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TREASURY CIRCULAR NO. 27/2020 (SUPPLEMENTARY 2/2023)

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THE MINISTER OF AGRICULTURE

THE MINISTER OF CULTURAL AFFAIRS AND SPORT

THE MINISTER OF EDUCATION

THE MINISTER OF FINANCE AND ECONOMIC OPPORTUNITIES

THE MINISTER OF HEALTH

THE MINISTER OF INFRASTRUCTURE

THE MINISTER OF LOCAL GOVERNMENT, ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING

THE MINISTER OF MOBILITY

THE MINISTER OF POLICE OVERSIGHT AND COMMUNITY SAFETY

THE MINISTER OF SOCIAL DEVELOPMENT

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THE EXECUTIVE AUTHORITY: WESTERN CAPE NATURE CONSERVATION BOARD (MINISTER A BREDELL)

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UPDATED TRANSVERSAL STANDARD OPERATING PROCEDURES ON IRREGULAR AND FRUITLESS AND WASTEFUL EXPENDITURE FOR DEPARTMENTS

1. PURPOSE

- 1.1 The purpose of this Treasury Circular is to disseminate the updated Transversal Standard Operating Procedures to provide guidance to departments with the implementation of the PFMA Compliance and Reporting Framework as it relates to irregular and fruitless and wasteful expenditure.

2. BACKGROUND

- 2.1 On 23 December 2022, the Office of the Accountant General issued National Treasury Instruction No.4 of 2022/23 (NTI 4 of 2022/23) and the PFMA Framework to prescribe a set of principles and compliance reporting requirements for the departments, trading entities, constitutional institutions and public entities listed in Schedule 2 and 3 of the Public Finance Management Act of 1999 (Act No. 1 of 1999" PFMA") as set out in the Frameworks.
- 2.2 To assist accounting officers to manage irregular and fruitless and wasteful expenditure, Provincial Treasury updated the attached Standard Operating Procedures (SOP's) - Annexure A: Transversal SOP on irregular expenditure and Annexure B: Transversal SOP on fruitless and wasteful expenditure, to ensure that officials within departments timeously prevent, detect, assess, determine and correct alleged irregular and fruitless and wasteful expenditure in accordance with the general responsibilities of the accounting officer as per section 38 of the PFMA, which amongst others, requires accounting officers to take effective and efficient steps to prevent irregular and fruitless and wasteful expenditure.

3. REQUIRED ACTIONS

- 3.1 Accounting officers are required to review and update Annexure A: Transversal SOP on irregular expenditure and Annexure B: Transversal SOP on fruitless and wasteful expenditure, in line with the structural arrangements of the department in dealing with irregular and fruitless and wasteful expenditure, prior to the adoption of the SOP's.
- 3.2 Accounting officers must ensure that the content of this circular is brought to the attention of all relevant officials within their institution.

4. ENQUIRIES

- 4.1 All enquiries in respect of this circular, NTI 4 of 2022/23 or the PFMA Framework must be directed to Franklin.Links@westerncape.gov.za.

MS A ABOO

DIRECTOR: PROVINCIAL GOVERNMENT ACCOUNTING AND COMPLIANCE



TRANSVERSAL IRREGULAR EXPENDITURE SOP

Annexure A

Standard Operating Procedure (SOP) IRREGULAR EXPENDITURE				
Department:	Western Cape Department of			
SOP Group:	Financial Management: Internal Control			
SOP Number:				
Version Number:	1			
	Initial & Surname	Position	Signature	Date
Prepared by:				
Checked by:				
Approved by:				
Revision History:				
Effective Date:	Date of signature by the Accounting Officer.			

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PREAMBLE

Although this SOP exclusively deals with detective and corrective controls in accordance with the irregular expenditure regulatory framework, the WCG introduced several proactive controls to detect, prevent and correct the occurrence of irregular expenditure in process, which in amongst other, include the following:

- The Directorate: Provincial Government Supply Chain Management within the Provincial Treasury introduced a policy review process whereby the requirements of any National Treasury instruction issued in terms of section 76 of the PFMA only becomes applicable to WCG institutions, following a robust assessment and consultative process with all relevant role-players, where after a determination is made whether the requirements of a National Treasury instruction should be applicable in full or in part within the WCG.
- The Directorate also conduct analysis of all SCM guidelines, practice notes, circulars, instructions and directives issued by both the National Treasury and Provincial Treasury in consultation with provincial departments, including the Policy Focus Group and the SCM Forum.
- Provincial departments Internal Control units and/or Supply Chain Management units conduct pre-checks on orders to identify and correct non-compliance in process.
- The Directorate: Provincial Government Accounting and Compliance within the Provincial Treasury introduced the Internal Control Forum in conjunction with Internal Audit within the Department of the Premier, a platform for the sharing of best practices and to identify support initiatives in strengthening the control environment within departments.

1. BACKGROUND

- 1.1 On 23 December 2022, National Treasury (NT) issued and published National Treasury instruction No. 4 of 2022/23 (NTI 4 of 2022/23) in accordance with section 76(2)(e) and 76(4)(a) of the Public Finance Management Act No. 1 of 1999 (hereafter the PFMA), and concomitant PFMA Compliance and Reporting Framework (PFMA Framework), to prescribe a set of principles and compliance reporting requirements for departments, trading entities, constitutional institutions and public entities listed in Schedule 2 and 3 to the PFMA, on matters relating to -
- a. application, implementation and reporting of unauthorised, irregular expenditure and fruitless and wasteful expenditure;
 - b. reporting on payments of supplier invoices; and
 - c. reporting on supply chain management information relating to –
 - (i) procurement by other means; and
 - (ii) contract variations and expansion.
- 1.2 NTI 4 of 2022/23 is effective from 3 January 2023, and the PFMA Framework effectively repeal and replaces NTI 3 of 2019/20 and concomitant Irregular Expenditure Framework.

2. PURPOSE

- 2.1 The purpose of this SOP is to outline the procedures for departmental officials to assist officials in timeously preventing, detecting, determining, investigating and correcting irregular expenditure in accordance with the general responsibilities of accounting officers prescribed in section 38 of the PFMA, Treasury Regulations (TR) 9.1 and NTI 4 of 2022/23, which amongst others, require accounting officers to implement effective, efficient and transparent processes of financial and risk management to prevent and detect irregular expenditure.

3. APPLICABILITY

- 3.1 This SOP applies to all employees of the department.

4. GENERAL DEFINITIONS

WORD/ACRONYM	MEANING
Assessment	A test conducted by the unit performing a loss control function, IC function or another relevant function to evaluate and confirm whether the transaction constitutes irregular expenditure.
AGSA	Auditor General South Africa
AO	Accounting Officer
AFS	Annual Financial Statements
BAS	Basic Accounting System
Condonation	A process whereby the relevant authority acknowledges the irregular expenditure and pardons the action that has resulted in the incurrence of irregular expenditure
CFO	Chief Financial Officer
CWC	Condonation Working Committee established within Provincial Treasury
Determination	A formal assessment conducted by the Internal Control unit or another relevant function to examine or analyse the particulars of confirmed irregular expenditure to establish the facts, assess any allegations of criminal conduct and losses incurred as it relates to the transaction
Discovery	Identification of alleged irregular expenditure by the Internal Control function or another relevant function via compliance checking or upon report by an official/s or financial staff
FA	Financial Accounting
Head Official: PT	Head of Department - Provincial Treasury
Financial Misconduct	The wilful or negligent making of or permitting irregular expenditure or failing to exercise a power or perform a duty to, amongst others, take effective and appropriate steps to prevent irregular expenditure within an area of responsibility
IC	Internal Control
IFS	Interim Financial Statements
Impracticability judgement	An institution may apply judgement that it is impractical to quantify the full amount of unauthorised, irregular, fruitless and wasteful expenditure
Investigation	A formal probe conducted by a function performing investigations to analyse the particulars of irregular expenditure to confirm facts about the

WORD/ACRONYM	MEANING
	transaction and allegations of criminal conduct as it relates to the transaction
IE Register	A list of non-compliance and irregular expenditure matters in progress to be disclosed in the notes to the annual financial statements. It also outlines the progress related thereto
Loss	An instance of losing money or financial value in a transaction
Transgression	An act that goes against a law, rule, or code of conduct
MCS	Modified Cash Standards
MEC	Member of Executive Committee or Executive Authority of the Department
Non-compliance	The failure to comply with a specific legal requirement
TR	National Treasury Regulations
NTI	National Treasury Instruction
Removal	The process of eliminating the irregular expenditure from the notes to the annual financial statements, provided the process was followed
Relevant Authority	<p>Person/institution authorised to condone irregular expenditure</p> <ol style="list-style-type: none"> a. Provincial Treasury, in the case where an employee or the accounting officer was responsible for the irregular expenditure b. Accounting Officers, in the case where an employee responsible for the non-compliance exercised a power or performed a duty that falls outside their delegation of authority
Recording	The process of capturing the financial information relating to a particular transaction, event, asset or liability in the electronic or manual accounting records of the department for the purposes of disclosure as secondary financial information
Recognition	The process of incorporating in the statement of financial position or statement of financial performance an item that meets the definition of an element and satisfies the criteria for recognition set out in paragraph 66 of the Modified Cash Standards. It involves the depiction of the item in words, and in monetary amounts, and the inclusion of those amounts in the statement of financial position or financial statement of financial performance totals
SAPS	South African Police Service
SCM	Supply Chain Management
PAG	The Provincial Accountant General within the Provincial Treasury
PDA	Protected Disclosure Act
PFS	Provincial Forensic Services
PFMA	Public Financial Management Act of 1999
PT	Provincial Treasury
PSA	Public Service Commission

5. LEGISLATIVE AND REGULATORY FRAMEWORK

- 5.1 In terms of section 38(1)(c)(ii) of the PFMA, AOs of institutions must take effective and appropriate steps to, amongst others, prevent irregular expenditure.
- 5.2 In terms of sections 38(1)(g) of the PFMA, AOs, on the discovery of any irregular expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury.
- 5.3 In terms of section 38(1)(h)(iii) of the PFMA, AOs must take effective and appropriate disciplinary steps against any official in the service of the department who makes or permits irregular expenditure.
- 5.4 In terms of section 40(3)(b) of the PFMA, the annual report and audited AFS that the AO must submit within five (5) months of the end of the financial year to the relevant treasury and to the MEC responsible for the department in accordance with section 40(1)(d) of the PFMA, must include:
- a. any losses through criminal conduct and irregular expenditure that occurred during the financial year;
 - b. any criminal or disciplinary steps taken as a result of such losses and irregular expenditure; and
 - c. any material losses recovered or written off.
- 5.5 In terms of section 45(c) of the PFMA, an official in a department must take effective and appropriate steps to prevent irregular expenditure within that official's areas of responsibility.
- 5.6 In terms of section 76(2)(e), NT may make regulations or issue instructions applicable to departments, concerning irregular expenditure.
- 5.7 In terms of section 81(1)(b) of the PFMA, an AO commits an act of financial misconduct if that AO officer wilfully or negligently -
- a. fails to comply with requirements of amongst others, section 38 and 40 of the PFMA; or
 - b. makes or permits irregular expenditure.
- 5.8 In terms of section 81(2) of the PFMA, an official of a department to whom a power or duty is assigned in terms of section 44 of the PFMA, commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty.
- 5.9 In terms of TR 9.1.1, the AO of an institution must exercise all reasonable care to prevent and detect irregular expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.
- 5.10 In terms of TR 9.1.2, when an official of an institution discovers irregular expenditure, that official must immediately report such expenditure to the AO. Such expenditure must also be reported in the monthly report, as required by section 40(4)(b) of the PFMA.

- 5.11 In terms of TR 9.1.3, when an AO determines the appropriateness of disciplinary steps against an official in accordance with section 38(1)(g) of the PFMA, the AO must take into account -
- a. the circumstances of the transgression;
 - b. the extent of the expenditure involved; and
 - c. the nature and seriousness of the transgression.
- 5.12 In terms of TR 9.1.4, the recovery of losses or damages resulting from irregular expenditure must be dealt with in accordance with Chapter 12 of the TR.
- 5.13 In terms of TR 9.1.5, the amount of the irregular expenditure must be disclosed as a note to the AFS of the department.
- 5.14 Chapter 12 of the TR sets out the procedure that must be followed in the event of damages or losses suffered in respect of state property.
- a. In terms of TR 12.7.1, losses or damages suffered by an institution because of an act committed or omitted by an official, **must** be recovered from such an official if that **official is liable in law**.
 - b. TR 12.2.1 (a) to (g) provides the criteria that must be considered by the AO when considering whether to waive a claim against an official.
 - (a) *intentionally exceeded his or her powers;*
 - (b) *made use of alcohol or drugs;*
 - (c) *did not act in the course and scope of his or her employment;*
 - (d) *acted recklessly or intentionally;*
 - (e) *without prior consultation with the State Attorney, made an admission that was detrimental to the state; or*
 - (f) *failed to comply with or ignored 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, excluding damage arising from the use of a state vehicle; and*
 - (g)

6. DEFINITION AND RECOGNITION OF IRREGULAR EXPENDITURE

6.1 Definition

6.1.1 Irregular expenditure¹ is expenditure, other than unauthorised expenditure that is incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including:

- (a) The PFMA*,
- (b) The State Tender Board Act, 1968 (act no. 86 of 1968) or any regulations in terms of that act, and
- (c) Any provincial legislation providing for procurement in that provincial government.

¹ The definition of irregular expenditure excludes non-compliance with internal policies of the department, trading entity, constitutional institution and public entities.

- 6.1.2 The definition of irregular expenditure extends over the term contravention of "any applicable legislation" as the term "contravention" **must relate to the incurrence of a financial transaction** by the Department.

**Regulations and instructions issued in accordance with section 76 of the PFMA e.g., TRs, NTIs and the Cost Containment Measures, and also include the Provincial Treasury Instructions (PTI). **

6.2 Examples of irregular expenditure

- 6.2.1 The late submission of the AFS to PT is a contravention of section 40(1)(c)(ii) of the PFMA; however, the contravention does not relate to the incurrence of a financial transaction. Therefore, such a contravention will not meet the definition of irregular expenditure.
- 6.2.2 A transaction for catering cost relating to a year-end function will be considered irregular as it is in contravention with the Cost Containment Measures issued in accordance with section 76 of the PFMA that determines that year-end functions may not be funded from government funds.

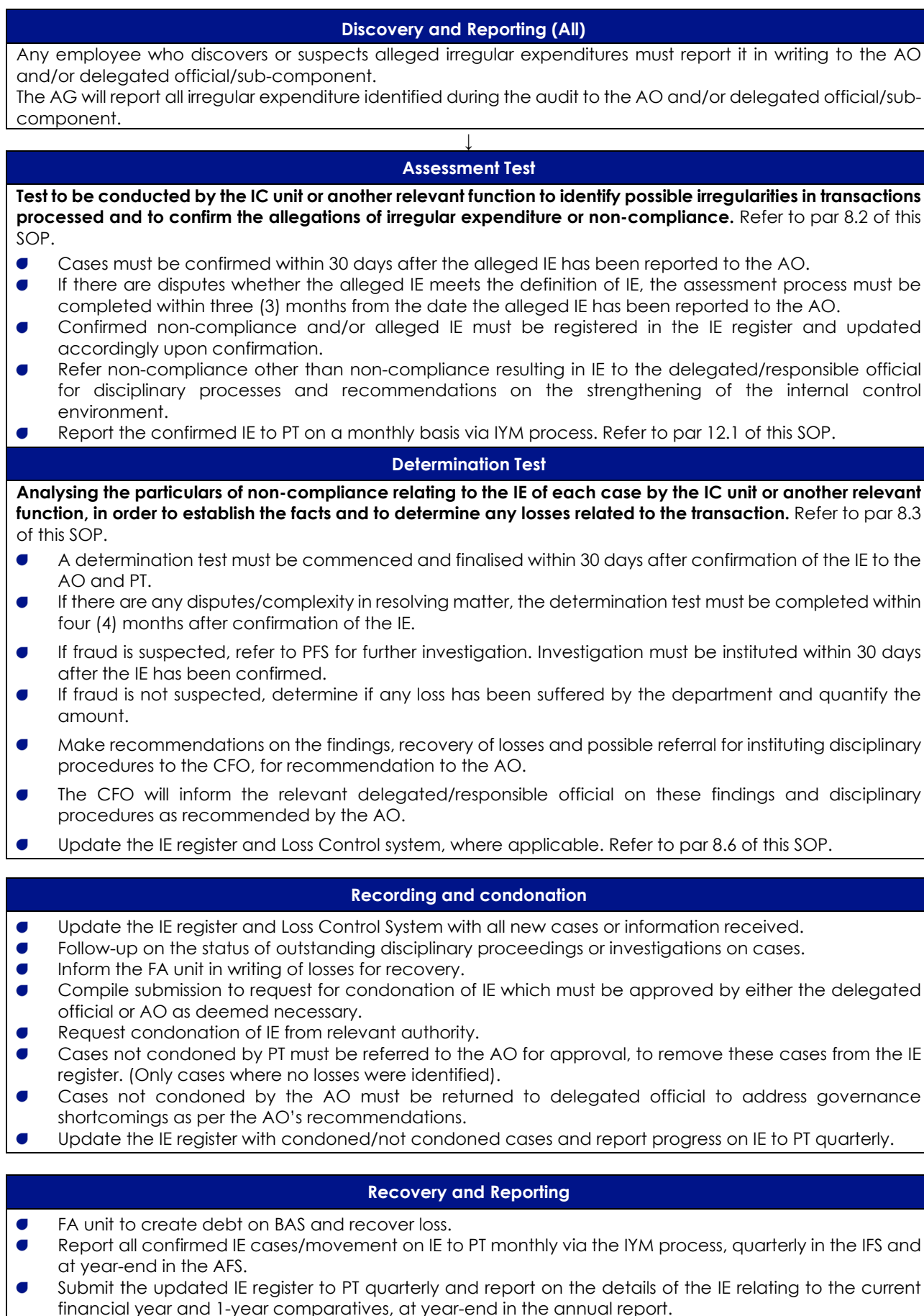
6.3 Recognition of irregular expenditure

- 6.3.1 For a department applying MCS, a non-compliance must be linked to a financial transaction for the department to incur irregular expenditure. Although a transaction may trigger possible irregular expenditure, the department will only record irregular expenditure when a payment pertaining to the non-compliance is made (i.e. when the expenditure is recognised in accordance with the MCS).

