

**MSUNDUZI MUNICIPALITY**



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## **1 INTRODUCTION.**

Section 216 of the Constitution provides for national government to transfer resources to municipalities in terms of the annual Division of Revenue Act (DoRA) to assist them in exercising their powers and performing their functions. These allocations are announced annually in the national budget. Transfers to municipalities from national government are supplemented with transfers from provincial government. Further, transfers are also made between district municipalities and local municipalities.

## **2 PROCEDURES**

### **2.1 Conditional transfers to municipalities**

It is important that all these transfers are made transparently, and properly captured in Msunduzi Local Municipality's budget. In this regard, regulation 10 of the Municipal Budget and Reporting Regulations provides guidance on when Msunduzi Local Municipality should reflect a transfer or donation on their budgets. Note that promises of funds that do not meet the requirements set out in regulation 10 must not be included in the Msunduzi Local Municipality's budget.

In support of regulation 10, the Division of Revenue Bill provides that –

- (a) In terms of section 15, National Treasury is required to publish in the Government Gazette the allocations or indicative allocations for all national grants to municipalities;
- (b) In terms of section 29, each Provincial Treasury is required to publish in the Government Gazette the indicative allocation per municipality for every allocation to be made by the province to municipalities from the province's own funds; and
- (c) In terms of section 28, each category C municipality must indicate in its budget all from its equitable share and conditional allocations to be transferred to each category B municipality within the category C municipality's area of jurisdiction.

The Government Gazette reflecting the allocations and indicative allocations for all national grants to municipalities will be available at:

<http://www.treasury.gov.za>

In addition, National Treasury publishes a payment schedule that sets out exactly when equitable share and national conditional grant funds are to be transferred to municipalities:

<http://www.treasury.gov.za>

The payment schedules that Provincial Treasuries are required to submit to National Treasury in terms of section 29(5) of the Division of Revenue Bill will be published on National Treasury's website, along with the national payment schedule.

## **2.2 Timing of municipal conditional grant transfers**

In order to facilitate synchronisation of the national / provincial financial year (01 April 20xx to 31 March 20xx) with the municipal financial year (01 July 20xx to 30 June 20xx), the Division of Revenue Bill requires that all conditional allocations to Msunduzi Local Municipality be transferred to municipalities within the period 01 July 20xx to 31 March 20xx.

## **2.3 Accounting treatment of conditional grants**

Conditional grants should only be treated as 'transfers recognized' revenue when the grant revenue has been 'earned' by spending it in accordance with the conditions of the grant.

## **2.4 Payment schedule**

National Treasury has instituted an automated payment system of transfers to Msunduzi Local Municipality during the current financial year in order to ensure appropriate safety checks are put in place.

Section 22 of the Division of Revenue Bill requires transfers to Msunduzi Local Municipality be made as per the approved payment schedule published by National Treasury. Through this system, any transfers not in line with the payment schedule will be rejected. In addition, if the payment details of the municipality are not up-to-date the transfers will also be rejected.

Consequently, Msunduzi Local Municipality must ensure that all its payment details (the municipality's primary banking account and payee details) are submitted to the National Treasury in terms of section 8 of Municipal Finance Management Act (Act No. 56 of 2003, MFMA) and section 10 of the Division of Revenue Bill for approval and verification by National Treasury.

## **3. RESPONSIBILITIES OF TRANSFERRING AND RECEIVING AUTHORITIES**

The legal obligations placed on transferring and receiving officers in terms of the Division of Revenue Bill are very similar to previous requirements. National Treasury intends ensuring strict compliance in order to improve spending levels, and the quality of information relating to the management of conditional grants.

Msunduzi Local Municipality will comply with the annual Division of Revenue Act. It is the responsibility of the municipal manager as the "receiving officer" to ensure compliance.

The municipal manager is responsible for, among other things, the tabling of monthly reports in council on whether or not the municipality is complying with the Division of Revenue Act.

The municipal manager is responsible for reporting on any delays in the transfer or the withholding of funds as failure to do so may have financial implications for the municipality and may lead to loss of revenue when funds are stopped and reallocated.

Where the Msunduzi Local Municipality is unable to comply, or requires an extension, the Municipal Manager will apply to the National Treasury and provide comprehensive motivation for the non-compliance.

