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## GOVERNMENT NOTICE

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### NATIONAL TREASURY

No. 261

30 March 2012

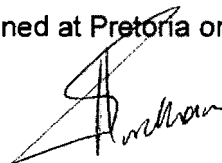
#### PUBLIC SERVICE ACT, 1994

(Proclamation No. 103 of 1994)

#### ADMINISTRATION AND OPERATIONS: GOVERNMENT TECHNICAL ADVISORY CENTRE (GTAC)

I, Pravin J Gordhan, Minister of Finance, acting in terms of section 7A(4) of the Public Service Act, 1994 (Proclamation No. 103 of 1994), hereby determine in the attached Schedule the object, duties and functions of the Government Technical Advisory Centre ("GTAC"), the powers and duties of the head of the GTAC, as well as the reporting, administrative, organisational, oversight and other management objects, processes and procedures of the GTAC.

Signed at Pretoria on this 23rd day of March 2012.



**MINISTER OF FINANCE**

## SCHEDULE

### *Part 1*

#### *Definitions*

#### **Definitions**

1. In this Schedule, unless the context otherwise indicates—

**“Cabinet”** means the Cabinet contemplated in section 91 of the Constitution of the Republic of South Africa, 1996;

**“COG Departments”** means **Centre of Government Departments** which includes, for purposes of this Notice, the Department for Performance Monitoring and Evaluation, the Department of Public Service and Administration, the Department of Cooperative Governance and the National Treasury;

**“DG”** means the Director-General: National Treasury;

**“government component”** means a government component as defined in section 1 of the PSA;

**“GTAC”** means the Government Technical Advisory Centre which has been established as a government component by Proclamation promulgated by the President of the Republic of South Africa;

**“Head: GTAC”** means the Head of the GTAC as contemplated in Column 2 of Part A of Schedule 3 to the PSA;

**“Minister”** means the Minister of Finance;

**“National Treasury”** means the National Treasury established by section 5 of the PFMA;

**“Organs of State”** means those entities contemplated in section 239 of the Constitution of the Republic of South Africa, 1996;

**“PFMA”** means the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“PSA”** means the Public Service Act, 1994 (Proclamation No. 103 of 1994);

**"Republic"** means the Republic of South Africa;

**"services"** means any service rendered or assistance provided, promoted, recommended or otherwise made available by the GTAC, or any ancillary service or assistance;

**"TAC"** means the Technical Advisory Committee of the GTAC as contemplated in section 7A(4)(e) of the PSA, which may be established and appointed by the Minister in accordance with paragraph 13; and

**"working day"** means any day other than a Saturday, Sunday or public holiday provided for in terms of the Public Holidays Act, 1994 (Act No. 36 of 1994).

## ***Part 2***

### ***Objects, functioning and powers of GTAC***

#### **Object, functions and powers of GTAC**

2. (1) The object of the GTAC is to assist Organs of State in building their capacity for efficient, effective and transparent financial management.

(2) The functions of GTAC are, subject to paragraph 3 —

- (a) to render technical consulting services to COG Departments and Organs of State;
- (b) to provide specialised procurement support for high-impact government initiatives;
- (c) to render advice on the feasibility of infrastructure projects;
- (d) to provide knowledge management for projects undertaken; and
- (e) anything ancillary to the functions listed in this subparagraph.

(3) In providing services to its clients, the following protocols should be observed:

- (a) The GTAC may only do what it is authorised to do by law, including agreements that it enters into with the National Treasury, COG Departments and Organs of State.

