

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

GOVT. COMMUNICATION & INFORMATION SYSTEM
LIBRARY

2000-04-25

LIBRARY
GOVT. COMMUNICATION & INFORMATION SYSTEM

Government Gazette Staatskoerant

Regulation Gazette

No. 6780

Regulasiekoerant

Vol. 418

PRETORIA, 8 APRIL 2000

No. 21082

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

**AIDS
HELPUNE**

0800012322

DEPARTMENT OF HEALTH

Prevention is the cure

G O V E R N M E N T N O T I C E

DEPARTMENT OF STATE EXPENDITURE

No. R. 380

8 April 2000

**PUBLIC FINANCE MANAGEMENT ACT, 1999:
DRAFT TREASURY REGULATIONS**

The draft Treasury Regulations set out in the Schedule are hereby published for public comment in terms of section 78 of the Public Finance Management Act, 1999.

Interested persons who wish to comment on the draft Treasury Regulations may submit their representations in writing before 2nd May 2000 to:

The Acting Director-General
Department Of State Expenditure
Private Bag X 845
PRETORIA
0001

All representations must be marked for the attention of **Mr Jayce Nair** and may either be posted to the above address or transmitted by fax to 012-3155608 or by e-mail to **NairJM@dse.pwv.gov.za**

Treasury Regulations

**Issued in terms of the
Public Finance Management Act, 1999**

National Treasury

Republic of South Africa

April 2000



CONTENTS

Part 1: Definitions	13
1. General definitions	15
1.1 General definitions	15
Part 2 Planning and budgeting	17
2. Strategic planning	19
2.1 Date of implementation	19
2.2 Strategic plans	19
2.3 Evaluation of performance	19
3. Budgeting and related matters	20
3.1 Annual budget circular	20
3.2 Formats for Estimates of Expenditure and Departmental Revenue	20
3.3 Virement	20
3.4 Rollovers	20
3.5 Transfer of functions	20
3.6 Additional funds through an adjustments budget	21
Part 3 Internal management arrangements	23
4. Corporate management	25
4.1 Chief financial officer	25
4.2 Audit committees	25
4.3 Internal audit	25
5. Financial misconduct	27
5.1 Investigation of alleged financial misconduct	27
5.2 Disciplinary proceedings	27
5.3 Criminal proceedings	28
5.4 Contractors	28
5.5 General	28

Part 4 Revenue and expenditure management	29
6. Revenue management	31
6.1 Application of these <i>Treasury Regulations</i>	31
6.2 Responsibility for revenue management	31
6.3 Services rendered by the state	31
7. Management of debtors	32
7.1 Application of these <i>Treasury Regulations</i>	32
7.2 Responsibility for management of debtors	32
7.3 Recovery of debts by installments	32
7.4 Writing off of debts owing to the state	32
7.5 Interest payable on debts to the state	32
8. Expenditure management	33
8.1 Responsibility of the accounting officer	33
8.2 Approval of expenditure	33
8.3 Vesting of expenditure on a particular vote	33
8.4 Cancellation and variation of contracts	33
9. Control of personnel costs	34
9.1 Managing personnel costs	34
10. Transfer payment management	36
10.1 Transfer mechanism	36
10.2 Transfers to another sphere of government	36
10.3 Transfers to a listed public entity or any other institution	36
10.4 Transfers to institutions not subject to audit by the Auditor	36
10.5 Managing transfer payments	37
11. Unauthorised, irregular, fruitless and wasteful expenditure	38
11.1 General	38
Part 5 Assets and liabilities management	41
12. Asset management	43
12.1 Responsibility for asset management	43
12.2 Immovable asset management	43
12.3 Assets accruing to the state by operation of any law . . .	43

13. Borrowings, guarantees and contingent liabilities	44
13.1 General	44
14. Management of losses and claims	45
14.1 General	45
14.2 Claims against the state and deficiencies, losses or damages caused through acts or omissions	45
14.3 Claims by the state against other persons	45
14.4 Claims by employees against the state	46
14.5 Losses or damages through criminal acts or omissions	46
14.6 Losses and damages through <i>vis major</i> and other unavoidable causes,	46
14.7 Recovery of losses	46
Part 6 Frameworks	47
15. Banking, cash management and investment	49
15.1 Control of the national and provincial revenue funds	49
15.2 Bank account configuration	49
15.3 Deposits into the revenue funds	49
15.4 Responsibilities of the South African Revenue Service	50
15.5 Responsibilities of departments and constitutional institutions	50
15.6 Withdrawals from and investments in revenue funds	50
15.7 Requisitioning of funds by departments	50
15.8 Surrender of surplus funds	50
15.9 Accounting and reporting	51
15.10 Responsibility for cash management and banking	51
15.11 Private money, private bank accounts and cashing private cheques	52
15.12 Warrant vouchers, cheques and electronic payments	52
16. Public-private partnerships	53
16.1 Definitions	53
16.2 General responsibilities of accounting officers	54
16.3 Exclusive competency of accounting officers	54
16.4 Treasury approval	54
16.5 Feasibility analysis	54
16.6 Submission to obtain treasury approval	55
16.7 Procurement	55
16.8 Contracting public-private partnership agreements	56
16.9 Management of public-private partnership agreements	56
16.10 Amendment of public-private partnership agreements	56
16.11 Certain agreements not binding on the state	56

16.12 Exemptions	56
16.13 General	57
Part 7: Accounting and reporting standards	59
17. Basic accounting records and related issues	61
17.1 Use of control accounts	61
17.2 Availability of financial information	61
17.3 Changes to financial systems	62
18. Financial reports, annual financial statements and annual reports	63
18.1 Reports of anticipated and actual expenditure and revenue by departments and provinces	63
18.2 Form and content of annual financial statements	63
18.3 Contents of annual reports	64
18.4 Additional annual reporting requirements for departments controlling trading entities and public entities	65
19. Money and property held in trust	66
19.1 Responsibility for trust money and property	66
19.2 Trust money must be kept in a trust account	66
19.3 Investment of trust money	66
19.4 Return of trust money and unclaimed trust money	67
Part 8: Miscellaneous	69
20. Trading entities	71
20.1 Definitions	71
20.2 Establishment	71
20.3 Capital requirements	71
20.4 Policy for fixed asset depreciation	72
20.5 Disposal of assets	72
20.6 Surrender of surplus funds	72
20.7 Applicability of other <i>Treasury Relations</i>	72
21. Commissions and Committees of Inquiry	73
21.1 Definitions	73
21.2 Remuneration of members	73
21.3 Services rendered by members during private time	73

22. Gifts, donations and sponsorships	74
22.1 Granting of gifts, donations and sponsorships by the state	74
22.2 Acceptance of gifts , donations and sponsorships to the state	74
22.3 Donations of immovable property by the state	74
22.4 Donations of immovable property to the state	75
22.5 Identity of donors and sponsors	75
23. Payments, refunds and remissions as an act of grace or favour	76
23.1 General	76
24. Public entities	77
24.1 General	77
24.2 Listing	77
24.3 Contingent liabilities and borrowing	78

PART 1

Definitions

1

General definitions

1.1 General definitions

In these *Treasury Regulations*, a word or expression to which a meaning has been assigned in the Act has the same meaning, unless the context indicates otherwise:

“**Act**” means the Public Finance Management Act (Act No. 1 of 1999), as amended by Act No. 29 of 1999;

“**debt**” means amounts owing to the state;

“**employee**” means a person contemplated in section 1 of the Public Service Act, 1994, read in conjunction with section 1 of the Public Service Amendment Act (Act No. 13 of 1996);

“**institution**” means a department, trading entity, constitutional institution, Parliament or a provincial legislature – read in context with the relevant chapter;

PART 2

Planning and budgeting

Strategic planning

2.1 Date of implementation

- 2.1.1 The first date for submission of strategic plans is 30 June 2001. Quarterly reports on performance take effect from 1 April 2002.

2.2 Strategic plans

- 2.2.1 **The** accounting officer must prepare a strategic plan for the forthcoming Medium Term Expenditure Framework (MTEF) period, for approval by the relevant executive authority.
- 2.2.2 The approved strategic plan must be forwarded to the relevant treasury no later than 30 June each year.
- 2.2.3 The strategic plan must:
- (a) cover a period of three years and be consistent with the institution's input to the MTEF;
 - (b) include the programme objectives and outcomes identified by the executive authority, as well as the Service Delivery Improvement Plan;
 - (c) include the multi-year projections of revenue and expenditure for the forthcoming annual budget;
 - (d) include the key performance measures and key indicators of the service delivery plans for assessing the institution's performance in delivering the desired outcomes and objectives;
 - (e) be updated annually on a rolling basis;
 - (f) include the requirements of Chapter 1, Part III B of the *Public Service Regulations, 1999*; and
 - (g) form the basis for the annual reports of accounting officers in terms of section 40(1)(d) of the Act.
- 2.2.4 The relevant treasury may issue guidelines on the compilation of strategic plans.

2.3 Evaluation of performance

- 2.3.1 The accounting officer must establish procedures for quarterly reporting by management on the institution's programme performance, to facilitate effective monitoring and evaluation.
- 2.3.2 The accounting officer must issue quarterly reports to the executive authority, evaluating the institution's performance.
- 2.3.3 The quarterly reports to the executive authority must form the basis for the accounting officer's report of the institution's performance, for inclusion in the annual report of activities as required by section 40(1)(d)(i) of the Act.

