

PROVINCE OF THE EASTERN CAPE
IPHONDO LEMPUMA KOLONI
PROVINSIE OOS-KAAP

Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant

Vol. 17

BISHO/
KING WILLIAM'S TOWN, 24 SEPTEMBER 2010

No. 2446
(Extraordinary)

IMPORTANT NOTICE

The Government Printing Works will not be held responsible for faxed documents not received due to errors on the fax machine or faxes received which are unclear or incomplete. Please be advised that an "OK" slip, received from a fax machine, will not be accepted as proof that documents were received by the GPW for printing. If documents are faxed to the GPW it will be the sender's responsibility to phone and confirm that the documents were received in good order.

Furthermore the Government Printing Works will also not be held responsible for cancellations and amendments which have not been done on original documents received from clients.

CONTENTS · INHOUD

No.

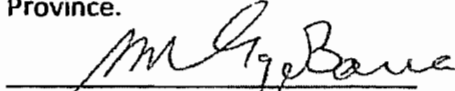
Page
No. Gazette
 No.**GENERAL NOTICE**

306	Constitution of the Republic of South Africa read with the Systems Act (32/2000): Funds Transfer and Monitoring Policy	3	2446
-----	--	---	------

GENERAL NOTICE

NOTICE 306 OF 2010**PROVINCIAL POLICY NOTICE****PROVINCE OF THE EASTERN CAPE****DEPARTMENT OF LOCAL GOVERNMENT AND
TRADITIONAL AFFAIRS****FUNDS TRANSFER AND MONITORING POLICY**

I, SICELO GQOBANA, Member of the Executive Council responsible for Local Government and Traditional Affairs in the Province of the Eastern Cape in adherence to Chapter 7 Section 154 of the Constitution of the Republic of South Africa in conjunction with the Section 105 of the Systems Act No 32 of 2000 wishes to inform municipalities to implement the contents of the Policy No. 9/4/P on transfers that has been developed by the department. The policy is a guide on the processes and procedures on transfers and grants to municipalities in the Province.

**SIGNED: S. GQOBANA****MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR LOCAL GOVERNMENT AND
TRADITIONAL AFFAIRS IN THE PROVINCE OF THE EASTERN CAPE****DATE:** 28/07/10

1. Policy

This policy shall be known as the Funds Transfer and Monitoring Policy.

2. Preamble/Background

Whereas it is in terms of law the role and responsibility of the Department of Local Government and Traditional Affairs to ensure that the municipalities are functioning effectively and efficiently, and also that there are systems and mechanisms in place to ensure the effectiveness of the municipalities in the delivery of their services to communities.

The department of Local Government and Traditional Affairs has developed a policy which will serve as a guide on the processes and procedures of Transfer of Grants/Funds to municipalities.

The department has in the past transferred funds to municipalities without a policy to guide either the department or the receiving municipalities. As a result of this shortcoming the process of transferring has been haphazard with transfers being made late and with no monitoring mechanisms in place. On the other hand some municipalities could not account for transferred funds or use the money to address other priorities not related to the transferred funds.

In 2008 the department took a decision to move away from transferring funding to municipalities but to be more hands-on in supporting municipalities. Due to practical realities some funds must be transferred to municipalities as the department either has no mandate to perform such functions or for logistical reasons. It is for this reason that a need has arisen for a policy to guide the processes when funds are transferred.

3. Purpose

The purpose of the policy is to provide for processes to be followed when funds are transferred and to provide for monitoring tools to guide both the department and receiving municipalities as well as to ensure that transferred funds are used for the intended purposes and for providing for remedial measures in cases of breaching the policy and legislation.

4. Scope

All employees of the department must comply with this policy when transferring funds to entities outside of the department. All employees in municipalities shall be expected to comply with provisions of the policy when receiving the transferred funds from the department. All transferring Programme Managers are responsible for the effective management of the policy. The ultimate responsibility to ensure implementation and compliance with the policy as well as for the management thereof resides with the Head of Department. As the implementation of the policy is dependent on cooperation from municipal officials and political office bearers its scope extends to them as well.

5. Definitions and terms

For purposes of this Policy, unless otherwise stated, the following definitions shall apply:

"Acknowledgement of Receipt" means a letter written to the department by a municipality which as received grant funding in which the municipality confirms that it has received the grant funding.