6.4 Fruitless and Wasteful Expenditure vs Irregular Expenditure

- 6.4.1 Fruitless and Wasteful expenditure is defined as expenditure which was made in vain and that could have been avoided had reasonable care been exercised. Irregular expenditure refers to a transaction for e.g. where the prescribed procurement processes was not followed, or the goods or service was procured in contravention with a stipulation of the PFMA or instruction issued in accordance with the PFMA.
- 6.4.2 If catering was procured for an official meeting and all the correct procurement procedures were followed but it was later discovered that 5 officials who R.S.V.P. prior to the event as required by the SOP for Catering Expenditure did not attend the event without any acceptable reason, the expenditure relating to the 5 meals will be fruitless and wasteful expenditure as the expenditure could have been avoided had the caterer been informed prior to the event. The transaction is thus not irregular as the procurement processes are not in contravention with any stipulations of the PFMA or instruction issued in accordance with the PFMA.

7. DEPARTMENTAL PROCESS FLOW FOR IRREGULAR EXPENDITURE



8. DISCOVERY, ASSESSMENT, DETERMINATION OR INVESTIGATIONS RELATED TO IRREGULAR EXPENDITURE

8.1 Discovery of alleged irregular expenditure

- 8.1.1 An employee who becomes aware of or suspects the occurrence of irregular expenditure must immediately, in writing², report such alleged irregular expenditure to either:
- a. the AO in terms of TR9.1.2; or
 - b. IC unit or delegated official in terms of the AO's delegations.
- 8.1.2 If the alleged irregular expenditure is reported directly to the AO:
- a. the AO must forward all the reported cases, immediately to the IC unit or another relevant function via the CFO;
 - b. the discovery date is the date on which the alleged irregular expenditure was reported to the AO.
- 8.1.3 Financial staff must immediately report the details and forward all relevant documentation directly to the IC unit or another relevant function for assessment, upon becoming aware of alleged irregular expenditure.
- 8.1.4 Irregular expenditure is also identified via the post audit testing, hence the date the alleged irregular expenditure is identified via post audit testing, is the date of discovery.
- 8.1.5 Irregular expenditure may also be identified by the AGSA during the annual regulatory audit on the AFS. Alleged irregular expenditure discovered via the audit process must be addressed from a governance perspective in accordance with the PFMA Framework, recorded and reported by AOs similar to irregular expenditure identified via a department's internal process.

8.2 Conducting the Assessment Test (IC)

- 8.2.1 Upon discovery or receipt of notification of non-compliance and alleged irregular expenditure, the IC unit or another relevant function must record the non-compliance in the IE register - **APPENDIX A.**
- 8.2.2 The IC unit or another relevant function must confirm cases of irregular expenditure within 30 days after the alleged expenditure has been reported to the AO.
- 8.2.3 The IC unit another relevant function must conduct an assessment test on the non-compliance/alleged irregular expenditure, to identify possible irregularities in transactions that have been processed to confirm whether:
- a. irregular expenditure was incurred; or
 - b. the incident was the result of non-compliance with legislation that did not relate to the incurrence of a financial transaction or non-compliance of a departmental instruction/policy^{3*}

² Reporting of Alleged Irregular Expenditure form should be used - **Appendix C**

³ the PFMA definition of irregular expenditure does not include departmental instructions/policies when considering instances of irregular expenditure. E.g. if the AO issues a Departmental instruction/policy which prescribes a cost limit lower than the limit prescribed in terms of NT's Cost Containment Measures, a transgression of the limit prescribed in terms of the Departmental instruction/policy would not be regarded as irregular expenditure based on the PFMA definition.

8.2.4 Confirmation of irregular expenditure

- a. If a transaction was processed in contravention of legislation (non-compliance) and the same transaction has a financial implication (payment was made or a liability was recognised in the accounting records), it must be recorded as irregular expenditure.
- b. The IC unit or another relevant function should consult with the relevant parties involved e.g. SCM, FA, etc. and consider all relevant information prior to making a final recommendation, on a case by case basis.
- c. If the irregular expenditure is confirmed, the details must be recorded/updated in the IE register, accordingly for monitoring purposes.
- d. The IC unit or another relevant function must report all confirmed irregular expenditure monthly to PT as outlined in the IYM revised Treasury Circular No. 11 of 2022, effective date, 1 April 2023.

8.2.5 Confirmation of Non-compliance

8.2.5.1 If during the assessment it is confirmed that the identified non-compliance does not constitute irregular expenditure, the IC unit must -

- a. Make recommendations to strengthen the internal control environment where the non-compliance was identified and confirmed;
- b. Liaise with the responsible component to agree the steps to be taken to address the non-compliance;
- c. Refer the non-compliance matter to the delegated/responsible official upon approval by the AO or CFO, to consider disciplinary processes against the employee responsible for the non-compliance in accordance with the PFMA Framework (refer to par 11 of this SOP);
- d. AOs must be guided by their internal policies and regulations of the PSA, when referring minor non-compliance issues for disciplinary steps in accordance with the PFMA Framework, which requires the AO to refer irregular expenditure matters to the Human Resource function for assistance with the disciplinary processes; and
- e. Update the details of the confirmed non-compliance in the IE register accordingly.

8.2.6 Assessments must be completed within 30 days, from the date of discovery of the alleged irregular expenditure or non-compliance;

8.2.7 In the event the IC unit or another relevant function is unable to meet the timeframes for the completion of assessments due to disputes or complexity in completing the assessment, the IC unit or any relevant function are required to inform the AO, in writing, of the risk of non-compliance and the reasons for the non-compliance;

8.2.8 If there are disputes whether the alleged irregular expenditure meets the definition of irregular expenditure or when the matter is complex, the assessment process must be conducted and completed within three (3) months from the date the alleged expenditure was reported to the AO.

8.3 Conducting the Determination Test (IC)

8.3.1 Upon confirmation of the irregular expenditure in accordance with par 8.2 of this SOP, the IC unit or another relevant function must conduct a determination test to analyse the particulars of non-compliance (which has resulted in irregular expenditure being incurred) to establish the facts and losses, if any, related to the transaction.

- 8.3.2 The determination test must confirm the facts and losses associated with the transaction and provide information related to the identification, including:
- a. root causes that led to the transgression;
 - b. employee(s) responsible for the irregular expenditure;
 - c. whether the department suffered a loss; and
 - d. any breakdown in the designed internal controls.
- 8.3.3 The determination test must commence within 30 days after the irregular expenditure was reported to the AO and PT, in accordance with section 38(1)(g) and (h) of the PFMA.
- 8.3.4 If fraud, corruption or other criminal conduct is suspected at any point while conducting the determination test, the IC unit must refer the case for investigation in accordance with par 8.5 of this SOP.
- 8.3.5 If fraud is not suspected, the IC unit must document their findings and make recommendations on possible disciplinary steps as well as the recovery of losses where applicable, for approval by the AO.
- 8.3.6 The IC unit must inform the delegated/responsible official where the transgression originated, to institute disciplinary processes in accordance with par 8.2.5.1 (c) of this SOP and make recommendations on any breakdown of internal controls as prescribed by the AO. Refer to paragraph 11 of this SOP.
- 8.3.7 If the determination test confirms that a loss was incurred by the department, the IC unit another relevant function must be informed to update the Loss Control system and proceed with the monitoring of the outstanding actions in accordance with par 8.7 of this SOP.
- 8.3.8 If the determination test confirms that no loss was suffered and/or value for money was achieved, the IC unit or another relevant unit must:
- a. refer the matter related to irregular expenditure to the delegated/responsible official to consider instituting disciplinary processes upon approval by the AO or CFO, if deemed necessary;
 - b. update the IE register accordingly;
 - c. follow up on outstanding actions as per the approved recommendations; and
 - d. institute the condonation process.
- 8.3.9 The determination test must be completed within 1-month, after the irregular expenditure was confirmed via the assessment, by the IC unit or another relevant function.
- 8.3.10 In the event the IC unit or another relevant function is unable to meet the timeframes for the completion of the determination test due to disputes or complexities identified in completing the determination, the IC unit or any relevant function are required to inform the AO, in writing, of the risk of non-compliance and the reasons for the non-compliance.
- 8.3.11 In the event of disputes or complex cases, the determination test must be conducted and completed within four (4) months from the date the irregular expenditure was confirmed.

8.4 Value for money

- 8.4.1 In order to determine whether value for money was achieved, the focus should be on the optimal use of resources by a department and striking a balance between economy, effectiveness, and efficiency. The determination should conclude on how the department utilised its resources through procurement effectively, economically and without waste, with due regard for the total costs, benefits and contribution in the outcomes the department wants to achieve.
- 8.4.2 The following SCM elements from a demand management perspective must be assessed:
- a. a needs assessment to ensure that goods or services are acquired in order to deliver the agreed service was completed;
 - b. specifications were precisely determined in accordance with the need's assessment;
 - c. requirements are linked to the budget; and
 - d. the supply industry was analysed.

8.5 Investigation into fraudulent cases and referral to the SAPS

- 8.5.1 The AO must, upon suspicion of fraudulent, corrupt or other criminal conduct, refer the irregular expenditure matter to the function assigned to conduct investigations in the WCG, to establish the facts about the transaction and to obtain recommendations on the next step(s) to be taken.
- 8.5.2 The IC unit or another relevant function must recommend that the AO refer the case to PFS for investigation if fraud, corruption or criminal activities are suspected during the execution of the determination test.
- 8.5.3 If the AO refers the case to PFS for investigation, the IC unit or another relevant function must assist PFS by providing PFS with all the details pertaining to the case in line with the Departmental Fraud Prevention and Implementation Plan.
- 8.5.4 If the IC unit or another relevant function suspects that the AO is implicated in an alleged economic offence during the execution of the determining test, the alleged fraudulent, corrupt or criminal activities must be reported in accordance with the PDA and WCG Whistle-blowing Policy:
- a. by the Head of the IC unit or via the CFO office;
 - b. directly to the National Anti-Corruption Hotline; and/or
 - c. the MEC of the department.
- 8.5.5 PFS is mandated to conduct forensic investigations into allegations relating to economic offences (fraud, theft, corruption, etc.) committed against any WCG department. However, when an AO is implicated in the alleged economic offence, PFS may only investigate upon instruction by the Premier or relevant MEC, after consultation with the Premier.
- 8.5.6 In the absence of approval from the Premier and/or the relevant MEC, and in accordance with the PDA and WCG Whistle-blowing Policy, PFS will refer the matter to an appropriate body for instance the Public Protector or AGSA for investigation.
- 8.5.7 The investigation by PFS must commence within 30 days after the determination test. However, where the AO is implicated in the allegation, PFS' investigation will commence upon instruction from the Premier or relevant MEC, after consultation with the Premier.

- 8.5.8 The investigation by PFS must provide at least the following facts about the transaction to the referring authority, the AO, MEC or Premier -
- a. root causes that led to the transgression;
 - b. impact of the transgression;
 - c. information on fraudulent, corrupt or criminal conduct;
 - d. employee(s) responsible for the irregular expenditure;
 - e. if the department suffered a loss;
 - f. if the matter must be referred to SAPS; and
 - g. any breakdowns in the designed internal controls and the impact thereof.
- 8.5.9 On the conclusion of the PFS investigation, they will issue a report on the outcome of their investigation in accordance with par 8.5.7 of this circular, to the AO or directly to the Premier and/responsible MEC, where the AO was implicated in the allegation.
- 8.5.10 Once the investigation confirms that the irregular expenditure is related to a fraudulent, corrupt or criminal conduct or activity:
- a. the matter will be registered by PFS with SAPS within 7 days after the report has been reviewed and accepted by the AO; and
 - b. PFS will inform the AO once the case has been registered and provide the case number to the department;
 - c. the AO must inform the MEC, PT and AGSA within seven (7) after the matter has been reported to SAPS; and
 - d. with respect to the AO (acts as discussed in par 8.5.4 of this SOP), the MEC must inform PT and the AGSA within seven (7) days after the matter has been reported to SAPS.
- 8.5.11 The IC unit must update the IE register with all the details of the fraudulent, corrupt and criminal acts reported to law enforcement agencies.

8.6 Impracticability Judgement

- 8.6.1 A department may apply judgement that it is impractical to quantify the full amount of irregular expenditure.
- 8.6.2 The AO must take every reasonable step to demonstrate the impracticability when such judgement is reached such as –
- a. consideration of omissions or misstatements that could influence decisions of the users; and
 - b. use the impracticability judgement only in instances where:
 - (i) information is not available;
 - (ii) it will be impossible to collect data that would have been collected at the time of the event or circumstance of the non-compliance; and/or

- (iii) it will be impossible to recreate or reproduce the data especially if such an exercise will result in additional costs and time.

8.6.3 The department must include a narrative in the annual report when the quantification, assessment and determination of the irregular expenditure is demonstrated as impractical.

8.7 Monitoring and Evaluation

8.7.1 Upon completion of the determination test and/or investigation, the IC unit another relevant function must:

- a. register any new cases/information in the Loss Control system;
- b. update the IE register and Loss Control system accordingly;
- c. follow-up on the status of outstanding disciplinary proceedings referred to the delegated/responsible official in accordance with par 8.2.5.1 (c) and 8.3.6 of this SOP;
- d. follow-up on the implementation of steps taken to address the breakdown of internal controls to correct and prevent the reoccurrence of control weaknesses.
- e. inform the FA unit in writing to recover any losses as identified during the determination test, in accordance with par 9 of this SOP.
- f. compile a submission for approval by either the delegated official and/or AO, to request relevant authority to condone irregular expenditure in accordance with par 10.1 of this SOP;
- g. obtain approval from the AO to remove those cases not condoned by PT from the IE register, in accordance with par 10.2 of this SOP;
- h. address the outstanding governance requirements in line with the recommendation by the AO, if the AO does not approve the condonation of irregular expenditure, in his/her capacity as the relevant authority.

9. RECOVERY OF IRREGULAR EXPENDITURE

9.1 Informing Financial Accounting of recoveries to be instituted

9.1.1 If the results of the determination test conducted confirms that the department suffered a loss and/or partial loss from the incurrence of irregular expenditure and no fraudulent, corrupt or other criminal conduct was involved, the IC unit must inform the AO in writing to institute a claim against the responsible employee for recovery of the loss.

9.1.2 If the loss results from fraud, corruption or other criminal conduct as determined by the investigation, the IC unit must after conclusion of the criminal case, inform the AO in writing, to institute a civil claim for the recovery of the loss.