Budgeting and related matters

3.1 Annual budget circular

- 3.1.1 **The** accounting officer must comply with any annual budget circulars issued by the relevant treasury. Budget circulars issued by provincial treasuries must be consistent with any budget circular issued by the national Treasury to provincial treasuries.

3.2 Formats for Estimates of Expenditure and Departmental Revenue

- 3.2.1 The Estimates of Expenditure and Departmental Revenue presented to Parliament or the relevant provincial legislature must conform to the formats prescribed by the national Treasury.

3.3 Virement

- 3.3.1 For purposes of section 43(1) of the Act:
- (a) personnel expenditure and transfer payments (excluding division of revenue transfers) may not be increased without prior approval of the relevant treasury; and
 - (b) allocations earmarked by the relevant treasury may not be used for other purposes except with the relevant treasury's approval.

3.4 Rollovers

- 3.4.1 Funds appropriated but not spent in a particular financial year may be rolled over to a subsequent year subject to the following conditions or limitations:
- (a) *Capital expenditure*: Unspent funds on capital expenditure may only be rolled over to finalise projects still in progress or for other capital purposes.
 - (b) *Transfer payments*: Savings on transfer payments may not be rolled over for purposes other than originally voted for.
 - (c) *Current expenditure*: Institutions may roll over a maximum of five per cent of their voted funds in the main estimate of expenditure for that specific year, excluding capital expenditure and transfer payments.
- 3.4.2 Requests for rollovers must be submitted to the relevant treasury on or before the last working day of May each year, in the format set out in **Annexure 1**.
- 3.4.3 **The** relevant treasury may deny all or part of a request for a rollover if this request does not conform to prescribed arrangements or if other circumstances warrant such a denial.

3.5 Transfer of functions

- 3.5.1 Where a function is to be transferred between departments during a financial year, the relevant treasury must be consulted in advance, to facilitate any request for the resulting transfer of funds voted for that function in terms of section 33 of the Act,

- 3.5.2 Should the Minister of Public Service and Administration make a determination regarding the transfer of a function in terms of section 3(b) of the Public Service Act, 1999, or a Premier of a province in terms of section 3A(b) of this Act, that determination must accompany a request for the transfer of funds as per paragraph 3.5.1. Should the Minister or Premier approve a function transfer after the finalisation of the adjustments estimates, it must be dealt with on a recoverable basis.
- 3.5.3 Before any transfer of a function to another sphere of government, the transferring accounting officer must first seek the approval of the relevant treasury on any funding arrangements.

3.6 Additional funds through an adjustments budget

- 3.6.1 For purposes of an adjustments budget, the following will not be considered unforeseeable and unavoidable expenditure:
- (a) expenditure that, although known when finalizing the estimates of expenditure, could not be accommodated within allocations;
 - (b) tariff adjustments and price increases, and
 - (c) extensions of existing services and the creation of new services that are not unforeseeable and unavoidable.
- 3.6.2 The institution requesting additional funds through an adjustments budget must submit a memorandum to the relevant treasury, the Cabinet/EXCO Secretariat and any treasury subcommittee of the Cabinet/EXCO on a date prescribed by the relevant treasury.

PART 3

Internal management arrangements

Corporate management

4.1 Chief financial officer

- 4.1.1 The accounting officer must appoint an official as chief financial officer (CFO) no later than 1 April 2001, to serve in the management team of the institution, unless directed otherwise by the relevant treasury.
- 4.1.2 In exercising his or her responsibilities, the CFO is directly accountable to the accounting officer.

4.2 Audit committees

- 4.2.1 **The** relevant treasury must determine whether institutions have shared or non-shared audit committees.
- 4.2.2 In the case of a non-shared audit committee, the accounting officer must appoint audit committee members after consultation with the relevant executive authority
- 4.2.3 In the case of a shared audit committee, the head of the relevant treasury must appoint audit committee members after consultation with the relevant executive authority.
- 4.2.4 In addition to section 77(a) (iii) of the Act, chairpersons of the audit committee may not be political office bearers.
- 4.2.5 Audit committees must be constituted so as to ensure its independence.
- 4.2.6 Members of an audit committee who have been appointed from outside the public service pursuant to section 77(a)(i) of the Act, must be appointed on contract and remunerated in accordance with paragraphs 21.2.2 and 21.2.3 of these *Treasury Regulations*.
- 4.2.7 *The* termination of the services of a person serving on the audit committee must be done with the concurrence of the relevant executive authority.
- 4.2.8 The accounting officer or his or her designate must represent the institution on the audit committee.
- 4.2.9 The audit committee must, together with the head of internal audit, establish an audit committee charter to guide the committee's approach, as well as its *modus operandi*, which should spell out the rules that govern the audit relationship. This charter must be approved by the accounting officer or, in the case of a shared audit committee, by all the accounting officers involved.
- 4.2.10 The audit committee and senior management must facilitate a risk assessment to determine the material risks to which the institution may be exposed and to evaluate management strategy for managing those risks. The strategy must be used to direct audit effort and priority, and to determine the management skills required to manage these risks.
- 4.2.11 The audit committee must report and make recommendations to the accounting officer, but the accounting officer retains responsibility for implementing such recommendations.

- 4.2.12 Should a report from internal audit (or any other source) to the audit committee implicate the accounting officer in fraud, corruption or gross negligence, the chairperson of the audit committee must promptly report this to the relevant executive authority.
- 4.2.13 The audit committee may communicate any concerns it deems necessary to the executive authority and/or the Auditor-General.

4.3 Internal audit

- 4.3.1 The relevant treasury must determine whether institutions have shared or non-shared internal audit units.
- 4.3.2 In the case of non-shared internal audit units, it is the responsibility of the accounting officer to establish these units.
- 4.3.3 In the case of shared internal audit units, these must be established by the relevant treasury after consultation with the accounting officers of the relevant institutions.
- 4.3.4 The internal audit unit may be contracted to an external institution with specialist audit expertise, provided that its selection is in accordance with the government's competitive tendering procedures.
- 4.3.5 Internal audit must be conducted in accordance with the standards set by the Institute of Internal Auditors.
- 4.3.6 The internal audit unit must prepare in consultation with, and for approval by, the audit committee:
- (a) a rolling three-year strategic internal audit plan based on its assessment of key areas of risk for the institution, having regard to its current operations, those proposed in its strategic plan and its risk management strategy;
 - (b) an annual internal audit plan for the year in prospect;
 - (c) plans indicating the proposed scope of each audit in the annual internal audit plan;
 - (d) a modus operandi, with management inputs, to guide the audit relationship; and
 - (e) a quarterly report to the audit committee detailing its performance against the plan, to allow effective monitoring and possible intervention.
- 4.3.7 The internal audit unit must be independent, with no limitation on accessing information.

Financial misconduct

5.1 Investigation of alleged financial misconduct

5.1.1 If a treasury believes that a person may have committed financial misconduct against an institution, it may instruct the institution to investigate whether this has, in fact, occurred.

5.1.2 Paragraph 5.1.1 does not affect:

- (a) any duty on any executive authority or accounting officer in terms of the Act or any other law to investigate financial misconduct; and
- (b) the right of a treasury or the Auditor-General to investigate financial misconduct.

5.1.3 A treasury may:

- (a) direct that a person other than an employee of the institution conducts the investigation; or
- (b) issue any reasonable requirement regarding the way in which the investigation should be performed.

5.1.4 The accounting officer must:

- (a) conduct the investigation within the period specified by the relevant treasury or, if no period is specified, within a reasonable period;
- (b) report to the relevant treasury on the outcome of the investigation;
- (c) advise the relevant treasury of any steps, including disciplinary action, the laying of criminal charges or the institution of civil proceedings, taken as a result of the investigation; and
- (d) advise the relevant treasury of any changes to its systems of financial and risk management or any other matter dealt with in the Act, as a result of the investigation.

5.2 Disciplinary proceedings

5.2.1 The accounting officer must advise the relevant treasury and the Auditor-General of any disciplinary proceedings instituted against an employee for financial misconduct, stating:

- (a) the name and rank of the person against whom proceedings are instituted;
- (b) the disciplinary charges, indicating the financial misconduct the person is alleged to have committed;
- (c) the period during which the alleged financial misconduct was committed; and
- (d) the proposed date of any disciplinary hearing.

5.2.2 A failure by the institution to report in terms of paragraph 5.2.1 does not constitute a procedural irregularity in any disciplinary proceedings for financial misconduct.

5.2.3 If a treasury believes that an employee of an institution may have committed financial misconduct, it may instruct the institution to institute disciplinary proceedings against the employee.

5.2.4 The accounting officer must advise the relevant treasury and the Auditor-General of the outcome of any such disciplinary proceedings, stating:

- (a) the finding of the disciplinary hearing;
- (b) any sanction imposed on the employee; and
- (c) any further action to be taken against the employee, including criminal charges or civil proceedings.

5.2.5 If an accounting officer obtains information that a former employee may have committed financial misconduct, it must report this to the relevant treasury and the Auditor-General. The report must contain the information set out in paragraph 5.2.1, read with the changes required by the context.

5.3 Criminal proceedings

5.3.1 The **institution** must advise the relevant treasury and the Auditor-General of any charges it has laid against any person for criminal financial misconduct.