- (b) The GTAC is subject to all applicable legislative and other legal requirements, as well as the terms of the agreements that it enters into with the National Treasury, COG Departments and Organs of State.
  - (c) In the event that the GTAC receives a request to provide services that relate to the core mandate of a COG Department, from any organ of state, then the GTAC must refer the request, in writing, to the relevant COG Department before undertaking such work.
  - (d) If the relevant COG department wishes to respond to the desirability of, or make specific arrangements for, such services, it must respond within one calendar month from the date of the referral letter.
  - (e) Should the GTAC not receive written direction within one calendar month following the date of the letter of referral to the COG Department, then the GTAC may proceed as deemed appropriate, in a discretionary manner.
- (4) The GTAC performs its functions subject to general guidance provided by the Minister.
- (5) The Minister, provided that it is permitted in terms of applicable legislation, may at any time, after consultation with the DG, in writing notify the Head: GTAC that the GTAC is instructed to –
- (a) provide services in respect of financial planning for and the costing of policies which are being developed;
  - (b) provide economic analysis and actuarial advice on programmes and projects;
  - (c) perform other functions which are complementary or additional to the functions listed in subparagraph (2) or items (a) or (b),

but the GTAC may not commence performing any function previously performed by the National Treasury until the DG and the Head: GTAC have entered into an agreement for the orderly and efficient transfer of that function to the GTAC, and have reviewed and appropriately amended the agreement contemplated in paragraph 9.

- (6) The Head: GTAC is responsible and accountable for any function transferred to the GTAC in terms of subparagraph (5) as from the date of transfer recorded in the agreement contemplated in subparagraph (5).
- (7) Any instruction issued by the Minister in terms of subparagraph (5) must be recorded in the GTAC's annual report.
- (8) The GTAC may perform its functions outside the Republic, provided that —
- (a) the National Treasury has agreed in writing thereto and has entered into a written agreement for this purpose with the GTAC prior to the performance of any functions outside the Republic;
  - (b) such agreement and the functions to be performed and activities to be undertaken by the GTAC outside of the Republic are authorised under South African law and international law that is binding on South Africa; and
  - (c) the functions to be performed and activities to be undertaken by the GTAC are authorised in terms of the law of the country in which the GTAC will be operating.

**Compliance, co-operation, ethics, and commercial competition**

3. (1) The GTAC must comply with all applicable law, and in the event of a conflict between any law and the provisions of this Schedule, such law prevails.
- (2) The GTAC must exercise its powers and render its services in a spirit of co-operation with the Organs of State to which the GTAC renders services, and must promote and support effective, transparent, accountable and coherent government for the Republic as a whole.
- (3) The GTAC must exercise its powers and render its services in accordance with appropriate ethical standards and the principles of good governance.
- (4) No senior employee of the GTAC may, within two years after leaving the GTAC, directly or indirectly, supply any goods or render any services to the GTAC, unless the Minister in writing approves thereof, prior to such goods being supplied or services being rendered.

(5) Subparagraph (4) applies, with the necessary changes, to any company or other entity which intends to or which sells goods or renders services to the GTAC —

- (a) in which the former employee of the GTAC holds an office, whether for remuneration or not;
- (b) to whom the former employee of the GTAC renders services, whether for remuneration or not;
- (c) by whom the former employee of the GTAC is employed, whether for remuneration or not; or
- (d) in which the former employee of the GTAC has any other direct or indirect material interest of whatever nature.

(6) Any approval given by the Minister under subparagraph (4) must be recorded in the GTAC's annual report.

(7) The GTAC is responsible, accountable and liable in respect of the technical and advisory support services that the GTAC provides to its clients, provided that the GTAC's clients retain the overall responsibility, accountability and liability for the performance of their functions to which the technical and advisory support services provided by the GTAC may relate.

(8) The GTAC may not provide services in competition with the private sector and may not participate in tender or supply chain operations which are open to private sector service providers or certain categories thereof.

### ***Part 3***

#### **Appointment and responsibilities of the Head: GTAC and appointment of staff of GTAC**

##### **Appointment of Head: GTAC and staff of GTAC**

4. (1) The Head: GTAC is employed in terms of section 12 of the PSA.

(2) The employees of the GTAC are appointed in terms of the PSA, and in accordance with the applicable regulations, guidelines and circulars issued in terms of the PSA.

