



Province of the
EASTERN CAPE
COOPERATIVE GOVERNANCE
& TRADITIONAL AFFAIRS

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INTERNAL CONTROL UNIT


**POLICY ON UNAUTHORISED, IRREGULAR, AND FRUITLESS AND WASTEFUL
EXPENDITURE**

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SIGN OFF

I. Head of Department

1. The Policy on Unauthorised, Irregular, Fruitless and Wasteful Expenditure has been recommended by Mr. A.A. Fani in my capacity as the Head of the Department of Cooperative Governance and Traditional Affairs-Eastern Cape.
2. I am satisfied and concur with the content of the Policy.
3. The development of this policy will ensure that the Department is able to exercise its powers in compliance with the laws governing the management of public funds and guide decision-making in the organisation as far as the management of public funds are concerned.

Signed:	
Designation:	Head of Department: Mr A.A. Fani of Department of Cooperative Governance and Traditional Affairs-Eastern Cape
Date:	20/10/2022

II. Executive Authority

1. The Policy on Unauthorised, Irregular, Fruitless and Wasteful Expenditure has been approved by Mr. Z.A Williams in my capacity as the Member of the Executive Authority responsible for Department of Cooperative Governance and Traditional Affairs-Eastern Cape.
2. The Department of Cooperative Governance and Traditional Affairs has unprecedented opportunity to improve the lives of the people by effectively rendering many services that it is expected to provide. We have envisaged a department that has the requisite capacity to respond adequately to challenges of its people.
3. I therefore trust that this policy on Unauthorised, Irregular, Fruitless and Wasteful Expenditure will assist positively to contribute towards the Department’s endeavour of creating an effective, efficient, and transparent financial management to promote accountability and good governance.


Signed:	
Designation:	MEC: Honourable Z.A. Williams of Cooperative Governance and Traditional Affairs
Date:	10/11/2022

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1. INTRODUCTION

In terms of sections 38(1) (c) (ii), 38(1) (g), 38(1) (h), 45(c), 51(1)(b)(ii), 57(c), of the Public Finance Management Act, (Act 1 of 1999), read together with Treasury Regulations Section/s 9.1.1 to 9.1.5 that the accounting officer is responsible for managing the financial affairs of the department and he/she must, for this purpose, inter alia:

- 1.1. Provide that an employee of a department, trading entity, constitutional and public entity must take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure within their area of responsibility, and other losses are prevented.
- 1.2. Ensure that on discovery of unauthorised; irregular; fruitless and wasteful expenditures, must immediately report, in writing, particulars of the expenditure to the relevant treasury.
- 1.3. Ensure that disciplinary or, when appropriate, criminal proceedings are instituted against any employee of the department who makes or permit unauthorised; irregular; fruitless and wasteful expenditure. The employee would have committed an act of financial misconduct or an offence in terms of the Act.

This policy is aimed at providing the accounting officer and employees with an overview of legislation to prevent unauthorised, irregular, fruitless and wasteful expenditure and the recovery of same where applicable.

2. LEGISLATIVE AND REGULATORY FRAMEWORK

The functions and processes that define the financial management system are derived from, but not limited to the following legislative and regulatory frameworks:

- 2.1 The Constitution of the Republic of South Africa of 1996;
- 2.2 Public Finance Management Act 1 of 1999 as amended;
- 2.3 Treasury Regulations 2005 as amended;
- 2.4 Practice Notes/ instruction notes/ circulars/guidelines issued by the National Treasury; and
- 2.5 Financial Reporting Framework guides issued by National Treasury.

3. DEFINITIONS

In this policy any word to which a meaning has been assigned in the Public Finance Management Act, 1999 as amended (Act 1 of 1999) bears that meaning assigned to it unless the context indicates otherwise.

TERM	DEFINITION
“irregular expenditure”	expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including: - (a) the Public Finance Management Act; (b) the State tender Board Act, 1968 (Act 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.
“fruitless and wasteful expenditure”	Expenditure which was made in vain and would have been avoided had reasonable care been exercised.
“unauthorised expenditure”	(a) the overspending of a vote or main division within a vote, or (b) The expenditure not in accordance with the purpose of a main division.
“the Act”	Public Finance Management Act, 1999 (Act 1 of 1999) as amended.
“Department”	Eastern Cape Department of Cooperative Governance and Traditional Affairs.
“PFMA”	Public Finance Management Act, 1999 (Act 1 of 1999) as amended.
“TR”	Treasury Regulations, as amended.
“Employees”	Employee of the department employed in terms of public service act, 1994 and all employees employed on contractual basis.
“Vote”	One of the main segments into which an appropriation Act is divided and which: (a) Specifies the total amount which is usually appropriated per department in an appropriation Act;

TERM	DEFINITION
	(b) Is separately approved by Parliament or provincial legislature, as may be appropriate, before it approves the relevant draft appropriation Act as such.
"Main division within the vote"	<p>One of the main segments into which a vote is divided and which:</p> <p>(a) Specifies the total amount which is appropriated for the items under that segment; and</p> <p>(b) Is approved by parliament or a provincial legislature, as may be appropriate, as part of the vote.</p>
"SCOPA"	Standing Committee on Public Accounts.
"SCM"	Supply Chain Management
"Condone"	Obtaining retrospective approval by the relevant authority for expenditure that was incurred through non-compliance with legislation.
"COGTA"	Cooperative Governance and Traditional Affairs
"Accounting Officer"	Head of Department of CoGTA
"Overspending"	<p>(a) In relation to a vote, means when expenditure under the vote exceeds the amount appropriated for that vote;</p> <p>(b) In relation to a main division within a vote, means when the expenditure under the main division exceeds the amount appropriated for that main division, subject to section 43 of PFMA.</p>
"Reporting Requirements"	The ways and processes that the department follows in line with PFMA and applicable National Treasury Guides to identify, report, investigate, recover, and manage unauthorised, irregular and fruitless and wasteful expenditure.
"CFO"	Chief Financial Officer

