treasury
Department
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PROVINCE OF KWAZULU-NATAL

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KZN PROVINCIAL TREASURY

Date: 25 August 2016
Contact Person: Mr F.Cassimjee
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To: MAYOR
MUNICIPAL MANAGERS
CHIEF FINANCIAL OFFICERS
KWAZULU-NATAL MUNICIPALITIES

Dear Sir/Madam,

PROVINCIAL TREASURY CIRCULAR TC/RM 3 OF 2016/17

REMINDER OF THE 31 AUGUST 2016 DEADLINE FOR SUBMISSION OF ROLLOVER MOTIVATIONS

I draw your attention to the deadline of **Wednesday, 31 August 2016** for the submission of motivations to National Treasury, regarding the rollover of unspent conditional grants.

In accordance with Section 214 of the Constitution, national government is required to transfer funds to municipalities in terms of the Division of Revenue Act (DoRA) in order to assist municipalities to exercise their powers and perform their functions.

Section 22 of the 2015 Division of Revenue Act requires that any conditional grants which are not spent at the end of the municipal financial year must revert to the National Revenue Fund, unless the receiving officer proves to the satisfaction of National Treasury that the unspent allocation is committed to identifiable projects, in which case the funds may be rolled over.

As per MFMA Circulars 79 and 75, when applying to retain unspent conditional allocations committed to identifiable projects or requesting a rollover in terms of section 22(2) of the Division of Revenue Act, municipalities must supply National Treasury with the following information:

1. A formal letter addressed to the National Treasury requesting the rollover of unspent conditional grants in terms of section 22(2) of the 2015 DoRA, which must be signed by the accounting officer;
2. List of all the projects that are linked to the unspent conditional grants (amount allocated and spent per project);
3. Evidence that work on each of the projects has commenced, namely either of the following:

   - Proof that the project tender was published and the period for tender submissions closed before 31 March; or
   - Proof that a contractor or service provider was appointed before 30 June.

4. A progress report (including percentages) on the state of implementation of each of the projects;
5. The amount of funds committed to each project, and the conditional allocation from which the funds come from;
6. Reasons why the grants are not fully spent in the year of allocation as per DoRA (Note rollovers of rollovers will not be considered);
7. An indication of the time-period within which the funds are to be spent; and
8. Proof that the Chief Financial Officer and Municipal Manager are permanently appointed

Please note that if any of the abovementioned information is not submitted or if the application for the rollover is received by National Treasury after the 31 August 2016, the application will be declined. In addition, rollover requests will not be considered for municipalities with acting chief financial officers or municipal managers or where the respective position is vacant, for a period exceeding 4 months.

Furthermore, National Treasury will also take into account the following information when evaluating rollover applications:

1. Compliance with the in-year reporting requirements in sections 71 and 72 of the MFMA and section 12 of the 2015 DoRA, including the municipal manager and chief financial officer signing-off on the information sent to National Treasury;
2. Submission of the pre-audit 2015/16 Annual Financial Statements information to National Treasury and Provincial Treasury by 31 August 2016;
3. Accurate and complete disclosure of grant performance in the pre-audit 2015/16 Annual Financial Statements;
4. All unspent cash backed grants should be classified only as "Cash and cash equivalents" and must reconcile with the cash flow statements. Conditional grants must be spent in line with the respective conditions and must not be invested.
5. Cash available in the bank as at 30 June 2016 and in line with cash flow statements to finance the roll-over request; and
6. Incorporation of the Appropriation Statement as part of the pre-audit annual Financial Statements
7. The municipality must spend 50 percent of the allocation per programme. In addition a municipality may not request a rollover of the same grant for the 3rd consecutive time.

National Treasury will penalise municipalities for non-performance in any of the areas above and municipalities are once again urged to submit complete rollover motivations including supporting evidence and accurate Annual Financial Statements to National Treasury by the 31 August 2016.