**Powers and duties of Head: GTAC**

5. (1) The Head: GTAC is accountable for the financial and operational performance of the GTAC, in accordance with the prescripts of the PSA, the PFMA, and all other applicable legislation.
- (2) The Head: GTAC has the powers and authority equivalent to a head of department, as described in section 7(3)(a), (b), and (c) of the PSA, to manage the GTAC, with accountability to the Minister of Finance.
- (3) In terms of section 7(3)(b) of the PSA, the Head: GTAC is responsible for the efficient management and administration of the GTAC, including the effective utilisation and training of staff, the maintenance of discipline, the promotion of sound labour relations and the proper use and care of State property.
- (4) The Head: GTAC must comply with the requirements in the PFMA applicable to an accounting officer of an organisational component as contemplated in the PFMA.
- (5) The Head: GTAC, as head of the GTAC, is responsible for ensuring that the Head: GTAC and GTAC comply with all applicable legislative and other legal requirements.

**Reporting requirements of Head: GTAC and responsibilities of DG**

6. (1) The provisions of this paragraph do not in any way exempt the Head: GTAC from compliance with any relevant provisions of the PFMA or any other law in respect of reporting requirements.
- (2) The Head: GTAC must submit to the Minister —
- (a) forthwith after receipt of a written request from the Minister for information held by the GTAC, all requested and other information which may also be relevant to the Minister;
  - (b) on a quarterly basis, a report detailing all of the instances where the Head: GTAC has performed a duty or exercised a power in terms of a delegation from the Minister, as well as all of the instances where a person to whom the Head: GTAC has further delegated such a power or duty has so performed a duty or exercised a power; and

- (c) on an annual basis, the GTAC's strategic plan and budget, annual report and annual financial statements.

(3) The DG oversees the operations of GTAC for purposes of —

- (a) supporting, promoting and implementing applicable Government policies, as well as the Minister's strategic vision in respect of the Minister's portfolio; and
- (b) advising the Minister on policy implementation, performance, integrated planning, budgeting and service delivery, and the efficient, economic and effective use of resources by or in respect of the GTAC,

but the DG has no further functions, duties, powers, responsibilities or accountability in respect of the GTAC, other than as provided for in this Notice or as may be prescribed by law.

(4) The Head: GTAC must submit to the DG —

- (a) on a quarterly basis, all relevant reports and performance information of the GTAC which will enable the DG to advise the Minister as contemplated in item (b) of subparagraph (3);
- (b) on a quarterly basis, a copy of the document contemplated in item (b) of subparagraph (2);
- (c) annually, a copy of the GTAC's strategic plan, annual report and annual financial statements; and
- (d) any information reasonably requested in writing by the DG, that relates to the DG's functions in respect of the GTAC.

(5) Further, in addition to what is provided in subparagraphs (2) and (4), the Head: GTAC must, on a monthly basis, within ten working days after the end of a calendar month, submit an operational and performance report in respect of that month to the Minister, and provide a copy of the report to the DG and the Chairperson of the TAC, if a TAC has been appointed in accordance with paragraph 13.

(6) The report referred to in subparagraph (5) must—



- (a) contain details of all work undertaken by the GTAC during that month and any other relevant information that the Minister may require or the DG or the Chairperson of the TAC may reasonably request; and
- (b) be prepared in the format required by the Minister, which may include information broken down into individual projects, indicating—
  - (i) the nature of the work;
  - (ii) the name of the client;
  - (iii) the monetary value of the work;
  - (iv) whether the work has been completed;
  - (v) whether the services involved have been rendered to the client; and
  - (vi) whether service level agreements or standards have, in the opinion of the Head: GTAC, been met.

#### ***Part 4***

#### ***Funding and Financial Reporting Arrangements***

#### **Funding**

7. (1) The GTAC is funded from —

- (a) money appropriated by an Act of Parliament;
- (b) money recovered from Organs of State to which or in respect of which GTAC has rendered services;
- (c) donor funding; and
- (d) interest.

(2) The GTAC may receive direct funding from outside of the Republic in respect of the performance of its functions, provided that the Minister has approved the agreement providing for such funding.