#### **4. UNSPENT CONDITIONAL GRANT FUNDS**

To bring legal certainty to the process of managing unspent conditional grant funds, the Division of Revenue Bill contains the following provisions:

##### **4.1 Unspent conditional allocations Section 21.**

- (1) Despite the provisions of the Public Finance Management Act or the Municipal Finance Management Act relating to roll-overs, any conditional allocation that is, in the case of a province, not spent at the end of a financial year or, in the case of a municipality, at the end of a municipal financial year, reverts to the National Revenue Fund, unless the relevant receiving officer can prove to the satisfaction of the National Treasury that the unspent allocation is committed to identifiable projects.*
- (2) The National Treasury, and a provincial treasury in the case of a provincially funded allocation, may, at the request of a transferring national officer, provincial treasury or municipality, approve—*
  - (a) a roll-over from a conditional allocation to the next financial year; and*
  - (b) spending of a portion of a conditional allocation on activities related to the purpose of that allocation, where the province or municipality projects significant unforeseeable and unavoidable over-spending on its budget.*
- (3) (a) Any funds which must revert to the National Revenue Fund in terms of subsection (1), and which have not been approved by the National Treasury to be retained in terms of subsection (2), must be repaid to the National Revenue Fund.*
  - (b) A receiving officer must ensure that all funds referred to in paragraph (a) are repaid to the National Revenue Fund.*
- (4) The National treasury, in accordance with subsection (5), may offset any funds which must be repaid to the National revenue Fund in terms of subsection (1) and (3), but which have not been repaid—*

- (a) *in the case of a province, against future advances for conditional allocations to that province; and*
  - (b) *in the case of a municipality, against future advances for the equitable share or conditional allocations to that municipality.*
- (5) *Prior to the National Treasury offsetting any amounts against allocations to a province or municipality in terms of subsection (4), the National Treasury must give the relevant transferring national officer, province or municipality—*
- (a) *written notice of the intention to offset amounts against upcoming advances for allocations; and*
  - (b) *an opportunity, within 14 days of receipt of the notice referred to in paragraph (a), to—*
    - (i) *submit written representations and other documentary proof that the unspent allocation was either spent in accordance with the relevant framework, or is committed to identifiable projects; Msunduzi Local Municipality Grant Policy*
    - (ii) *propose alternative means acceptable to the National Treasury by which the unspent allocations can be repaid to the National Revenue Fund; and*
    - (iii) *propose an alternative payment schedule in terms of which the unspent allocations will be repaid to the National Revenue Fund.*
- (6) *A notice contemplated in subsection (5) must include the intended amount to be offset against allocations, and the reasons for offsetting the amounts.*
- (7) *The retention of funds which should revert to the National Revenue Fund in terms of subsections (1) and (3), and which have not been approved by the National Treasury to be retained in terms of subsection (2), constitutes financial misconduct by the receiving officer in terms of section 34*

#### **4.2 The following practical arrangements will apply –**

- (a) When preparing the annual financial statements, Msunduzi Local Municipality must determine what portion of each national conditional allocation it received remained unspent as at financial year end.
- (b) National Treasury will initiate the process outlined in section 21(4) and (5) of the Division of Revenue Act based on the conditional grant expenditure reports. If the receiving officer wants to motivate in terms of section 21(5)(b) that the funds have been spent or are committed to identifiable projects or wants to propose an alternative payment method or schedule the required information must be submitted to National Treasury by 31 August 20xx.
- (c) National Treasury will confirm in writing whether or not Msunduzi Local Municipality may retain as a rollover any of the unspent funds because they are committed to identifiable projects or whether it has agreed to any alternative payment methods or schedules by 30 November 20xx.

- (d) Msunduzi Local Municipality must return the remaining unspent conditional grant funds that are not subject of a specific repayment agreement with National Treasury to National Revenue Fund. Failure to return these unspent funds will constitute financial misconduct in terms of section 21(7) of the Division of Revenue Act.
- (e) Any unspent conditional grant funds that should have been repaid to the National Revenue Fund will be offset against the Msunduzi Local Municipality's December equitable share allocation. When applying to retain unspent conditional allocations committed to identifiable projects or requesting a rollover in terms of section 21(2) of the Division of Revenue Act, Msunduzi Local Municipality will supply National Treasury with the following information
- (1) A formal letter, signed by the accounting officer must be addressed to the **National Treasury** requesting the rollover of unspent conditional grants in terms of section 22(2) of the 2018 DoRA;
  - (2) A list of all the projects that are linked to the unspent conditional grants and a breakdown of how much was allocated and spent per project;
  - (3) The following evidence indicating that work on each of the projects has commenced, as applicable to the specific rollover(s):
    - (i) Proof that the project tender was published and the period for tender submissions closed before 31 March;
    - (ii) Proof that a contractor or service provider was appointed for delivery of the project before 31 March; or
    - (iii) Proof of a project tender, appointment of contractor or service provider for delivery of service before 30 June in cases where additional funding was allocated during the course of the final year of the project;
    - (iv) Incorporation of the Appropriation Statement;
    - (v) Evidence that all projects linked to an allocation will be fully utilised by 30 June 2019 (attach cash flow projection for the applicable grant).
  - (4) A progress report (also in percentages) on the status of each project's implementation that includes an attached, legible **implementation plan**);
  - (5) The value of the committed project funding, and the conditional allocation from the funding source;
  - (6) Reasons why the grants were not fully spent during the year of original allocation per the DoRA;
  - (7) Municipalities must not include previous year's unspent conditional grants as a rollover request. Rollover of rollovers will not be considered;
  - (8) An indication of the time-period within which the funds are to be spent if the roll over is approved; and
  - (9) Proof that the Municipal Manager and Chief Financial Officer are permanently appointed.