9.1.3 The IC unit must update the IE register and the Loss Control System and notify the FA unit of the loss to proceed with the recovery process.

9.1.4 The recovery of losses resulting irregular expenditure must be conducted in line with the Departmental Debt Management Policy. The FA unit should consider the steps referred to in par 9.2 to 9.6 of this SOP, when recovering any loss from an official(s).

9.2 Quantifying the debt/loss

- 9.2.1 The amount of debt recoverable from the responsible employee may equate to:
- a. the value of the debt incurred as a consequence of his or her action(s) that led to the incurrence of irregular expenditure; or
 - b. a lesser amount determined by the AO in accordance with the Debt Management Policy of the Department.
- 9.2.2 In the case the AO is responsible for the debt, PT must determine –
- a. the value of the debt incurred as a consequence of his or her action(s) that led to the incurrence of irregular expenditure; or
 - b. a lesser amount.

9.3 Raising a debt

- 9.3.1 TR 11.2 requires an AO to take effective and appropriate steps to timeously collect all money due to the department.
- 9.3.2 A debt must be identified, reported and recorded in the books of the department where such a debt arose from losses incurred as a result of irregular expenditure.

9.4 Informing the responsible employee of the debt

- 9.4.1 The IC unit or another relevant function must in writing, request the official responsible for the debt, to pay the amount involved within thirty (30) days or to liaise with FA to make arrangements to repay the debt within reasonable instalments. The “request in writing” essentially means that the debtor is placed “*in mora*”.
- 9.4.2 All debts incurred from losses resulting from irregular expenditure shall be interest bearing at the uniform interest rate prescribed in accordance with section 80(1)(b) of the PFMA and shall be calculated using the simple interest method.
- 9.4.3 In cases where the employee has left the service of the department, the IC unit or another relevant function shall refer the matter to the FA unit to recover the debt which may include, amongst others, engaging private debt management agencies on a no trace, no pay basis.

9.5 Liability in law (if there are disputes)

- 9.5.1 If the employee responsible for the debt is still in the employ of the department and denies liability for the debt, the IC unit or another relevant function may refer the matter to the State Attorney to confirm the debtor's liability in law.
- 9.5.2 If the person responsible for the debt has left or is not in the employ of the department and denies liability for the debt, the IC unit or another relevant function must refer the matter to the State Attorney or Legal Services to confirm the debtor's liability in law.
- 9.5.3 Prior to referring the case to the State Attorney, the IC unit or another relevant function should:
- a. conduct a cost versus benefit analysis by weighing the cost of soliciting the legal opinion from the State Attorney against the benefit to be derived in terms of the debt in dispute; and

- b. take a final decision based on the outcome of this analysis prior to incurring the additional expense;
- c. the State Attorney introduced a materiality level of R3 000; hence all debt less than R3 000 cannot be referred to the State Attorney and must be dealt with internally, by departments.

9.6 Irrecoverable debt

- 9.6.1 If the debt becomes irrecoverable, the AO may write-off the debt in terms of TR 11.4.
- 9.6.2 Where the AO is responsible for the debt and is unable to re-pay the debt, the AO must report the inability to pay to PT for consideration for the write-off of the debt.

10. CONDONATION, REMOVAL AND CONSEQUENCE MANAGEMENT

If the recommendation of the determination test confirms that the department did not incur a loss as a result of the irregular expenditure, and that value for money was achieved in accordance with par 8.4 of this SOP, the IC unit or another relevant function must refer the irregular expenditure to:

- a. PT for condonation upon approval by the AO, if the AO or employee of the department is responsible for the irregular expenditure;
- b. AO for removal, if the irregular expenditure was not condoned by PT; or
- c. AO, in a case where an employee responsible for the non-compliance contravened the AO's delegation framework issued in accordance with section 44 of the PFMA.

10.1 Relevant authority to condone irregular expenditure

- 10.1.1 The IC unit or another relevant function should consider the following principles to determine when the irregular expenditure must be referred for condonation to the AO versus PT:
 - a. the AO is the **relevant authority** to consider condonation of irregular expenditure, if the AO's approval would have been required prior to entering that transaction or incurring such expenditure; and
 - b. PT is the **relevant authority** to consider condonation of irregular expenditure, if the AO is implicated in the irregular expenditure or the AO did not have the authority to enter a transaction or incur such expenditure.
- 10.1.2 The IC unit or another relevant function should refer to the following examples extracted from NT's Updated Guideline on Irregular Expenditure – 2015 and amended accordingly in accordance with NT14 of 2022/23 and the PFMA Framework, to assist in the determination of the relevant authority:

Categories of irregular expenditure	Relevant Authority
IE incurred as a result of non-compliance with a TR where prior written approval was required from PT. (e.g. incurred related to a public private partnership by department without obtaining the prior written approval from PT, as required by TR16.4.2).	PT
IE incurred as a result of non-compliance with a TR which required cognisance to be taken of a NT determination. (e.g. goods or services were procured by means of price quotations where the value of the purchase exceeded the threshold values determined by NT for price quotations. (Contravention of TR16A6.1).	PT

Categories of irregular expenditure	Relevant Authority
IE incurred as a result of goods or services by means other than through competitive bids and where reasons for deviating from inviting competitive bids have not been recorded and approved by the functionary to whom the power has been delegated by the AO (Contravention of Treasury Regulation 16A6.4).	AO
IE incurred as a result of non-compliance with a requirement of the AO's delegations of authority issued in terms of the PFMA. (e.g. an official approves purchase of goods to the value of R 35 000; however, his or her limit in terms of delegation of authority is R30 000).	AO

10.1.3 The IC unit or another relevant function may also refer to NT's Examples of Irregular Expenditure attached as **Annexure** to this SOP; however, these examples must be read in accordance with par 10.1.1.

10.2 Referring irregular expenditure for condonation to the relevant authority

10.2.1 Request for condonation of irregular expenditure may only be submitted to the relevant authority upon confirmation that the department:

- a. did not suffer a loss/value for money was achieved; or
- b. a partial loss was incurred which were duly addressed in accordance with the recovery process.

10.2.2 When preparing a submission for condonation, the IC unit or another relevant function must, as minimum, include the following information -

- a. confirmation that a determination test was conducted;
- b. findings and recommendations of the IC unit that conducted the determination test;
- c. confirmation that an Investigation were conducted in cases of identified fraudulent, corrupt or other criminal conduct;
- d. confirmation that a criminal charge has been laid in the case of alleged fraudulent, corrupt or other criminal conduct;
- e. finding and recommendations of a functionary that conducted the investigation;
- f. confirmation that no losses were incurred and that value for money was achieved or a partial loss was incurred which were duly addressed in accordance with the recovery process.
- g. confirmation that disciplinary action was taken against the responsible employee(s) or in the process of being taken; and
- h. confirmation of remedial actions taken as recommended by the IC unit or other relevant function and confirmed by the delegated official or AO where applicable, to prevent the recurrence of such irregular expenditure in similar circumstances.

10.3 Irregular expenditure referred to PT for condonation

10.2.3 All request for the condonation of irregular expenditure must be approved by the AO or delegated authority.

- 10.2.4 The IC unit must submit a soft copy of the AO's request together with the required supporting information addressed to the Head Official: Provincial Treasury and send to the PAG's Office at PT.helpme@westerncape.gov.za.
- 10.2.5 On receipt of PT's recommendation on the condonation of the case or not condoned, the IC unit or another relevant function must update the IE register accordingly;
- 10.2.6 The IC unit or another relevant function must submit a request to the AO or delegated authority to remove cases from the IE register which were not condoned by PT.
- 10.2.7 The AO may consider removing irregular expenditure not condoned by PT, if:
- a. the matter is free from fraudulent, corrupt or criminal acts;
 - b. disciplinary action was taken/in process of being taken against the responsible employee(s);
 - c. the Department did not suffer any losses or partial losses incurred were duly addressed via the recovery process;
 - d. the non-compliance that led to the irregular expenditure has been addressed to ensure that such expenditure does not reoccur under similar circumstances; and
 - e. transactions of a similar nature are regularly reviewed to ensure compliance with the relevant prescripts.

10.4 Irregular expenditure referred to the AO for condonation

- 10.4.1 All request for the condonation of irregular expenditure must be approved by the delegated authority.
- 10.4.2 The AO, should note that non-compliance to an internal policy or finance instruction does not constitute irregular expenditure, in accordance with the definition of irregular expenditure contained in chapter 1 of the PFMA; however, AO's have the autonomy to address governance aspects relating to non-compliance to the AO's delegation framework.
- 10.4.3 If the AO does not condone the irregular expenditure, the IC unit or another relevant function in collaboration with the delegated authority, must address the governance aspects as recommended by the AO, in accordance with the requirements of the PFMA Framework.
- 10.4.4 The IC unit or another relevant function must update the IE register accordingly.

10.5 Condonation by the Provincial Treasury

- 10.5.1 A CWC has been established by PT which is coordinated by the PAG's office, to assist the Head Official: PT in discharging his responsibility in accordance with the delegation of authority by the MEC for Finance and NTI 4 of 2022/23.
- 10.5.2 The CWC will provide clarity and guidance to the delegated PT official, entrusted with the responsibility to consider request for the condonation of irregular expenditure and provide reasons and recommendations to AOs, when irregular expenditure is not condoned.
- 10.5.3 The PAG is the chairperson of the CWC and the Directorate: Provincial Government Accounting and Compliance is responsible for the secretariat function.

- 10.5.4 The CWC shall convene once a month or when deemed necessary and will assess all requests for condonation of irregular expenditure from provincial departments regardless of the value involved, excluding:
- a. non-compliance to the AO's delegation of authority by an employee of the department;
 - b. cases relating to losses incurred by the department, read in conjunction with par 10.2.1 of this SOP;
 - c. cases relating to fraud, corruption or other criminal conduct not referred for investigation by the AO;
- 10.5.5 The CWC shall amongst others:
- a. recommend to the delegated PT official to grant or to decline a request to condone irregular expenditure via a departmental response letter, after giving due consideration to all relevant information;
 - b. recommend to the delegated PT official to refer an application to condone an irregular expenditure back to the requesting department to reconsider the outcomes/recommendations emanating from the determination test or investigation;
 - c. recommend to the delegated PT official to refer an application to condone irregular expenditure to any other official authority for advice; and to consider feedback reports for noting;
 - d. respond timeously to all condonation requests and substantiate with reasons when irregular expenditure is not condoned.
- 10.5.6 The Directorate: Provincial Government Accounting and Compliance shall provide AOs with PT's approved response letter within two (2) months of receiving the request to condone irregular expenditure, provided the departmental request complies with the minimum requirements as outlined in section 5.6 of the PFMA Framework.

11. CONSEQUENCE MANAGEMENT

- 11.1 The IC unit or other relevant function must identify the official(s), responsible for the irregular expenditure when conducting the determination test, in accordance par 8.3.2 of this SOP.
- 11.2 The IC unit or other relevant function should obtain and review all the relevant evidence and determine whether the responsible official(s) was at fault. Section 45 of the PFMA outlines the responsibilities of officials in a department as it relates to their area of responsibility. A failure by an official to dutifully carry out these responsibilities could be construed as negligent (fault).
- 11.3 The IC unit or other relevant function may refer the determination of fault for advice or guidance to the Branch: Legal Services within the Department of the Premier.
- 11.4 If the determination test concludes that the non-compliance was incurred in the absence of fault by any official(s), the IC unit or another relevant function should recommend that the AO/delegated official:
- a. not take any disciplinary steps against any official(s); and
 - b. strengthen the internal controls to prevent the recurrence of such non-compliance in similar circumstances.

- 11.5 If the determination test concludes that the non-compliance was incurred **due to fault** by the official(s), the IC unit or other relevant function:
- a. should recommend that the AO or line manager/delegated authority consider instituting disciplinary steps against the responsible official(s);
 - b. document the details of the transgressions in a manner that would assist the AO or line manager/delegated authority to implement consequence management;
 - c. recommend that the AO or line manager/delegated authority refer the matter to Employee Relations for further investigation, if the transgression is serious in nature;
 - d. may consult with Employee Relations for advice or guidance prior to the finalisation of the report to the AO or line manager/delegated authority;
 - e. strengthen the internal controls to prevent the recurrence of such non-compliance in similar circumstances.
- 11.6 If the AO is implicated in the irregular expenditure, the IC unit or another relevant function must, in conjunction with the CFO:
- a. may liaise with PFS to seek guidance and advice on whether the transgression relates to a suspicion fraud, theft or corruption;
 - b. inform PT and relevant MEC of the alleged involvement of the AO in the irregular expenditure;
 - c. Refer the matter to the MEC to:
 - (i) consider referring the matter to PFS to initiate an investigation, if the transgression relates to a suspicion of fraud, theft or corruption; or
 - (ii) consider referring the matter to Employee Relations to initiate an investigation, if the transgression does not relate to possible intention to commit fraud, corruption or criminal activity.
- 11.7 The AO must, as soon as the disciplinary proceedings are completed, report to the MEC, the Department of Public Service and Administration and the Public Service Commission on the outcome, including -
- a. the name and rank of the official against whom the proceedings were instituted;
 - b. the charges, indicating the financial misconduct the official is alleged to have committed;
 - c. the findings;
 - d. any sanction imposed on the official; and
 - e. any further action to be taken against the official, including criminal charges or civil proceedings.
- 11.8 The AO must implement remedial actions to strengthen the internal controls to prevent irregular expenditure that may be incurred in the future.

12. REPORTING AND RECORDING

12.1 Reporting

- 12.1.1 The IC unit must submit **quarterly reports** (updated IE register) to PT within 30 days after the end of each quarter in accordance with section 38(1)(g) of the PFMA, section 6.5 of NTI 4 of 2022/23 and the PFMA Framework. The format of the quarterly reports are prescribed in **Appendix A** of this SOP and must be sent to PT.helpme@westerncape.gov.za.
- 12.1.2 FA unit must report all confirmed irregular expenditure relating to the year and previous year (1-year comparative) to PT in the **monthly report** on revenue and expenditure, in accordance with section 40(4)(b) of the PFMA.
- 12.1.3 FA unit to report in accordance with section 40(3)(b)(i) of the PFMA and the PFMA Framework:
- irregular expenditure incurred and confirmed during the year and previous year (1-year comparative) in the AFS of the department;
 - all particulars of any irregular expenditure that was incurred and confirmed during the year and previous year (1-year comparative) in the annual report of the department.

12.2 Recording

- 12.2.1 Irregular expenditure is recorded in the notes to the AFS when confirmed in terms of the assessment conducted by the IC unit or other relevant function.
- 12.2.2 The amount recorded in the AFS is equal to the value of irregular expenditure incurred in that current financial year, unless it is impractical to determine, in which case reasons must be provided in the disclosure note.
- 12.2.3 The current financial year disclosure must include:
- amounts incurred and confirmed in that financial year; and/or
 - payments made as it relates to multi-year contracts.
- 12.2.4 The previous financial year disclosure must include:
- amounts confirmed in that financial year;
 - amounts that were under assessment in that financial year and confirmed in the current financial year; and
 - amounts not identified in that financial year and discovered and confirmed in the current financial year.
- 12.2.5 Refer to **Appendix B** for the disclosure of irregular expenditure in the AFS and annual report.
- 12.2.6 AO must disclose the details of irregular expenditure in Part E of the annual report as it relates to the current and previous financial year.
- 12.2.7 Irregular expenditure is recorded in the annual report when it is either –
- under assessment, determination and/or investigation;
 - condoned by the relevant authority; or

- c. transferred to receivables for recovery; or
- d. written off if it is not recoverable; or
- e. not condoned and removed.

13. REVIEW

- 13.1 This SOP shall be reviewed annually or when necessary to ensure compliance with the relevant prescripts and principles of good governance.

14. IMPLEMENTATION

- 14.1 This SOP is effective as from the date signed by the AO.
- 14.2 Responsibility for the implementation of this SOP rests with the CFO.
- 14.3 Any deviation from the prescripts contained in this policy and procedure must immediately be reported in writing to the AO via the CFO.
- 14.4 The content of this SOP must be brought to the attention of all the officials in the Department.