**Financial reporting arrangements**

8. Subject to paragraph 9(e), all financial, policy and procedural arrangements for the GTAC provided for in terms of the PFMA or any other applicable law must, on the date of establishment of the GTAC as a government component by the President of the Republic, comply with the requirements applicable to an organisational component as contemplated in the PFMA.

***Part 5******Arrangements between National Treasury and GTAC*****Arrangements between National Treasury and GTAC**

9. (1) The National Treasury and the GTAC must promptly after the GTAC's establishment enter into an agreement making provision for —

- (a) the agreed shared services dispensation to be entered into between the National Treasury and the GTAC, as described in paragraph 12;
- (b) service levels;
- (c) the transfer of assets from the National Treasury to the GTAC upon the establishment of the GTAC;
- (d) the transfer of employees from the National Treasury to the GTAC upon the establishment of the GTAC;
- (e) financial arrangements; and
- (f) any other matter necessary for the effective and efficient functioning of the GTAC.

(2) The National Treasury and the GTAC must annually review the agreement referred to in subparagraph (1), to adapt the agreement to ensure the optimum functioning of the GTAC.

**Part 6****Corporate and Related Services****Shared Services**

10. (1) The management of corporate and related services of GTAC will be on a shared services basis and governed by this Notice through the agreement referred to in paragraph 9, that must be reviewed and amended annually as contemplated in that paragraph.

(2) The arrangements under this Part should ensure the efficient and effective operation of the GTAC, and should achieve economy of scale benefits and innovative service delivery.

(3) The GTAC may at any time, should resources allow, develop sufficient internal capacity to render any of the services stipulated below.

**Competent Authorities**

11. The competent authorities responsible for the implementation of this Notice are—

- (a) for the GTAC, the Head: GTAC; and
- (b) for the National Treasury, the DG.

**Areas of Co-operation**

12. The Parties, subject to applicable legislation, including the PSA and its Regulations and the PFMA and its Regulations, and in accordance with the terms of the agreement referred to in paragraph 9, shall maintain a shared services dispensation, covering —

- (a) Corporate Services, including;
  - (i) Information and Communication Technology (ICT) Services;
  - (ii) Financial Management;

- (iii) Human Resources Management;
- (iv) Supply Chain Management;
- (v) Accommodation, Facilities Management and Cleaning Services;
- (vi) Security; and
- (vii) Records Management, Correspondence and Messenger Services Training;
- (b) Auditing and Risk Management;
- (c) Legal Services, and
- (d) Donor Coordination.

### ***Part 7***

#### ***Appointment and functions of the Technical Advisory Committee***

##### **Technical Advisory Committee (TAC)**

13. (1) The Minister may, in terms of section 7A(4)(e) of the PSA, at any time appoint a Technical Advisory Committee (TAC) for the GTAC, subject to and in accordance with the provisions of this Part, but nothing in this Schedule obligates the Minister to appoint a TAC.

(2) The function of the TAC is to advise the Minister and the Head: GTAC on the governance and the performance of the GTAC, and on any other matter which the Minister may from time to time determine in writing, but the TAC does not have any executive functions, duties or powers.

(3) The TAC may have no more than eight members, not including the Head: GTAC, who is an *ex officio* member of the TAC, and must include the following three representatives of the National Treasury who serve as *ex officio* members on the TAC:

- (a) Deputy Director-General: Public Finance;
- (b) Deputy Director-General: Budget Office; and
- (c) Deputy Director-General: Intergovernmental Relations.

(4) The Minister for Performance Monitoring and Evaluation in the Presidency must appoint one member of the TAC to represent the Department of Performance Monitoring and Evaluation.

(5) The Minister of Cooperative Governance and Traditional Affairs must appoint one member of the TAC to represent the Department of Cooperative Governance.

(6) The Minister for the Public Service and Administration must appoint one member of the TAC to represent the Department of Public Service and Administration.

(7) The Minister may appoint the remaining two TAC members from within the public sector, based on the following principles:

(a) appointments must be governed by the overriding principle of selection based on merit, determined by an assessment of —

(i) the object, functions and the operations of the GTAC;

(ii) the competencies collectively required by a TAC, including the relevant skills, expertise and experience relating to the management and transformation of an Organ of State;

(iii) the qualifications, skills, expertise and experience of each individual prospective candidate;

(b) after the appointment of the individual members, the TAC must broadly reflect the demographics of the Republic.