5.3.2 The relevant treasury may direct an institution to lay charges of criminal financial misconduct against any person.

5.3.3 The institution must advise the relevant treasury and the Auditor-General of the outcome of any criminal proceedings instituted against any person for financial misconduct.

5.4 Contractors

5.4. If a treasury has reason to believe that a person with whom an institution has concluded or is about to conclude a contract, has committed financial misconduct, the treasury may request the institution to terminate, or not conclude, a contract with that person or to take any other action against that person.

5.4.2 The institution must comply with such a request unless it supplies written reasons to the treasury for not doing so.

5.5 General

5.5.1 Any report, instruction or advice in terms of these *Treasury Regulations* must be in writing.

PART 4

Revenue and expenditure management

6

Revenue management

6.1 Application of these *Treasury Regulations*

6.1.1 The *Treasury Regulations* in this chapter apply to the identification, collection, recording and safeguarding of all revenue for which the institution is responsible.

6.2 Responsibility for revenue management

6.2.1 The accounting officer must manage revenue efficiently and effectively by developing and implementing appropriate processes that provide for the identification, collection, safeguarding, recording and reconciliation of information about revenue.

6.2.2 Revenue management processes may include arrangements for accepting credit card payments, a facility for electronic funds transfer and any other facility for receipting amounts.

6.3 Services rendered by the state

6.3.1 The accounting officer must annually review all fees, charges or the rates, scales or tariffs of fees and charges that are not, or cannot, be fixed by any law and that relate to revenue accruing to the revenue fund. The relevant treasury must approve the proposed tariff structure.

6.3.2 Information on the tariff policy must be disclosed in the annual report.

Management of debtors

7.1 Application of these *Treasury Regulations*

- 7.1.1 The *Treasury Regulations* in this chapter apply to all debts accruing to an institution and include any amount owing to or receivable by the institution, such as accounts for charges for goods or services, fees or fines outstanding, wrongly granted remuneration and overpayments recoverable by the institution.

7.2 Responsibility for management of debtors

- 7.2.1 The accounting officer must take effective and appropriate steps to collect all money due to the institution including, as necessary:
- (a) maintenance of proper accounts and records for all debtors, including amounts received in part payment; and
 - (b) referral of a matter to the State Attorney to consider a legal demand and possible legal proceedings in a court of law.

7.3 Recovery of debts by installments

- 7.3.1 Unless otherwise prescribed, debts owing to the state (except cases where the conditions of payment are determined by law or agreement) may, at the discretion of the accounting officer, be recovered in installments.

7.4 Writing off of debts owing to the state

- 7.4.1 Any debt written off by an accounting officer must:
- (a) be disclosed as a note in the annual financial statements;
 - (b) only be written off after all reasonable steps have been taken to recover the debt, failing which the accounting officer will be held personally liable.
- 7.4.2 Wrongly granted remuneration may only be written off with the approval of the relevant treasury.

7.5 Interest payable on debts to the state

- 7.5.1 Interest must be charged on all debts to the state at the interest rate provided for in terms of section 80 of the Act.

Expenditure management

8.1 Responsibility of the accounting officer

- 8.1.1 The accounting officer must ensure that internal procedures and internal control measures are in place for payment approval and processing, including payments related to expenditure unique or peculiar to the institution.

8.2 Approval of expenditure

- 8.2.1 An official may not spend or commit to spending public money except with the express approval (either in writing or by duly authorised electronic means) of a properly delegated or authorised officer.
- 8.2.2 Before approving expenditure or incurring a commitment to spend, the delegated or authorised officer must ensure that any limitations or conditions attached to the delegation or authorisation are complied with.
- 8.2.3 Unless determined otherwise in a contract or other agreement, all payments due to creditors must be settled within 30 days from receipt of the invoice.

8.3 Vesting of expenditure on a particular vote

- 8.3.1 Should a dispute occur over the vesting of expenditure on a particular vote, the relevant treasury has to determine against which vote or subdivision the expenditure should be charged.

8.4 Cancellation and variation of contracts

- 8.4.1 **No contract** (excluding personnel contracts) can be cancelled or changed to the detriment of the state without prior approval of the relevant treasury.

Control of personnel costs

9.1 Managing personnel costs

- 9.1.1 Personnel cost management means the systems, procedures and processes an accounting officer must put in place in terms of sections 38(l)(a)(i) and 38@) of the Act to ensure the effective, efficient, economical and transparent management of the human resources of the institution. It includes provision for personnel appointments and resignations, remuneration and service conditions, payments to personnel, and the recording of the related transactions.
- 9.1.2 Personnel cost management processes must be in accordance with powers delegated by or authorisations issued by the accounting officer, and he or she must ensure adequate separation of duties and supervision. Activities relating to the authorisation of appointments, the authorisation of payments and the recording of those payments may not be performed by the same person.
- 9.1.3 The accounting officer must ensure that the personnel cost of all appointees, as well as promotion and salary increases can be met within the budgetary allocation of his or her institution.
- 9.1.4 When an employee resigns, any amounts owed to and goods of the institution must be recovered immediately.
- 9.1.5 Paying personnel costs includes:
- (a) ensuring that the personnel cost has been duly authorised by a duly delegated or authorised person;
 - (b) ensuring that any deductions from remuneration are authorised and correctly calculated;
 - (c) making the payment by secure means when it is due according to the cash management process.
- 9.1.6 Unless otherwise determined by the national Treasury, personnel are divided into the following groups for the payment of salaries:
- (a) *Group A*: Persons who must be paid on the 15th day of the month, or if it is not a working day, on the last working day preceding the 15th, and comprises:
 - (i) persons appointed permanently on the fixed establishment; and
 - (ii) persons appointed on contract.
 - (b) *Group B*: This group represents personnel paid on the last working day of the month and includes temporary and part-time staff, and persons appointed on probation.
- 9.1.7 With the exception of the Group A pay group, as per paragraph 9.1.6, salaries must not be paid in advance and any advances made in error must be recovered as soon as possible.
- 9.1.8 Recording personnel costs includes:
- (a) the identification and recording of all related transactions;
 - (b) the monthly reconciliation of salary and personnel costs;
 - (c) maintenance of an adequate audit trail;

- (d) obtaining information about personnel costs to allow the timely provision of relevant and reliable information to the institution's managers and for external reporting; and
- (e) safeguarding personal data against unauthorised use.

Transfer payment management

10.1 Transfer mechanism

10.1.1 **An** accounting officer must classify all transfers as follows:

- (a) transfers to another sphere of government;
- (b) transfers to an institution within that sphere of government under the control of that government;
- (c) transfers to any other non-government institution;
- (d) transfers to households;
- (e) any other transfers not covered above.

10.2 Transfers to another sphere of government

10.2.1 **An** accounting officer must ensure that any transfers to another sphere of government comply with the annual Division of Revenue Act for that financial year. Such transfers must include any grants-in-kind to a sphere of government totalling more than R20 million.

10.2.2 The accounting officer whose institution transfers or receives any grant from another sphere of government, and where such a grant is in terms of the annual Division of Revenue Act for that financial year, must comply with the reporting requirements of that Act.

10.3 Transfers to a listed public entity or any other institution

10.3.1 The accounting officer of an institution transferring funds to a public entity listed in terms of this Act, or any other institution that is subject to an audit by the Auditor-General, may transfer funds to that institution after receiving its most recent annual report, provided that this report includes an audit opinion on the financial statements and a statement on the system of financial management and internal controls. The accounting officer may only withhold the transfer of funds if informed by the Auditor-General that the public entity or institution does not comply with basic financial management and internal control systems.

10.4 Transfers to institutions not subject to audit by the Auditor-General

10.4.1 The accounting officer of any institution transferring funds not covered by the annual Division of Revenue Act, and where the transfer is not to a household, constitutional institution, public entity or an institution audited by the Office of the Auditor-General], must ensure that the institution receiving the grant submits a certificate of compliance with the conditions of section 38(1)(j) of the Act, including the receipt of the most recent audited statement and any annual report, before any funds are transferred. An accounting officer transferring funds to a school, hospital or clinic may delay implementation of this clause, but to no later than 31 January 2001.

- 10.4.2 The accounting officer transferring funds not covered by the annual Division of Revenue Act and which are not transfers to a household, must submit a report in a prescribed format to the relevant treasury 15 days after every quarter, outlining per institution all the funds transferred up to the end of that quarter. The annual report must include information per institution, as well as a report on compliance with section 38(1)(j) of the Act.

10.5 Managing transfer payments

- 10.5.1 Processes for transfer payment management must ensure compliance with all relevant legislation and government policies, and provide for the identification, approval, payment and recording of transfer payment expenses.
- 10.5.2 Approving transfer payment expenses includes:
- (a) incurring a transfer payment expense for authorised purposes only; and
 - (b) ensuring that:
 - (i) the beneficiary complied with the conditions, if any, attached to the previous year's assistance;
 - (ii) continued assistance and financial aid are still necessary;
 - (iii) the agreed objectives were attained; and
 - (iv) the transfer payment expense provides reasonable value for money in procuring programmed related to the functional responsibility of the institution.
- 10.5.3 A transfer payment must not be made unless and until:
- (a) proper assurance has been obtained that the payment is valid and the amount is correct;
 - (b) the institution has made adequate cash management arrangements.