National Treasury will confirm in writing by the 03 October 2016, whether or not the municipality may retain as a rollover any of the unspent funds or whether it has agreed to alternate payment arrangements or schedules. Municipality will be required to appropriate the approved roll over funds in an adjustments budget in terms of regulation 23 of the Municipal Budget and Reporting Regulations. Municipalities will be required to repay the remaining unspent conditional grant funds to the National Revenue Fund by 24 October 2016 or it will be offset against the municipalities' equitable share allocation.

The failure to fully or appropriately utilise conditional grants negatively impacts the development of infrastructure and the provision of service delivery by the municipalities. It therefore becomes essential that municipalities engage in proper management of conditional grant funding and adhere to the requirements regarding the submission of motivation for rollover. In addition, we have attached a schedule to provide further guidance regarding the conditional grant process as per Section 22 of DoRA, 2015 and MFMA circular 75.

Please do not hesitate to contact my office, if you have any questions relating to the above.

Yours faithfully

Mr F. Cassimjee

Chief Director: Municipal Finance

cc: Ms B.F Scott: MEC for Finance KZN

Mr L.S Magagula: Head of Department: KZN Provincial Treasury

Mrs N. Shezi: Deputy Director General: Fiscal Resource Management

Mr J. Hattingh: Chief Director: National Treasury

GRANT MANAGEMENT PROCESS

KEY RESPONSIBILITY: Compliance with DoRA is the responsibility of the Municipal Manager as the "receiving officer". The Municipal Manager is responsible for tabling of monthly reports in council on whether the municipality is complying with DoRA. He is also responsible for reporting on any delays in the transfer or the withholding of funds. In the event of non-compliance, the Municipal Manager must apply to National Treasury and provide comprehensive motivation.

ACTION	**TIME FRAME**
Municipalities must reflect all grants gazetted (from national, provincial and local) on the revenue, expenditure and cash flow section of their 2016/17 budgets, as well as for the outer years of the MTREF.	30 June
The municipality needs to obtain the payment schedule from the National Treasury website in order to monitor grant receipts. All conditional grants received must be recorded as a liability until it meets the conditions of the respective grant and thereafter will be recognized as revenue. As the grant is spent the municipality needs to recognise the related expenditure.	Ongoing
The municipality must ensure that VAT is correctly considered when budgeting and accounting for conditional grants. For further guidance reference can be made to MFMA circular 48 and circular 58 as well as the VAT 419 Guide.	Ongoing
Municipalities must maintain a grant register which is regularly updated and contains all relevant information ie. Name of grant, opening balance, amount received, amount spent, adjustments, closing balance etc. The amount per grant register must be reconciled to amount per the General Ledger.	Monthly
Municipalities to submit reports reflecting all **accurate** accrued expenditure on conditional grants to the relevant transferring officer, Provincial Treasury and National Treasury as part of their MFMA Section 71 reporting obligations. Municipalities must ensure that expenditure reported to all stakeholders is the same.	10 working days after end of month
Municipalities to verify conditional grant expenditure through the Verification Process (sign-off conditional grants reporting schedules by the Municipal Manager and Chief Financial Officer).	Quarterly
National Treasury to initiate the process of reclaiming unspent grant funding based on the June 2016 conditional grant expenditure reports.	01 August 2016
When preparing their annual financial statements to be submitted to the office of Auditor-General, National Treasury and Provincial Treasury by 31 August 2016, a municipality must determine what portion of each national conditional allocation it received remained unspent as at 30 June 2016. These amounts must exclude all interest earned on conditional grants, retention and all VAT related to conditional grant spending that has been reclaimed from SARS, which must be disclosed separately. When considering rollover requests, all unspent cash backed grants should be classified only as "Cash and cash equivalents". This must also reconcile with the cash flow statements. All conditional grants must be spent in line with the related conditions and must not be invested. Municipalities are also required to incorporate the Appropriation Statement as part of the pre-audit Annual Financial Statements. In terms of GRAP 24, an Appropriation Statement is where municipalities are required to present their original and adjusted budgets against the actual outcome. (All the calculations of the amounts to be surrendered to the National Revenue Fund (NRF) and the Appropriation Statement will be subject to scrutiny by the AG and therefore will be audited).	After the end of the 2015/16 Financial Year
Municipality to motivate to National Treasury in terms of Section 22 of DoRA 2015 that: • The funds have been spent; or • The funds are committed to identifiable projects; or • To propose an alternative payment method or schedule Municipality to supply the following information in their formal motivation: 1. A formal letter addressed to the National Treasury requesting the rollover of unspent conditional grants which must be signed by the accounting officer; 2. List of all the projects that are linked to the unspent conditional grants (Per Project:Amount allocated vs Spent); 3. Evidence that work on each of the projects has commenced, namely either of the following; a. Proof that the project tender was published and the period for tender submissions closed before 31 March; or b. Proof that a contractor or service provider was appointed before 30 June. 4. A progress report (including percentages) on the status of each of the projects; 5. The amount of funds committed to each project, and the conditional allocation from which the funds come from; 6. Reasons why the grants were not fully spent in the year that it was originally allocated as per DoRA. 7. An indication of the time-period within which the funds are to be spent; and 8. Proof that the CFO and MM are permanently appointed. ***(No rollover requests will be considered for municipalities with vacant or acting CFOs or MMs for a period exceeding 4 months.)*** 9. Consideration also given to cash available in the bank as at 30 June 2016 in line with the cash flow statements to finance the rollover request.	31 August 2016 (National Treasury will not consider any rollover requests that are incomplete or that are received after this deadline)