A progress report on the state of implementation of each of the projects;

- (1) The amount of funds committed to each project, and the conditional allocation from which the funds come from; and
- (2) An indication of the time-period within which the funds are to be spent. Msunduzi Local Municipality Grant Policy

All the calculations of the amounts to be surrendered to the National Revenue Fund (NRF) will be subject to scrutiny by the Office of the Auditor-General and will therefore be audited.

## 5. REPORTING AND ACCOUNTING FOR MUNICIPAL APPROVED CONDITIONAL GRANT ROLL-OVERS

- (1) Section 21 of the Division of Revenue Act requires that any conditional allocations, excluding the Expanded Public Works Programme Incentive Grant, which is not spent at the end of the municipal financial year must revert to the National Revenue Fund, unless the receiving officer proves to the satisfaction of National Treasury that the unspent allocation is committed to identifiable projects, in which case the funds will be rolled over (refer to MFMA Circular 51 for more information in this regard).
- (2) In terms of the allocations that have already been transferred to Msunduzi Local Municipality, and are not spent by the end of the financial year, reporting of these funds must be done separately but concurrently with the reporting for the current year's conditional allocations. National Treasury will for purposes of DoRA reporting, provide a reporting template to facilitate monitoring of these conditional grant roll-overs.

## 6. CONDITIONAL GRANT ISSUES DEALT WITH IN PREVIOUS MFMA CIRCULARS

Msunduzi Local Municipality will refer to MFMA Circulars 58 and 94 with regards to the following issues:

1. *Accounting treatment of conditional grants* – Municipalities are reminded that in accordance with accrual accounting principles, conditional grants should only be treated as "transfers recognized" revenue when the grant revenue has been "earned" by incurring expenditure in accordance with the conditions of the grant.
2. *VAT on conditional grants*: SARS has issued a specific guide to assist municipalities meeting their VAT obligations – **VAT 419 Guide for Municipalities**. To assist municipalities accessing this guide it has been placed on the National Treasury website at: <http://www.treasury.gov.za/legislation/mfma/guidelines/default.aspx>.
3. *Interest received and reclaimed VAT in respect of conditional grants*: Municipalities are reminded that in MFMA Circular 48, National Treasury determined that:



- (a) Interest received on conditional grant funds must be treated as 'own revenue' and its use by the municipality is not subject to any special conditions however Provincial grants interest accrue to the project.
  - (b) 'Reclaimed VAT' in respect of conditional grant funds be treated as 'own revenue' and its use by the municipality is not subject to any special conditions.
4. *Appropriation of conditional grants that are rolled over* – As soon as a municipality receives written approval from both National and Provincial Treasuries that its unspent conditional grants have been rolled-over it may proceed to spend such funds (refer to MFMA Circular 51 for other arrangements in this regard).
5. *Pledging of conditional grants* – Applications by municipalities to pledge conditional grants allocated to municipalities in the Division of Revenue Bill must be in accordance with the requirements set out in MFMA Circular 51 MFMA. The only difference is that the timeframe for the pledges will extend as provided for in the Bill.

## **7. EXPENDITURE INCURRED PRIOR TO GRANT FUNDING BEING RECEIVED**

- (a) Salary costs relating for all grant funded projects may be incurred prior to the grant funding being received. As soon as the grant is received, the salary cost paid using Council funds must be reimbursed to the Council's main bank account.
- (b) In all other cases, a Full Council resolution in conjunction with the CFO's approval is required for expenditure to be incurred prior to the grant funds being received.

## **8. POLICY ADOPTION**

The budget policy is applicable to the Msunduzi Municipality.

The policy and amendments shall be effective as from **1 July 2022..**