IRREGULAR EXPENDITURE REGISTER

DEPARTMENT NAME:

e.g. **PROVINCIAL TREASURY**

FINANCIAL YEAR

e.g. **2023/24**

QUARTER

e.g. **1st Quarter**

Total amount of Irregular Expenditure	Amount R'000
Total amount of irregular expenditure	-
Total condoned	-
Total removed	-
Total recovered	-
Total written off	-

Ref no.	Incident description	Legislation contravened	Date Incurred	Date Identified	Amount of IE	Status (under assessment, determination, investigation, confirmed non-compliance)	Date IE confirmed	Loss Amount Recovered	Loss Amount Written-off	Fraud, corrupt, or other criminal conduct reported to SAPS)	Details of disciplinary action taken/ to be taken	Condoned or removed by AO/ relevant authority	Remedial steps taken to prevent recurrence of similar UE
					R'000	(select drop-down)		R'000	R'000	(select drop-down)	(if applicable)		



REPORTING IN THE NOTE TO THE AFS AND IFS

Disclosure of irregular expenditure in the annual report:

Irregular Expenditure

Description	2022/23	2021/22
	R'000	R'000
Unauthorised expenditure (departments only)		
Irregular Expenditure	-	-
Fruitless and wasteful expenditure		
Closing balance	-	-

Disclosure of irregular expenditure in the annual report:

Reconciliation of irregular expenditure

Description	2022/2023	2021/2022	2020/2021
	R'000	R'000	R'000
Opening balance			
Prior Period Errors			
As Restated			
Add: Irregular expenditure confirmed			
Less: Irregular expenditure condoned			
Less: Irregular expenditure not condoned and removed			
Less: Irregular expenditure recoverable			
Less: Irregular expenditure not recovered and written off			
Closing balance			

Reconciling notes to the annual financial statement disclosure

Description	2022/2023	2021/2022
	R'000	R'000
Irregular expenditure that was under assessment in 2021/2022		
Irregular expenditure that relates to 2021/22 and identified in 2022/23(##)		
Irregular expenditure for the current year		
Total		

(##) During the year ended March 2023, for example, an amount of R4000 was identified as irregular expenditure incurred in 2021/22 but was identified in the 2022/23 financial year by internal auditors during a review of irregular expenditure transactions

Details of current and previous year irregular expenditure condoned

	2022/2023	2021/2022
	R'000	R'000
Irregular expenditure condoned	-	-
Total	-	-

Details of current and previous year irregular expenditure removed - (not condoned)

	2022/2023	2021/2022
	R'000	R'000
Irregular expenditure NOT condoned and removed	-	-
Total	-	-

Details of current and previous year irregular expenditure recoverable

	2022/2023	2021/2022
	R'000	R'000
Irregular expenditure recovered	-	-
Total	-	-

Details of current and previous year irregular expenditure not recoverable and written off (irrecoverable)

	2022/2023	2021/2022
	R'000	R'000
Irregular expenditure written off	-	-
Total		

Enquiries: Internal Control

For Attention: The CFO

REPORTING OF ALLEGED IRREGULAR EXPENDITURE IN ACCORDANCE WITH THE IRREGULAR EXPENDITURE SOP

Irregular expenditure has been incurred when the transaction was in contravention with any of the following:

- (a) Public Finance Management Act (PFMA) including any regulations and instructions issued in terms of sections 69, 76, 85, and 91 of this act;*
- (b) The State Tender Board Act, 1968 (act no. 86 of 1968);*
- (c) Any provincial legislation providing for procurement in that provincial government.*

Hereby, I wish to report alleged irregular expenditure.

Incident description:

Alleged amount involved: R

Programme and sub-programme where the alleged irregular expenditure occurred or about to occur:
.....

Name of person in the relevant programme who can provide more information regarding the alleged irregular expenditure:

Reason why irregular expenditure is suspected:

Name of supplier/company contracted:

My Name and contact number (Non-compulsory):

Case number as registered in the Check List. _____
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EXAMPLES OF IRREGULAR EXPENDITURE

ANNEXURE C

Deviations from legislation and the impact thereof							
Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments	
A. PROCUREMENT AND CONTRACT MANAGEMENT							
Awards to person in service of the institution and other state institutions							
1 PN 7 of 2009/10 and TR 16A 6.3 (a) (i)	Bidders must complete disclosure documents in the prescribed manner and submit them together with their bids.	Bidders must complete prescribed bid documents, including submitting a declaration as to whether the bidder, or if not a natural person, any director, member or shareholder of the bidder is in the employ of the state.(disclosure of conflict of interest). If a conflict of interest has been detected and that conflict was not declared, the bid may not be awarded.	Suppliers to whom awards were made did not submit declarations to declare that they are in the service of the institution or that a director/ member/ shareholder/ stakeholder is in the service of the institution and expenditure was incurred.	Non-Compliance Unless it was subsequently proven that a conflict of interest existed when the bid was awarded, then the omission of the declaration will be irregular expenditure	National Treasury		
2 TR 16A8.4PFMA sec. 50(3)(a) (in the case of public entities)PSR III/C1A	Compliance to ethical standards and ensuring that officials having conflicts of interest do not affect the procurement process	An official in the service of an institution who has a business interest in a company that has submitted a bid for work to be done in his/her institution must disclose such business interest and withdraw from all participation relating to that bid (disclosure of conflict of interest). If a conflict of interest has been detected and that conflict was not declared, the bid may not be awarded to the company in which he/she has a business interest in.	An official in the service of the institution did not disclose his/her conflict of interest in the bid and/or did not recuse himself/herself from the adjudication of the bid which was NOT awarded to the company in which he/she has business interests in. An official in the service of the institution did not disclose his/her conflict of interest in the bid and/or did not recuse himself/herself from the adjudication of the bid which was awarded to the company in which he/she has business interests in and expenditure was incurred.	Non-compliance with laws and regulations Irregular Expenditure	Not Applicable National Treasury		
3 Section 30(1) of the PSA(for departments)	Compliance to ethical standards and ensuring that officials do not perform private remunerative work without approval	No employee shall perform or engage himself or herself to perform remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department.	Persons in service of the department who had interest in suppliers of the department and/or other state institutions did not have approval to perform additional remunerative work.	Non-compliance with laws and regulations	Not Applicable		
Awards to close family members of persons in service of the institution							
4 PN 7 of 2009/10 and TR 16A 6.3 (a) (i) and	Bidders must complete disclosure documents in the prescribed manner	Bidders must complete prescribed bid documents, including submitting a declaration whether a close family member/partner/associate of the supplier is in the employ of the state (disclosure of conflict of interest).	Suppliers to whom awards were made did not submit declarations to declare that their close family member are in the service of the institution or that a director/ member/ shareholder/ stakeholder is in the service of the institution and expenditure was incurred.	Misrepresentation and omission of information by a supplier with a direct interest will be Irregular expenditure Misrepresentation and omission of information by a supplier with no direct interest will be Non-compliance	National Treasury		
5 TR16A8.4PFMA section 50(3)(a)	Compliance to ethical standards and ensuring that officials having conflicts of interest do not affect the procurement process	If a person in the service of an institution or any of his/her close family members, his/her partner, associate of the supplier, director or a principal shareholder has a business interest in a company that has submitted a bid to his/her institution, that person must disclose the interest and withdraw from participating in any matter relating to the bid.	A person in the employ of an institution did not disclose the interest of his/ her close family members, a partner or associate and/or did not withdraw from participating in the award of the bid and expenditure has been incurred	Irregular expenditure	National Treasury,		
Combating the abuse of the SCM system and follow-up of previous reports, complaints and allegation							
6 TR 8.2.1	No expenditure may be incurred or committed unless a duly authorised process has been followed	Payment may only be made in terms of a valid contract to a duly authorised payee Banking details and other relevant supplier information must be verified before any payment is effected	Payments made to fictitious suppliers Incorrect authorisation of transactions (delegations not complied with)	Irregular expenditure Irregular expenditure	National Treasury Accounting officer or accounting authority	<i>Breakdown of internal controls Expenditure must be transferred to receivables for recovery.</i>	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
7	TR 16A 9.2 (a)	Bidders are expected to conduct themselves in an ethical manner when conducting business with the public sector	An institution must disregard a bid if it has been found that the bidder or any of its directors have abused the institutions SCM system, have committed fraud or any other improper conduct in relation to such a system and/or have failed to perform on any previous contract. If any of the above was detected prior to finalisation of the bidding process, then the bid may not be awarded.	An institution awarded a bid to a supplier who was found to have abused the institution's SCM system, committed fraud or another form of improper conduct in relation to such a system and/or failed to perform on a previous contract. This was detected prior to the institution incurring any expenditure in relation to this bid. Notwithstanding the above, the bid was awarded and the expenditure was incurred by an institution operating on an accrual basis of accounting.	Non-compliance with laws and regulations Irregular Expenditure	Not Applicable Relevant Accounting officer or Accounting Authority	
				Notwithstanding the above, the bid was awarded and the expenditure was incurred (paid) by an institution operating on a modified cash basis of accounting.	Irregular Expenditure	National Treasury	
8	TR16A9.1(e)	Bidders are expected to conduct themselves in an ethical manner when conducting business with the public sector	An institution must reject a proposal for the award of a contract if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract.	An institution knowingly awarded a contract to a recommended bidder who is known to have committed a corrupt or fraudulent act in competing for that particular contract and expenditure was incurred.	Irregular expenditure	National Treasury	
9	TR16A9.1(f)	Bidders are expected to conduct themselves in an ethical manner when conducting business with the public sector	An institution must cancel a contract awarded to a supplier of goods or service:-(i) if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract; or (ii) if any official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of that contract that benefited that supplier.	The accounting officer failed to cancel the contract awarded to a supplier after identifying that the supplier, any official or other role player committed a corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.	Irregular expenditure	National Treasury	
10	TR 16A9.1(c)	No bid may be awarded to bidders who listed in the National Treasury's database of restricted suppliers.	An institution must check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, are listed as companies or persons prohibited from doing business with the public sector.	Awards were made to suppliers who are listed on the National Treasury's database as persons prohibited from doing business with the public sector. Expenditure was incurred on the awards	Irregular expenditure	National Treasury	
Procurement need and economy							
11	TR 16A6.5	An institution that consented to participate in transversal contracts facilitated by a relevant treasury may not procure goods or services contained in such contracts outside such transversal contracts .	Prior to going out on a bid for any particular good or service, the institution must confirm that such goods or services are not available for procurement in terms of a transversal contracts arranged by the relevant treasury which the institution agreed to participate in. Where a legitimate deviation is required, (eg where the goods or services were in the transversal contracts were not available or the supplier is unable to deliver the goods or services in the required quantity or at a specific time, the institution may procure outside the transversal contracts in which the institution agreed to participate in with the prior written approval of the relevant treasury. 3. Maintaining of audit trail	The institution procured goods or services through means other than through a transversal contract arranged by the relevant treasury which the institution agreed to participate in. Prior written approval for deviation from procuring through the transversal was not obtained from the relevant treasury.	Irregular expenditure Irregular Expenditure	National Treasury National Treasury	
12	PFMA sec 38(1)(a) (iv) and 51(1)(a) (iv)	An institution must have a system of evaluating all major capital projects prior to a final decision on the project	A system to evaluate capital projects must at least provide for a proper needs assessment, an analysis of costing and resources, testing of the market, feasibility testing, evaluating value for money and the identification of proper evaluation criteria to inform decision making.	An institution does not have a system to adequately evaluate major capital projects.	Non compliance with laws and regulations	Not Applicable	
13	TR 16A 6.3 (g)	Consultants may only be appointed in institutions when the need actually exists for their services which are absent in the institution.	An institution may only appoint a consultant when the necessary skills or resources required to perform a project, duty or study are not available and the institution cannot be expected to reasonably train or recruit people in the time available.	Consultants were contracted in to perform in a project, perform a duty or study for which skills were available within the institution or the institution had sufficient time to recruit and train people within the available time to perform such.	Non-compliance with laws and regulations	Not Applicable	
Procurement process and deviations							
14	TR 16.6.1	An institution may only conclude a PPP agreement with the prior written approval of the relevant treasury (Treasury Approval III)	The relevant treasury must satisfy itself that the institution complies with the requirements of TR 16.6.1 (a), (b) and (c) before granting its written approval for the institution to conclude a PPP agreement.	The institution incurred expenditure after entering into a public private partnership agreement without the prior written approval of the relevant treasury.	Irregular expenditure	Relevant treasury	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
15	TR 16A 6.1 and PN 8 of 2007/2008	Procurement methods must be guided by the prescribed thresholds	An institution must ensure that the procurement thresholds, as prescribed in paragraph 3.3 of PN 8 of 2007/2008, are strictly adhered to.	The method of procurement is inconsistent with those prescribed in terms of PN 8 of 2007/2008. For example, an institution procured the services of a service provider for goods and/or services in excess of R500 000 by means of three written price quotations instead of advertising the bid in the Government Gazette	Irregular expenditure	National Treasury	
16	TR16A6.4 and PN 6 of 2007/2008	Deviations from procurement processes may only take place under exceptional circumstances	<p>The accounting officer or accounting authority of an institution must ensure that the institution's SCM system makes provision for a competitive bidding process that, amongst others, provides for:</p> <p>(i) the invitation of bids;</p> <p>(ii) receipt of bids;</p> <p>(iii) evaluation of bids;</p> <p>(iv) clearing successful bidders before the award of contracts; and</p> <p>(v) proper record keeping;</p> <p>Deviations in terms of TR 16A.6.4 must be sufficiently motivated and justified for approval by the accounting officer/accounting authority or by an appropriately delegated employee or delegated post in the institution.</p> <p>The institution's SCM system must provide for a policy in relation to the management and treatment of situations when it is considered impractical to invite competitive bids and this policy must at least include the following:</p> <p>(i) situations when it is considered impractical;</p> <p>(ii) an outline of the institution's planning efforts to limit or improve responsiveness to impractical situations;</p> <p>(iii) an indication of the pre-requisites to consider when awarding and administering contracts during situations that are considered impractical;</p> <p>(iv) options available to an institution during situations that are considered impractical, including the procurement solutions of preference;</p> <p>(v) post execution assessment of the 'impractical' transaction;</p> <p>(vi) ex-post facto submission with sufficient motivation to the bid adjudication committee for ratification; and</p> <p>(vii) processes to be followed in respect of the recording and approval of 'impractical' procurement by the accounting officer or accounting authority</p>	<p>Supply chain management processes were deviated from for the purchase of goods and/or services in terms of TR16A.6.4 even though it was possible to comply with the requirement to procure these goods and/or services by means of the normal competitive bidding process.</p> <p>Deviations from competitive bidding were approved on the basis of it being an emergency, even though immediate action was not necessary and/or sufficient time was available to follow a normal competitive bidding process.</p> <p>An institution deviated from the prescribed procurement processes and the reasons were not documented and approved by the accounting officer/ authority or a delegated person.</p>	<p>Irregular expenditure</p> <p>Irregular expenditure</p>	<p>National Treasury</p> <p>Accounting officer or accounting authority</p>	
17	TR 16A 9.1 and PN 8 of 2007/08	The AO /AA must take all reasonable steps to avoid the abuse of the SCM system	Procurement transactions may not be deliberately split into parts of smaller value to merely avoid compliance with SCM requirements	Deliberate splitting into parts or items of smaller value merely to avoid complying with the requirements of the SCM policy and legislation.	Irregular expenditure	National Treasury	
18	Section 44(2)(c) of the PFMA and TR 8.2	The final decision to award a bid must be made by a properly delegated employee or by the holder of a specific post	Recommendation to award a bid must be done through a delegated employee or a committee	The decision to award the bid as made by an employee or the holder of a particular post who did have the appropriate delegation to award the bid.	Irregular expenditure	Accounting Officer	
19	NTR16A6.4(as defined PN 6 of 2007/08)	Institutions must provide for a process of limited bidding were a business case defines it as a feasible method of procurement	In instances where the institution requires a particular good and/or service that is only available from a specific service provider, the institution keep on record factual evidence to the effect.	Deviations from competitive bidding were approved on the basis of the goods and services only being produced by, or available from, a sole service supplier	Irregular expenditure, unless the institution is able to provide factual evidence that the goods and/or services can only be procured from the supplier to whom the bid was awarded.	National Treasury	
20	TR16A 3.2(a) and PN 8 of 2007/2008	An audit trail must be kept of the process followed when procuring through verbal quotations	<p>The processes followed to obtain the verbal quotations must be documented.</p> <p>An audit trail must be maintained that details the verbal quotations that have been obtained from service providers.</p> <p>A written quotation must be obtained from the service provider whose quotation was accepted.</p> <p>An order may only be placed when the written quotation is received from the accepted bidder.</p>	Goods and services with transaction values between R2 000 and R10 000 were procured through verbal quotations <u>without obtaining the written confirmation from the selected service provider.</u>	Non Compliance with laws and regulations	Not Applicable	
21	Sec 41 of the PFMA, TR 16A 6.4 and PN 6 of 2007/2008	Required reports to the relevant treasury and to the Auditor-General must be submitted and such submissions must be done timeously	When institutions deviate from competitive bidding processes and award bids with a transactional value in excess of R1 million, the accounting officer or accounting authority must, within 10 working days, furnish the relevant treasury and the Auditor-General with the required information after the award of such a bid.	Deviations from competitive bidding processes with transaction values above R1 million were not reported to the relevant treasury and the Auditor-General and/or such report was not submitted within 10 working days	Non Compliance with laws and regulations	Not Applicable	
Bid specification and documentation							
22	TR 16A.2 (b)	All institutions must have bid specification, bid evaluation and bid adjudication committees to evaluate their bids.	Rules of the establishment of the three bid committees are contained in paragraph 4 of NT Circular dated 24 March 2006.	The bid specification committee did not always draft the institution's bid specifications in accordance with its SCM policy	Non Compliance with laws and regulations	Not Applicable	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
23	TR16A3.2 (fairness & competition)SCM guide par 3.4.2	Specifications quoted in bidding documents should promote the broadest possible competition.	Specifications should be based on relevant characteristics and/or performance requirements. References to brand names, catalogue numbers, or similar classifications should be avoided. If it is necessary to quote a brand name or catalogue number of a particular manufacturer to clarify an otherwise incomplete specification, the words "or equivalent" should be added after such reference. The specification should permit the acceptance of offers for goods which have similar characteristics and which provide performance at least equivalent to those specified. The quality of goods/services required should, however, not be overspecified to the extent that it will be impossible for others to offer such a product.	Bid specifications were drafted on a biased manner which did not allow all potential suppliers to offer their goods and services.	Irregular expenditure if transgression supported by factual evidence	National Treasury	
Invitation and receipt of quotations and bids							
24	TR16A6.3(c)	Bids must be advertised in the appropriate publications for the periods as prescribed in terms of the Treasury Regulations	Bids must be advertised in at least the Government Tender Bulletin for a minimum period of 21 days before bid closure. Bids may be advertised in other media as well provided that it is also advertised in the Government Tender Bulletin In instances where employees other than the accounting officer or accounting authority approves the shortened period of advertising, appropriate delegations of authority must be in place for such approval.	Public invitations for the competitive bids were advertised for a period shorter than the required 21 days and the deviation was not approved in accordance with the SCM policy requirements. Public invitations for competitive bids were advertised in the media but such an invitation was not published in the Government Tender Bulletin The employee that authorised the shortened period of advertising did not possess the delegated authority from the accounting officer or accounting authority to grant such approval.	Irregular expenditure Irregular expenditure if the media used limited competition and resulted in a small pool of bidders. Otherwise, non-compliance. Irregular expenditure	Accounting officer or accounting authority if such transgression can be justified National treasury National Treasury	
25	TR16A6.3(c)	Bids must be advertised in the appropriate publications for the periods as prescribed in terms of the Treasury Regulations	The institution must, for audit purposes, document the reasons that supports the decision to advertise bids for a period shorter than the prescribed 21 days. Poor demand planning is not considered a plausible motivation for shortening the advertising period.	Appropriate approval was granted to advertise a bid for a period shorter than the prescribed 21 days even though the goods and/or services were not urgently required.	Irregular expenditure if it can be factually proven (with evidence) that the need for the goods and/or services was not urgent.	National Treasury	
26	TR 16A 3.2 (a) [fairness]	Institutions must maintain proper records in relation to the receipt of bids and should not consider bids that have been submitted after	Bids received after the closing date may not be considered for award	A contract was awarded to bidders whose bid was received after the closing date for the bid in question.	Irregular expenditure	National Treasury	
27	PN 8 of 2007/2008	Institutions must promote BEE through the participation of Black empowered enterprises, black women owned enterprises and through the promotion of businesses owned by Historically Disadvantaged Individuals (HDIs)	An institution must have a list of prospective suppliers in place to be used to invite price quotations	An institution does not have a list of prospective suppliers from whom price quotations can be invited	Non Compliance with laws and regulations	Not applicable	
28	PN 8 of 2007/2008		List of prospective suppliers must be updated at least quarterly to accommodate newly created BEE businesses and other HDI established suppliers	The list of prospective suppliers was not updated at least quarterly	Non Compliance with laws and regulations	Not applicable	
29	Instruction Note 32 dated 31 May 2011	Institutions must ensure transparency in the award of bids	After completing the bid process, the institution must publish on its website, the names of all bidders that submitted bids	The institution did not publish the names of successfully bidders on its website	Non Compliance with laws and regulations	Not applicable	
Evaluation and adjudication committees							
30	TR 16A6.2(b) & (c)	All bids must be scrutinised by the relevant committees prior to its award	Bid adjudication committees must be properly constituted in accordance with the institutions SCM policy and delegations of authority and its responsibility is to recommend the final award of a bid in accordance with the rules contained in paragraph 4 of NT Circular dated 24 March 2006.	Final awards and/or recommendation of awards to the accounting officer were not always made by the adjudication committee The bid adjudication committee was not constituted in accordance with the institution's SCM policy and its delegation of authority.	Irregular expenditure	National Treasury	
31	TR16A6.2(b)	Final awards must be made via recommendation through a bid adjudication committee and any deviation must be authorised by the AO/AA or its delegatee	Whilst the bid adjudication committee has the responsibility to recommend bids to the accounting officer or accounting authority, such functionaries may award a bid to a service provider other than that which has been recommended by the bid adjudication committee. This deviation can take place provided that the accounting officer, accounting authority or such other delegated employee must document the reasons for not awarding the bid in accordance with the bid adjudication committees recommendation. Code of conduct for BAC, issued March 2006 - par 2.2	The institution awarded a bid to a supplier that was not recommended by the bid adjudication committee and the deviation was not justifiable and/or not approved in terms of the SCM policy.	Irregular expenditure	National Treasury	If the accounting officer or accounting authority has delegated the power to approve the final award of bids, then the accounting officer or accounting authority concerned shall be the relevant authority.