NB: • Municipalities must not include prior year unspent grants as a rollover request. Rollover of rollovers will not be considered. • Municipalities must spend a minimum of 50% of the allocation per programme. • Approval will not be granted to municipalities requesting a rollover of the same grant for the 3rd consecutive time. • In instances where municipalities have vacant or acting MMs or CFOs, evidence must be provided that significant steps have been instituted to fill the positions in a permanent capacity.	
National Treasury to confirm in writing whether municipality may retain any of the unspent funds as a rollover or whether it has agreed to any alternative payment arrangement or schedules. (Where rollovers are rejected the municipality has **14 days** to make written representation).	03 October 2016
Municipality to appropriate roll over funds in an adjustments budget in terms of regulation 23 of the Municipal Budget and Reporting Regulations. (As soon as a municipality receives written approval from National Treasury that its unspent conditional grants have been rolled-over, it may proceed to spend such funds.)	Within 60 days after rollovers are gazetted in annual Adjustments Estimate Government Gazette
Municipalities must report, spending on conditional grants that are rolled over, on a separate NT template. This template is customized per municipality and must be requested by email: **lgdataqueries@treasury.gov.za**	Monthly
Municipality to repay the remaining unspent conditional grant funds that are not subject to a specific repayment agreement with National Treasury to the National Revenue Fund. Failure to return these unspent funds will constitute financial misconduct in terms of Section 34 of DoRA	24 October 2016
Any unspent conditional grant funds not repaid to the National Revenue Fund **by 24 October 2016** will be offset against the municipality's equitable share allocation.	November 2016
Witholding of Conditional Grants: Once notice of intention to withhold the grant is received from National Treasury, the municipality must within 7 days submit written representation.	Within 7 days of notification
Stopping of Conditional Grants: Once notice of intention to stop the grant is received from National Treasury, the municipality must within 7 days submit written representation.	Within 7 days of notification
The municipality must amend the adjustments budget accordingly once the stopping of an allocation is gazetted.	28 February/ Within 60 days after the notice in the Government Gazette.
Reallocation of Funds: Once National Treasury gives notice in a gazette of a reallocation, the adjustment budget must then be amended accordingly. The reallocation must be spent by the end of the 2016/17 financial year and regarded as a rollover approved by National Treasury.	28 February/ Within 60 days after the notice in the Government Gazette.
Conversion of Funds: Once National Treasury gives notice in a gazette of a conversion, the adjustment budget must then be amended accordingly. The conversion must be spent by the end of the current financial year.	Within 60 days after the notice in the Government Gazette.