TERM	DEFINITION
<p>“Delegated employee”</p>	<p>Employee appointed by HOD to carry out functions that were supposed to be done by HOD.</p>
<p>“Vain”</p>	<p>An expenditure which was undertaken without value or substance and which did not yield any desired results or objectives</p>
<p>“Reasonable care”</p>	<p>Means applying due diligence and exercising control (care application, attentiveness, caution) to ensure that the probability of a transaction, event or condition not being achieved as planned is being managed to an acceptable level.</p>
<p>“Assessment”</p>	<p>Unauthorised Expenditure: - means a test conducted by the Internal Control Unit to assess whether the expenditure meets the definition of unauthorised expenditure.</p> <p>Irregular Expenditure: - means a test conducted by the Internal Control Unit to identify possible irregularities in transactions processed and to confirm the allegations of irregular expenditure.</p> <p>Fruitless and wasteful expenditure: - means a test conducted by the Internal Control Unit to assess whether the expenditure meets the definition of fruitless and wasteful expenditure.</p>
<p>“Checklist”</p>	<p>Unauthorised Expenditure: - means a list of current and previous financial years alleged and confirmed spending transactions that meet the definition of unauthorised expenditure.</p> <p>Irregular Expenditure: - means a list of non-compliance and alleged cases of irregular expenditure matters in progress.</p> <p>Fruitless and wasteful expenditure: - means a list of all current and previous financial years alleged and confirmed transgressions/ cases of fruitless and wasteful expenditure that are in the process of being dealt with.</p>

TERM	DEFINITION
<p>“Condonation”</p>	<p>means a process whereby the relevant authority acknowledges the irregular expenditure and pardons the incurrence thereof.</p>
<p>“Determination”</p>	<p>Unauthorised expenditure: - means an informal assessment to be conducted by the Internal Control Unit to examine or analyse the particulars of unauthorised expenditure to establish the facts about the transaction and quantify the unauthorised expenditure.</p> <p>Irregular expenditure: -means an informal assessment conducted by the internal control unit to examine or analyse the particulars of non-compliance to establish the facts about the transaction and quantify the amount of irregular expenditure.</p> <p>Fruitless and wasteful expenditure: - means an informal assessment to be conducted by the internal control unit to examine or analyse the particulars of fruitless and wasteful expenditure to establish the facts about the transaction and quantify the fruitless and wasteful expenditure.</p>
<p>“Investigation”</p>	<p>means a formal probe to be conducted by a function performing investigations or another relevant function to analyse the particulars of unauthorised expenditure in order to establish the facts about the transaction related to fraudulent, corrupt or other criminal conduct.</p> <p>means a formal probe conducted by Security Management and Anti-Corruption Function to analyse the particulars of non-compliance to establish the facts about the transaction and to determine whether any fraudulent, corrupt or other criminal conducts has taken place.</p> <p>means a formal probe to be conducted by a function performing investigations or another relevant function to analyse the particulars of fruitless and wasteful expenditure in order to establish the facts about the transaction related to fraudulent, corrupt or other criminal conduct.</p>

TERM	DEFINITION
“Lead schedule”	means a summary of unauthorised, irregular expenditure and fruitless and wasteful expenditure to be disclosed in the notes to the annual financial statements and the progress thereon.
“Non-compliance”	means the failure to comply with legal requirements or legal obligations.
“Removal”	means the process of eliminating the irregular expenditure from the notes to the annual financial statements if it was not condoned by the relevant authority.
“Relevant authority”	<p>(a) The National Treasury, in the case where an employee or the accounting officer of a national department or constitutional institution, or an employee or the accounting authority of a Schedule 2, 3A or 3B public entity, was responsible for irregular expenditure; and</p> <p>(b) The relevant provincial treasury, in the case where an employee or the accounting officer of a provincial department or an employee or the accounting authority of a Schedule 3C or 3D public entity, was responsible for the irregular expenditure.</p>

4. PREAMBLE

- 4.1 The Department commits itself in promoting basic values and principles of good governance as enshrined in Chapter 10 (ss195-197) of the Constitution.
- 4.2 The department also envisage a policy that will pro-actively optimize the effectiveness of the management system for clean audit outcome.

5. PURPOSE

The purpose of this policy is to: -

- 5.1 Provide clarity on relevant legislation and regulations applicable to unauthorised, irregular, fruitless and wasteful expenditure;
- 5.2 Enhance the awareness of employees of the department to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure;
- 5.3 Enhance correct reporting, investigation, identification and management of unauthorised, irregular, fruitless and wasteful expenditure; and
- 5.4 Strengthen the internal control environment with regard to management of unauthorised, irregular, fruitless and wasteful expenditure.

6. APPLICATION AND SCOPE

This policy is applicable to all employees of the department appointed in terms of the Public Service Act, 1994 (as amended) and any person employed by the department on a temporary or contractual capacity.

7. PRINCIPLES

The policy seeks to ensure that it enhances correct identification, reporting, investigation and management of irregular, fruitless and wasteful and unauthorized expenditure.

This policy is also guided by the following principles:

7.1. Value System

In line with budget allocated to the relevant programs within the department to fulfil its mandate, the funds must be used for the purpose it is intended, following the correct procurement processes and in ensuring the value for money is achieved.