Evaluation - General

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
32	TR16A3.2 (fairness)	Bids must be fairly assessed in terms of the prescribed criteria	Institutions must provide clear criteria against which a bid shall be evaluated against. These criteria must be contained in the original request for quotations or bid documentation.	The evaluation criteria applied to evaluate bids differed from those provided in the original request for quotation or documentation.	Irregular expenditure	National Treasury	
33	TR16A9.1(d) PPPR 14	Bids may not be awarded to a bidder whose tax matters have not been declared by SARS to be in order	A bid must be rejected if the bidder's tax matters have been found to be not in order	Awards were made to a supplier who did not have a valid tax clearance certificate from SARS to indicate that the supplier's tax matters are in order nor has the supplier made arrangements with SARS to meet their tax obligations	Irregular expenditure	National Treasury	
34	TR 16A 3.2 (a) PN 8 of 2007/2008	Institutions should only deal with bidders who are in good standing	The accounting officer or accounting authority of an institution must reject a proposal for the award of a bid if the recommended bidder has committed a corrupt or fraudulent act in competing for the particular contract	A bid was awarded to a bidder who has committed a corrupt or fraudulent act when competing for a particular bid	Irregular expenditure if it can be factually proven (with evidence) that the bidder committed a corrupt or fraudulent act when competing for a bid	National Treasury	
35	TR 16A 6.3(g)	The criteria for the evaluation of bids must be clearly stipulated in the bid documents	Institutions must ensure that consultants are appointed taking cognisance of the requirements in PN 3 of 2003 as amended by Instruction Note dated 3 September 2010	The institution did not include the consultant's experience and qualifications as part of the evaluation criteria	Non Compliance with laws and regulations	Not Applicable	
36	TR 16A 6.3 (a) PN 7 of 2009/2010	Supplier to complete disclosure documents in the prescribed manner	Before an accounting officer or accounting authority enters into any contract with an entity for the sale, lease or supply of goods or services, the entity must, in the prescribed manner, disclose any business interest that an employee or a family member of an employee who is in the service of the institution	There was non-disclosure of conflict of interest in that persons in service of the institution whose close family members/ partners/ associates had a private or business interest in contracts awarded by the institution failed to disclose such interest. Conflict detected, contract awarded and expenditure incurred	Non-compliance with laws and regulations Irregular Expenditure	Not Applicable National Treasury	
Evaluation - Preference points and functionality							
37	PPPF Act section 2(a)			The preference point system was not applied in the procurement of goods and services above R30 000 (Vat included).	Irregular expenditure	National Treasury	
38	PPFA Sec 2(1)(e);PPPR 4 (3) Para 3.3 of NT Instruction Note September 2010	All evaluation criteria for functionality, price and/or preference points must be stipulated in the request for quotations/bids.	Before a bid is advertised ensure that the evaluation criteria for functionality, price/preference points are stipulated in the request for bids/quotations If not stipulated, the institution must cancel and re-invite bids clearly stipulating the correct preference points system to be applied	Evaluation criteria applied in evaluating quotations/ bids for functionality, price and/or preference points were not stipulated in the request for quotations.	Irregular expenditure	National Treasury	
39	PPPF Act and its Regulations PPPR 3 (a) and (b); 5 and 6	Prior to inviting bids, the institution must determine and stipulate the appropriate preference point system to be used in the evaluation and adjudication of bids	Prior to a bid being advertised, the bid specification committee must verify that the correct preference points are allocated and approve it accordingly. Before an award is made, the bid evaluation committee must verify that the preference points were calculated correctly. A record of such verification must be maintained for audit purposes	The calculation and allocation of preference points were not correctly performed in accordance with the requirements of the PPPF Act, 2000 and its subordinate PPPR. The non-compliance has resulted in the award of a bid to the incorrect bidder.	Irregular expenditure if the bid was awarded to the incorrect bidder	National Treasury	
40	PPFA Sec 2(1)(f) PPPR 7 (1)	Circumstances may exist for instances when bids are not awarded to bidders with the highest points.	Awards may be made to bidders who did not score the highest points provided that objective criteria was used to justify the award of the bid to another bidder. Reasons for awarding a bid to a bidder who did not score the highest points must be documented and maintained for audit purposes	Awards was made to the quotation/ bids not scoring the highest points. Objective criteria was NOT used to justify that reasonable grounds existed not to select the quotation with the highest points.	Irregular expenditure if it can be proven with evidence that objective criteria were not used in the award of the bid	National Treasury	
Construction contracts							
41	CIDB Act section 18(1)	No contracts may be awarded to contractors who are not registered with Construction Industry Development Board (CIDB)	Before an contract is awarded make sure that the contractor is registered with CIDB	Construction contracts were awarded to contractors who are not registered with the CIDB	Irregular expenditure	CIDB	
42	CIDB regulation 17;CIDB regulation 25 (7A)	No contracts may be awarded to contractors whose CIDB grading is not suitable for the value of the contract	Before an contract is awarded the contractors CIDB, their grading must be verified to confirm that they are suitable for the assignment	Construction contracts were awarded to contractor whose CIDB grading is not suitable for the value of contract.	Irregular expenditure	CIDB	
43	CIDB regulation 17	No contract may be awarded to contractors for projects who are not registered in relation to the class of construction works.	Before an contract is awarded, the institution must make sure that the contractor is registered in the class of construction works that the projects relates to	Construction contracts were awarded to contractors who are not registered in the class of construction works that the projects relate to.	Irregular expenditure	CIDB	
44	CIDB regulation 25(1); CIDB standard for uniformity (SFU) 4.5.4	Institutions must ensure compliance with regulations and also ensure that only contractors who are registered in a category of registration with CIDB are evaluated in relation to a contract	The category of registration as well as an evaluation criteria for contractors must be clearly stipulated in the bid documents.	The bid invitations or request for quotations did not stipulate the minimum category which the bidders must be registered at with the CIDB in order to qualify for evaluation	Non compliance with laws and regulations	Not applicable	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
45	CIDB regulation 24	All invitations for bids or calls for expression of interest must be published on the CIDB website	Ensure that all tenders or expression of interests are published on the CIDB Website	Failure to advertise the invitations for bids or calls for expression of interest on the CIDB website	Non compliance with laws and regulations	Not applicable	
46	CIDB Act section 22(3) and CIDB regulation 18(1A), (1)	All construction projects above a certain amount must be registered in the CIDB's register of construction contracts	All contracts exceeding R200 000 must registered in the CIDB's register of construction contracts in the prescribed manner	Failure to register construction projects above the value of R200 000.00 on the CIDB's register of construction contracts.	Non compliance with laws and regulations	Not applicable	
Contracts and contract management							
47	NTR 8.2 Instruction Note 31 dated 31 May 2012	Public money may only be spent if approved by the proper delegated official.	Contracts may not be amended or extended without the approval of the accounting officer or accounting authority or by an appropriately delegated employee	A contract was amended or extended by an employee who did not possess the appropriate authority.	Irregular expenditure	Accounting Officer or Accounting Authority	
48	NTR 8.2	Effective control measures must be in place to ensure correct payments are made for the supply of goods and/or services (i.e. payments to correct suppliers and payment of correct amounts).	An institution's internal control system must ensure that it is able to detect when incorrect amounts are being paid and/ or when payments are being made to a incorrect service provider.	Payments were made to the suppliers in excess of the approved contract or quoted amount.	Irregular expenditure	Accounting Officer or Accounting Authority National Treasury - in instances where the accounting officer approved such payments	
49	Sec 38 of the PFMA (internal controls) and Para 1.2 and 2.3 of PN 1 of 2003	Payments may only be made to service providers after the conclusion of a valid contract, except in cases of emergency procurement in terms of TR 16A6.4	An institution's internal control system must ensure that it is able to detect when payments are being made to service providers in advance of concluding a valid contract	Goods and services were supplied by the supplier and paid for without a valid written signed contract	Non compliance with laws and regulations	Not Applicable	
50	NTR 16A6.3(a) and (e)	The General Conditions of Contract (GCC) must form part of bid documents and may not be amended after its submission by the service provider. When provisions in the Special Conditions of Contract (SCC) are in conflict with those contained in the General Conditions of Contract (GCC), the provisions	The contract must consist of those conditions, as contained in the General Conditions of Contract (GCC), as prescribed by the National Treasury:	Conditions contained in a contracts were in conflict with the General Conditions of Contract, as issued by National Treasury	Non Compliance with laws and regulations	Not applicable	
51	PPFR 13 (1) (b) GCC Clause 22 & 23	Suppliers have a responsibility to ensure that their BEEE credentials are correct and that such was not obtained fraudulently. Suppliers also have an obligation to ensure that conditions in a contract are adhered to. Institutions must have mechanisms to detect whether suppliers BEEE credentials are correct and that the possibility of obtaining contracts	Institutions must ensure that appropriate action is taken against suppliers who claim or who obtain BEEE levels fraudulently or who don't fulfil the conditions of their contracts	No action was taken against the suppliers who failed to perform in accordance with standards agreed upon in the contract	Non Compliance with laws and regulations	Not applicable	
IT related goods and services							
52	NTR 16A6.3(e)	The procurement of all IT related goods and/or services must be procured in terms of procedures as prescribed by the National Treasury in terms of Practice Note 5 of 2009/2010	All IT goods and/or services below the value of R500 000 must be procured from SITA's list of prospective suppliers.	IT goods and/or services of a transaction value below R500 000 were procured through quotations from suppliers who were not registered on SITA's list of prospective suppliers.	Irregular expenditure	SITA	
53	NTR 16A6.3(e)		If an institution requires IT related goods and/or services (below R500 000) but such are not available from SITA's list of approved suppliers, the institution may obtain quotations from other suppliers and must inform SITA accordingly.	IT related goods and/or services of a transaction value below R500 000 were not available from the list of SITA's suppliers and such were procured from other suppliers but SITA was not informed.	Non Compliance with laws and regulations	Not applicable	
54	NTR 16A6.3 (e) SITA Regulation 9	Contracts relating to information technology are prepared in accordance with the State Information Technology (SITA), Act 1998	SITA is the mandated supplier of certain IT related goods and/or services or it must facilitate the procurement of certain IT related goods and/or services	The department procured IT related services which are classified as mandatory through other means than SITA.	Irregular expenditure	SITA	
55	NTR 17.3.1	Departments may not effect changes to their computerised financial administration systems without the appropriate approvals	Departments may not amend or institute new computerised systems that will affect financial administration without the prior written approval of the National Treasury	The department purchased a new computerised system to record its inventories without obtaining prior written approval from the National Treasury.	Irregular expenditure	National Treasury	
56	SITA Regulation 8, 13, 14	Institutions must ensure compliance with SITA's requirements related to the appointment of designated officials, procurement in terms of a business case and required reporting.	IT related procurement must take place in terms of the SITA Act and is guided by Practice Note 5 of 2009/2010	The institution did not follow the undermentioned prescripts relating to the procurement of an institutional specific IT contract via SITA: <ul style="list-style-type: none"> • the department did not appoint a designated official to administer the contract; • IT related goods and services were procured without an approved business case; • a contract for IT related goods and services was awarded to a bidder other than the one recommended and the reason for such deviation was not submitted to the AGSA and the relevant treasury within 10 working days 	Non Compliance with laws and regulations	Not applicable	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
57	SITA Regulations 13	The Agency must, in consultation with the designated department, establish the Bid Evaluation and Bid Adjudication committees to deal with the evaluation of bids and the recommendation for the award of a bid by the accounting authority of the designated department or public body	Department must ensure that the provisions of Regulations 13 are adhered to when procuring goods and services in terms of the SITA Act and ensure that departments are represented in the procurement process.	Where institutions are required by law to make use of other organs of state to procure goods and/or services, the institution receiving the goods and/or services must, where possible, ensure that it has representatives on the procuring institution's bid evaluation and bid adjudication committees to ensure that the appropriate supply chain management processes are followed	Non-compliance with laws and regulations in the books of the State Information Technology Agency (SITA)	Not applicable	
Unsolicited bids							
58	PN 11 of 2008/2009	PN 11 of 2008/2009 defines the parameters of an unsolicited bid to ensure consistency in the approach that is followed. The accounting officer or accounting authority of an institution is not obliged to consider an unsolicited proposal	Institutions must ensure that the requirements of PN 11 of 2008/2009 are adhered to when procuring goods and/or services by means of an unsolicited bid	An institution accepted an unsolicited bid without a comprehensive and relevant project feasibility study and an accompanying business case.	Irregular expenditure	National Treasury	
59				Unsolicited bids were accepted and awarded to bidders who did not have tax clearance from SARS confirming that their tax matters are in order.	Irregular expenditure	National Treasury	
60				Unsolicited bids were accepted for goods/ services which are generally available from other suppliers.	Irregular expenditure if transgression supported by factual evidence	National Treasury	
61				Unsolicited bids were accepted from bidders who did not declare their past SCM practices	Non Compliance with laws and regulations	Not applicable	
62				Unsolicited bids were accepted from bidders who did not declare the following: (i) whether the bidder or any person connected to the bidder is employed by the state (ii) whether the bidder or any person connected with the bidder, has any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid	Non Compliance with laws and regulations	Not applicable	
B. HUMAN RESOURCES MANAGEMENT							
63	PSR 1/V/D2(b)			Overtime paid to employees even though the department does not have an overtime policy	Irregular expenditure	Relevant executive authority	
64	PSR 1/V/C5			Employees received salary increases to higher salary range without a job evaluation to prove that the post was incorrectly graded.	Irregular expenditure	DPSA	
65	PSR 1/V/D2(d)			Employees received overtime payments in excess of 30% of their monthly salaries, without justification.	Irregular expenditure	DPSA	
66	PSR 1/V/D2(c)			Employees worked and received payments for overtime without prior written authorization.	Irregular expenditure	DPSA	
67	PSR 1/V/III/F1			Performance bonuses were paid to employees even though the department does not have a policy for financial incentive scheme.	Irregular expenditure	DPSA	
68	PSR 4/III/B3			The department awarded performance bonuses to SMS employees who are not entitled to the bonus in terms of the rules of the departmental financial incentive scheme and the SMS handbook.	Irregular expenditure	DPSA	
69	PSR I/VI/B5.1			Acting allowance was paid to employees who acted in higher positions for periods less than the minimum six weeks provided for in the DPSA Policy on Acting Allowance	Irregular expenditure	Relevant executive authority	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
70	PSR 1/VI/B.5.3			Employees acted in higher vacant posts for an uninterrupted period exceeding 12 months without the necessary approval from the delegated authority	Irregular expenditure	Relevant executive authority	
71	PSR I/VI/B5.1			SMS members acted on higher positions for periods exceeding six months without prior approval from the relevant executive authority as provided for in the DPSA Policy on Acting Allowance for SMS	Irregular expenditure	Relevant executive authority	
72	PSR 1/VI/B.5.1 and 5.2			Employees were compensated for acting in posts which [were not vacant and/or resulted in more than two employees simultaneously being compensated as a result of a single vacancy] without the necessary approval from the delegated authority	Irregular expenditure	Relevant executive authority	
73	PSR 1/V/D2(a)			Overtime was paid to SMS employees	Irregular expenditure	Relevant executive authority	
C. TRANSFERS AND CONDITIONAL GRANTS							
74	DoRA sec. 33 DoRA sec. 9(1) section 10(1)			Transfer by a transferring national officer to a bank account of a province or municipality that is not:- (i) the primary bank account; (ii) in respect of provinces, a corporation for public deposits account; or (iii) in respect of the Gautrain Rapid Rail Link Grant, the dedicated banking account configuration established for the transfer of the Gautrain RapidRail Link Grant in accordance with the directive issued by the National Treasury.	Irregular expenditure	National Treasury	
75	PFMA sec 38(1)(j)			Transfers were made to other entities without [obtaining a written assurance that that entity implements effective, efficient and transparent financial management and internal control systems / or rendering the transfer of funds subject to conditions and remedial measures requiring the entity to establish and implement effective, efficient and transparent financial management and internal control systems].	Non Compliance with laws and regulations	Not applicable	
76	DoRA sec 10(1)(a)(iii)&(iv)			Schedule 5 and 6 transfers were made without an approved business plan for the utilisation of funds by the province or municipality.	Irregular expenditure	National Treasury	
77	DoRA sec 11(1)(a), 12(1) & 15(1)			The schedule 4, 5, 7 or 8 allocation was utilised for purposes other than those stipulated in the schedule or in accordance with the framework published for the allocation.	Irregular expenditure	National Treasury	
78	DoRA sec 15(2)			The accounting officer transferred a schedule 5, 7 or 8 allocation portion of the allocation to another entity without entering into a payment schedule with the entity.	Irregular expenditure	National Treasury	
D. OTHER PFMA AND TREASURY REGULATION PROVISIONS							
79	Section 38(1)(j) of the PFMA			The department did not obtain written assurance to the effect that the entity to which it transferred funds implements effective, efficient and transparent financial management and internal control systems	Non Compliance with laws and regulations	Not Applicable	
80	Section 43(4)(a) of the PFMA			The department utilised a saving in an amount that was specifically and exclusively appropriated for a purpose mentioned under a main division within a vote	Irregular expenditure	Relevant Treasury	
81	Section 5(1)(a) of the Appropriation Act, 2012			The department utilised a saving in an amount that was appropriated for transfer to another organ of state without approval of the National Treasury	Irregular expenditure	National Treasury	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
82	Section 5(1)(b) of the Appropriation Act, 2012			The department utilised a saving in an amount appropriated for capital assets without approval of the National Treasury	Irregular expenditure	National Treasury	
83	Treasury Regulation (TR) 3.1.6 read with TR 20.2.2 and 20.2.3			Members of an audit committee who are appointed from outside the public service are remunerated at tariffs inconsistent with those prescribed by the National Treasury and SAICA in terms of Treasury Regulations 20.2.2 and 20.2.3 respectively.	Irregular expenditure	National Treasury	
84	TR 3.2.4 and TR 27.2.4			The department/public entity contracted out its internal audit function to an external organisation with specialist audit expertise without following a competitive bidding process	Irregular expenditure	National Treasury	
85	TR 6.3.1(a)			A department increased its compensation of employees without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
86	TR 6.3.1(b)			A department introduced a new transfer and subsidy without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
87	TR 6.3.1(c)			A department utilised an allocation that was earmarked by the relevant treasury for a specific purpose for another purpose without obtaining its approval	Irregular expenditure	Relevant treasury	
88	TR 8.2.1			An official in a department has authorised payments for processing without being in receipt of a delegation of authority to do so	Irregular expenditure	Accounting Officer	
89	TR 8.2.3			A department paid an invoice after the required period of 30 days from receipt thereof	Non Compliance with laws and regulations	Not applicable	
90	TR 8.3.1			An official in a department approved the appointment of a new employee on the payroll system and authorised the payment of this person's salary as well on the system	Irregular expenditure	Accounting Officer	
91	TR 12.1.2			A department insured movable assets and incurred expenses related thereto which exceeded R250 000 without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
92	TR 12.2.4			The State Attorney obligated funds of a department without the prior written approval of the accounting officer	Irregular expenditure	Accounting Officer	
93	TR 15.12.1			An official in a department approved a warrant voucher/cheque without the accounting officer having assigned him the power to do so	Irregular expenditure	Accounting Officer	
94	TR 15.12.2			An official signed a hand drawn warrant voucher/cheque without having the authority to do so	Irregular expenditure	Accounting Officer	
95	TR 15.12.3			An official in a department processed a hand drawn warrant voucher/cheque to the value of R2500	Non Compliance with laws and regulations	Not applicable	
96	TR 16.2.1			The Chief Operating Officer of an institution entered into a Public Private Partnership (PPP) agreement on behalf of that institution after which payments were effected in relation to that PPP agreement	Irregular expenditure	Accounting Officer	
97	TR 16.8.1			Material amendments were effected to a PPP agreement without obtaining the approval of the relevant treasury	Irregular expenditure	Relevant treasury	
98	TR 17.1.1			An institution processed payments in favour of a supplier without having authentic and verifiable source documents	Irregular expenditure	National Treasury	

