policy, does not affect the validity of an annual or adjustments budget.
- (5) The provincial executive may intervene in terms of the appropriate provision of section 139 of the Constitution if a Municipality cannot or does not comply with a provision of Chapter 4 of the MFMA, including a provision relating to process.

## **52. APPLICATIONS FOR EXTENSION OF TIME LIMITS (REGULATION 60)**

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- (1) An application made for the extension of time limits as set out in the preceding paragraph must:
- (a) be in the format contained in Schedule G to the Regulations;
  - (b) be signed and dated by the Executive Mayor;
  - (c) contain information on:

- (i) the specific time provision in respect of which an extension of a time limit or deadline is being applied for;
  - (ii) the reason why the Municipality will not comply with the relevant time provision;
  - (iii) the impact, if any, of the non-compliance on the Council's ability to meet the deadline for approving the annual budget of a Municipality for each financial year before the start of that financial year, and any steps to ensure this deadline is met;
  - (iv) any implications on the finances, performance, governance and accountability arrangements in the Municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;
  - (v) the steps the Municipality will take to ensure compliance with the relevant time provision in future; and
  - (vi) a list of non-compliances with time provisions by the Municipality in the previous three financial years.
- (2) The Executive Mayor must table a copy of any application referred to in paragraph (1) above at the first meeting of the Council following the submission of the application.

### **53. FRAMEWORK FOR CONSIDERATION OF APPLICATIONS (REGULATION 61)**

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- (1) The MEC for finance in a province must promptly consider an application for the extension of time limits as referred to in the preceding paragraph, taking into account all relevant factors, including-
- (a) the time provision in respect of which an extension of a time limit or deadline is being sought;

- (b) whether the stated reasons for the impending non-compliance with the time provision constitute good cause;
  - (c) whether the non-compliance will compromise the Council's ability to meet the deadline for approving the annual budget;
  - (d) the steps the Municipality proposes to take to ensure compliance with the relevant time provision in future;
  - (e) the steps the Municipality proposes to take to ensure that Council meets the deadline for approving the annual budget of the Municipality before the start of that financial year, if relevant; and
  - (f) any views that may be expressed by the National Treasury on the application.
- (2) The MEC for finance must obtain the views of the National Treasury before communicating the decision on the application to the Municipality.
- (3) The MEC for finance may require the Executive Mayor who has submitted an application referred to in regulation 60 of the Regulations to furnish additional information necessary for the proper consideration of the application.
- (4) The MEC for finance must refuse an application if:
- (a) the stated reasons for the impending non-compliance with the time provision do not constitute good cause as required;
  - (b) the extension of the relevant time limit will compromise the Council's ability to meet the deadline to approve an annual budget for each financial year before the start of that financial year;
  - (c) there is an implication on the finances, performance, governance and accountability arrangements in the

- Municipality that will negatively impact on the operations of the Municipality; or
- (d) if non-compliance with the time provision has already occurred on the date the application is received by the office of the MEC of finance.
- (5) Within 10 working days of receiving an application for an extension of time, the MEC for finance must, in writing, notify the Executive Mayor of the decision on the application, either:
- (a) approving the application, confirming the new date for compliance proposed in the application;
  - (b) approving the application, but indicating an earlier date for compliance to that proposed in the application, giving reasons for specifying an earlier date; or
  - (c) refuse the application, giving reasons for the decision.
- (6) The Executive Mayor must table the response of the MEC for finance to any application for an extension of time at the first meeting of the Council following the receipt of the response.
- (7) The MEC for finance must exercise the power to extend any time limit or deadline within a prescribed framework in accordance with the required framework, as sets out above.

#### **54. POSSIBLE NON-COMPLIANCE WITH SECTION 16(1) OF THE MFMA (REGULATION 62)**

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If the Municipality's ability to comply with the deadline to approve a budget for each financial year before the start of that financial year will be compromised by any application for an extension in terms of regulation 60 of the Regulations, the MEC for finance must notify the MEC for local government in

the province and the Provincial Executive Council in anticipation of an intervention in terms of section 136 of the MFMA.

#### **55. NOTIFICATION OF ACTUAL NON-COMPLIANCE WITH TIME PROVISIONS (REGULATION 63)**

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- (1) A notification made by the Executive Mayor to the MEC for finance in a province and the National Treasury, in respect of actual non-compliance with a time provision, concerning an annual budget or an adjustments budget must:
- (a) be in the format contained in Schedule G to the Regulations;
  - (b) be signed and dated by the Executive Mayor;
  - (c) contain information on:
    - (i) the specific time provision in respect of which the Municipality is failing to comply;
    - (ii) the specific date by which the Municipality will remedy its non-compliance;
    - (iii) the reason why an application for an extension of the time limit or deadline was not submitted before the non-compliance occurred;
    - (iv) the reason why the Municipality did not comply with the relevant time provision;
    - (v) the impact, if any, of the non-compliance on the Council's ability to meet the deadline for approving an annual budget of the Municipality for each financial year before the start of the financial year and any steps to ensure this deadline is met;
    - (vi) any implications on the finances, performance, governance and accountability arrangements in the Municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;

- (vii) the steps the Municipality will take to ensure compliance with the relevant time provision in future; and
  - (viii) a list of non-compliances with time provisions by the Municipality in the previous three financial years.
- (2) The Executive Mayor must table a copy of any notification referred to in paragraph (1) above at the first meeting of the Council following the submission of the notification.