7.2. Participation

All employees to ensure that unauthorized, irregular, and fruitless and wasteful are eliminated, and mechanisms are in place to prevent and detect such expenditures.

7.3. Accountability

All employees to play a meaningful role in ensuring that no unauthorised, irregular, fruitless and wasteful expenditures incurred. When it occurs, affected employee will be accountable in his/her area of responsibility.

8. POLICY STATEMENT

The Department is committed in taking steps to prevent unauthorised, irregular, fruitless and wasteful expenditures so as to promote good governance.

9. ESTABLISHMENT OF THE EXPENDITURE REVIEW COMMITTEE

- 9.1. The accounting officer must establish an expenditure review committee to deal with incidents of unauthorised, irregular, fruitless and wasteful expenditures
- 9.2. Expenditure review committee shall perform some of the functions assigned to the Loss Control Function in terms of the issued Framework, but in line with its Terms of References.
- 9.3. The expenditure review committee should make recommendations that advises the accounting officer based on its findings.
- 9.4. The accounting officer must decide on the appropriate action to be followed, taking into consideration the recommendations of the expenditure review committee.
- 9.5. The appropriate action by the accounting officer may be to:
 - 9.5.1 Recover the amount from the responsible employee.
 - 9.5.2 Initiate further/ or forensic investigation to be carried out depending on the amount involved and complexity of the case.
 - 9.5.3 Request for expenditure to be condoned by Provincial Treasury in case of irregular expenditure, write off the fruitless and wasteful expenditure, and request approval of EXCO in the case of unauthorised expenditure.
 - 9.5.4 Write off the expenditures if no employee found to be liable and when the amount is irrecoverable.
 - 9.5.5 Initiate disciplinary processes in cases where the financial misconduct is confirmed.
 - 9.5.6 Report to the South African Police Services (SAPS) to lay criminal charges against the responsible employee in cases where fraudulent, corrupt, or other criminal conduct has occurred.

10. UNAUTHORISED EXPENDITURE

10.1. The following are the incidents of unauthorised expenditure:

- 10.1.1 Overspending of the vote and the main division within the vote.
- 10.1.2 Funds that are not used within the mandate of the department.
- 10.1.3 Voted funds utilised but not for its original purpose without approval from provincial treasury.

10.2. Determination of whether unauthorised expenditure has taken place:

- 10.2.1 Unauthorised expenditure occurs only when a payment is made and not when funds are over committed.
- 10.2.2 The department must spend only funds that are voted and for its intended purpose.

10.3. PROCEDURES FOR DEALING WITH UNAUTHORISED EXPENDITURE

10.3.1. IDENTIFICATION AND RECORDING

- (a) Any employee who becomes aware of or suspects the occurrence of unauthorised expenditure must immediately report, in writing, such expenditure to the Accounting Officer or his/her delegate in terms of Sec 38 (1)(g) of PFMA, No. 1 of 1999 and TR 9.1.2.
- (b) On discovery of alleged unauthorised expenditure, such expenditure must be left in the expenditure item i.e. relevant vote and the Accounting Officer or his/her delegate should record the details of the expenditure in an unauthorised expenditure register.

10.4. INVESTIGATION AND VALIDATION

- (a) The Accounting Officer or his/her delegate must investigate the alleged unauthorised expenditure to determine whether the expenditure meets the definition of unauthorised expenditure.
- (b) During the period of investigation, the expenditure must remain in the expenditure item. The results of the investigation will determine the appropriate action to be taken regarding the expenditure.
- (c) Should the investigation reveal that the expenditure is in fact valid expenditure and therefore does not constitute unauthorised expenditure the details of the expenditure should be retained in the register for completeness purposes (and to provide an appropriate audit trail).
- (d) d. The register must then be updated to reflect the outcome of the investigation;

- (e) If the investigation indicates that the expenditure is in fact unauthorised expenditure the Accounting Officer must immediately report, in writing, the particulars of the expenditure to Provincial Treasury and SCOPA.
- (f) If SCOPA subsequently authorises the unauthorised expenditure with funding, the department must write off as the amount has already been expensed in the statement of financial performance, the register should be updated to reflect the fact that the unauthorised expenditure was authorised.
- (g) If it is authorised without funding, the department must write it off, after investigation has been finalised, on realisation of savings.
- (h) If, however, it was not authorised and responsible person found guilty, the Accounting Officer must take effective and appropriate action to recover the amount from the responsible employee.
- (i) The recovery will be dealt with in terms of the debt management and write off policy of the department.

11. IRREGULAR EXPENDITURE

11.1. INCIDENTS THAT MAY LEAD TO IRREGULAR EXPENDITURE

Incidents are as follows but not limited to:

- 11.1.1 Non-compliance with SCM procurement thresholds;
- 11.1.2 Procuring without inviting competitive bids with no approval;
- 11.1.3 Non - compliance with delegations of authority; and
- 11.1.4 Non - compliance with legislations.

11.2. ASSESSMENT, DETERMINATION AND/OR INVESTIGATIONS RELATED TO IRREGULAR EXPENDITURE

11.2.1. ASSESSMENT

- (a) Sections 38(1)(n) and 51(1)(h) of the PFMA require accounting officers to comply and ensure compliance with this Act.
- (b) Accounting officers must ensure that their respective departments operate in accordance with the provisions of applicable legislation.
- (c) This responsibility encompasses identifying the legislative universe which institutions must comply with.