	Legal Provision	Principles	Rules	Compliance deviation	Impact of finding	Relevant authority	Comments
99	TR 20.2.1 and Section 38 of the PSA			An official member serving on a Committee of Enquiry received remuneration for his participation in the Committee	Irregular expenditure	DPSA	
100	TR 21.1.1			A department granted a cash donation to a welfare organisation amounting to R150 000 without obtaining the appropriate approval from the relevant legislature	Irregular expenditure	Relevant treasury	



ANNEXURE B

TRANSVERSAL FRUITLESS AND WASTEFUL EXPENDITURE SOP

Standard Operating Procedure (SOP) FRUITLESS AND WASTEFUL EXPENDITURE				
Department:	Western Cape Department of			
SOP Group:	Financial Management: Internal Control			
SOP Number:				
Version Number:	1			
	Initial & Surname	Position	Signature	Date
Prepared by:				
Checked by:				
Approved by:				
Revision History:				
Effective Date:	Date of signature by the Accounting Officer.			

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PREAMBLE

Although this SOP exclusively deals with detective and corrective controls in accordance with the fruitless and wasteful expenditure regulatory framework, the WCG introduced several proactive controls to detect, prevent and correct the occurrence of fruitless and wasteful expenditure in process, which in amongst other, include the following:

- The Directorate: Provincial Government Supply Chain Management within the Provincial Treasury introduced a policy review process whereby the requirements of any National Treasury instruction issued in terms of section 76 of the PFMA only becomes applicable to WCG institutions, following a robust assessment and consultative process with all relevant role-players, where after a determination is made whether the requirements of a National Treasury instruction should be applicable in full or in part within the WCG.
- The Directorate also conduct analysis of all SCM guidelines, practice notes, circulars, instructions and directives issued by both the National Treasury and Provincial Treasury in consultation with provincial departments, including the Policy Focus Group and the SCM Forum.
- Provincial departments Internal Control units and/or Supply Chain Management units conduct pre-checks on orders to identify and correct non-compliance in process.
- The Directorate: Provincial Government Accounting and Compliance within the Provincial Treasury introduced the Internal Control Forum in conjunction with Internal Audit within the Department of the Premier, whereby a platform for the sharing of best practices and to identify support initiatives in strengthening the control environment within departments.

1. BACKGROUND

- 1.1 On 23 December 2022, National Treasury (NT) issued and published National Treasury instruction No. 4 of 2022/23 (NTI 4 of 2022/23) in accordance with section 76(2)(e) and 76(4)(a) of the Public Finance Management Act No. 1 of 1999 (hereafter the PFMA), and concomitant PFMA Compliance and Reporting Framework (PFMA Framework), to prescribe a set of principles and compliance reporting requirements for departments, trading entities, constitutional institutions and public entities listed in Schedule 2 and 3 to the PFMA, on matters relating to -
- a. application, implementation and reporting of unauthorised, fruitless and wasteful expenditure and irregular expenditure.
 - b. reporting on payments of suppliers 'invoices; and
 - c. reporting on supply chain management information relating to –
 - (i) procurement by other means; and
 - (ii) contract variations and expansion.
- 1.2 NTI 4 of 2022/23 is effective from 3 January 2023, and the PFMA Framework effectively repeal and replaces NTI 3 of 2019/20 and concomitant Fruitless and wasteful expenditure Framework.

2. PURPOSE

- 2.1 The purpose of this SOP is to outline the procedures for departmental officials to assist officials in timeously preventing, detecting, determining, investigating and correcting fruitless and wasteful expenditure in accordance with the general responsibilities of accounting officers prescribed in section 38 of the PFMA, Treasury Regulations (TR) 9.1 and NTI 4 of 2022/23, which amongst others,

require accounting officers to implement effective, efficient and transparent processes of financial and risk management to prevent and detect Fruitless and wasteful expenditure.

3. APPLICABILITY

3.1 This SOP applies to all employees of the department.

4. GENERAL DEFINITIONS

WORD/ACRONYM	MEANING
Assessment	A test conducted by the unit performing a loss control function, IC function or another relevant function to evaluate and confirm whether the transaction constitutes Fruitless and wasteful expenditure.
AGSA	Auditor General South Africa
AO	Accounting Officer
AFS	Annual Financial Statements
BAS	Basic Accounting System
CFO	Chief Financial Officer
Determination	A formal assessment conducted by the Internal Control unit or another relevant function to examine or analyse the particulars of confirmed fruitless and wasteful expenditure to establish the facts, assess any allegations of criminal conduct and losses incurred as it relates to the transaction
Discovery	Identification of alleged fruitless and wasteful expenditure by the Internal Control function or another relevant function via compliance checking or upon report by an official/s or financial staff
FA	Financial Accounting
Financial Misconduct	The wilful or negligent making of or permitting fruitless and wasteful expenditure or failing to exercise a power or perform a duty to, amongst others, take effective and appropriate steps to prevent fruitless and wasteful expenditure within an area of responsibility
IC	Internal Control
IFS	Interim Financial Statements
Impracticability judgement	An institution may apply judgement that it is impractical to quantify the full amount of unauthorised, Fruitless and wasteful, fruitless and wasteful expenditure
Investigation	A formal probe conducted by a function performing investigations to analyse the particulars of fruitless and wasteful expenditure to confirm facts about the transaction and allegations of criminal conduct as it relates to the transaction
F&WE Register	A list of non-compliance and fruitless and wasteful expenditure matters in progress to be disclosed in the notes to the annual financial statements. It also outlines the progress related thereto
Loss	An instance of losing money or financial value in a transaction
Transgression	An act that goes against a law, rule, or code of conduct
MCS	Modified Cash Standards
MEC	Member of Executive Committee or Executive Authority of the Department
Non-compliance	The failure to comply with a specific legal requirement
TR	National Treasury Regulations
NTI	National Treasury Instruction

WORD/ACRONYM	MEANING
Removal	The process of eliminating the fruitless and wasteful expenditure from the notes to the annual financial statements, provided that the process was followed
Recording	The process of capturing the financial information relating to a particular transaction, event, asset, or liability in the electronic or manual accounting records of the department for the purposes of disclosure as secondary financial information
Recognition	The process of incorporating in the statement of financial position or statement of financial performance an item that meets the definition of an element and satisfies the criteria for recognition set out in paragraph 66 of the Modified Cash Standards. It involves the depiction of the item in words, and in monetary amounts, and the inclusion of those amounts in the statement of financial position or financial statement of financial performance totals
SAPS	South African Police Service
SCM	Supply Chain Management
PAG	The Provincial Accountant General within the Provincial Treasury
PDA	Protected Disclosure Act
PFS	Provincial Forensic Services
PFMA	Public Financial Management Act of 1999
PT	Provincial Treasury
PSA	Public Service Commission

5. LEGISLATIVE AND REGULATORY FRAMEWORK

- 5.1 In terms of section 38(1)(c)(ii) of the PFMA, AOs of institutions must take effective and appropriate steps to, amongst others, prevent Fruitless and wasteful expenditure.
- 5.2 In terms of sections 38(1)(g) of the PFMA, AOs, on the discovery of any Fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury.
- 5.3 In terms of section 38(1)(h)(iii) of the PFMA, AOs must take effective and appropriate disciplinary steps against any official in the service of the department who makes or permits Fruitless and wasteful expenditure.
- 5.4 In terms of section 40(3)(b) of the PFMA, the annual report and audited AFS that the AO must submit within five (5) months of the end of the financial year to the relevant treasury and to the MEC responsible for the department in accordance with section 40(1)(d) of the PFMA, must include:
- any losses through criminal conduct and fruitless and wasteful expenditure that occurred during the financial year.
 - any criminal or disciplinary steps taken as a result of such losses and fruitless and wasteful expenditure; and
 - any material losses recovered or written off.