Important Links

Circulars - http://mfma.treasury.gov.za/Circulars/Pages/default.aspx

VAT Guideline - http://mfma.treasury.gov.za/MFMA/Guidelines/VAT%20419%20Guide%2030%20March%202011.pdf

Division of Revenue Act - http://www.treasury.gov.za/legislation/bills/2015/Default.aspx

Payment Schedule - http://mfma.treasury.gov.za/Media_Releases/Municipal%20Payment%20Schedule/Pages/default.aspx

Summary of Key Legislation

Section 22 of the 2015 Division of Revenue Act (DoRA): Unspent Conditional Allocations:

1) Despite anything contrary in the PFMA and MFMA, any conditional allocation that is, in the case of a municipality, not spent at the end of a municipal financial year (2015/16), reverts to the National Revenue Fund, unless the rollover of the allocation is approved by National Treasury.
2) National Treasury may, at the request of a municipality or transferring officer, approve a roll-over of a conditional allocation to the next financial year (2016/17) if the unspent funds are committed to identifiable projects.
3) (a) A receiving officer must ensure that any funds that must revert to the National Revenue Fund as it has not been approved by National Treasury to be retained are paid into that Fund by the date determined by National Treasury.
   (b) A receiving officer must inform the transferring officer of all processes regarding the request.
4) National Treasury may offset any funds that must revert to the National Revenue Fund, but which have not been paid by the date determined by National Treasury, against future advances for the equitable share or conditional grant allocations to that municipality.
5) Prior to National Treasury offsetting any amounts against allocations to municipalities, National Treasury must give the relevant municipality or transferring officer —
   (a) Notice of the intention to offset amounts against future advances for allocations, the intended amount to be offset, and the reasons for the offsetting; and
   (b) An opportunity, within 14 days of receipt of the notice referred to in paragraph (a), to —
      (i) Submit written representations and other documentary proof, that the allocation was either spent in accordance with the relevant framework, or is committed to identifiable projects;
      (ii) Propose alternative means acceptable to the National Treasury by which the unspent allocations can be paid to the National Revenue Fund; and
      (iii) Propose an alternative payment schedule in terms of which the unspent allocations will be paid into the National Revenue Fund.

Section 18 of the 2015 Division of Revenue Act (DoRA): Withholding of Allocations:

1) A transferring officer may withhold the transfer of a Schedule 4 or 5 allocation, or any portion thereof, for a period not exceeding 30 days, if:
   (a) The municipality does not comply with the provisions of this act;
   (b) Rollovers of conditional allocations approved by the National Treasury in accordance with Section 22 have not been spent; or
   (c) A satisfactory explanation is not given for significant under-expenditure on previous transfers during the financial year (2015/16).
2) If an allocation is withheld, it suspends the applicable payment schedule approved until it is amended by National Treasury.
3) A transferring officer must, at least 7 working days prior to withholding an allocation:
   (a) Give the receiving officer –
      (i) Notice of the intention to withhold the allocation; and
      (ii) An opportunity to submit written representations as to why the allocation should not be withheld.
   (b) Inform the relevant Provincial Treasury, National Treasury and provincial department.
4) The abovementioned notice must include reasons for withholding the allocation and the intended duration of the withholding.
5) (a) National Treasury may instruct or approve a request from the transferring officer to withhold an allocation for a period longer than 30 days but not exceeding 120 days, if the withholding will –
      (i) Facilitate compliance with this Act ; or
      (ii) Minimize the risk of under-spending.
   (b) Transferring officer must submit to National Treasury proof of compliance regarding notification and municipality representations.
   (c) When National Treasury instructs or approves a request, then the transferring officer must comply with paragraph 3(a) above.

Section 19 of the 2015 Division of Revenue Act (DoRA): Stopping of Allocations:

1) National Treasury may, in its discretion or at the request of a transferring officer or a receiving officer, stop the transfer of a Schedule 4 or 5 allocation to a municipality:
   (a) On the grounds of persistent and material non-compliance with this Act; or
   (b) If National Treasury anticipates that a municipality will substantially under-spend on the allocation or any programme partially or fully funded by the allocation in the financial year (2015/16).
2) National Treasury must, at least 7 working days prior to stopping an allocation:
   (a) Give the receiving officer –
      (i) Written notice of the intention to withhold the allocation; and
      (ii) An opportunity to submit written representations as to why the allocation should not be withheld.
   (b) Comply with section 38 of the Municipal Finance and Management Act.
   (c) Inform the relevant Provincial Treasury of its intention.
3) National Treasury must give notice in the Gazette of the stopping of an allocation and the effective date of, and reason for, the stopping.
4) National Treasury may by notice in the Gazette, approve an allocation that was previously stopped, in order to meet any outstanding statutory or contractual financial obligation (certified in writing by the transferring officer).