- (d) Accounting officers must assess the legislative frameworks applicable to their respective institutions to identify any irregularity/irregularities in transactions that have been processed.
- (e) Upon detection of alleged irregular expenditure, must be reported to the accounting officer and he/she must conduct an assessment to confirm whether irregular expenditure has been incurred or whether the incident was the result of non-compliance with laws and regulations that did not relate to the incurrence of a financial transaction.
- (f) If there are disputes regarding whether the alleged irregular expenditure meets the definition of irregular expenditure, the assessment process must be conducted and completed within three (3) months from the date the alleged irregular expenditure was reported to the accounting officer or accounting authority.

Confirmation of Non-compliance

- (a) Where it has been confirmed that the identified non-compliance does not constitute irregular expenditure, as defined in section 1 of the PFMA, the accounting officer must–
 - i. Strengthen the internal control environment where the non-compliance was identified and confirmed; and
 - ii. Refer the non-compliance matter to the labour relations office in the department to institute disciplinary processes.
- (b) The accounting officer must record the details of the confirmed non-compliance in the checklist.

Confirmation of irregular expenditure

- (a) If a transaction has been processed in contravention of the legislation and the same transaction has a financial implication (payment was made or a liability was recognized in the books), it must be recorded as irregular expenditure.
- (b) The accounting officer must record the details of all alleged irregular expenditure in the irregular expenditure checklist.
- (c) The details and amounts of confirmed irregular expenditure and losses determined must be recorded in the irregular expenditure lead schedule.

11.2.2. DETERMINATION OF IRREGULAR EXPENDITURE

- (a) The Accounting Officer must conduct a determination test or analyse the particulars of non-compliance to establish the facts and losses, if any, related to the transaction.
- (b) The determination test will be delegated to Internal Control Unit to confirm the facts and losses associated with the transaction and to collect information related to the identification of –
 - i. root causes that led to the transgression;
 - ii. employee(s) responsible for the irregular expenditure;
 - iii. if the department suffered any loss; and
 - iv. any breakdown in the designed internal controls.
- (c) The determination test referred to in paragraph 11.2.2.a. above must commence within 30 days after the date the irregular expenditure was reported to the Accounting Officer.
- (d) Expenditure Review Committee considers all the facts and make recommendations to the Accounting Officer.

11.2.3. INVESTIGATION

- (a) The accounting officer must conduct an investigation if he/she suspects any possibilities of fraudulent, corrupt or other criminal conducts emanating from the incurrence of irregular expenditure.
- (b) The accounting officer must, upon suspicion of a fraudulent, corrupt or other criminal conducts, refer the irregular expenditure matter to its Security Management and Anti-corruption function to investigate in order to establish the facts about the transaction and to obtain recommendations on the next step(s) to be taken.
- (c) The investigation must provide the accounting officer with at least the following facts about the transaction as well as information related to:
 - i root causes that led to the transgression;
 - ii impact of the transgression;
 - iii information on fraudulent, corrupt or criminal related act(s);
 - iv employee(s) responsible for the irregular expenditure;

- v if the department suffered any loss;
 - vi if the matter must be referred to the South African Police Services; and
 - vii any breakdowns in the designed internal controls and the impact thereof.
- (d) The investigation referred to in paragraph 11.2.3.a. above must be instituted within 30 days after it has been confirmed that irregular expenditure has been incurred.

11.3. RECOVERY, CONDONATION OR REMOVAL OF IRREGULAR EXPENDITURE

11.3.1. RECOVERY

Transfer to the Loss Control function or another relevant function

- (a) It is acknowledged that there may be instances where irregular expenditure arose from fraudulent, corrupt or other criminal conducts or through actions that deprived the department from achieving value for money;
- (b) Irregular expenditure emanating from fraudulent, corrupt or other criminal conducts may also result in a department incurring a loss. This must prompt the loss control function to inform the accounting officer in writing to institute a civil claim for the recovery of the loss.
- (c) The accounting officer must also report the matter to the South African Police Service.
- (d) Quantifying a debt (loss) will be done as per debt management recovery and write-off policy of the department.

11.3.2. CONDONATION OR REMOVAL

11.3.2.1. Referral of irregular expenditure where no losses were reported

- (a) Provision is made for the accounting officer to submit requests to the relevant authority to seek condonation of the irregular expenditure.
- (b) The accounting officer must refer the matter related to irregular expenditure to the following authorities, if recommendations of the expenditure review committee confirms that no loss was incurred during the contravention of the legislation and that value for money was achieved
 - i Labour relations office within the department to assist the accounting officer with any disciplinary process;

- ii If the determination or investigation into the irregular expenditure confirms that there is an employee who is responsible for the irregular expenditure however, the department did not suffer any loss, the accounting officer must refer the matter to the labour relations office to institute disciplinary processes in line with the relevant human resource prescripts.
 - iii Relevant Authority for condonation of the irregular expenditure if no losses were reported and where the transaction is not related to fraudulent, corrupt or other criminal conducts.
- (c) The requests referred to in paragraph (a) above may only be submitted to the relevant authority if the accounting officer confirms that the department did not suffer a loss and that value for money was achieved.
- (d) Requests for condonation of irregular expenditure submitted to the relevant authority must at least contain the following information –
- i confirmation that a determination test was conducted;
 - ii findings and recommendations of the internal control unit committee that conducted the determination test;
 - iii findings and recommendations of the security management and anti-corruption that conducted the investigation;
 - iv confirmation that no losses were incurred;
 - v confirmation that disciplinary action was taken against the responsible employee(s);
 - vi confirmation that investigations were conducted in cases of identified fraudulent, corrupt or other criminal conducts; and
 - vii remedial actions taken by the accounting officer to prevent the recurrence of such irregular expenditure in similar circumstances.
- (e) The accounting officer may consider removal of the irregular expenditure if such irregular expenditure was not condoned by the relevant authority.
- (f) Removal of irregular expenditure may take place if the accounting officer is satisfied that the recommendations of the internal control unit and expenditure

review committee (in a case of a determination) or security management and anti-corruption (in a case of an investigation) confirms that –

- i the matter is free from fraudulent, corrupt or other criminal conducts;
 - ii disciplinary action was taken against the responsible employee(s);
 - iii the department did not suffer any losses;
 - iv the non-compliance that led to the irregular expenditure has been addressed to ensure that such expenditure does not recur under similar circumstances; and
 - v transactions of a similar nature are regularly reviewed to ensure compliance with the relevant prescripts.
- (g) The accounting officer may proceed with the removal of irregular expenditure from the notes to the annual financial statements after confirmation of the processes indicated in paragraph (f) above.