Unauthorised, irregular, fruitless and wasteful expenditure

11.1 General

- 11.1.1 Accounting officers must exercise all reasonable care by implementing effective, efficient and transparent processes of financial and risk management to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure.
- 11.1.2 When the accounting officer or an official of an institution discovers instances of unauthorised or irregular expenditure, these must be reported immediately in writing to the relevant treasury. Where irregular expenditure was incurred in contravention of prescribed tender procedures, the relevant tender board must be notified.
- 11.1.3 Nothing in these *Treasury Regulations* prevents the accounting officer from acting against persons responsible for unauthorised, irregular, fruitless and wasteful expenditure.
- 11.1.4 The accounting officer must submit all documents and other information concerning unauthorised or irregular expenditure to the relevant treasury, and in the case of irregular expenditure incurred in contravention of prescribed tender procedures, to the relevant treasury and the relevant tender board.
- 11.1.5 In the case of unauthorised expenditure, the following steps must be taken:
- (a) The relevant treasury must conduct a thorough investigation into the matter; it may ask the Office of the Auditor-General for assistance.
 - (b) After the investigation, the relevant treasury may initiate disciplinary action against the accounting officer or any other official in terms of section 84 of the Act, or against other officials in terms of the Public Service Act, 1994. Wherever possible, the relevant treasury must initiate steps to recover any amounts it deems necessary, in terms of the *Treasury Relations*.
 - (c) The relevant treasury must submit a report to Parliament or the provincial legislature, which includes all the details of the unauthorised expenditure and steps taken against those responsible.
 - (d) Where Parliament or the provincial legislature does not authorise the unauthorised expenditure, the accounting officer must recover the amount in terms of these *Treasury Regulations*. If the accounting officer is unwilling to recover the amount, the relevant treasury must recover the amount from the accounting officer.
- 11.1.6 In the case of irregular expenditure, the relevant treasury or tender board may, after thorough investigation, condone the non-compliance with these *Treasury Regulations* or *Tender Board Regulations*, respectively. If such condonation is not granted, the following action must be taken:
- (a) any losses must be determined and recovered in terms of these *Treasury Relations*; and
 - (b) disciplinary steps must be taken in terms of section 84 of the Act where the person responsible for the irregular expenditure is the accounting officer of an institution; or

(c) disciplinary steps must be taken in terms of the Public Service Act, 1994.

- 11.1.7 Fruitless and wasteful expenditure must be recovered in accordance with these *Treasury Relations*.
- 11.1.8 All cases of unauthorised, irregular, fruitless and wasteful expenditure must be disallowed immediately. Any amount that cannot be recovered must be accepted as a charge against the expenditure item "Thefts and losses" (established under the programme where the unauthorised expenditure occurred) only after the prescribed procedures have been followed.
- 11.1.9 The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.
- 11.1.10 The accounting officer must implement any corrective steps recommended by the relevant treasury, tender board and/or the Standing Committee on Public Accounts.

PART 5

Assets and liabilities management

Asset management'

12.1 Responsibility for asset management

12.1.1 The accounting officer must take full responsibility and ensure that control systems over all current and non-current assets are in accordance with best practice and that:

- (a) preventative mechanisms are in place to eliminate theft, losses, wastage and misuse; and
- (b) stock levels are at an optimum and economical level.

12.1.2 The accounting officer must ensure that processes (whether manual or in electronic form) and procedures are in place for the effective, efficient, economical and transparent use of the institution's assets.

12.2 Immovable asset management

12.2.1 Any sale of immovable state property must be at market value (based on a willing buyer or willing seller in an orderly market situation) or, if market value cannot be obtained, a valuation based on the average of two valuations by independent valuers.

12.2.2 The letting of immovable state property must be at market-related tariffs, unless determined otherwise by the relevant treasury. No letting of state property shall be rendered free of charge without prior approval of the relevant treasury.

12.2.3 All fees, charges, rates, tariffs or scales of fees or other charges relating to the letting of state property must be reviewed annually by the accounting officer to ensure sound financial planning and management.

12.3 Assets accruing to the state by operation of any law

12.3.1 Where any money, property or right accrues to an institution by operation of law (*bona vacantia*), the responsible executive authority may exercise all powers, authority and prerogatives and fulfil any obligation on behalf of the state.

Borrowings, guarantees and contingent liabilities

13.1 General

- 13.1.1 **No national** or provincial institution may borrow money.
- 13.1.2 No provincial institution may issue a guarantee, security or indemnity that may bind the provincial revenue fund, except within the limits set by the Borrowing Powers of Provincial Government Act, 1996 and with the prior written approval of the relevant MEC responsible for Finance.
- 13.1.3 No constitutional institution may borrow money or issue a guarantee, security or indemnity.
- 13.1.4 No national institution may issue a guarantee, indemnity or security without the prior approval of the executive authority, acting with the concurrence of the Minister of Finance.
- 13.1.5 Except for the national Treasury and a national accounting officer who has a written approval from the Minister, no other accounting officer may enter the state into a liability in a foreign currency or concluded on a foreign financial market.
- 13.1.6 The accounting officer of an institution must ensure that no official in that institution borrows money on behalf of that institution, or issues an unauthorised guarantee, security or indemnity. The accounting officer must ensure that misconduct and criminal proceedings are instituted against any official responsible. Should the accounting officer be involved in borrowing money for the department, the executive authority must proceed with misconduct and criminal proceedings against the accounting officer.
- 13.1.7 Institutions allowed to open bank accounts in terms of the framework in Chapter 15 of these *Treasury Regulations* (issued in terms of section 7 of the Act) may not borrow for bridging purposes and must not run any overdrafts on their banking accounts.
- 13.1.8 The accounting officer must report on all contingent liabilities of his or her institution in its annual report.

Management of losses and claims

14.1 General

14.1.1 Subject to the provisions of these *Treasury Regulations*, or any other legislation or agreement, the state will bear its own damages and accident risks and be responsible for all claims and losses of state property where these arise from state activities by a person who is or was employed by an institution to which these *Treasury Regulations* apply.

14.1.2 Notwithstanding the above paragraph, the accounting officer may (if deemed economical and based on a risk assessment) insure movable assets, but the insurance premium cost may not exceed one million rand per annum on that vote, unless otherwise approved by the relevant treasury.

14.2 **Claims against the state and deficiencies, losses or damages caused through acts or omissions**

14.2.1 **An** institution may accept liability for any loss, damage or claim arising from an act or omission of an employee provided:

- (a) the act or omission was the cause of the loss, damage or reason for the claim;
- (b) the act or omission did not involve the use of alcohol or drugs;
- (c) the employee acted in the course of his or her employment;
- (d) the employee did not fail to comply with or ignore standing instructions. of which he or she was aware of or could reasonably have been aware of, which led to the loss, damage or reason for the claim; and
- (e) in the case of a loss, damage or claim arising from the use of a state vehicle, the employee:
 - (i) used the vehicle with authorisation for official purposes;
 - (ii) is in possession of a valid driver's licence or other appropriate licence;
 - (iii) used the vehicle in the interest of the state;
 - (iv) did not allow unauthorised persons to handle the vehicle: and
 - (v) did not deviate materially from the official journey or route without prior authorisation.

14.2.2 The accounting officer of the institution must consult the State Attorney on questions of law in the implementation of paragraph 14.2.1.

14.2.3 Any amount paid by an institution for losses, damages or claims arising from the act or omission of an employee must be recovered from the employee concerned unless the institution accepts liability in terms of paragraph 14.2.1.

14.3 **Claims by the state against other persons**

14.3.1 If the state suffers a loss or damage, the accounting officer must refer the matter to the State Attorney for legal action.

- 14.3.2 The State *Attorney* may only obligate the funds of an institution with the prior written approval of the accounting officer.

14.4 Claims by employees against the state

- 14.4.1 If an employee sustains a loss or damage in the execution of official duties and is not compensated, the accounting officer may make good the loss or damage provided that the state is liable in law for the loss or damage.

14.5 Losses or damages through criminal acts or omissions

- 14.5.1 When it appears that the state has suffered losses or damages through criminal acts or omissions, the matter must be reported, in writing, to the accounting officer and the South African Police Service. Where the person concerned is or was in state employment, the accounting officer must recover the value of the loss or damage from the person responsible.

14.6 Losses and damages through *vis major* and other unavoidable causes

- 14.6.1 The accounting officer may write off losses and damages that result from unavoidable causes.

14.7 Recovery of losses

- 14.7.2 If an employee caused the institution a loss or damage for which that employee is liable in terms of clause 14.2, the accounting officer must determine the amount and, in writing, order that employee to pay the amount within 30 days or in reasonable installments.

PART 6

Frameworks

Banking, cash management and investment

This chapter excludes the management of trust money.

15.1 Control of the national and provincial revenue funds

- 15.1.1 Each treasury is responsible for the effective and efficient management of its revenue fund.
- 15.1.2 Each treasury must ensure that the revenue fund at all times has sufficient money for appropriated expenditure and direct charges to meet the progressive cash flow requirements of the institutions that draw money from the fund, as required.
- 15.1.3 Each revenue fund consists, at any point in time, of all cash balances of the fund, derived from the relevant treasury's operating, investing and financing activities.

