

BA-PHALABORWA LOCAL MUNICIPALITY



2015/16

Policy on Avoidance of Irregular, Unauthorized, Fruitless and Wasteful Expenditure

1. PREAMBLE

Ba-Phalaborwa Municipality is required to comply with the requirements of the Municipal Finance Management Act. (MFMA) insofar as the reporting of irregular, unauthorised and fruitless and wasteful expenditure is concerned

2. PURPOSE

This policy defines what irregular, unauthorised and fruitless and wasteful expenditure is and sets out how Ba-Phalaborwa Municipality will comply with the requirements as per the MFMA.

3. OWNERSHIP

The custodian of this policy is the Directorate: Budget and Treasury Office.

4. SCOPE OF PRACTICE

This policy applies to any funds that form part of the responsibility of the Council.

5. PROCEDURE

The Procedure for Avoidance of Irregular, Unauthorised, Fruitless and Wasteful Expenditure is to be read and implemented with this policy.

6. TYPE OF POLICY

This policy is of a strategic nature.

7. DEFINITIONS

7.1 Accounting Authority

The Ba-Phalaborwa Local Municipality.

7.2 Irregular expenditure

As defined by the MFMA, means expenditure, other than unauthorised expenditure, that is incurred in contravention of, or not in accordance with, any applicable legislation (not just the MFMA). In summary, any illegal expenditure would be considered "irregular" in terms of the MFMA.

7.3 Unauthorised expenditure

Unauthorised expenditure means:

7.3.1 Overspending of approved budget;

7.3.2 Spending not in line with the original approved purpose of the budget item; and

7.3.3 Expenditure incurred without the appropriate approval.

7.4 Fruitless and wasteful expenditure

As defined in the MFMA, means expenditure that was made in vain and would have been avoided had reasonable care been exercised. The meaning is straight forward, although at times one will have to exercise one's judgment in determining whether or not a given expense is (or has become) fruitless and wasteful. In addition, expenditure may be of an operational or capital nature.

7.5 Financial misconduct

7.5.1 The Accounting Authority commits an act of financial misconduct if the Accounting Authority wilfully or negligently:

7.5.1.1 Fails to comply with the requirements of sections MFMA; or

7.5.1.2 Makes or permits an irregular expenditure or a fruitless and wasteful expenditure.

7.5.2 An official of the municipality to whom a power or duty is assigned commits an act of financial misconduct if that official willingly or negligently fails to exercise that power or perform that duty.

8. BACKGROUND AND PURPOSE

8.1 MFMA requires that the Municipality, inter alia, take effective and appropriate steps to prevent:

8.1.1 Irregular expenditure;

8.1.2 Fruitless and wasteful expenditure;

8.1.3 Losses resulting from criminal conduct; and

8.1.4 Expenditure not complying with its operational policies

8.2 The MFMA requires the municipality to take effective and appropriatedisciplinary steps against any employee of the public entity who makes or permits an irregular expenditure or a fruitless and wasteful expenditure.

8.3 The MFMA in turn requires all officials of the entity to take effective and appropriate steps to prevent any irregular expenditure and fruitless and wasteful expenditure within their areas of responsibility.

8.4 The above must be addressed in all processes and procedures relating to expenditure and these include:

8.4.1 Budget control;

8.4.2 Procurement; and

8.4.3 Payment of accounts.

8.5 The emphasis is on prevention and central to this is segregation of duties, as is the active participation of all officials within Ba-Phalaborwa involved in the expenditure of funds.

8.6 For reporting purposes, municipality must submit annually particulars of the following to the Council:

8.6.1 Material losses caused through criminal conduct and any irregular expenditure and fruitless and wasteful expenditure that occurred during the financial year;

8.6.2 Any criminal or disciplinary steps taken as a consequence of such losses or irregular expenditure or fruitless and wasteful expenditure; and

8.6.3 Any losses recovered or written off.

9. POLICY

9.1 The objective of the MFMA is to ensure accountability and sound management of revenue, expenditure, assets and liabilities.