- 5.5 In terms of section 45(c) of the PFMA, an official in a department must take effective and appropriate steps to prevent fruitless and wasteful expenditure within that official's areas of responsibility.
- 5.6 In terms of section 76(2)(e), NT may make regulations or issue instructions applicable to departments, concerning fruitless and wasteful expenditure.
- 5.7 In terms of section 81(1)(b) of the PFMA, an AO commits an act of financial misconduct if that AO wilfully or negligently -
- a. fails to comply with requirements of amongst others, section 38 and 40 of the PFMA; or
 - b. makes or permits Fruitless and wasteful expenditure.
- 5.8 In terms of section 81(2) of the PFMA, an official of a department to whom a power or duty is assigned in terms of section 44 of the PFMA, commits an act of financial misconduct if that official wilfully or negligently fails to exercise that power or perform that duty.
- 5.9 In terms of TR 9.1.1, the AO of an institution must exercise all reasonable care to prevent and detect fruitless and wasteful expenditure, and must for this purpose implement effective, efficient, and transparent processes of financial and risk management.
- 5.10 In terms of TR 9.1.2, when an official of an institution discovers fruitless and wasteful expenditure, that official must immediately report such expenditure to the AO. Such expenditure must also be reported in the monthly report, as required by section 40(4)(b) of the PFMA.
- 5.11 In terms of TR 9.1.3, when an AO determines the appropriateness of disciplinary steps against an official in accordance with section 38(1)(g) of the PFMA, the AO must take into account -
- a. the circumstances of the transgression.
 - b. the extent of the expenditure involved; and
 - c. the nature and seriousness of the transgression.
- 5.12 In terms of TR 9.1.4, the recovery of losses or damages resulting from fruitless and wasteful expenditure must be dealt with in accordance with Chapter 12 of the TR.
- 5.13 In terms of TR 9.1.5, the amount of the fruitless and wasteful expenditure must be disclosed as a note to the AFS of the department.
- 5.14 Chapter 12 of the TR sets out the procedure that must be followed in the event of damages or losses suffered in respect of state property.
- a. In terms of TR 12.7.1, losses or damages suffered by an institution because of an act committed or omitted by an official, **must** be recovered from such an official if that **official is liable in law**.
 - b. TR 12.2.1(a) to (g) provides the criteria that must be considered by the AO when considering whether to waive a claim against an official.
 - (a) *intentionally exceeded his or her powers;*
 - (b) *made use of alcohol or drugs;*
 - (c) *did not act in the course and scope of his or her employment;*
 - (d) *acted recklessly or intentionally;*

(e) *without prior consultation with the State Attorney, made an admission that was detrimental to the state; or*

(f) *failed to comply with or ignored 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, excluding damage arising from the use of a state vehicle; and*

6. DEFINITION AND RECOGNITION OF FRUITLESS AND WASTEFUL EXPENDITURE

6.1 Definition

6.1.1 Fruitless and Wasteful expenditure is defined as an expenditure that was made in:

- a. vain (meaning the department did not attain value for money); and
- b. **could have been avoided should reasonable care been exercised** (meaning the official within their area of responsibility fails to prevent the incurrence of fruitless and wasteful expenditure outline in section 45 of the PFMA).

6.2 Examples of fruitless and wasteful expenditure

6.2.1 The late submission of the AFS to PT is a contravention of section 40(1)(c)(ii) of the PFMA; however, the contravention does not relate to the incurrence of a financial transaction. Therefore, such a contravention will not meet the definition of fruitless and wasteful expenditure.

6.2.2 If catering was procured for an official meeting and all the correct procurement procedures were followed but it was later discovered that 5 officials who R.S.V.P. prior to the event as required by the SOP for Catering Expenditure did not attend the event without any acceptable reason, the expenditure relating to the 5 meals will be fruitless and wasteful expenditure as the expenditure could have been avoided had the caterer been informed prior to the event.

6.3 Recognition of Fruitless and wasteful expenditure

6.3.1 For a department applying MCS, a non-compliance must be linked to a financial transaction for the department to incur fruitless and wasteful expenditure. Although a transaction may trigger possible fruitless and wasteful expenditure, the department will only record fruitless and wasteful expenditure when a payment pertaining to the non-compliance is made (i.e., when the expenditure is recognised in accordance with the MCS).

7. DEPARTMENTAL PROCESS FLOW FOR FRUITLESS AND WASTEFUL EXPENDITURE

Discovery and Reporting (All)

Any employee who discovers or suspects alleged fruitless and wasteful expenditures must report it in writing to the AO and/or delegated official/sub-component.

The AG will report all fruitless and wasteful expenditure identified during the audit to the AO and/or delegated official/sub-component.

Assessment Test

Test to be conducted by the IC unit or another relevant function to identify possible fruitless and wasteful expenditure processed and to confirm the allegations of fruitless and wasteful expenditure. Refer to par 8.2 of this SOP.

- Cases must be confirmed within 30 days after the alleged F&WE has been reported to the AO.
- If there are disputes whether the alleged F&WE meets the definition of F&WE, the assessment process must be completed within 3 months from the date the alleged F&WE has been reported to the AO.
- Alleged F&WE must be registered in the F&WE register and updated accordingly upon confirmation.

Determination Test

Analysing the particulars of F&WE of each case by the IC unit or another relevant function, in order to establish the facts and to determine any losses related to the transaction. Refer to par 8.3 of this SOP.

- A determination test must be commenced and finalised within 30 days after confirmation of the fruitless and wasteful expenditure to the AO and PT.
- If there are any disputes/complexity in resolving matter, the determination test must be completed within four (4) months after confirmation of the F&WE.
- If fraud is suspected, refer to PFS for further investigation. Investigation must be instituted within 30 days after the F&WE has been confirmed.
- If fraud is not suspected, quantify the amount of the loss suffered.
- Make recommendations on the findings, recovery of losses and possible referral for instituting disciplinary procedures to the CFO, for recommendation to the AO.
- The CFO will inform the relevant delegated/responsible official on these findings and disciplinary procedures as recommended by the AO.
- Update the F&WE register and Loss Control system, where applicable. Refer to par 8.6 of this SOP.

Recovery and Reporting

- FA unit to create debt on BAS and recover loss.
- Report all confirmed F&WE cases/movement on F&WE to PT monthly via the IYM process, quarterly in the IFS and at year-end in the AFS.
- Submit the updated F&WE register to PT quarterly and report on the details of the F&WE relating to the current financial year and 1-year comparatives, at year-end in the annual report.

8. DISCOVERY, ASSESSMENT, DETERMINATION, OR INVESTIGATIONS RELATED TO FRUITLESS AND WASTEFUL EXPENDITURE

8.1 Discovery of alleged Fruitless and wasteful expenditure

- 8.1.1 An employee who becomes aware of or suspects the occurrence of fruitless and wasteful expenditure must immediately, in writing¹, report such alleged fruitless and wasteful expenditure to either:
- a. the AO in terms of Treasury Regulation (TR) 9.1.2; or
 - b. IC unit or delegated official in terms of the AO's delegations.
- 8.1.2 If the alleged fruitless and wasteful expenditure is reported directly to the AO:
- a. the AO must forward all the reported cases, immediately to the IC unit or another relevant function via the CFO.
 - b. the discovery date is the date on which the alleged fruitless and wasteful expenditure was reported to the AO.
- 8.1.3 Financial staff must immediately report the details and forward all relevant documentation directly to the IC unit or other relevant function for assessment, upon becoming aware of alleged Fruitless and wasteful expenditure.
- 8.1.4 Fruitless and wasteful expenditure is also identified via the post audit testing; hence the date the alleged fruitless and wasteful expenditure is identified via post audit testing, is the date of discovery.
- 8.1.5 Fruitless and wasteful expenditure may also be identified by the AGSA during the annual regulatory audit on the AFS. Alleged fruitless and wasteful expenditure discovered via the audit process must be addressed from a governance perspective in accordance with the PFMA Framework, recorded and reported by AOs similar to fruitless and wasteful expenditure identified via a department's internal process.

8.2 Conducting the Assessment Test

- 8.2.1 Upon discovery or receipt of notification of alleged fruitless and wasteful expenditure, the IC unit or another relevant function must record the alleged fruitless and wasteful expenditure in the F&WE register - **APPENDIX A**.
- 8.2.2 The IC unit or another relevant function must confirm cases of fruitless and wasteful expenditure within 30 days after the alleged expenditure has been reported to the AO.
- 8.2.3 The IC unit or another relevant function must confirm cases of fruitless and wasteful expenditure within 30 days after the alleged expenditure has been reported to the AO.
- 8.2.4 Confirmation of fruitless and wasteful expenditure
- a. If a transaction has been incurred without value being derived from it due to reasonable care not being exercised and the same transaction has a financial implication (payment was made or a liability was recognised in the accounting records), it must be recorded as fruitless and wasteful expenditure.

¹ Reporting of Alleged Fruitless and wasteful Expenditure form should be used - **Appendix C**

- b. The IC unit or another relevant function should consult with the relevant parties involved e.g., SCM, FA, etc. and consider all relevant information prior to making a final recommendation, on a case-by-case basis.
 - c. If the fruitless and wasteful expenditure has been confirmed, the details must be recorded/updated in the F&WE register, accordingly for monitoring purposes.
 - d. The IC unit or another relevant function must report all confirmed fruitless and wasteful expenditure monthly to PT as outlined in the IYM revised Treasury Circular No. 11 of 2022, effective date, 1 April 2023.
- 8.2.5 If during the assessment it has been confirmed that the transaction does not constitute fruitless and wasteful expenditure, no further action is required by the IC unit or another relevant function – refer to the irregular expenditure SOP if the matter relates to a non-compliance of applicable regulatory framework.
- 8.2.6 Assessments must be completed within 30 days, from the date of discovery of the alleged fruitless and wasteful expenditure or non-compliance.
- 8.2.7 In the event the IC unit or another relevant function is unable to meet the timeframes for the completion of assessments due to disputes or complexity in completing the assessment, the IC unit or another relevant function are required to inform the AO, in writing, of the risk of non-compliance and the reasons for the non-compliance.
- 8.2.8 If there are disputes whether the alleged fruitless and wasteful expenditure meets the definition of fruitless and wasteful expenditure or when the matter is complex, the assessment process must be conducted and completed within three (3) months from the date the alleged expenditure was reported to the AO.

8.3 Conducting the Determination Test

- 8.3.1 Upon confirmation of the fruitless and wasteful expenditure in accordance with par 8.2 of this SOP, the IC unit or another relevant function must conduct a determination test to analyse the particulars of non-compliance (which has resulted in fruitless and wasteful expenditure being incurred) to establish the facts and losses, if any, related to the transaction.
- 8.3.2 The determination test must confirm the facts and losses associated with the transaction and provide information related to the identification, including:
- a. root causes that led to the transgression;
 - b. employee(s) responsible for the fruitless and wasteful expenditure;
 - c. quantify the loss suffered by the department;
 - d. allegation of fraud, corrupt or other criminal conduct and;
 - e. any breakdown in the designed internal controls.
- 8.3.3 The determination test must commence within 30 days after the fruitless and wasteful expenditure was reported to the AO and PT, in accordance with section 38(1)(g) and (h) of the PFMA.
- 8.3.4 If fraud, corruption, or other criminal conduct is suspected at any point while conducting the determination test, the IC unit or another relevant function must refer the case for investigation in accordance with par 8.5 of this SOP.

- 8.3.5 If fraud is not suspected, the IC unit or another relevant function must document their findings and make recommendations on possible disciplinary steps as well as the recovery of losses where applicable, for approval by the AO.
- 8.3.6 The IC unit or another relevant function must inform the delegated/responsible official where the transgression originated, to consider disciplinary processes against the employee responsible in accordance with the PFMA Framework (paragraph 11 of this SOP refers) and make recommendations on any breakdown of internal controls as prescribed by the AO.
- 8.3.7 The IC unit or another relevant function must quantify the fruitless and wasteful expenditure or loss amount, update the Loss Control system accordingly and proceed with the monitoring of the outstanding actions in accordance with par 8.7 of this SOP.
- 8.3.8 The IC unit or another relevant function must update the F&WE register accordingly.
- 8.3.9 The determination test must be completed within 1-month, after the fruitless and wasteful expenditure was confirmed via the assessment, by the IC unit or another relevant function.
- 8.3.10 In the event the IC unit or another relevant function is unable to meet the timeframes for the completion of the determination test due to disputes or complexities identified in completing the determination, the IC unit or another relevant function are required to inform the AO, in writing, of the risk of non-compliance and the reasons for the non-compliance.
- 8.3.11 In the event of disputes or complex cases, the determination test must be conducted and completed within four (4) months from the date the fruitless and wasteful expenditure was confirmed.

8.4 Value for money

- 8.4.1 In order to determine whether value for money was achieved, the focus should be on the optimal use of resources by a department and striking a balance between economy, effectiveness, and efficiency. The determination should conclude on how the department utilised its resources through procurement effectively, economically and without waste, with due regard for the total costs and benefits and contribution in the outcomes the department wants to achieve.
- 8.4.2 The following SCM elements from a demand management perspective must be assessed:
- a. a needs assessment to ensure that goods or services are acquired in order to deliver the agreed service was completed;
 - b. specifications were precisely determined in accordance with the need's assessment;
 - c. requirements are linked to the budget;
 - d. goods or services were delivered/rendered for intended purpose in achieving the mandate and strategic objective of the department; and
 - e. the supply industry was analysed.

8.5 Investigation into fraudulent cases and referral to the SAPS

- 8.5.1 The AO must, upon suspicion of fraudulent, corrupt, or other criminal conduct, refer the fruitless and wasteful expenditure matter to the function assigned to conduct investigations in the WCG, to establish the facts about the transaction and to obtain recommendations on the next step(s) to be taken.

- 8.5.2 The IC unit or another relevant function must recommend that the AO refer the case to PFS for investigation if fraud, corruption or criminal activities are suspected during the execution of the determination test.
- 8.5.3 If the AO refers the case to PFS for investigation, the IC unit or another relevant function must assist PFS by providing PFS with all the details pertaining to the case in line with the Departmental Fraud Prevention and Implementation Plan.
- 8.5.4 If the IC unit or another relevant function suspects that the AO is implicated in an alleged economic offence during the execution of the determining test, the alleged fraudulent, corrupt or criminal activities must be reported in accordance with the PDA and WCG Whistle-blowing Policy:
- a. by the Head of the IC unit/ another relevant function or via the CFO office;
 - b. directly to the National Anti-Corruption Hotline; and/or
 - c. the MEC of the department.
- 8.5.5 PFS is mandated to conduct forensic investigations into allegations relating to economic offences (fraud, theft, corruption, etc.) committed against any WCG department. However, when an AO is implicated in the alleged economic offence, PFS may only investigate upon instruction by the Premier or relevant MEC after consultation with the Premier.
- 8.5.6 In the absence of approval from the Premier and/or the relevant MEC, and in accordance with the PDA and WCG Whistle-blowing Policy, PFS will refer the matter to an appropriate body (for instance the Public Protector or AGSA) for investigation.
- 8.5.7 The investigation by PFS must commence within 30 days after the determination test. However, where the AO is implicated in the allegation, PFS' investigation will commence upon instruction from the Premier or relevant MEC, after consultation with the Premier.
- 8.5.8 The investigation by PFS must provide at least the following facts about the transaction to the referring authority, the AO, MEC or Premier -
- a. root causes that led to the transgression;
 - b. impact of the transgression;
 - c. information on fraudulent, corrupt, or criminal conduct;
 - d. employee(s) responsible for the fruitless and wasteful expenditure;
 - e. quantify the loss suffered by the department;
 - f. if the matter must be referred to SAPS; and
 - g. any breakdowns in the designed internal controls and the impact thereof.
- 8.5.9 On the conclusion of the PFS investigation, a report will be issued by PFS on the outcome of the investigation in accordance with par 8.5.8 of this circular, to the AO or directly to the Premier and/responsible MEC, where the AO was implicated in the allegation.