Summary of Key Legislation

Section 20 of the 2015 Division of Revenue Act (DoRA): Reallocation of Funds

1) When a conditional grant allocation or a portion thereof is stopped, National Treasury may, after consultation with the transferring officer and the relevant provincial treasury, determine the portion of the allocation to be reallocated, as the same type of allocation as it was allocated originally, on condition that the allocation must be spent by the end of the 2015/16 financial year or the 2016/17 financial year.

2) (a) The National Treasury must—

   (i) Give notice in the Gazette of a reallocation; and

   (ii) Provide a copy of the notice to the transferring officer and each affected receiving officer.

   (b) The reallocation of an allocation or a portion thereof on condition that it must be spent by the end of the 2016/17 financial year, must be regarded as a roll-over approved by the National Treasury in terms of Section 22(2).

3) (a) When an intervention in terms of section 139 of the Constitution or section 137, 139 or 150 of the Municipal Finance Management Act takes place, the National Treasury may on such conditions as it may determine, authorise in relation to –

   (i) Section 139 of the Constitution or section 137 or 139 of the Municipal Finance Management Act, the intervening province to spend an allocation stopped on behalf of the relevant municipality; or

   (ii) Section 150 of the Municipal Finance Management Act, the relevant transferring officer to spend an allocation stopped on behalf of the relevant municipality.

   (b) An allocation that is spent by the transferring officer or intervening province must be regarded as an allocation in kind from the date on which the authorisation is given.

4) (a) If it is unlikely that a conditional allocation related to infrastructure or a portion thereof, will be spent by the end of the 2015/16 financial year, the National Treasury may, after consultation with the transferring officer and the national department responsible for local government, authorise that any part of the portion of the allocation likely to be unspent be reallocated to pay for the reconstruction and rehabilitation of infrastructure damage caused by a disaster.

   (b) The reallocated funds must be utilised in the 2015/16 financial year and for the same conditional allocation and the same province or municipality to which the allocation was originally made.

   (c) The transferring officer must determine the conditions for spending the reallocated funds, after consultation with the national department responsible for local government and with the approval of the National Treasury.

Section 21 of the 2015 Division of Revenue Act (DoRA): Conversion of Funds

1) If satisfied that—

   (a) The conversion will prevent under-expenditure or improve the level of service delivery in respect of the allocation in question; and

   (b) The affected municipality has demonstrated the capacity to implement projects,

   the National Treasury may, in its discretion after consultation with the relevant transferring officer or at the request of the transferring officer or the affected receiving officer, convert any portion of—

   (i) An allocation listed as a specific purpose allocation to an allocation in kind for a designated programme and vice versa.

2) Any portion of an allocation converted, must be utilised for the same province or municipality to which the allocation was originally made.

3) The National Treasury must—

   (a) Give notice in the Gazette of a conversion

   (b) Provide a copy of the notice to the transferring officer and each affected receiving officer.

4) A conversion takes effect on the date of publication of the notice in the government gazette.

5) If an allocation for immediate disaster response is insufficient for a disaster, the National Treasury may, after consultation with or on the request of the relevant transferring officer, convert any portion of an allocation listed as—

   (a) An allocation to provinces for immediate disaster response to an allocation to municipalities for immediate disaster response and vice versa.

6) The National Treasury must—

   (a) In the notice published in the gazette regarding a transfer made in response to a disaster, include notification of the conversion in terms of subsection (5) and the effective date referred to in subsection (7); or

   (b) Provide a copy of the notice to the transferring officer.

7) A conversion in terms of subsection (5) takes effect on the date that the National Treasury approves it.