15.2 Bank account configuration

- 15.2.1 The bank account configuration for the National Revenue Fund comprises an Exchequer bank account, a Paymaster-General bank account with the South African Reserve Bank, the four tax and loan accounts with commercial banks, and any other bank account opened to facilitate the management of the National Revenue Fund. The national Treasury may open additional accounts on such terms and conditions as it may determine.
- 15.2.2 Each provincial revenue fund must have a bank account configuration that consists of at least an Exchequer bank account and a Paymaster-General bank account, opened with a commercial bank.
- 15.2.3 If the accounting for an institution necessitates a separate bank account, the relevant treasury may approve one subaccount within the Paymaster-General account of the relevant revenue fund. Such subaccounts remain an integral part of the bank account configuration of the relevant revenue fund.

15.3 Deposits into the revenue funds

- 15.3.1 In terms of sections 11(3) and 21(2) of the Act. money is paid into a revenue fund by depositing it into a bank account in accordance with the configuration requirements prescribed above.
- 15.3.2 Money deposited into the Paymaster-General account must immediately be available to the relevant treasury for funding expenditure or investment according to its central cash management responsibilities.

15.4 Responsibilities of the South African Revenue Service

- 15.4.1 The South African Revenue Service must supply the relevant treasury with an annual revenue projection no later than the 10th working day of March preceding the start of the financial year. It must also submit an updated monthly revenue projection for the remainder of the year, no later than the 15th working day of each month.
- 15.4.2 For purposes of section 12 of the Act, the South African Revenue Service must implement measures to ensure that all taxes, levies, duties, fees and other money due to and collected by it for a revenue fund are accounted for and deposited daily into the relevant fund. The relevant treasury must be informed daily of such revenue and its standard revenue classifications.

15.5 Responsibilities of departments and constitutional institutions

- 15.5.1 For purposes of sections 13 and 22 of the Act, all revenue in excess of R500 received by a department or constitutional institution must be paid daily into the Paymaster-General account of the relevant revenue fund. This revenue must be accounted for in the ledger in the prescribed control accounts and paid over to the relevant treasury by the last working day of the month. The treasury must issue a receipt, deposit the revenue into the Exchequer bank account of the revenue fund and account for it in accordance with the standard revenue classifications.
- 15.5.2 Money collected by a department or constitutional institution, which is not classified as revenue, must be paid into the institution's Paymaster-General account and accounted for in its ledger. This includes, for example, money received for agency services provided to another department or constitutional institution.

15.6 Withdrawals from and investments in revenue funds

- 15.6.1 Provincial treasuries may, in accordance with section 24 of the Act, temporarily invest surplus money in the provincial revenue fund in an account in South Africa, approved as part of the bank account configuration of the fund.

15.7 Requisitioning of funds by departments

- 15.7.1 When requesting the transfer of appropriated funds, accounting officers of national departments must submit such requisitions to the national Treasury in accordance with approved cash flow estimates at least four full working days before the end of the month preceding the month in which the funds are required. Provincial treasuries may determine their own time scales in this regard.
- 15.7.2 Provincial treasuries will receive their appropriated funds from the National Revenue Fund in accordance with the cash flow schedule determined in terms of the annual Division of Revenue Act.

15.8 Surrender of surplus funds

- 15.8.1 At the end of each-financial year, and after the books of account of a department or constitutional institution have been closed, the accounting officer must surrender to the relevant treasury any unexpended money, for redepositing into the Exchequer bank account of the relevant revenue fund.

- 15.8.2 Accounting officers of trading entities must, at the end of each financial year and after books of account have been closed, declare any surplus or deficit to the relevant treasury. The treasury may apply such surplus to reduce any proposed allocation to the trading entity, or require that all or part of it be redeposited in the Exchequer bank account.
- 15.8.3 Where a trading entity suffers a deficit in trading, the relevant treasury must investigate whether:
- (a) the accounting officer of the trading entity mentioned any foreseeable overexpenditure in his or her monthly reports;
 - (b) appropriate steps were taken to address the deficit; and
 - (c) financial misconduct and criminal sanctions should be instituted if (a) and (b) above were not adhered to.

15.9 Accounting and reporting

- 15.9.1 Each treasury must account daily for the cash movements of all bank accounts in the books of its revenue fund.
- 15.9.2 Each treasury must report monthly to the Minister or MEC responsible for Finance on its revenue fund.

15.10 Responsibility for cash management and banking

15.10.1 General

- 15.10.1. The accounting officer, through the chief financial officer, "is responsible for establishing systems, procedures, processes and training and awareness programmed to ensure efficient and effective banking and cash management.

- 15.10.1.2 For purposes of these *Treasury Regulations*, sound cash management includes:

- (a) collecting revenue when it is due and banking it promptly;
- (b) making payments, including transfers to other levels of government and non-government entities, no earlier than necessary, with due regard for efficient, effective and economical programme delivery and the government's normal terms for account payments;
- (c) avoiding prepayments for goods or services (i.e. payments in advance of the receipt of the goods or services), unless required by the contractual arrangements with the supplier;
- (d) accepting discount to effect early payment only when the payment has been included in the monthly cash flow estimates provided to the relevant treasury;
- (e) pursuing debtors with appropriate sensitivity and rigour to ensure that amounts receivable by the government are collected and banked promptly;
- (f) accurately forecasting the institution's cash flow requirements so that the national Treasury can optimise its central cash management responsibilities (borrowing to cover cash shortfalls and investing cash surpluses) on behalf of the government;
- (g) timing the in- and outflow of cash;
- (h) recognizing the time value of money, i.e. economically, efficiently and effectively managing cash; and
- (i) taking any other action that avoids locking up money unnecessarily and inefficiently, such as managing inventories to the minimum level necessary for efficient and effective programme delivery,' and selling surplus or underutilised assets.

15.10.2 Systems, accounting records, procedures and monitoring

15.10.2.1 The chief financial officer must ensure that the institution's systems, records and statements of procedures can meet the purposes of sound cash management.

15.10.2.2 The chief financial officer must monitor the institution's cash management performance on a regular basis and report to the accounting officer, in writing, at least monthly.

15.10.3 Banking arrangements

15.10.3.1 **Departments, trading entities or constitutional institutions** may not open a bank account without the written approval of the relevant treasury.

15.11 Private money, private bank accounts and cashing private cheques

15.11.1 Private money may not be deposited into an official bank account, except in accordance with the provisions relating to money held in trust for other persons or bodies; nor may state money be paid into a private bank account.

15.11.2 The safekeeping of private money or personal possessions in a state safe or strongroom is prohibited. However, an accounting officer or a person authorised by the accounting officer may approve arrangements for safeguarding personal effects reasonably held on official premises in the course of official duty (e.g. by providing lockable rooms for staff).

15.11.3 State money may not be used to cash private cheques.

15.12 Warrant vouchers, cheques and electronic payments

15.12.1 Accounting officers must assign authority in writing to officials to approve warrant vouchers, cheques or electronic payments.

15.12.2 Officials must sign hand-drawn vouchers or cheques and initial the counterfoils.

15.12.3 All payments in excess of R10 000 must be effected electronically unless otherwise approved by the relevant treasury.

15.12.4 All warrant vouchers and cheques must have at least a crossing of "NOT NEGOTIABLE" between parallel lines. The cancellation of such a crossing is not permitted.

15.12.5 When a warrant voucher or cheque is lost, stolen or damaged, an instruction to stop payment must immediately be issued to the responsible bank. The transaction must be reversed and a new warrant voucher or cheque issued and accounted for.

Public-private partnerships

16.1 Definitions

“**affordable**”, in relation to a **public-private partnership (PPP)** agreement, means that the financial commitments to be incurred by a department in terms of the agreement can be met by funds:

- (a) designated within the department’s existing budget for the departmental function to which the agreement relates; and
- (b) destined for the department in accordance with the relevant treasury’s future budgetary projections for the department.

“departmental function” means:

- (a) a service, task, assignment or other function that a department **performs**:
 - (i) in the public interest; or
 - (ii) on behalf of the public service generally; or
- (b) any part or component of, or in support of, such a service, task, assignment or other function;
- (c) but excludes a service, task, assignment or other function that is not of an ongoing nature.

“**net cost**”, in relation to a departmental function means the full accounting cost of

- (a) performing the function, less any charges or fees collected from users; and
- (b) from consumers for services provided to them in performing the function.

“private party“, in relation to a PPP agreement means a party to a PPP agreement other than:

- (a) an institution to which the Act applies;
- (b) a municipality or an enterprise or other entity controlled by one or more municipalities; or
- (c) the accounting officer, accounting authority or other person or body acting on behalf of an institution, municipality, enterprise or entity referred to in paragraph (a) or (b).

“public-private partnership agreement” means an agreement between a department and a private party in terms of which:

- (a) the private party undertakes to perform a departmental function on behalf of the department for a specified or indefinite time;
- (b) the private party receives a benefit for performing the function, either by way of:
 - (i) compensation from a revenue fund;
 - (ii) charges or fees collected by the private party from users or customers of a service provided to them; or
 - (iii) a combination of such compensation and such charges or fees;
- (c) the private party is generally liable for the risks arising from the performance of the function, subject to paragraph 16. 13.1; and
- (d) depending on the specifics of the agreement. state facilities. equipment or other state resources may be transferred or made available to the private party.

The definition excludes an agreement or category of agreements exempted by the national Treasury in terms of clause 16.12.

“**public sector comparator**” means an estimate of the net cost of performing a departmental function in accordance with methods employed and subject to conditions prevailing at the department concerned.

