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PROVINCIAL TREASURY CIRCULAR 5 OF 2008

TO:

HEADS OF DEPARTMENTS
CHIEF EXECUTIVE OFFICERS

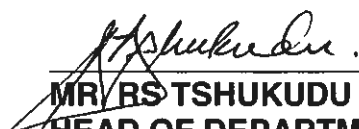
IRREGULAR EXPENDITURE: NATIONAL TREASURY PRACTICE NOTE NO. 4 OF 2008/09

Attached please find National Treasury Practice Note No. 4 of 2008/09 regarding the above matter.

Please ensure that the attached information is distributed to all relevant role-players and that all outstanding irregular expenditure are treated as set out in the attached Practice Note.

Your co-operation in this matter is appreciated.

Regards



MR/RS TSHUKUDU
HEAD OF DEPARTMENT
DATE: 29/09/2008.

"Always Stretching Our Arm, to Accelerate Service Delivery"



national treasury

Department:
National Treasury
REPUBLIC OF SOUTH AFRICA

**TO : ACCOUNTING OFFICERS OF ALL NATIONAL DEPARTMENTS
AND CONSTITUTIONAL INSTITUTIONS
: ACCOUNTING AUTHORITIES OF ALL PUBLIC ENTITIES
: HEAD OFFICIALS OF ALL PROVINCIAL TREASURIES**

NATIONAL TREASURY PRACTICE NOTE NO. 4 OF 2008/2009

IRREGULAR EXPENDITURE

1. PURPOSE

1.1 The purpose of this practice note is to provide clarity on the procedures to be followed when dealing with *irregular expenditure*, defined in section 1 of the Public Finance Management Act (PFMA), 1999 as '*expenditure other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including –*

- (a) *this Act; or*
- (b) *the State Tender Board Act, 1968 (Act No. 86 of 1968), or any regulations made in terms of that Act; or*
- (c) *any provincial legislation providing for procurement procedures in that provincial government.*

1.2 *This Act* in section 1 of the PFMA includes any regulations and instructions issued in terms of section 69, 76, 85 or 91.

2. PROCEDURES FOR THE TREATMENT OF IRREGULAR EXPENDITURE

2.1 Procedures for the treatment of irregular expenditure by departments, trading entities and constitutional institutions are illustrated in Annexure A whilst Annexure B provides details of procedures to be followed by public entities.

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- 2.2 As part of the enclosed procedures, provision is made for accounting officers and accounting authorities to forward submissions to the National Treasury or the relevant authority to request condonation for non-compliance with the PFMA or other legislation respectively. In this regard, it must be emphasised that the aforementioned submission must contain detailed motivation as to why the irregular expenditure in question should be considered for condonation as well as steps taken to avoid the reoccurrence of this type of irregular expenditure.
- 2.3 Whilst provision is made for condonation, it is imperative to note that submissions requesting condonation of irregular expenditure may only be submitted to the National Treasury or the relevant authority (whichever applicable) where good reasons exist for condonation.
- 2.4 In instances where irregular expenditure is not considered relevant for condonation or where National Treasury or the relevant authority does not condone the irregular expenditure, immediate steps must be taken to recover the irregular expenditure from the responsible employee, if he/she is liable in law.

3. RELEVANT AUTHORITY

- 3.1 Whilst this practice note provides for the National Treasury or the relevant authority to condone irregular expenditure, it is imperative that clarity be provided as to who represents the relevant authority.
- 3.2 For the purpose of the practice note relevant authority is *“the person or institution whose approval would have been required prior to entering into that transaction or incurring such expenditure or the institution responsible for the relevant legislation”*
- 3.3 The following are examples of irregular expenditure and the relevant/applicable authority that is empowered to condone such expenditure:

Categories of irregular expenditure	Relevant Authority
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation where prior written approval was required from a relevant treasury . For example, a department, trading entity, constitutional institution or public entity that incurred expenditure related to a public private partnership without obtaining the prior written approval of the relevant treasury , as required by Treasury Regulation 16.4.2	The National Treasury , in the case of national departments, trading entities, constitutional institutions and national public entities and the relevant provincial treasury in the case of provincial departments or provincial public entities