11.3.2.2. Referral of Irregular expenditure where a fraudulent, corrupt or other criminal conducts was identified

- (a) If the investigation confirms that the irregular expenditure is related to a fraudulent, corrupt or other criminal conducts, the accounting officer must, within seven (7) days, ensure that a criminal charge is laid with the South African Police Service against the responsible employee(s).
- (b) The accounting officer must also inform the relevant executive authority, the relevant treasury and the Auditor-General within seven (7) days after laying the above criminal charge.
- (c) Where criminal charges have been laid against an accounting officer, the executive authority must inform the relevant treasury and the Auditor-General within seven (7) days after laying a criminal charge against the accounting officer.
- (d) The irregular expenditure checklist and lead schedule must be updated with all the details of the fraudulent, corrupt and other criminal conducts reported to South African Police Services.

11.3.3. DISCOVERY AND REPORTING OF IRREGULAR EXPENDITURE

11.3.3.1. Discovery:

An employee of a department who becomes aware or suspects the occurrence of irregular expenditure must immediately, in writing, report such irregular expenditure to the accounting officer in terms of Treasury Regulation 9.1.2.

11.3.3.2. Reporting by the Accounting Officer

If confirmation by the accounting officer indicates that the transaction constitutes irregular expenditure, the accounting officer must report particulars of the irregular expenditure to the relevant authority, as indicated in the paragraphs below –

- a. report the irregular expenditure immediately to the provincial treasury in terms of section 38(1)(g) of the PFMA;
- b. report the irregular expenditure to the provincial treasury in the monthly report on revenue and expenditure required in terms of section 40(4)(b) of the FPFMA;
- c. report the irregular expenditure incurred by a department in contravention of procurement laws and regulations, to the relevant procurement authority; and
- d. in terms of section 40(3)(b)(i) of the PFMA, the annual report and financial statements of a department must include particulars of any irregular expenditure that was incurred during the year.
- e. Accounting officer or his/her delegate must maintain a checklist of irregular expenditure and a lead schedule.

12. FRUITLESS AND WASTEFUL EXPENDITURE

It is the expenditure which was made in vain and would have been avoided had reasonable care been exercised.

In order for an expenditure to qualify as fruitless and wasteful, it must fulfil the following conditions in terms of definition: -

- (a) Expenditure must be made in vain, and
- (b) Such expenditure would have been avoided had reasonable care been exercised.

12.1. DISCOVERY AND EVALUATION OF FRUITLESS AND WASTEFUL EXPENDITURE

12.1.1. DISCOVERY

- (a) An employee of a department who becomes aware or suspects the occurrence of fruitless and wasteful expenditure must immediately, in writing, report such expenditure to the accounting officer in terms of Treasury Regulations 9.1.2.
- (b) On discovery of alleged fruitless and wasteful expenditure, such expenditure must be left in the expenditure item i.e. relevant vote and the Accounting Officer or his/her delegated person should record the details of the expenditure in fruitless and wasteful expenditure checklist.

12.1.2. EVALUATION

- (a) It can arise from a range of events, activities and actions from a simple oversight in performing an administrative task to an intentional transgression of relevant laws and regulations.
- (b) It only occurs when a payment is made.
- (c) It is incurred when the resulting expenditure is made in vain and no value for money was derived from the expenditure or the use of resources.

Table 1: Evaluation of incidents into circumstances that could lead to fruitless and wasteful expenditure: -

No.	Action	Description
(a)	Evaluation of an incident(s)	An evaluation of an incident that may lead to the unintended occurrence of fruitless and wasteful expenditure
(b)	Exercising reasonable care	Action, procedure or operation undertaken by the employee/s or another relevant function in responding to the possibility of incurring fruitless and wasteful expenditure
(c)	Examination of negligence	Confirmation of whether the action, procedure or operation of exercising reasonable care was disregarded by employee/s or another relevant function to prevent fruitless and wasteful expenditure.

12.1.3. The following are the examples of incidents of fruitless and wasteful expenditure but not limited to:

- i. It emanates from an action or lack of action instigated by an employee that resulted in a financial loss to the department.
- ii. Interest incurred by the department, but not limited to the following: -
 - a) On overdue accounts;
 - b) Arrear on acting allowance; and
 - c) Any other interest incurred by the department.
- iii. Damages on a car hired by the department for official use.
- iv. No "show up fee"/ "Non checking in" of employee/s for accommodation at Hotels/B & B's/Guest Houses etc. and where a service provider charged the department a "No show up fee".
- v. Service provider charging department unreasonable prices which are more than Provincial Treasury price index/ or other market related price index and,
- vi. Any other incident where there was no value derived by the department.