9.2 Sound financial management and good corporate governance form the foundation of the Act, as do transparency and the drive to eliminate waste and corruption in the use of limited resources.

9.3 Ba-Phalaborwa Municipality endeavors to be in complete compliance with legislature.

9.4 In support of the above, the ongoing identification, prevention, control and reporting of irregular, fruitless and wasteful expenditure throughout municipality must be the responsibility of every employee within his/her area of responsibility.

10. ACTIONS TO BE TAKEN IN THE EVENT OF FINANCIAL

MISCONDUCT IN TERMS OF THE TREASURY REGULATION

10.1 Investigation of alleged financial misconduct must be conducted in accordance with Treasury Regulation 33 and Ba-Phalaborwa disciplinary procedures document.

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1. PREAMBLE

Ba-Phalaborwa Municipality is required to comply with the requirements of the Municipal Finance Management Act (MFMA) insofar as the reporting of irregular, unauthorised and fruitless and wasteful expenditure is concerned

2. PURPOSE

This procedure defines what irregular, unauthorised and fruitless and wasteful expenditure is and sets out how Ba-Phalaborwa will comply with the requirements as per the MFMA.

3. ADHERENCE TO POLICIES AND PROCEDURES

All the policies and procedures approved by the Council must be strictly adhered to, as these have been designed to improve internal control and adherence to good Corporate Governance (Treasury Regulations and King Reports), which in turn, underpins the prevention of irregular, fruitless and wasteful expenditure.

4. PRINCIPLES FOR AVOIDING IRREGULAR, FRUITLESS AND WASTEFUL EXPENDITURE

In order to satisfy the requirements of section of MFMA, directors must, within their individual areas of responsibility, ensure that:

4.1 They do not intentionally disregard their duties and responsibilities or carry them out negligently;

4.2 Due care and diligence is exercised in all their decisions. They must receive all relevant information and use common business sense;

4.3 They act rationally and reasonably in the best interest of Ba-Phalaborwa Municipality;

4.4 They are ethical;

4.5 Sound financial management principles are applied;

4.6 They are effective, efficient and economical at all times;

4.7 They act immediately to reduce losses and do not let matters slide;

4.8 Appropriate action (including disciplinary action) is taken where necessary;

4.9 The process of financial management and internal controls is carried out;

4.10 The assets are safeguarded;

4.11 The assets and liabilities are properly managed;

4.12 The financial and other resources are used effectively, efficiently, economically and transparently;

4.13 The provisions of the MFMA are complied with to the extent applicable to them, including any delegations made and instructions to exercise any powers or perform any duties; and

4.14 Effective and appropriate steps are taken to proactively prevent:

4.14.1 Irregular expenditure;

4.14.2 Fruitless and wasteful expenditure; and

4.14.3 Under-collection of revenues due.

5. CREATING A CULTURE OF RECORDING AND REPORTING

Ba-Phalaborwa Municipality encourages all staff to be alert to incidents of irregular, unauthorised or fruitless and wasteful expenditure and to report incidents in accordance with the documented policy and procedure on fraud reporting.

6. REPORTING REQUIREMENTS IN TERMS OF THE ACT

6.1 The diligent application of the principles of good corporate governance (as found in the MFMA, Treasury Regulations and King Reports) and sound management practice necessitates the identification, control and reporting of such incidents.

6.2 The Government requires that such information be formally communicated to it on an annual basis.

6.3 The disclosure requirements are specified in detail in regulation 33 of the Treasury Regulation.

6.4 In terms of the monitoring of this procedure, the Audit and Risk Management Committee have been tasked with this responsibility.

6.5 In addition to requiring reporting, the Act requires that effective and appropriate disciplinary steps must be taken against any employee who undermines the financial management and internal control system.

7. MATERIALITY FOR REPORTING PURPOSES

7.1 Items of irregular, unauthorised, fruitless and wasteful expenditure must be reported in accordance with the materiality and significance framework..