**56. FRAMEWORK FOR CONSIDERATION OF NOTIFICATIONS OF NON-COMPLIANCE WITH TIME PROVISIONS AFFECTING ANNUAL BUDGETS AND ADJUSTMENTS BUDGETS (REGULATION 64)**

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- (1) The MEC for finance in a province must promptly consider notifications by the Executive Mayor pertaining to actual non-compliance with a time provisions with a view to take appropriate remedial steps, including an intervention in terms of section 136 of the MFMA.
- (2) When considering such notifications the MEC must take into account all relevant factors, including:
- (a) the time provision in respect of which the non-compliance occurred;
  - (b) the extent of the actual non-compliance;
  - (c) the acceptability of the date by which the Municipality will remedy its non-compliance, if this is legally possible in terms of the MFMA;
  - (d) whether the non-compliance has compromised or will compromise the Council's ability to meet the deadline for approving an annual budget of a Municipality for each financial year before the start of that financial year;

- (e) the steps the Municipality proposes to take to ensure compliance with the relevant time provision in future; and
  - (f) the steps the Municipality proposes to take to ensure that Council meets the deadline for approving an annual budget of the Municipality for each financial year before the start of that financial year, if relevant.
- (3) The MEC for finance may require the Executive Mayor who has submitted a notification pertaining to actual non-compliance with a time provisions to furnish additional information necessary for the proper consideration of the notification.

#### **57. NOTIFICATION OF NON-COMPLIANCE WITH TIME PROVISIONS CONCERNING IN-YEAR REPORTS (REGULATION 65)**

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- (1) The Municipal Manager must notify the Executive Mayor, the MEC for finance of the relevant province and the National Treasury if the Municipal Manager has failed to comply with a time provision pertaining to any in-year report.
- (2) Such notification must:
- (a) be in the format contained in Schedule G to the Regulations;
  - (b) be signed and dated by the Municipal Manager;
  - (c) contain information on:
    - (i) the specific time provision which has not been complied with;
    - (ii) the specific date by which the Municipality will remedy the non-compliance;
    - (iii) the reason why the relevant time provision was not complied with;
    - (iv) any implications on the finances, performance, governance and accountability arrangements in the



Municipality that will be affected by the delay in meeting the time limit or deadline and the measure taken to address such implications;

- (v) the steps the Municipality will take to ensure compliance with the relevant time provision in future; and
  - (vi) a list of non-compliance with time provisions by the Municipality and its office-bearers in the previous three financial years.
- (3) The Executive Mayor must table a copy of any notification referred to in paragraph (1) above at the first meeting of the Council following the receipt of the notification.

#### **58. FRAMEWORK FOR CONSIDERATION OF NOTIFICATIONS OF NON-COMPLIANCE WITH TIME PROVISIONS CONCERNING IN-YEAR REPORTS (REGULATION 66)**

---

- (1) The MEC for finance in a province must promptly consider notifications by the Municipal Manager of his failure to comply with a time provision pertaining to any in-year report with a view to take any appropriate steps.
- (2) When considering such notifications, the MEC must take into account all relevant factors, including:
- (a) the time provision in respect of which the non-compliance occurred;
  - (b) the extent of the non-compliance;
  - (c) the acceptability of the date by which the Municipality will remedy the non-compliance; and
  - (d) the steps the Municipality proposes to take to ensure compliance with the relevant time provision in future.

- (3) The MEC for finance in the province may require the Municipal Manager who has submitted a notification of his failure to comply with a time provision pertaining to any in-year report to furnish additional information necessary for the proper consideration of the notification.

## CHAPTER 9

### GENERAL

#### **59. IMPLEMENTATION AND REVIEW OF THIS POLICY**

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- (1) This policy shall be implemented once approved by the Council as part of the budgetary policies of the Municipality, as referred to in the provisions of regulation 7 of the Regulations, and section 17(3)(e), section 21(1)(b)(ii)(bb), section 22(a)(i) and section 24(2)(c)(v) of the MFMA.
  
- (2) In terms of the provisions of section 17(3)(e) of the MFMA this policy must be reviewed on annual basis and the reviewed policy tabled to the Council for approval as part of the budget process.