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Categories of irregular expenditure	Relevant Authority
Irregular expenditure incurred as a result of non-compliance with a Treasury Regulation which required cognisance to be taken of a National Treasury determination. For example, a department, trading entity, constitutional institution or public entity procured goods or services by means of price quotations where the value of the purchase exceeded the threshold values determined by the National Treasury for price quotations. (Contravention of Treasury Regulation 16A6.1)	The National Treasury , in cases of <u>all</u> departments, trading entities, constitutional institutions and public entities
Irregular expenditure incurred as a result of institutions procuring goods or services by means other than through competitive bids and where reasons for deviating from inviting competitive bids have not been recorded and approved by the accounting officer or accounting authority. (Contravention of Treasury Regulation 16A6.4)	The Accounting Officer or the functionary to whom the power was delegated to , in cases of <u>all</u> departments, trading entities and constitutional institutions and in the case of public entities, the Accounting Authority or the functionary to whom the power was delegated to
Irregular expenditure incurred as a result of non-compliance with a requirement of the institution's delegations of authority issued in terms of the PFMA	The Accounting Officer or the functionary to whom the power was delegated to , in cases of <u>all</u> departments, trading entities or constitutional institutions, and in the case of public entities, the Accounting Authority or the functionary to whom the power was delegated to
Irregular expenditure incurred as a result of non-compliance with a provision contained in any applicable legislation. For example, a department grants performance rewards to personnel without maintaining and implementing a Performance Management and Development System, as required by Part VIII B of the Public Service Regulations)	The Department of Public Service and Administration or the Department responsible for the legislation

- 3.4 Expenditure resulting from non-adherence to an institution's delegations of authority is also regarded as irregular expenditure since such delegations are issued in terms of sections 44 and 56 of the PFMA for departments/constitutional institutions and public entities respectively.

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3.5 Non-compliance with the PFMA, Treasury Regulations or other relevant legislation shall not necessarily be regarded as irregular expenditure unless the expenditure related to such non-compliance is inconsistent with any prescripts of the aforementioned legislation. Furthermore irregular expenditure can only be determined relative to the date when the expenditure is incurred or the transaction is entered into. For example, non compliance with the requirement that payments be made within 30 days from receipt of an invoice (TR 8.2.3) shall not be regarded as irregular expenditure unless the expenditure was authorised by an official who did not possess the appropriate delegated authority to approve the expense in question.

3.6 With the imminent dismantling of the State Tender Board established in terms of the State Tender Board Act, 1968, all cases of irregular expenditure incurred through contravention of the aforementioned Act or its subordinate regulations for which condonation is sought must be forwarded to the National Treasury.

4. REGISTER OF IRREGULAR EXPENDITURE

4.1 Accounting officers and accounting authorities shall maintain an irregular expenditure register which must contain a detailed schedule (per year) of all irregular expenditure incurred by their respective institutions.

4.2 Prior to institutions recording expenditure as irregular, it is imperative that a process be instituted to ensure that the expenditure in question meets with the definition of irregular expenditure, as contained in section 1 of the PFMA.

4.3 If in doubt, accounting officers and accounting authorities must consult the relevant treasury for guidance on interpretation of the definition of irregular expenditure.

4.4 This register must be kept up to date to track all irregular expenditure and for purposes of internal and external audit.

5. DISCLOSURE OF IRREGULAR EXPENDITURE

5.1 Treasury Regulations 9.1.5 and 28.2.1 require accounting officers and accounting authorities to disclose all irregular expenditure incurred by their respective institutions as a note to their annual financial statements.

5.2 In this regard, the enclosed Annexure C contains the format for disclosing irregular expenditure as a note to the financial statements by departments, trading entities, constitutional institutions and public entities.