7.2 The materiality and significance framework should be established and reviewed annually.

8. CONTENT OF REPORT

8.1 The report to the Finance Committee must include the following:

8.1.1 Details of the event;

8.1.2 The amount involved (lost and recovered); and

8.1.3 Disciplinary action taken.

8.2 The Act requires any recovery of losses to be treated as a separate item; therefore, amounts that may be subsequently recovered must not be set off against the original loss in the report. Both must be disclosed separately.

8.3 The high degree of sensitivity or confidentiality of an item does not preclude its inclusion in the report. The Act requires all cases of losses caused by criminal conduct, irregular or fruitless and wasteful expenditure to be reported.

9. EVALUATION OF EXPENDITURE

9.1 The Finance and Audit and Risk Committees are responsible for monitoring the relevant controls that have been implemented to ensure the prevention of any losses caused by criminal conduct, irregular, unauthorised, fruitless and wasteful expenditure.

9.2 Evaluations are also conducted throughout the decision making process if interim decisions also caused money to be spent. This is typical in a project or contract environment where expenditure is generally not made as a "once off" event but is incrementally incurred throughout the life of the project.

9.3 As a guide, the following questions need to be answered:

9.3.1 Did we (the Council as well as the individual):

9.3.1.1 Overspend on an approved budget or budget item without approval?

9.3.1.2 Spend on items not in line with the original approved purpose of the budget item? And/or

9.3.1.3 Incur expenditure without the appropriate approval?

This will address the issue of unauthorised expenditure.

9.3.2 Was the expenditure incurred in contravention of the MFMA or any other relevant legislation?

This will address the issue of irregular expenditure.

9.3.3 Was the expenditure made in vain? Namely:

9.3.3.1 with no objective;

9.3.3.2 in contradiction of the approved objective;

9.3.3.3 with an objective not in the best interest of the Authority; or

9.3.3.4 With an objective not in terms of an approved plan.

9.3.4 Could the expenditure have been avoided had reasonable care been taken?

9.3.4.1 Was all the available information at the time considered?

9.3.4.2 Were correct policies and proper procedures followed?

9.3.4.3 Were the necessary approvals obtained?

9.3.4.4 Were the principles as outlined in point 4 above followed? This will address the issue of fruitless and wasteful expenditure.

9.4 Expenditure can be found to be fruitless and wasteful even if it was made within a given delegation of authority. This would be the result of a poor decision to spend (a decision causing a loss but that was made rationally, having regard to all the relevant information at hand at the time the decision was taken, would not be classified as fruitless and wasteful).

9.5 Potential losses or losses that are not quantifiable should only be reported on once actually incurred. In such instances, active steps must be taken where possible to reduce or eliminate the potential loss.

9.6 If reasonable care was indeed exercised, but the expenditure turns out to be fruitless and wasteful, then it would not be reportable in terms of this procedure.

9.7 As long as a person acted reasonably in the light of all the relevant available information at the time that the decision to incur the costs was made, then such expenditure would not subsequently be regarded as reportable if it turns out to be fruitless and wasteful.

9.8 However, acting reasonably presumes that, where possible, steps are taken to stop or minimize any further losses once it becomes apparent that that expenditure is likely to be fruitless and wasteful. If not, the further losses arising because of a failure to take corrective action will consequently become reportable.

10. RESPONSIBILITY FOR REPORTS

10.1 Every employee is obliged to prevent irregular, fruitless and wasteful expenditure within his/her area of responsibility.

10.2 The responsibility for reporting of losses caused by such expenditure is specifically assigned to the Chief Executive Officer on behalf of the Council since it is the duty of the Council itself to report on this. The reporting to the Council must be made to its next meeting after becoming aware of the occurrence.

10.3 The reporting of irregular, fruitless and wasteful expenditure must be included in the Annual Report.

11. SOURCES OF INFORMATION

The following systems, databases and reports are available to support the details addressed in point 10 above:

11.1 Monthly variance reports including the details of material variances per line item of actual expenditure against budgeted expenditure;

11.2 Human resource system – details of disciplinary action against employees;

11.3 Risk management – insurance and claim losses;

11.4 Reports by External and Internal Audit; and

11.5 Audit and Risk Committee minutes.