“**value for money**” means that the net cost of the departmental function, if performed by a private party in terms of a public-private partnership agreement, will:

- (a) be lower than the public sector comparator; and
- (b) be of a standard at least equivalent to the standard of the function as performed by the institution.

16.2 General responsibilities of accounting officers

16.2.1 The accounting officer is responsible for ensuring that the institution complies with these *Treasury Relations* and, to this end, implements systems and procedures that:

- (a) provide safeguards against favouritism, improper practices and opportunities for fraud, theft and corruption; and
- (b) are open, competitive and transparent.

16.3 Exclusive competency of accounting officers

16.3.1 Only an accounting officer may enter into a PPP agreement on behalf of the institution.

16.4 Treasury approval

16.4.1 The accounting officer may not enter into a PPP agreement without the prior written approval of:

- (a) the national Treasury; or
- (b) the relevant provincial treasury, if it is a provincial institution and the national Treasury has, in terms of section 10(1)(b) of the Act, delegated the appropriate powers to the provincial treasury.

16.4.2 The relevant treasury may give such approval only if it is satisfied that the proposed PPP agreement will:

- (a) provide value for money; and
- (b) be affordable for the institution.

16.4.3 When a provincial treasury gives such approval, it must exercise its delegated powers subject to any limitations and qualifications in terms of the national Treasury's delegation.

16.5 Feasibility analysis

16.5.1 To determine whether a proposed PPP agreement is in the best interests of an institution, the accounting officer must prepare a feasibility analysis that:

- (a) describes in specific terms:
 - (i) the nature of the institutional function concerned; and
 - (ii) the extent to which this-function, both legally and by nature, can be performed by a private party in terms of a PPP agreement;
- (b) assesses whether the agreement will:
 - (i) provide value for money; and
 - (ii) be affordable for the institution;

- (c) includes any relevant information, figures and the economic criteria used to justify these assessments; and
 - (d) explains the capacity of the institution to effectively enforce the agreement, including to monitor and regulate implementation of and performance in terms of the agreement.
- 16.5.3 If an institution lacks the expertise to assess value for money and affordability or to interpret any PPP agreement offered to it by a private party, the accounting officer of the institution:
- (a) must inform the relevant treasury accordingly; and
 - (b) if the relevant treasury so requests, must appoint a specialist consultant for this purpose.

16.6 **Submission to obtain treasury approval**

- 16.6.1 If the feasibility analysis indicates that a PPP agreement will be in the best interests of the institution, and the institution intends to procure the agreement, the accounting officer must apply for treasury approval in terms of clause 16.4 to:
- (a) the national Treasury; or
 - (b) the relevant provincial treasury, if it is a provincial institution and the national Treasury has, in terms of section 10(1)@) of the Act, delegated the appropriate powers to the provincial treasury.
- 16.6.2 The application must be accompanied by:
- (a) a copy of the institution's feasibility analysis; and
 - (b) any other information required by the relevant treasury.

16.7 **Procurement**

- 16.7.1 **An institution** may not proceed with the procurement of a PPP agreement unless it has obtained written treasury approval in terms of clause 16.4.
- 16.7.2 A PPP agreement must be procured in accordance with applicable procurement legislation.
- 16.7.3 The procurement procedure must include:
- (a) an open and transparent pre-qualification process;
 - (b) a competitive bidding process in which only pre-qualified organisations may participate; and
 - (c) criteria for the evaluation of bids to identify the bid that represents the best value for money.
- 16.7.4 The procurement procedure may include:
- (a) a preference for categories of bidders, such as persons disadvantaged by unfair discrimination, provided that this does not compromise the value for money requirement; and
 - (b) incentives for recognizing and rewarding genuine innovators in the case of unsolicited proposals, provided that these incentives do not compromise the competitive bidding process.

16.8 Contracting public-private partnership agreements

- 16.8.1 Before the accounting officer of an institution enters into a PPP agreement, he or she must:
- (a) obtain approval from the relevant **treasury** for all **budgetary** commitments; and
 - (b) ensure that the financial commitments in terms of the agreement:
 - (i) are denominated in **rand**; and
 - (ii) will not be affected by fluctuations in the value of the **rand** against other currencies.

16.9 Management of public-private partnership agreements

- 16.9.1 The accounting officer is responsible for ensuring that a PPP agreement is properly enforced, and must establish mechanisms and procedures for:
- (a) monitoring and regulating the implementation of, and performance in terms of, the agreement;
 - (b) liaising with the private party;
 - (c) resolving disputes and differences with the private party; and
 - (d) generally overseeing the day-to-day management of the agreement.
- 16.9.2 A PPP agreement does not divest the accounting officer of the responsibility for ensuring that the relevant institutional function is effectively and efficiently performed in the public interest.

16.10 Amendment of public-private partnership agreements

- 16.10.1 Only the accounting officer may enter into an agreement to amend a PPP agreement, and only with the prior written approval of the national Treasury.
- 16.10.2 The national Treasury will approve an amendment only if it is satisfied that the amended PPP agreement will:
- (a) provide value for money;
 - (b) be affordable for the institution; and
 - (c) generally be in the best interests of the institution.
- 16.10.3 The accounting officer must substantially follow the procedure prescribed by clauses 16.5 and 16.6 for obtaining treasury approval.

16.11 Certain agreements not binding on the state

- 16.11.1 A PPP agreement and an agreement amending a PPP agreement do not bind the state if the agreement was entered into on behalf of an institution:
- (a) by a person other than the accounting officer of the institution; or
 - (b) without the approval of the national Treasury.

16.12 Exemptions

- 16.12.1 The national Treasury may exempt from the application of these *Treasury Regulations* any agreement or category of agreements that fall within the definition of "public-private partnership agreement", if these are of a nature or have a monetary value deemed not to warrant treasury control.

16.13 General

- 16.13.1** An agreement between an institution and a private party for the latter to perform an institutional function without accepting the significant risks is not a PPP agreement and must be dealt with as a borrowing transaction in terms of the appropriate legislation.

PART 7

Accounting and reporting standards

17

Basic accounting records and related issues

17.1 Use of control accounts

17.1.1 All transactions must be supported by authentic and verifiable source documents, clearly indicating the approved accounting allocation.

17.1.2 Should it be necessary, in exceptional cases, to account for a transaction in a control account because the classification has not been resolved, the accounting officer, or his or her designate, must ensure that:

- (a) the sources of the transactions are readily identifiable;
- (b) amounts included in the control accounts are, each month, cleared and correctly allocated to the relevant cost centres;
- (c) monthly reconciliations are performed to confirm the balance of each account: and
- (d) reports are provided to the chief financial officer about uncleared items that have been in the institution's control accounts for more than six months.

17.2 Availability of financial information

17.2.1 Accounting officers must, subject to the provisions of the National Archives of South Africa Act, 1996 (No. 43 of 1996), retain *all* financial information in its original form, as follows:

- (a) information relating to one financial year – for one year after the tabling in Parliament or the provincial legislature of the audit report for the financial year in question: or
- (b) information relating to more than one financial year - for one year after the date of the audit report for the last of the financial years to which the information relates.

17.2.2 After the expiry of the above retention periods, the information may, if required, be secured in an alternative form that ensures the integrity and reliability of the data and ensures that the information can be reproduced, if necessary, as permissible evidence in a court of law.

17.2.3 Irrespective of paragraph 17.2.1, the following standards apply to the retention of certain types of record:

Type of record	Number of years after which records can be disposed of
General ledger and cash books or similar records	15
Main transaction summary records, including general journals and transaction summaries	10
Internal audit reports	
System appraisals	

Primary evidentiary records, including copies of forms issued for value, vouchers to support payments made, pay sheets, returned warrant vouchers or cheques , invoices and similar records associated with the receipt or payment of money	5
Subsidiary ledgers, including inventory cards and records relating to assets no longer held or liabilities that have been discharged	
Supplementary accounting records, including, for example, cash register strips, bank statements and time sheets	5
General and incidental source documents not included above, including stock issue and receivable notes, copies of official orders (other than the copies used to substantiate payments or for unperformed contracts), bank deposit books and post registers	5

- 17.2.4 When financial information is required as evidence in proceedings before a court, Parliament, a provincial legislature, an official inquiry or otherwise, or for purposes of an audit, it must be secured in its then current form until no longer required, even if the national Archivist has authorised its disposal.

17.3 Changes to financial systems

- 17.3.1 Institutions must not amend existing or institute new computerised systems that will affect financial administration without first consulting the national Treasury.