6. ACCOUNTING FOR IRREGULAR EXPENDITURE

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- 6.1 Irregular expenditure that was incurred and identified during the current financial and which was condoned before year end and/or before finalisation of the financial statements must also be recorded appropriately in the irregular expenditure register. In such an instance, no further action is also required with the exception of updating the note to the financial statements (no journal is passed).
- 6.2 Irregular expenditure that was incurred and identified during the current financial year and for which condonement is being awaited at year end must be recorded in the irregular expenditure register. No further action is required with the exception of updating the note to the financial statements (no journal is passed).
- 6.3 Where irregular expenditure was incurred in the previous financial year and is only condoned in the following financial year, the register and the disclosure note to the financial statements must be updated with the amount condoned (no journal is passed).
- 6.4 Irregular expenditure that was incurred and identified during the current financial year and which was not condoned by the National Treasury or the relevant authority must be recorded appropriately in the irregular expenditure register. If liability for the irregular expenditure can be attributed to a person, a debt account must be created if such a person is liable in law. Immediate steps must thereafter be taken to recover the amount from the person concerned. If recovery is not possible, the accounting officer or accounting authority may write off the amount as a bad debt and disclose such in the relevant note to the financial statements. The irregular expenditure register must also be updated accordingly. 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/expenditure item, be disclosed as such in the note to the financial statements and updated accordingly in the irregular expenditure register (no journal is passed).
- 6.5 The Guide for the Preparation of Annual Reports and Financial Statements for National and Provincial Departments provides details of accounting transactions that are required in respect of irregular expenditure. These transactions are contained in the enclosed Annexure D.
- 6.6 The enclosed Annexure E provides the necessary accounting transactions that are required in respect of trading entities, constitutional institutions and public entities incurring irregular expenditure.
- 7. SUBMISSIONS FOR CONDONATION TO THE RELEVANT DIVISIONS WITHIN THE NATIONAL TREASURY**

Submissions to the National Treasury requesting condonation of irregular expenditure must be directed to the following functionaries:

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Irregular expenditure related to:	Functionary
Budget related matters	Relevant Budget Analyst within the Public Finance Division who is responsible for the Department's budgetary matters
Accounting related matters	Relevant official within the Office of the Accountant-General
Supply Chain Management related matters (including matters related to the State Tender Board)	Chief Director: Supply Chain Management (Norms and Standards)

8. APPLICABILITY

This practice note applies to all national and provincial departments, trading entities, constitutional institutions and national and provincial public entities.

9. EFFECTIVE DATE

The procedures contained in this practice note takes effect from 1 April 2008 and must be adhered to by all accounting officers and accounting authorities.

10. DISTRIBUTION OF THIS PRACTICE NOTE

Accounting officers of parent departments are requested to please distribute copies of this practice note to all public entities reporting to their respective executive authorities.

11. AUTHORITY FOR THIS PRACTICE NOTE

This practice note is issued in terms of sections 76(1) to 76(4) of the PFMA which empowers the National Treasury to issue instructions applicable to all institutions to which this Act applies concerning any matter that may be prescribed for all institutions in terms of this Act.

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Irregular Expenditure

12. CONTACT INFORMATION

Name of OAG representative	Province	Cluster
Naveen Singh Telephone: 012 315 5794 Email: naveen.singh@treasury.gov.za	Gauteng North West	Justice
Thomas Matjeni Telephone: 012 315 5792 Email: thomas.matjeni@treasury.gov.za	Limpopo Western Cape	Social Services
Irene Mathatho Telephone: 012 315 5079 Email: irene.mathatho@treasury.gov.za	Northern Cape	Economic Services
Lizette Labuschagne Telephone: 012 315 5781 Email: lizette.labuschagne@treasury.gov.za	Free State	
Keitumetse Malebye Telephone: 012 315 5989 Email: keitumetse.malebye@treasury.gov.za	Eastern Cape	Finance & Admin
Unathi Ndobeni Telephone: 012 315 5752 Email: unathi.ndobeni@treasury.gov.za	KZN Mpumalanga	Central Government



FREEMAN NOMVALO
ACCOUNTANT-GENERAL
DATE: 24 April 2008