(8) The Minister must appoint a TAC member, other than the Head: GTAC, as Chairperson of the TAC.

(9) The Minister may not appoint a person to the TAC, and a person may not continue to be a Member of the TAC —

(a) who is a member of Parliament, a member of a provincial legislature, a member of Cabinet or a Deputy Minister, a member of a house or council of traditional leaders, or a member of a municipal council;

(b) who is not—

(i) either a South African citizen or permanent resident; and

- (ii) who is not resident in the Republic;
  - (c) who or whose spouse, life partner, business partner or associate, holds an office in or is employed by or has any other interest whatsoever in any company or other entity which sells goods or renders services to the GTAC;
  - (d) who is disqualified to act as a director of a company incorporated in terms of the Companies Act, 2008 (Act No. 71 of 2008); or
  - (e) who has been convicted, whether in the Republic or elsewhere, of an offence involving dishonesty or of any other offence for which such person has been sentenced to imprisonment without the option of a fine.
- (10) A TAC member appointed in accordance with subparagraph (7) —
- (a) serves as a TAC member on the terms and conditions determined by the Minister after consultation with the Minister for the Public Service and Administration; and
  - (b) may resign by giving one month's written notice to the Minister.
- (11) The TAC serves at the Minister's pleasure, and the Minister may give thirty days' notice to —
- (a) dissolve the TAC and appoint a new TAC; or
  - (b) terminate the TAC membership of an individual TAC member,

but the Minister must, when so dissolving the TAC or terminating the membership of an individual TAC member, immediately provide any affected TAC member with written reasons for the dissolution or termination, as the case may be.

- (12) The Minister must, upon appointing the TAC, for public information, in any appropriate manner, publish the names of the TAC members, together with any relevant information on the background of the TAC members.

### **Functions and Powers of TAC**

**14. (1)** The functions of the TAC are to—

- (a) provide advice to the Minister and overall guidance to the GTAC pertaining to the rendering of technical assistance;

- (b) provide advice to the GTAC on the integrated and coordinated rendering of technical assistance aligned with centre of government priorities;
  - (c) advise the GTAC on Centre of Government mandates, policies and processes, which inform the rendering of technical assistance;
  - (d) make recommendations to the GTAC to unblock projects;
  - (e) advise the Minister and the Head: GTAC on the governance and performance of the GTAC and any other matter that the Minister may from time to time refer to the TAC; and
  - (f) make recommendations to the Minister on focal areas for transversal COG Departments technical assistance.
- (2) The TAC has all powers necessary for its functioning as an advisory body without executive functions, duties or powers, and it in particular has the right –
- (a) subject to subparagraph (5), to establish its own subcommittees;
  - (b) of immediate access to any information held by the GTAC, except information designated in writing by the Minister from time to time as not being included in this category;
  - (c) of immediate access to any information held by the National Treasury in relation to the GTAC, except information designated in writing by the Minister from time to time as not being included in this category; and
  - (d) to receive copies of any document submitted by the Head: GTAC to the Minister in terms of or under this Notice, as the case may be, except documents designated in writing by the Minister from time to time as not being included in this category.
- (3) The TAC may at any time, with or without the agreement or support of the Head: GTAC, directly approach the Minister, and submit any relevant report on any matter related to the TAC's function.
- (4) The Minister may at any time direct the TAC in writing to establish a particular subcommittee, but this does not prevent a TAC from establishing its own subcommittees as provided for in subparagraph (2)(a).

(5) Any committee or other body established or prescribed in respect of a government component by an Act of Parliament or in terms of or under subordinate legislation must be established and managed as prescribed, but —

- (a) such a committee or body does not constitute a subcommittee of the TAC; and
- (b) the TAC has access to any document produced by or on behalf of such a committee or body, unless the Minister in writing directs otherwise.