Financial reports, annual financial statements and annual reports

18.1 Reports of anticipated and actual expenditure and revenue by departments and provinces

- 18.1.1 The accounting officer must annually submit to the relevant treasury a breakdown of anticipated revenue and expenditure in the format prescribed in **Annexure 2**, no later than the last working day of February preceding the financial year to which it relates.
- 18.1.2 Once such amounts have been approved, modified as necessary after consultation with the relevant treasury, the accounting officer may not draw from the revenue fund more than the amount approved for a month, without prior written approval from the relevant treasury.
- 18.1.3 If the accounting officer deems it necessary to adjust the approved projections, the proposed adjustments must be motivated to the relevant treasury for evaluation against the availability of funds in the Exchequer.
- 18.1.4 In terms of subsections 40(4)(b) and (c) of the Act, the accounting officer must submit to the relevant treasury and executive authority within 15 days of the end of each month, information on:
- (a) the actual revenue and expenditure for the month just ended, in the format set out in **Annexure 3**;
 - (b) projections of anticipated expenditure and revenue for the remainder of the current financial year in the same format as **Annexure 3**; and
 - (c) any material variances and a summary of actions to ensure that the projected expenditure and revenue remain within the budget.
- 18.1.5 To enable the national Treasury to publish reports on the state of the budget in terms of section 32 of the Act, provincial treasuries must submit projections of their expenditure, revenue and borrowings on or before the last working day of February, in the format set out in **Annexure 4**. Actual expenditure must be submitted by the 22nd day of each month in the format set out in **Annexure 5**.
- 18.1.6 Pursuant to paragraph 18.1.5, provincial treasuries must submit a certificate to the effect that the information supplied in **Annexures 4** and **5** has been verified.

18.2 Form and content of annual financial statements

- 18.2.1 For the financial year ending on 31 March 2001, the following reporting standards comprise generally recognised accounting practice and must be adhered to, unless otherwise approved by the national Treasury:

Reporting entity	Generally recognised accounting practice
National and provincial revenue funds	<p>Annual financial statements must consist of:</p> <p>(a) a statement of liabilities and financially related assets;</p> <p>(b) an income statement;</p> <p>(c) a cash flow statement;</p> <p>(d) notes to the annual financial statements;</p> <p>(e) a report on the financial position of and performance by the Treasury; and</p> <p>(f) such other statements as may be prescribed by the Accounting Standards Board.</p> <p>The annual financial statements must be prepared on a cash basis and must be accompanied by the audit opinion of the Auditor-General.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the relevant revenue fund.</p>
Departments Parliament Provincial legislatures	<p>Annual financial statements must consist of</p> <p>(a) a balance sheet;</p> <p>(b) an income statement;</p> <p>(c) a cash flow statement;</p> <p>(d) notes to the annual financial statements; and</p> <p>(e) such other statements as may be prescribed by the Accounting Standards Board.</p> <p>The statements must be prepared on a cash basis and be accompanied by the audit opinion of the Auditor-General.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the institution.</p>
Trading entities Constitutional institutions Public entities	<p>Annual financial statements must consist of:</p> <p>(a) a balance sheet;</p> <p>(b) an income statement;</p> <p>(c) a cash flow statement;</p> <p>(d) notes to the annual financial statements; and</p> <p>(e) such other statements as may be prescribed by the Accounting Standards Board.</p> <p>The annual financial statements must be accompanied by the audit opinion of the Auditor-General or the relevant auditor (in the case of public entities),</p> <p>Unless otherwise approved by the national Treasury, the annual financial statements must, in conformity with <i>Statements of Generally Accepted Accounting Practice</i> issued by the South African institute of Chartered Accountants, fairly represent the financial position, financial performance and cash flows of the institution at the end of the financial year concerned.</p> <p>The annual financial statements must, by means of figures and a descriptive report, explain any other matters and information material to the affairs of the institution.</p>

18.3 Contents of annual reports

18.3.1 In preparing the annual report of an institution, the accounting officer must:

- (a) in the case of a department or trading entity, comply with the requirements prescribed in Chapter 1, Part III B of the *Public Service Regulations, 1999*;
- (b) include information about the institution's efficiency, economy and effectiveness in delivering programmed and achieving its objectives and outcomes against the

measures and indicators set out in any strategic plan for the year under consideration.

- (c) include any additional information required by Parliament or the provincial legislature; and
- (d) report on the use of foreign aid assistance, detailing the source and intended use of the assistance (including the value of any aid-in-kind in South African rand), performance information on the institution's use of the assistance, and any pending applications for assistance.

18.3.2 The provisions of 18.3. 1(b) become applicable from 1 April 2002.

18.4 **Additional annual reporting requirements for departments controlling trading entities and public entities**

18.4.1 A department's annual report must include a list of trading and/or public entities controlled by the department, together with:

- (a) an indication of the legislation under which the trading and/or public entity was established;
- (b) a statement of the functions of each trading and/or public entity; and
- (c) the accountability arrangements established between the accounting officer and the management of the trading or public entity.

Money and property held in trust

19.1 Responsibility for trust money and property

- 19.1.1 For purposes of these *Treasury Regulations*, trust money or property is money or property held by an institution on behalf of other persons or entities in terms of a deed of trust or equivalent instrument that details the specific purposes for which it may be used.
- 19.1.2 The accounting officer, through the chief financial officer or a duly authorised agent, is responsible for the safekeeping and proper use of trust money and property, in accordance with the relevant deed of trust or equivalent instrument and subject to national Treasury control.
- 19.1.3 The institution, or its duly authorised agent, may charge a fee for the administration of a trust account at rates approved by the board of trustees or, in its absence, by the relevant treasury. Such fees shall be payable from the trust account and are revenue accruing to the relevant revenue fund.

19.2 Trust money must be kept in a trust account

- 19.2.1 The accounting officer must, for each separate portion of trust money:
- (a) open and maintain a separate bank account, called a trust account;
 - (b) assign the trust account a name or title that clearly identifies the account;
 - (c) maintain separate accounting records for each trust account, of the transactions, including investment transactions, undertaken; and
 - (d) include in the annual financial statements, by way of separate financial statements in the prescribed format, a summary of the receipts, expenditures, investment transactions and opening and closing balances of each trust account.

19.3 Investment of trust money

- 19.3.1 The accounting officer may, provided that it does not conflict with the terms of the trust arrangement, invest any trust money on such terms and conditions as may seem appropriate:
- (a) on deposit with any bank within or outside South Africa as approved by the national Treasury;
 - (b) in public securities issued by the government; or
 - (c) in other securities approved by the national Treasury.
- 19.3.2 The proceeds of an investment, including interest and realised capital gains, and all money received from the realisation, sale or conversion of securities, shall be treated as money of the trust on whose behalf the money was invested.

19.4 **Return of trust money and unclaimed trust money**

- 19.4.1 When trust money becomes repayable to the depositor, or to another person entitled thereto, interest shall be payable according to any conditions that apply to the management of the trust money.
- 19.4.2 Any trust money unclaimed for a year (or such longer period as the national Treasury may direct) after becoming payable is, together with any interest, deemed to be state money and must be transferred to the Exchequer bank account of the relevant revenue fund.
- 19.4.3 If any person, to the satisfaction of the relevant treasury, makes a valid claim to trust money that has been deemed state money, the money shall be paid to that person out of the relevant revenue fund, in terms of section 15(1)(c) and 24(1)(b) of the Act.

PART 8

Miscellaneous

Trading entities

20.1 Definitions

“**charge**”, for goods or services, includes a fee but does not include a fine, levy or tax.

“**full cost**” of goods or services means all costs attributable to the goods or services, including:

- (a) direct and indirect labour and management costs;
- (b) materials;
- (c) costs of physical assets consumed; and
- (d) taxes and tax equivalent costs, other than income tax.

“goods” include products and items.

“services” include professional services.

“**trading entity**” means an entity operating within the administration of a department for the provision or sale of goods or services, and established by a department with the approval of the relevant treasury.

“**user**” of goods or services means an entity or person that uses the goods or services supplied by a trading entity.

20.2 Establishment

20.2.1 Trading entities can be established when a department renders to any user goods or services for which a charge to recover full cost can be levied. National departments require national Treasury approval to establish trading entities; provincial departments require approval by the relevant provincial treasury.

20.2.2 Provincial treasuries may only establish new trading entities after consultation with the national Treasury.

20.3 Capital requirements

20.3.1 The initial capital requirements of the trading entity must be determined in consultation with the relevant treasury, and increases in such requirements are also subject to treasury approval.

20.3.2 In deciding charges for goods or services, the accounting officer of the trading entity must aim to recover the full cost of providing the goods or services, unless the relevant treasury approves lower charges.

20.3.3 The accounting officer must review rates for user charges at least once a financial year (to ensure capital maintenance), and any tariff increases are subject to approval by the relevant treasury.

20.4 Policy for fixed asset depreciation

20.4.1 The accounting officer of the trading entity must determine an accounting policy for the depreciation of fixed assets, in consultation with the relevant treasury.

20.5 Disposal of assets

20.5.1 When assets are disposed of in a transaction that is abnormal compared to the normal operating activities of the trading entity, the transaction must be approved by the relevant treasury and the proceeds deposited into the relevant revenue fund.

20.6 Surrender of surplus funds

20.6.1 Surplus funds must be dealt within accordance with the provisions of paragraph 15.8.2.

20.7 Applicability of other *Treasury Regulations*

20.7.1 Unless otherwise stated, trading entities must be operated in accordance with all other *Treasury Regulations*.

Commissions and Committees of Inquiry

21.1 Definitions

“**commission**” means a commission of inquiry appointed by the President to investigate a matter of public concern and does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

“**committee**” means a committee of inquiry appointed by the executive authority and includes an interdepartmental committee of inquiry, but does not include any permanent commission, board, council, committee or similar body, whether appointed pursuant to any law or otherwise.

“**non-official member**” means a person who is not an official member.

“**official member**” means a person as defined in section 8(1) of the Public Service Act, 1994 (Proclamation No. R. 103 of 1994), a member of Parliament or a judge, as well as a person employed by a body established by an Act of Parliament that receives its funds wholly, or in part, from the National Revenue Fund and who represents the department or body where he or she is employed as a member of a commission or committee.