12.2. ASSESMENT, DETERMINATION OR INVESTIGATION: -

12.2.1. ASSESMENT

- (a) For an employee or another relevant function in a department to exercise reasonable care to prevent fruitless and wasteful expenditure, that employee must evaluate incidents of that particular transaction that may lead to fruitless and wasteful expenditure.
- (b) Once it has been evaluated that an incident may lead to fruitless and wasteful expenditure, the employee/s or another relevant function must immediately take action to eliminate the occurrence of fruitless and wasteful expenditure.
- (c) Section 38(1)(c)(ii) and 51(1)(b)(ii) of the PFMA require accounting officers to, amongst others, take effective and appropriate steps to prevent fruitless and wasteful expenditure.
- (d) Upon detection of alleged fruitless and wasteful expenditure, the internal control unit must conduct an assessment to confirm whether expenditure meets the definition of fruitless and wasteful expenditure.

12.2.1.1. Confirmation of fruitless and wasteful expenditure

- i. The accounting officer or his/her delegate must record the details of all current and previous financial years alleged fruitless and wasteful expenditure in the checklist, as contained in **Appendix A** to this policy.
- ii. Upon confirmation of fruitless and wasteful expenditure, the accounting officer must record the details of fruitless and wasteful expenditure in the lead schedule, as contained in **Appendix B** to this policy.

12.2.2. DETERMINATION

- (a) The Accounting Officer must conduct determination test to examine or analyze particulars of the expenditure and quantify the amount/s of the fruitless and wasteful expenditure.
- (b) The determination test will be delegated to Internal Control Unit to confirm the facts and losses associated with the transaction and to collect information related to the identification: -
 - i. The root causes that lead to the fruitless and wasteful expenditure;
 - ii. The alleged employee responsible;
 - iii. Confirmed amounts of fruitless and wasteful expenditure to be recovered;
 - iv. Confirmed amounts of fruitless and wasteful expenditure that are assessed as irrecoverable; and
 - v. Any breakdown in the designed internal control (if any).
- (c) The determination test referred in 12.2.2 (a) above, must commence within 30 days after the fruitless and wasteful was reported to the accounting officer.
- (d) Expenditure Review Committee considers all the facts and make recommendations to the Accounting Officer.

12.2.3. INVESTIGATION

- (a) The accounting officer must conduct an investigation if it is suspected that there is possibility of fraudulent, corrupt or other criminal conduct emanating from the incurrence of fruitless and wasteful expenditure.
- (b) The accounting officer must, upon suspicion of a fraudulent, corrupt or other criminal conduct, refer fruitless and wasteful expenditure matter to fraud and anti-corruption directorate to perform investigation in order to establish the facts about the transaction and to obtain recommendations on the next step/s to be taken.

- (c) If the Security Management and Anti-Corruption Directorate has no capacity in terms of skills or staff required or staff member/s is (are) conflicted, the investigation can be performed by Provincial Treasury.
- (d) The investigation must provide the accounting officer with at least the following information:
 - i. Root causes that led to the fruitless and wasteful expenditure;
 - ii. Employee/s responsible for incurring the fruitless and wasteful expenditure;
 - iii. Fraudulent, corrupt or other criminal conduct;
 - iv. Whether the matter was referred to South African Police Services; and
 - v. Any breakdown in the designed internal controls and the impact thereof (if any).
- (e) The investigation referred to in (a) above must commence within 30 days after the determination test.

12.3. RECOVERY OF FRUITLESS AND WASTEFUL EXPENDITURE

12.3.1. RECOVERY

- (a) If it has been confirmed that the expenditure is fruitless and wasteful, the accounting officer must recover such amounts of fruitless and wasteful expenditure from the responsible employee/s.
- (b) The detailed recovery process will be done in terms of the departmental debt management and write off policy.

12.3.1.1. Quantifying a debt (Loss)

- (a) The amount of debt recoverable from the responsible employee/s may equate to: -
 - i. The value of the debt incurred as a consequence of his/her action that led to incurrence of the fruitless and wasteful expenditure; or
 - ii. A lesser amount, determined by the accounting officer in accordance with the debt management policy of the department or at his or her discretion.
- (b) In cases where the accounting officer is responsible for the debt, the provincial treasury: -
 - i. Must determine the value of the debt incurred as a consequence of his/her action that led to incurrence of the fruitless and wasteful expenditure; or
 - ii. May determine a lesser amount.

12.3.1.2. Raising a debt

- (a) The TR 11.2 requires the accounting officer of a department to take effective and appropriate steps to collect all money due to the department.

- (b) The debt must be raised, identified, reported and recorded in the books of the department in line with the departmental debt management policy and write off.

12.3.1.3. Informing the responsible employee of the debt

- (a) The responsible employee will be informed in terms of the debt management and write off policy of the department which state that an employee must be notified by the accounting officer in writing as soon as he/she becomes aware and request that the amount involved be paid within 30 days.
- (b) The accounting officer may approve that the debt be paid within a reasonable number of instalment if the employee is unable to settle within 30 days.
- (c) The notification in writing referred in 12.3.1.3 (a) above, means that the debtor is placed "*in mora*".
- (d) Interest on debts incurred from fruitless and wasteful expenditure must be charged at the rates determined in terms of section 80 (1)(b) of the PFMA.
- (e) In cases where the employee has left the service of the department, the accounting officer must follow processes to recover the debt which may include, amongst others, engaging the internal legal advisory services.

12.3.1.4. Liability in law.

- (a) If the employee responsible for the debt is still in the service of the department and denies liability for the debt, the accounting officer must refer the matter to legal services of the department (for the state attorney) to confirm the debtor's liability in law.
- (b) If the person responsible for the debt has left the department and denies liability for the debt, the accounting officer must refer the matter to legal services of the department (for the state attorney) to confirm debtor's liability in law.