"Annual Financial Statements" means those statements which every municipality must, in terms of Section 122 (1) of the Municipal Finance Management Act (Act No.56 of 2003) (MFMA), prepare for each financial year and which-

- (a) fairly present the state of affairs of the municipality, its performance against its budget, its management of revenue, expenditure, assets and liabilities, its business activities, its financial results and its financial position as at the end of the financial year; and
- (b) disclose the information required in terms of sections 123,124 and 125 of the MFMA.

“Budget or adjustment budget” means the annual budget for the municipality which in terms of section 16 (1) of the MFMA, the council of a municipality must approve, in respect of each financial year before the start of that financial year or, the revision of the approved annual budget in accordance with section 28 (1) of the MFMA.

“Business Plan” means a plan drawn up by the municipality and approved by the council which clearly indicates for which purpose the grant funding is to be utilized, how the project is to be executed and the timeframes in respect of payment.

“Conditionality” means the conditions attached to the transfer such that it may only be used for the purpose for which it is intended and that it must be spent in the current financial year.

“Council resolution” means a decision of the majority of the members of the municipal council to accept the grant funding allocated to the municipality, to utilize the funding for the intended purpose, to approve the business plan and must be signed by both the Executive Mayor/Mayor and Municipal Manager as being a true extract from the minutes of the relevant council meeting.

“Declaration of Assurance and Acceptance” means a letter written to the department by a municipality which has received grant funding in which the municipality confirms that it will use the grant funding which it has received for the intended purpose only and that the municipal council has resolved to accept the grant funding.

“Primary bank account” means the bank account referred to in section 8 (1) of the MFMA. If a municipality-

(a) has only one bank account, that account is its primary bank account; or

(b) has more than one bank account, it must designate one of those bank accounts as its primary bank account.

“Programme Manager” means the relevant General Manager within the Department of Local Government and Traditional Affairs whose division is transferring grant funding to a municipality and who is responsible for the effective administration and enforcement of this policy.

“MOU” refers to the Memorandum of Understanding that shall be entered into between the Department of Local Government and Traditional Affairs and the Municipalities that are receiving transfers.

“District Municipality” refers to a district municipality established in terms of the Municipal Structures Act 117 of 1998.

“Local Municipality” refers to the Local Municipality established in terms of the Municipal Structures Act 117 of 1998.

Relevant Legislation:

1. **Municipal Structures Act 117 of 1998**
2. **Municipal Systems Act 32 of 2000**
3. **The Constitution of 1996 as amended**
4. **Intergovernmental Framework Act 13 of 2005**
5. **Municipal Finance Management Act 56 of 2003**

6. Policy content and Guidelines

6.1 The following content areas of this policy are fully dealt with in the attached Policy Guidelines in Clause 11:

- 6.1.1 All grant transfers to be published in a Provincial Gazette
- 6.1.2 Conditionalities
- 6.1.3 Council Resolutions
- 6.1.4 Duly signed Business Plans
- 6.1.5 Duly signed Declaration of Assurance
- 6.1.6 Duly signed Acknowledgement of Receipt
- 6.1.7 Primary Bank Account
- 6.1.8 Monthly Reports
- 6.1.9 Budget or adjustment budgets
- 6.1.10 Annual Financial Statements
- 6.1.11 Remedial action for non compliance and / or serious breaches
- 6.1.12 Guidelines for unspent and / or under - utilised funds
- 6.1.13 Team visits and site inspections

7. Administration of the policy

The effective administration and enforcement of the policy is assigned to all transferring Programme Managers.

8. Effective date of the policy

The policy implementation date is 01 April 2010 being the first day of the next financial year of the department.

9. Procedure

The procedures to be followed to ensure that the policy is implemented includes that those involved in the transfer line chain be informed of and trained in the implementation of the policy and are made aware of the consequences attached to the failure to comply.

All transferring Programme Managers are responsible for developing procedures for implementing this policy in their directorates.

The policy guidelines on the implementation of this policy also provide a platform for guiding transferring transferring Programme Managers.

As this policy deals with the management of public funds, a violation thereof may result in disciplinary action being taken against those who fail to adhere to it (inclusive of municipal officials).

10. Appendices

Policy guidelines on the implementation of this policy are attached.