21.2 Remuneration of members

21.2.1 An official member must receive no additional remuneration and must receive subsistence and other allowances in accordance with his or her conditions of service.

21.2.2 A non-official member must be remunerated according to scales approved by the national Treasury.

21.2.3 Should non-official members not be prepared to accept their remuneration packages, the accounting officer, in consultation with the executive authority, can determine such remuneration without consulting the national Treasury, provided that:

- (a) the terms of reference are properly defined in terms of time and cost;
- (b) the tariffs are reasonable compared to current market tariffs; and
- (c) funds are available for this purpose.

21.3 Services rendered by members during private time

21.3.1 Should the chairperson request a non-official member of a commission or committee to render services in his or her private time, other than the normal preparations for meetings, the person may be paid an honorarium (within the budget), as determined by the accounting officer and the executive authority. In the case of official members, section 30 of the Public Service Act must be complied with.

Gifts, donations and sponsorships

22.1 Granting of gifts, donations and sponsorships by the state

- 22.1.1 The relevant treasury may approve gifts, donations and sponsorships of state money and other movable property in the interest of the state, provided that when such cash amounts exceed R 100000, funds must first be voted by Parliament or the provincial legislature.
- 22.1.2 Accounting officers need not refer to the relevant treasury when gifts, donations and sponsorships in the interest of the state do not exceed R 10000.

22.2 Acceptance of gifts, donations and sponsorships to the state

- 22.2.1 Approval must be obtained from the accounting officer before any gift, donation or sponsorship to the state, whether in cash or kind, is accepted, provided that there are no recurrent costs to the state.
- 22.2.2 All gifts, donations or sponsorships in cash must be paid into the relevant revenue fund.
- 22.2.3 Where it is not apparent for what purpose a gift, donation or sponsorship should be applied, the Minister or the MEC responsible for Finance may decide how it must be utilised. Where a gift is in cash, the Minister or the MEC responsible for Finance may, notwithstanding any provision to the contrary in any law, direct that for purposes of the Act, the gift is deemed to be revenue accruing to the revenue fund.
- 22.2.4 All gifts, donations or sponsorships received during the course of the financial year must be disclosed as a note to the annual financial statements of the institution.
- 22.2.5 Donor funding received in terms of the Reconstruction and Development Fund Act (No. 7 of 1994, as amended by Act No. 79 of 1998) must be dealt with as prescribed by the treasury from time to time.

22.3 Donations of immovable property by the state

- 22.3.1 The relevant treasury's approval must be obtained before institutions offer any gift of immovable property.
- 22.3.2 Institutions must submit to the relevant treasury the reasons for and the conditions under which the gift of immovable property is offered.

22.4 Donations of immovable property to the state

- 22.4.1 The relevant treasury's approval must be obtained before any institution accepts any gift of immovable property.

22.4.2 Institutions must submit to the relevant treasury the purpose of and conditions under which the gift of immovable property is offered.

22.5 Identity of donors and sponsors

22.5.1 When a donor *or* sponsor requests to remain anonymous, the accounting officer must submit to the relevant treasury a certificate from both the Public Protector and the Auditor-General that the identity of the donor or sponsor has been revealed to them, that they have noted it and have no objection.

22.5.2 The above provision in no way limits the Auditor-General or the Public Protector from supplying this information to their staff, and where they deem it in the public interest, to report on this.

22.5.3 When a donor or sponsor objects to these stipulations, the donation or sponsorship must be rejected.

Payments, refunds and remissions as an act of grace or favour

23.1 General

- 23.1.1 The principles in this chapter apply to payments, refunds and remissions as an act of grace or favour pertaining to institutions.
- 23.1.2 Where no legislative authority exists, the accounting officer must seek approval from the relevant treasury prior to:
- (a) the remission of money due to a revenue fund; and
 - (b) payments and refunds from a revenue fund as an act of grace or favour; and
 - (c) where:
 - (i) more than R 100000 is involved, seek Parliament or provincial legislature approval by including the item separately in the estimates of expenditure and, in the case of remissions, recouping the revenue by a payment from the relevant vote; and
 - (ii) R100 000 or less is involved, the revenue, in the case of remissions, must be recouped by means of a payment from the relevant vote.
- 23.1.3 Where there is doubt as to whether an amount may be written off as irrecoverable or should be treated as a remission of grace, the relevant treasury must make the decision.
- 23.1.4 All remissions, refunds or payments made as an act of grace or favour during the financial year must be disclosed as a note to the annual financial statements of the institution.

Public entities

24.1 General

- 24.1.1 In addition to this chapter, Chapter 4 (Corporate management), Chapter 5 (Financial misconduct) and clause 18.2 of Chapter 18 (Financial reports, annual financial statements and annual reports) also apply to public entities. Reference to accounting officers in the aforementioned chapters should be construed as accounting authorities. Further, reference to employees refer to employees of public entities.
- 24.1.2 Public entities must submit all information required by the national Treasury in terms of the Act to the Registrar of Public Entities established within the national Treasury.

24.2 Listing

- 24.2.1 **The** executive authority responsible for a public entity must designate an accounting officer of a department, under the executive authority, to whom corporate plans in terms of section 52 of the Act and budgets of estimated revenue and expenditure in terms of section 53 of the Act must be submitted.
- 24.2.2 The executive authority must inform the Minister of Finance no later than 1 October 2000 of any public entities under his or her ownership control not listed in either Schedule 2 or 3 of the Act.
- 24.2.3 The accounting authority of a department should obtain Treasury approval if the department intends to establish a public entity. The following information must be submitted to the Registrar of Public Entities:
- (a) motivation for the establishment of an entity;
 - (b) in the case of a provincial entity, the approval of the provincial treasury;
 - (c) intended mandate of the public entity;
 - (d) name of the proposed entity;
 - (e) executive authority;
 - (f) proposed date of incorporation;
 - (g) responsibility for the appointment of the chief executive authority;
 - (h) responsibility for the appointment of the board of directors;
 - (i) proposed subsidiaries;
 - (j) enabling legislation;
 - (k) contact person(s);
 - (l) company secretary;
 - (m) financial implications for the relevant revenue fund;
 - (n) corporate plan, as contemplated in section 52 of the Act, indicating:
 - (i) capital needs;
 - (ii) future financial demands on a revenue fund.
- 24.2.4 An accounting authority of a public entity not listed in terms of section 47(2) of the Act must submit the following information to the Registrar of Public Entities:
- (a) name of the public entity;

- (b) mandate of the public entity;
- (c) executive authority responsible for the public entity;
- (d) enabling legislation;
- (e) date of incorporation;
- (f) board members;
- (g) registered address and telephone numbers;
- (h) executive management;
- (i) company secretary;
- (j) responsibility for the appointment of the chief executive authority;
- (k) responsibility for the appointment of the board of directors;
- (l) subsidiaries;
- (m) audited annual financial statements;
- (n) amount of budgetary transfers received over the past three financial years;
- (o) corporate plan as contemplated in section 52 of the Act.

24.3 Contingent liabilities and borrowing

24.3.1 National public entities listed in Schedule 3A and provincial public entities listed in Schedule 3C may not borrow money except for bridging purposes, with the approval of the Minister of Finance, subject to the following conditions:

- (a) the debt must be cleared within the current financial year;
- (b) the provisions of the Borrowing Powers of Provincial Government Act, 1996 are adhered to and prior written approval is obtained from the MEC responsible for Finance (in the case of provincial public entities);
- (c) borrowing may not exceed a limit predetermined by the Minister in each case;
- (d) foreign borrowing may not be undertaken;
- (e) the request for borrowing for bridging purposes must be submitted to the Minister of Finance 30 days in advance of the proposed borrowing;
- (f) a detailed cash flow and income and expenditure statement must accompany the request, indicating how the debt will be cleared during the current financial year; and
- (g) the terms and conditions of the proposed bridging finance must also accompany the request.

24.3.2 A public entity listed in either Schedule 2 or 3 must, by way of a note, report in their financial statements on all contingent liabilities.

24.3.3 Where such contingent liability has a reasonable prospect of realising in the current financial year, and an amount can be established, it should be provided for in the financial statement and corporate plan or budget.

24.3.4 Government business enterprises listed in Schedules 2, 3B or 3D must, in their corporate plan, submit to the relevant treasury a three-year borrowing programme beginning with the next financial year. Quarterly reports on the borrowing programme must be submitted to the relevant treasury, reflecting actual borrowing for that quarter and any update in the borrowing programme.

24.3.5 Provincial public entities listed in Schedules 3C and 3D must also submit their three-year borrowing programme and quarterly updates to the national Treasury.

24.3.6 The indicative terms and conditions of the borrowings must accompany the borrowing programme and the entity must, in the quarterly submissions, show how it addressed the

relevant treasury's concerns regarding its borrowing programme. The borrowing programme must include:

- (a) information on proposed domestic borrowing;
 - (b) information on proposed foreign borrowing within the prescribed limit;
 - (c) short- and long-term borrowing;
 - (d) the relation of borrowing to a pre-approved corporate plan;
 - (e) the maturity profile of all debt;
 - (f) the confirmation of compliance with existing and proposed loan covenants;
 - (g)** debts guaranteed by government; and
 - (h) motivations for government guarantees, if required.
-