12.3.1.5. Irrecoverable debt

- (a) If a debt from a responsible employee for fruitless and wasteful expenditure is irrecoverable, the accounting officer of a department may write off the debt in terms of TR 11.4 as well as in terms of the departmental debt management and write off policy.
- (b) If the accounting officer is responsible for the debt and is unable to re-pay the debt, the accounting officer must report the inability to the relevant treasury in order for the provincial treasury to consider approving the write-off, if such debt is considered to be irrecoverable.
- (c) The written off debt as per the (a) and (b) above will be removed from the fruitless and wasteful checklist and the lead schedule will be updated, accordingly.

12.4. REFERRAL OF FRUITLESS AND WASTEFUL EXPENDITURE TO LABOUR RELATIONS OFFICE AND SOUTH AFRICAN POLICE SERVICES (SAPS)

- (a) The accounting officer must refer the Fruitless & Wasteful Expenditure matters to the following office / authorities to address the issues of consequence management: -
- i. Labour relations office in the department to assist the accounting officer with disciplinary processes (where applicable); and
 - ii. SAPS upon alleged or confirmed cases of fraudulent, corrupt or other criminal conduct.

12.4.1. Referral to Labour Relations Office: -

- (a) If the determination or investigation into Fruitless & Wasteful Expenditure confirms that an employee/s is/are responsible for fruitless and wasteful expenditure, the accounting officer must refer the matter to labour relations office to institute disciplinary processes (where applicable) in line with the relevant departmental labour relations policies and prescripts.

12.4.2. Referral of fruitless and wasteful expenditure to South African Police Service (SAPS)

- (a) If the investigation conducted confirms that fruitless and wasteful expenditure relates to fraudulent, corrupt, or other criminal conduct, the accounting officer must, within seven days, ensure that a criminal charge is laid with the SAPS against the responsible employee/s.
- (b) The accounting officer must also inform the relevant executive authority (MEC), the relevant Provincial Treasury and the Auditor General within seven days after laying the above criminal charges.
- (c) Where criminal charges have been laid against the accounting officer, the executive authority (MEC) must inform relevant Provincial Treasury and the Auditor-General within seven days after laying criminal charges against the accounting officer.
- (d) The checklist and lead schedule must be updated with all the details of fraudulent, corrupt or other criminal conduct reported to SAPS.

12.5. FINANCIAL MISCONDUCT CASES

12.5.1. Compliance issues relating to fruitless and wasteful expenditure: -

- (a) Section 38(1)(c)(ii) and 51(1)(b)(ii) of the PFMA requires accounting officer to take effective and appropriate steps to prevent fruitless and wasteful expenditure (amongst others)
- (b) In terms of Section 81(1)(b) and 83(1)(b) of the PFMA, an accounting officer commit an act of financial misconduct if that HOD willing fully or negligently makes or permit fruitless and wasteful expenditure.
- (c) In terms of Section 38(1)(h)(iii) and 51(1)(e)(iii) of the PFMA, the accounting officer must take effective and appropriate disciplinary steps against any employee in the service of the department who makes or permit fruitless and wasteful expenditure.

12.5.2. Non-compliance committed by Accounting officer: -

- (a) Treasury Regulations 4.1.3 provides that, if an accounting officer of a department is alleged to have committed financial misconduct, the relevant treasury, must, as soon as it becomes aware of the alleged misconduct, ensure that the executive authority (MEC) initiates an investigation into the matter and, if the allegations are confirmed, holds a disciplinary hearing in accordance with the prescripts and agreements applicable to public service.

12.5.3. Non-compliance commitment by Employee: -

- (a) If allegation of financial misconduct is confirmed, the accounting officer must ensure that disciplinary processes are initiated against the employee concerned in accordance with the relevant prescripts and agreements regulating the employment of the applicable category of employee.

12.6. REPORTING OF FRUITLESS AND WASTEFUL EXPENDITURE

12.6.1. REPORTING

- (a) As stated in 12.1.1(a) above, an employee of a department who becomes aware or suspect the incurrence of fruitless and wasteful expenditure must immediately, in writing, report such fruitless and wasteful to the accounting officer in terms of TR 9.1.2
- (b) If confirmation by the accounting officer indicates that the transaction constitutes fruitless and wasteful expenditure, the accounting officer must report particulars of the fruitless and wasteful expenditure to the relevant Provincial Treasury, as indicated below: -
 - i. Report the fruitless and wasteful expenditure to the relevant treasury in the monthly report on revenue and expenditure required in terms of sections 38(1)(g) and 40(4)(b) of the PFMA,

- ii. In terms of section 40(3)(b)(i) of the PFMA, the annual report and financial statements of a department must include particulars of any fruitless and wasteful expenditure that was incurred during the year.

12.7. RECORDING IN THE CHECKLIST AND LEAD SCHEDULE

12.7.1. RECORDING

- (a) The Accounting Officer must maintain a checklist and lead schedule of fruitless and wasteful expenditure. Examples are in **Appendix A** and **Appendix B** to this policy.
- (b) The Accounting Officer must update the checklist and lead schedule with information related to the processes taken as per the assessment and determination tests conducted by the Internal Control Unit or fraud and anti-corruption directorate that conducted the investigation, in relation to: -
 - i. Fruitless & Wasteful Expenditure referred to labour relations office for disciplinary processes and financial misconduct.
 - ii. Fruitless & Wasteful Expenditure referred to suspense account section for recovery process.
 - iii. If not found liable, the approval of the Accounting Officer is obtained for the write-off of the Fruitless and Wasteful Expenditure in the register and in the notes to the financial statements.
 - iv. Fruitless & Wasteful Expenditure referred to the SAPS (if there were fraudulent, corrupt or other criminal conduct) for criminal charges.
- (c) The fruitless and wasteful expenditure lead schedule must be kept up to date to track all the alleged and confirmed matters and to maintain correct and accurate information for an audit trail.
- (d) The lead schedule must also serve as a lead for amounts of fruitless and wasteful expenditure to be disclosed in the note to the financial statements to ensure its accuracy and completeness.