(6) Subject to subparagraphs (8) to (10) and the provisions of any applicable law, the TAC determines its own meeting rules, proceedings and procedures.

(7) Without in any way derogating from the provisions of any applicable law, the TAC must, in so far as may be practicable, adhere to any policy, code, protocol, guideline or similar document on governance or ethics in the public sector approved by Cabinet.

(8) The meetings, minutes and reports of the TAC or any of its subcommittees are confidential, unless —

- (a) the Minister or the Chairperson of a TAC in writing directs otherwise; or
- (b) no strategic interests of GTAC or the National Treasury are likely to be compromised in the event of its publication.

(9) The TAC, not including the Head: GTAC, does not vote on matters before it, but must strive to render advice to the Minister and the Head: GTAC based on sufficient consensus.

(10) If an individual TAC member, other than the Head: GTAC, strongly differs from what appears to be the TAC's consensus, that member may request that the dissenting opinion and the reasons for such dissent be recorded in the minutes of the meeting of the TAC, and such dissenting opinion must be included in any report on the relevant matter to the Minister or the Head: GTAC, as the case may be.

(11) The GTAC must provide all of the facilities and administrative, secretarial and logistical support reasonably required by the TAC, and the Head: GTAC must, after consultation with the Chairperson of the TAC, designate an employee of the GTAC as Secretary to the TAC.



(12) No remuneration is payable to an employee of an organ of state in respect of his or her membership of the TAC.

(13) The Head: GTAC may for any purpose directly related to any activity of the TAC, reimburse all members of the TAC in respect of any reasonably incurred travel, parking, accommodation, subsistence and other costs necessary for the performance of TAC functions.

**Responsibilities of and restrictions on TAC members**

15. (1) A member of the TAC, including the Head: GTAC, who at any time during his or her term of office becomes disqualified to be an TAC member on any one of the grounds contemplated in paragraph 13(9) —

- (a) must immediately in writing inform the Minister and the Chairperson of the TAC of that disqualification, and the Minister must then forthwith remove that member from the TAC; and
- (b) does not have a right to attend a TAC meeting from the time he or she has so become disqualified until he or she is removed by the Minister.

(2) A member of the TAC who in any way, directly or indirectly, acquires or intends to acquire an interest in a transaction or project of GTAC, must immediately in writing disclose the nature of his or her interest or intention to the Committee.

(3) A disclosure to the TAC contemplated in subparagraph (2) must be recorded in the minutes of the meeting in which the TAC considers the transaction or project to which the disclosure relates.

(4) A member of the TAC who has acquired or intends to acquire an interest contemplated in subparagraph (2) may not take part in any discussion or deliberation of the TAC relating to a transaction or project referred to in subparagraph (2).

(5) For a period of two years after a member of the TAC ceases to be a member of the TAC, any company or other entity which intends to or which sells goods or renders services to GTAC—

- (a) in which the former member of the TAC holds an office, whether for remuneration or not;
- (b) to whom the former member of the TAC renders services to, whether with or without remuneration;

- (c) by whom the former member of the TAC is employed, whether for without remuneration or not; or
- (d) in which the former member of the TAC has any other direct or indirect material interest of whatever nature,

must in writing disclose the nature of the former member's interest to the Minister, as well as to the TAC.

(6) A disclosure to the TAC contemplated in subparagraph (2) must be recorded in the minutes of the meeting in which the TAC considers the transaction or project to which the disclosure relates.

**Reporting requirements in respect of TAC**

**16.** (1) If the Minister has in writing requested the TAC's advice on a particular issue, the TAC must, as soon as may be practicable, submit a report with its advice to the Minister.

(2) The TAC must submit a report to the Minister on its advice or activities as often as the TAC deems necessary, whether or not the Minister has specifically requested such advice.

(3) The TAC must record any oral advice rendered to the Head: GTAC, if any, in the relevant minutes of the TAC's meeting.

(4) The Chairperson of the TAC must forward the minutes of every TAC meeting to the Minister, the Head: GTAC and the DG within ten working days after those minutes have been approved by the TAC.