11. POLICY GUIDELINES ON THE TRANSFER OF FUNDS TO MUNICIPALITIES

- a) A **consolidated gazette** of funding to be prepared by the Municipal Support and Monitoring Services Unit for approval by the Deputy Director General for Developmental Local Government, the Chief Financial Officer and the Superintendent General.
- b) Thereafter the Municipal Support & Monitoring Services Unit must submit the consolidated Gazette to **Provincial Treasury for gazetting** and must provide copies to the relevant General Managers and Municipalities.
- c) Once the funding has been gazetted the various programmes should **inform** the respective municipalities **in writing** of the funding they are to receive (**the purpose of the funding, conditions attached to the funds and the amount(s) involved** must be clearly stipulated) and request a detailed **Business Plan, Declarations of Assurance and Acceptance**. This must reach the department by no later than the end of the 1st week of April each year.
- d) On **receipt of the above documents** accompanied by a **Council Resolution**, individual programmes must effect payment through Financial Accounting Services.
- e) The department must ensure that there is compliance with provisions of the Municipal Finance Management Act 53 of 2003 when allocating funds to a municipality.
- f) The department is not in any way obliged to transfer funding intended for use by a local municipality to the district municipality in whose area of jurisdiction such local municipality resides. As such all funding will be transferred to the respective local municipalities. However, the department reserves the right to enter into negotiations with a district municipality for the transfer of funds intended for a local municipality within its area of jurisdiction to the district municipality if the department is of the opinion that the relevant local municipality lacks the capacity to properly administer and account for the funding.
- g) A memorandum of Understanding must be entered between the department and the receiving municipality to ensure monitoring on utilisation of funds and accountability on the transferred funds.
- h) Grant funding must be transferred to the **primary bank account** of the receiving entities. The receiving entities must in turn **record such grants, issue receipt(s) and transfer the grant(s) to a dedicated Trust Account(s)**.
- i) Once a transfer has been made the relevant division must submit the relevant payment stub to the **receiving municipality**, in writing, within three (3) days of payment with a request that the municipality submits an **acknowledgement of receipt** to the department immediately after issuing a receipt.
- j) Municipal Support & Monitoring Services Unit to establish and maintain a central data base of all grant transfers to municipalities in the department.
- k) Monthly expenditure reports must be submitted to the relevant transferring programme manager in the department irrespective of whether or not there has been any expenditure. The department must then compare this expenditure with the approved project plans, obtain and evaluate the plan of action of the service providers and reach agreement on any further reporting mechanism(s) and the reporting interval(s).

- l) The department should also establish a permanent steering committee that will meet on a quarterly basis in the respective municipalities to monitor the implementation of the identified projects and expenditure thereof. The steering committee is to comprise the Municipal Manager, Chief Financial Officer Section 57 Managers responsible for those particular projects, Head of Municipal Support and Monitoring Services Unit (or representative) and a representative(s) from the transferring programme(s).
 - m) The permanent steering committee is to obtain and evaluate the plan of action by service providers and reach agreement on reporting mechanisms and intervals.
 - n) The CFOs of municipalities must reconcile the trust accounts on a monthly basis.
 - o) Grant funds must be taken up in the **budget or an adjustment budget**.
 - p) Books and accounts must be written up on a monthly basis by the CFOs of the municipalities and reflect all transactions from the grants.
 - q) The grant fund balances at the end of the municipal financial year must be disclosed in the notes to the **annual financial statements** and be taken up in the annual financial statements.
 - r) Departmental teams to visit municipalities on a quarterly basis and verify compliance with these procedures (**including site visits**) and conduct departmental audits on the expended funds and balances in the dedicated Trust Accounts.
 - s) Once it becomes clear that a particular municipality will not utilise its allocated funding in the financial year for which it was allocated, such funding must be returned to the department who will reallocate that funding to another municipality who requires it for the same purpose.
 - t) The relevant division is to write a memorandum to the Head of Department (Executive Authority) of the department in this regard. This memorandum should:
 - 1. Clearly indicate what it seeks to obtain from the Head of Department (Executive Authority) by stating the non-compliance of the receiving municipality as well as the amount involved; and
 - 2. Clear recommendations must be made by the relevant division with regard to what should be done with the applicable funding.
 - s) The department will utilise all legislative and other means at its disposal to ensure that the necessary disciplinary action is taken against the municipal councillors or any municipal official(s) responsible for using the transferred funds for any purpose other than that for which it was intended.
-