- 8.5.10 Once the investigation confirms that the fruitless and wasteful expenditure is related to a fraudulent, corrupt or criminal conduct or activity:
- a. the matter will be registered by PFS with SAPS within 7 days after the report was reviewed and accepted by the AO; and
 - b. PFS will inform the AO once the case has been registered and provide the case number to the department;
 - c. the AO must inform the MEC, PT and AGSA within seven (7) after the matter has been reported to SAPS; and
 - d. with respect to the AO (acts as discussed in par 8.5.4 of this SOP), the MEC must inform PT and the AGSA within seven (7) days after the matter has been reported to SAPS.
- 8.5.11 The IC unit or another relevant function must update the F&WE register with all the details of the fraudulent, corrupt and criminal acts reported to law enforcement agencies.

8.6 Impracticability Judgement

- 8.6.1 A department may apply judgement that it is impractical to quantify the full amount of fruitless and wasteful expenditure.
- 8.6.2 The AO must take every reasonable step to demonstrate the impracticability when such judgement is reached, such as –
- a. consideration of omissions or misstatements that could influence decisions of the users; and
 - b. use the impracticability judgement only in instances where:
 - (i) information is not available;
 - (ii) it will be impossible to collect data that would have been collected at the time of the event or circumstance of the non-compliance; and/or
 - (iii) it will be impossible to recreate or reproduce the data especially if such an exercise will result in additional costs and time.
- 8.6.3 The department must include a narrative in the annual report when the quantification, assessment and determination of the fruitless and wasteful expenditure is demonstrated as impractical.

8.7 Monitoring and Evaluation

- 8.7.1 Upon completion of the determination test and/or investigation, the IC unit or another relevant function must:
- a. register any new cases/information in the Loss Control system;
 - b. update the F&WE register and Loss Control system accordingly;
 - c. follow-up on the status of outstanding disciplinary proceedings referred to the delegated/responsible official in accordance with par 8.3.6 of this SOP;
 - d. follow-up on the implementation of steps taken to address the breakdown of internal controls to correct and prevent the reoccurrence of control weaknesses;

- e. inform the FA unit in writing to recover any losses as identified during the determination test, in accordance with par 9 of this SOP; and
- f. obtain approval from the AO to remove irrecoverable F&WE from the F&WE register, in accordance with par 10 of this SOP.

9. RECOVERY OF FRUITLESS AND WASTEFUL EXPENDITURE

9.1 Informing Financial Accounting of recoveries to be instituted

- 9.1.1 Once the loss or partial loss suffered by the department is quantified via the determination test and no fraudulent, corrupt, or other criminal conduct was involved, the IC unit or another relevant function must inform the AO in writing to institute a claim against the responsible employee for recovery of the loss.
- 9.1.2 If the loss results from fraud, corruption or other criminal conduct as determined by the investigation, the IC unit or another relevant function must, after conclusion of the criminal case, inform the AO in writing, to institute a civil claim against the responsible employee for the recovery of the loss.
- 9.1.3 The recovery of losses resulting from fruitless and wasteful expenditure must be conducted in line with a departmental debt management policy. The FA unit should consider the steps referred to in par 9.2 to 9.6 of this SOP, when recovering any losses from an official(s).

9.2 Quantifying the debt/loss

- 9.2.1 The amount of debt recoverable from the responsible employee(s) may equate to:
 - a. the value of the debt incurred as a consequence of his or her action(s) that led to the incurrence of fruitless and wasteful expenditure; or
 - b. a lesser amount determined by the AO in accordance with the Debt Management Policy of the department.
- 9.2.2 In the case an AO is responsible for the debt, PT must determine if:
 - a. the value of the debt incurred as a consequence of his/her action(s) that led to the incurrence of fruitless and wasteful expenditure; or
 - b. a lesser amount.

9.3 Raising a debt

- 9.3.1 TR11.2 requires an AO to take effective and appropriate steps to timeously collect all money due to a department.
- 9.3.2 A debt must be identified, reported, and recorded in the books of the department where such a debt arose from losses incurred as a result of fruitless and wasteful expenditure.

9.4 Informing the responsible employee of the debt

- 9.4.1 The FA unit or another relevant function must in writing, request the official responsible for the debt, to pay the amount involved within thirty (30) days or to liaise with the FA unit to make arrangements to repay the debt within reasonable instalments. The "request in writing" essentially means that the debtor is placed "*in mora*".

9.4.2 All debts incurred from losses resulting from fruitless and wasteful expenditure shall be interest bearing at the uniform interest rate prescribed in accordance with section 80(1)(b) of the PFMA and shall be calculated using the simple interest method.

9.4.3 In cases where an employee has left the service of the department, the FA unit or another relevant function shall refer the matter to the State Attorney to recover the debt on behalf of the department or debt collectors on a no trace, no pay basis.

9.5 Liability in law (if there are disputes)

9.5.1 If the employee responsible for the debt is still in the employ of the department and denies liability for the debt, the FA unit or another relevant function may refer the matter to the State Attorney/ Legal Service to confirm the debtor's liability in law.

9.5.2 If the person responsible for the debt has left or is not in the employ of the department and denies liability for the debt, the IC unit or another relevant function must refer the matter to the State Attorney or Legal Services to confirm the debtor's liability in law.

9.5.3 Prior to referring the case to the State Attorney, the FA unit or another relevant function should:

- a. conduct a cost versus benefit analysis by weighing the cost of soliciting the legal opinion from the State Attorney against the benefit to be derived in terms of the debt in dispute;
- b. take a final decision based on the outcome of this analysis prior to incurring the additional expense; and
- c. the State Attorney introduced a materiality level of R3 000; hence all debt less than R3 000 cannot be referred to the State Attorney and must be dealt with internally, by departments.

9.6 Irrecoverable debt

9.6.1 If the debt becomes irrecoverable, the AO may write-off the debt in terms of TR11.4.

9.6.2 Where the AO is responsible for the debt and is unable to re-pay the debt, the AO must report the inability to pay to PT for consideration in terms of the debt write-off.

10. REMOVAL AND CONSEQUENCE MANAGEMENT

If the recommendation of the determination test confirms that the department did not incur a loss as a result of the fruitless and wasteful expenditure, and that value for money was achieved in accordance with par 8.4 of this SOP, the IC unit or another relevant function must refer the fruitless and wasteful expenditure to the AO/delegated official for removal, and update F&WE register accordingly.

11. CONSEQUENCE MANAGEMENT

11.1 The IC unit or other relevant function must identify the official(s), responsible for the fruitless and wasteful expenditure when conducting the determination test, in accordance par 8.3.2 of this SOP.

11.2 The IC unit or other relevant function should obtain and review all the relevant evidence and determine whether the responsible official(s) was at fault. Section 45 of the PFMA outlines the responsibilities of officials in a department as it relates to their area of responsibility. A failure by an official to dutifully carry out these responsibilities could be construed as negligence (fault).

11.3 The IC unit or other relevant function may refer the determination of fault for advice or guidance to the Branch: Legal Services within the Department of the Premier.

- 11.4 If the determination test concludes that the non-compliance was incurred in the **absence of fault** by any official(s), the IC unit or another relevant function should recommend that the AO/delegated official:
- a. not take any disciplinary steps against any official(s); and
 - b. strengthen the internal controls to prevent the recurrence of such non-compliance in similar circumstances.
- 11.5 If the determination test concludes that the non-compliance was incurred **due to fault** by the official(s), the IC unit or other relevant function:
- a. should recommend that the AO/delegated official (line manager) consider instituting disciplinary steps against the responsible official(s);
 - b. document the details of the transgressions in a manner that would assist the AO/delegated official (line manager) to implement consequence management;
 - c. recommend that the AO/delegated official (line manager) refer the matter to Employee Relations for further investigation, if the transgression is serious in nature;
 - d. may consult with Employee Relations for advice or guidance prior to the finalisation of the report to the AO/delegated official (line manager);
 - e. strengthen the internal controls to prevent the recurrence of such non-compliance in similar circumstances.
- 11.6 If the AO is implicated in the fruitless and wasteful expenditure, the IC unit or another relevant function must, in conjunction with the CFO:
- a. liaise with PFS to seek guidance and advice on whether the transgression relates to a suspicion of fraud, theft or corruption;
 - b. inform PT and relevant MEC of the alleged involvement of the AO in the fruitless and wasteful expenditure; and
 - c. Refer the matter to the MEC to:
 - (i) consider referring the matter to PFS to initiate an investigation, if the transgression relates to a suspicion of fraud, theft, or corruption; or
 - (ii) consider referring the matter to Employee Relations to initiate an investigation, if the transgression does not relate to possible intention to commit fraud, corruption or criminal activity.
- 11.7 The AO must, as soon as the disciplinary proceedings are completed, report to the MEC, the Department of Public Service and Administration and the Public Service Commission on the outcome, including -
- a. the name and rank of the official against whom the proceedings were instituted;
 - b. the charges, indicating the financial misconduct the official is alleged to have committed;
 - c. the findings.
 - d. any sanction imposed on the official; and

e. any further action to be taken against the official, including criminal charges or civil proceedings.

11.8 The AO must implement remedial actions to strengthen the internal controls to prevent fruitless and wasteful expenditure that may be incurred in the future.

12. REPORTING AND RECORDING

12.1 Reporting

12.1.1 The IC unit or another relevant function must submit **quarterly reports** (updated F&WE register) to PT within 30 days after the end of each quarter in accordance with section 38(1)(g) of the PFMA, section 6.5 of NTI 4 of 2022/23 and the PFMA Framework. The format of the quarterly reports is prescribed in **Appendix A** of this SOP and must be sent to PT.helpme@westerncape.gov.za.

12.1.2 The FA unit must report all confirmed fruitless and wasteful expenditure relating to the fiscal year and previous fiscal year (1-year comparative) to PT in the **monthly report** on revenue and expenditure, in accordance with section 40(4)(b) of the PFMA.

12.1.3 The FA unit to report in accordance with section 40(3)(b)(i) of the PFMA and the PFMA Framework:

- a. fruitless and wasteful expenditure incurred and confirmed during the fiscal year and previous fiscal year (1-year comparative) in the AFS of the department.
- b. all particulars of any fruitless and wasteful expenditure that was incurred and confirmed during the fiscal year and previous fiscal year (1-year comparative) in the annual report of the department.

12.2 Recording

12.2.1 Fruitless and wasteful expenditure is recorded in the notes to the AFS when confirmed in terms of the assessment conducted by the IC unit or other relevant function.

12.2.2 The amount recorded in the AFS is equal to the value of fruitless and wasteful expenditure incurred in the current fiscal year, unless it is impractical to determine, in which case reasons must be provided in the disclosure note.

12.2.3 The current fiscal year disclosure must include:

- a. amounts incurred and confirmed in that year; and/or
- b. payments made as it relates to multi-year contracts.

12.2.4 The previous fiscal year disclosure must include:

- a. amounts confirmed in that year;
- b. amounts that were under assessment in that fiscal year and confirmed in the current fiscal year; and
- c. amounts not identified in that fiscal year and discovered and confirmed in the current fiscal year.

12.2.5 Refer to **Appendix B** for the disclosure of fruitless and wasteful expenditure in the AFS and annual report.

- 12.2.6 AO must disclose the details of fruitless and wasteful expenditure in Part E of the annual report as it relates to the current and previous fiscal year.
- 12.2.7 Fruitless and wasteful expenditure is recorded in the annual report when it is either –
- a. under assessment, determination and/or investigation.
 - b. transferred to receivables for recovery; or
 - c. written-off if it is not recoverable; or

13. REVIEW

- 13.1 This SOP shall be reviewed annually or when necessary to ensure compliance with the relevant prescripts and principles of good governance.

14. IMPLEMENTATION

- 14.1 This SOP is effective as from the date signed by the AO.
- 14.2 Responsibility for the implementation of this SOP rests with the CFO.
- 14.3 Any deviation from the prescripts contained in this policy and procedure must immediately be reported in writing to the AO via the CFO.
- 14.4 The content of this SOP must be brought to the attention of all the officials in the department.

FRUITLESS AND WASTEFUL EXPENDITURE REGISTER

DEPARTMENT NAME:	e.g., PROVINCIAL TREASURY
FINANCIAL YEAR	e.g., 2023/24
QUARTER	e.g., 1st Quarter

Total amount of fruitless and wasteful Expenditure	Amount R'000
Total amount of fruitless and wasteful expenditure	-
Total F&WE confirmed	-
Total F&WE recovered	-
Total F&WE written off	-

Ref no.	Incident description	Legislation contravened	Date Incurred	Date identified	Amount of F&WE	Status (under assessment, determination, investigation, confirmed non-compliance)	Date F&WE confirmed	Loss Amount Recovered	Loss Amount Written-off	Fraud, corrupt, or other criminal conduct reported to SAPS)	Details of disciplinary action taken/ to be taken	Removed by AO/ relevant authority	Remedial steps taken to prevent recurrence of similar F&WE
					R'000	(Select drop-down)		R'000	R'000	(Select drop-down)	(If applicable)		

REPORTING IN THE NOTE TO THE AFS AND IFS

Disclosure of fruitless and wasteful expenditure in the annual report:

Fruitless and wasteful expenditure

Description	2022/23	2021/22
	R'000	R'000
Unauthorised expenditure (departments only)		
Irregular Expenditure	-	-
Fruitless and wasteful expenditure		
Closing balance	-	-

Disclosure of fruitless and wasteful expenditure in the annual report:

Reconciliation of fruitless and wasteful expenditure

Description	2022/2023	2021/2022	2020/2021
	R'000	R'000	R'000
Opening balance			
Prior Period Errors			
As Restated			
Add: fruitless and wasteful expenditure confirmed			
Less: fruitless and wasteful expenditure recoverable			
Less: fruitless and wasteful expenditure not recovered and written off			
Closing balance			

Reconciling notes to the annual financial statement disclosure

Description	2022/2023	2021/2022
	R'000	R'000
Fruitless and wasteful expenditure that was under assessment in 2021/2022		
Fruitless and wasteful expenditure that relates to 2021/22 and identified in 2022/23(##)		
Fruitless and wasteful expenditure for the current year		
Total		

(##) During the year ended March 2023, for example, an amount of R4000 was identified as fruitless and wasteful expenditure incurred in 2021/22 but was identified in the 2022/23 financial year by internal auditors during a review of fruitless and wasteful expenditure transactions.

Details of current and previous year fruitless and wasteful expenditure (under assessment, determination, and investigation)

Description	2022/2023	2021/2022
	R'000	R'000
Fruitless and wasteful expenditure under assessment		
Fruitless and wasteful expenditure under determination		
Fruitless and wasteful expenditure under investigation		
Total		

Details of current and previous year fruitless and wasteful expenditure recoverable

	2022/2023	2021/2022
	R'000	R'000
Fruitless and wasteful expenditure recovered	-	-
Total	-	-

Details of current and previous year fruitless and wasteful expenditure not recoverable and written off (irrecoverable)

	2022/2023	2021/2022
	R'000	R'000
Fruitless and wasteful expenditure written off	-	-
Total		

Enquiries: Internal Control

For Attention: The CFO

REPORTING OF ALLEGED FRUITLESS AND WASTEFUL EXPENDITURE IN ACCORDANCE WITH THE FRUITLESS AND WASTEFUL EXPENDITURE SOP

Fruitless and wasteful expenditure has been incurred when the transaction was in contravention with any of the following:

- (a) Public Finance Management Act (PFMA) including any regulations and instructions issued in terms of sections 69, 76, 85, and 91 of this act;*
- (b) The State Tender Board Act, 1968 (Act No. 86 of 1968);*
- (c) Any provincial legislation providing for procurement in that provincial government.*

Hereby, I wish to report alleged irregular expenditure.

Incident description:

Alleged amount involved: R.....

Programme and sub-programme where the alleged fruitless and wasteful expenditure occurred or about to occur:

Name of person in the relevant programme who can provide more information regarding the alleged fruitless and wasteful expenditure:

Reason why fruitless and wasteful expenditure is suspected:
.....

Name of supplier/company contracted:

My Name and contact number (Non-compulsory):

Case number as registered in the Check List. _____
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