13. PREVENTION AND DETECTION

13.1. PREVENTION

- 13.1.1 All employees of the department must take effective and appropriate steps to prevent, within their area of responsibility, any unauthorized, irregular and fruitless and wasteful expenditures.

13.1.2 To prevent the irregular and fruitless and wasteful expenditures, all employees must ensure that the checklist has been utilized and completed at various stages of procurement.

13.1.3 No official order will be issued without following SCM processes when procuring goods and services.

13.1.4 All employees must ensure that the spending is within the mandate of the department and the budgeted amount is not exceeded to avoid unauthorized expenditure.

13.2. DETECTION

13.1.1 All employees must ensure that the document is properly checked in each stage of the procurement prior to payment in order to detect the unauthorized, irregular, and fruitless and wasteful expenditures.

13.1.2 In cases where the expenditure is not avoided, and / or in cases where the expenditure has been incurred by the department, the affected end user must inform the CFO office in writing and attach relevant supporting documentation for the CFO to give necessary guidance.

14. NON-COMPLIANCE WITH THIS POLICY

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

15. APPROVAL OF THE POLICY

This policy shall be approved by the Executive Authority on the recommendation of the Head of Department as per the updated departmental delegations.

16. COMMUNICATION

The policy on unauthorized, irregular and fruitless and wasteful expenditures will be communicated to all the employees of the department and other relevant stakeholders.

17. PROCEDURE OF THE POLICY

There is no separate procedure for the implementation of the policy as the policy will be incorporated into the daily activities of the management of all affected directorate's programs.

It is therefore critical that the management of affected programs or directorates familiarize themselves with the contents of the policy.

18. MONITORING AND EVALUATION

Responsibility and accountability for implementing the policy rests with the Directors of the Finance and Supply Chain Management Chief Directorate.

19. DISPUTE RESOLUTION MECHANISM

An employee who has a grievance or dispute within the department concerning unfair application of procedures as defined in this policy, shall have normal recourse to the applicable resolutions as well as any other right they have by law.

20. REVIEW OF THE POLICY

The policy will be reviewed as and when the need arises.

21. EFFECTIVE DATE

The policy shall become effective on the date it is signed by the Executive Authority (MEC) responsible for the department.

Annexure A**Example: - Fruitless and wasteful expenditure checklist: -**

Transaction No.	Date Reported to the AO	Description of the transaction/incident	Fruitless and wasteful expenditure referred to LCF for investigation and FPI for investigation	Disciplinary Process referred to HRF	Recovery process referred to LCF	Criminal charges referred to SAPS	Fruitless and wasteful expenditure to be recovered
			Yes/No	Yes/No	Yes/No/N/A	Yes/No/N/A	Yes/No/N/A
1	10 June 2020	Relates to interest paid on overdue account	LCF	No	Yes	N/A	Yes
2	20 December 2020	Damages on car hired by Department	LCF and FPI	Yes	Yes	N/A	As per recommendations of FPI
3	10 January 2020	Fraudulent transaction paid to supplier	LCF	Yes	Yes	Yes	Yes

Legends: -

AO- Accounting Officer/Head of Department

LCF- Loss Control Function/ or another relevant function

FPI- Function Performing Investigation

HRF- Human Resources Function/ or Labour Relations Function

SAPS- South African Police Services

Annexure B

Example: - Fruitless and wasteful expenditure Lead Schedule: -

Transaction No.	Date reported to AO	Details of the transaction/incident	Amount confirmed of F & WE	Amounts of F & WE recovered	STATUS OF FRUITLESS AND WASTEFUL EXPENDITURE				
					CC	DP1	LR	DP2	WO
			The amounts to be disclosed in the notes to the AFS/IFS	These amounts to be disclosed in receivables/debt account in AFS/IFS	YES/NO/N/A	YES/NO/N/A	YES/NO/N/A	YES/NO/N/A	Amounts of F & WE or losses written off
1	XXX XX	XXXX	XXXX	XXX	XXX	XXX	XXX	XXX	XXX
2	XXX XX	XXXX	XXXX	XXX	XXX	XXX	XXX	XXX	XXX
3	XXX XX	XXXX	XXXX	XXX	XXX	XXX	XXX	XXX	XXX

Legends: -

AO- Accounting Officer/Head of Department

CC- Criminal charges laid with SAPS

DP 1- Disciplinary Process (in progress/completed)

LR- Loss Recovery (commenced)

DP 2- Disciplinary Process

WO- Write off

Annexure C

Example: - Fruitless and wasteful expenditure in Year- Monitoring and Reporting: -

Total Amounts of unauthorised, irregular, fruitless and wasteful expenditure	Total Amount
Total Amount of Irregular Expenditure	-
Total Amount of Fruitless and Wasteful Expenditure	-
Total Amount Unauthorised Expenditure: Overspending of vote or main division within a Vote	-
Total Amount Unauthorised Expenditure: Expenditure not in accordance with purpose of vote or main division Vote	-

Report number and date e.g. 6th report of 2019/2020	Irregular Expenditure, Fruitless and Wasteful, or Unauthorised Expenditure	Date Incurred	Date Identified	Date reported to the Accounting Officer	Incident description	Amount R (i.e. not R000s)	Payment date YYYY/MM	Payment number	Status	Steps taken to prevent future occurrence of Irregular, fruitless and wasteful expenditure (e.g. new policy, control measures, monitoring)