treasury
Department
Treasury
PROVINCE OF KWAZULU-NATAL

145 Chief Albert Luthuli Street
8th Floor, Treasury House
Private Bag X9082
Pietermaritzburg 3200
Tel: 033 897 4200 - Fax: 033 342 4662

OFFICE OF THE HEAD OF DEPARTMENT

Our Reference: 11/6/13/6
Enquiries: Mr F. Cassimjee
Date: 7 August 2019

To: MAYORS
MUNICIPAL MANAGERS
CHIEF FINANCIAL OFFICERS
KWAZULU-NATAL MUNICIPALITIES

Dear Sir/Madam,

PROVINCIAL TREASURY CIRCULAR PT - MF 01 OF 2019/20

REMINDER OF THE 31 AUGUST 2019 DEADLINE FOR SUBMISSION OF ROLLOVER MOTIVATIONS

I draw your attention to the deadline of **Friday**, **31 August 2019** 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 2018 DoRA requires that any conditional grants which are not spent at the end of the municipal financial year must revert to the National Revenue Fund (NRF), 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.

In terms of National Treasury Municipal Finance Management Act Circular 94, when applying to retain unspent conditional allocations committed to identifiable projects or requesting a rollover in terms of Section 22(2) of the DoRA, municipalities must supply National Treasury with the following information as per the diagram below:

A formal letter addressed to the National Treasury requesting the rollover of unspent conditional grants in terms of Section 22(2) of the 2018 DoRA, which must be signed by the accounting officer;

Note 1: Evidence that work on each project has commenced includes the following:

a) Proof that the project tender was published and the period for tender submissions closed before 31 March;
b) Proof that a contractor or service provider was appointed for delivery of the project before 31 March; or
c) Proof of a project tender, appointment of a contractor or service provider for delivery of service before 30 June, in cases where additional funding was allocated during the course of the final year of the project; and
d) Evidence that all projects linked to the allocation will be fully utilised by 30 June 2020 (Attach cash flow projections for the applicable grant).

Note 2: No grant rollover requests will be considered for municipalities with vacant or acting chief financial officers (CFO) and municipal managers (MM) for a period exceeding 6 months from the date of vacancy.

In instances where municipalities have vacant or acting CFO's or MM's postions, evidence must be provided to show that significant action has been taken to fill the vacant positions in a permanent capacity.

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 2019, the application will be declined.

Furthermore, National Treasury will also take into account the following information when evaluating rollover applications and reserves the right to decline an application if there is non-performance by the municipality in any of the areas listed below:

Compliance with the in-year reporting requirements in sections 71 and 72 of the MFMA and section 12 of the 2018 DoRA, including the municipal manager and chief financial officer signing-off on the information sent to National Treasury

Submission of the pre-audited 2018/19 Annual Financial Statements information to National Treasury and Provincial Treasury by 31 August 2019

Accurate and complete disclosure of grant performance in the pre-audited 2018/19 Annual Financial Statements, (i.e. clear breakdown of grant receipts and spending in the notes to the financial statements)

If the full amount requested for rollover is not entirely cashed backed, such a rollover will not be approved. National Treasury will not approve portions of rollover requests.

Incorporation of the Appropriation Statement as part of the pre-audited annual Financial Statements

The municipality must spend a minimum of 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. Furthermore rollover requests for prior rollovers will not be considered.

No rollover application will be approved for projects constituted through Regulation 32 of the Municipal Supply Chain Management Regulations. Projects linked to additional funding and disasters are exempted.

Cash available in the bank (net position including short term investments) as at 30 June 2019 and in line with cash flow statements to finance the roll-over request.

No rollover applications will be approved where there is evidence that the application is linked to invoices that were issued within the last 30 days of the municipal financial year. *

*** This would imply that grant related expenditure was incurred before year end and if the conditions of the grant were met, then revenue should be recognised against the unspent grant balance before year end thus reducing and eliminating the unspent balance at year end.**

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 pre-audited Annual Financial Statements to National Treasury by the 31 August 2019. There will not be a review of unspent conditional grants once the audited AFS is made available.

National Treasury will confirm in writing by the 22 October 2019, whether or not the municipality may retain any of the unspent funds as a rollover or whether it has agreed to alternate payment arrangements or schedules. Municipalities 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. National Treasury will communicate the unspent conditional grant amount by the 5 November 2019. Municipalities must within 14 days of receipt of the notice:

- Propose an alternative date for offsetting; or
- Make written submissions why the full or part of the amount should not be offset; and
- Propose an alternative date by which the amount will be paid into the NRF

Municipalities will be required to repay the remaining unspent conditional grant funds (not subject to a repayment agreement) to the National Revenue Fund by 18 November 2019 or it will be offset against the municipalities' equitable share allocation to be received on the 2 December 2019.

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, 2018 and NT MFMA circular 94.

Provincial Treasury encourages municipalities to make reference to the Provincial Treasury's publication titled "Guide to Grant Management" for assistance in compiling thorough and complete rollover applications.

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

Yours faithfully

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

cc: Mr R. Pillay: MEC for Finance KZN

Mr F. Cassimjee: Chief Director: Municipal Finance - KZN Provincial Treasury

Mr J. Hattingh: Chief Director: National Treasury

Attachments:

Annexure 1 – Grant Management Process

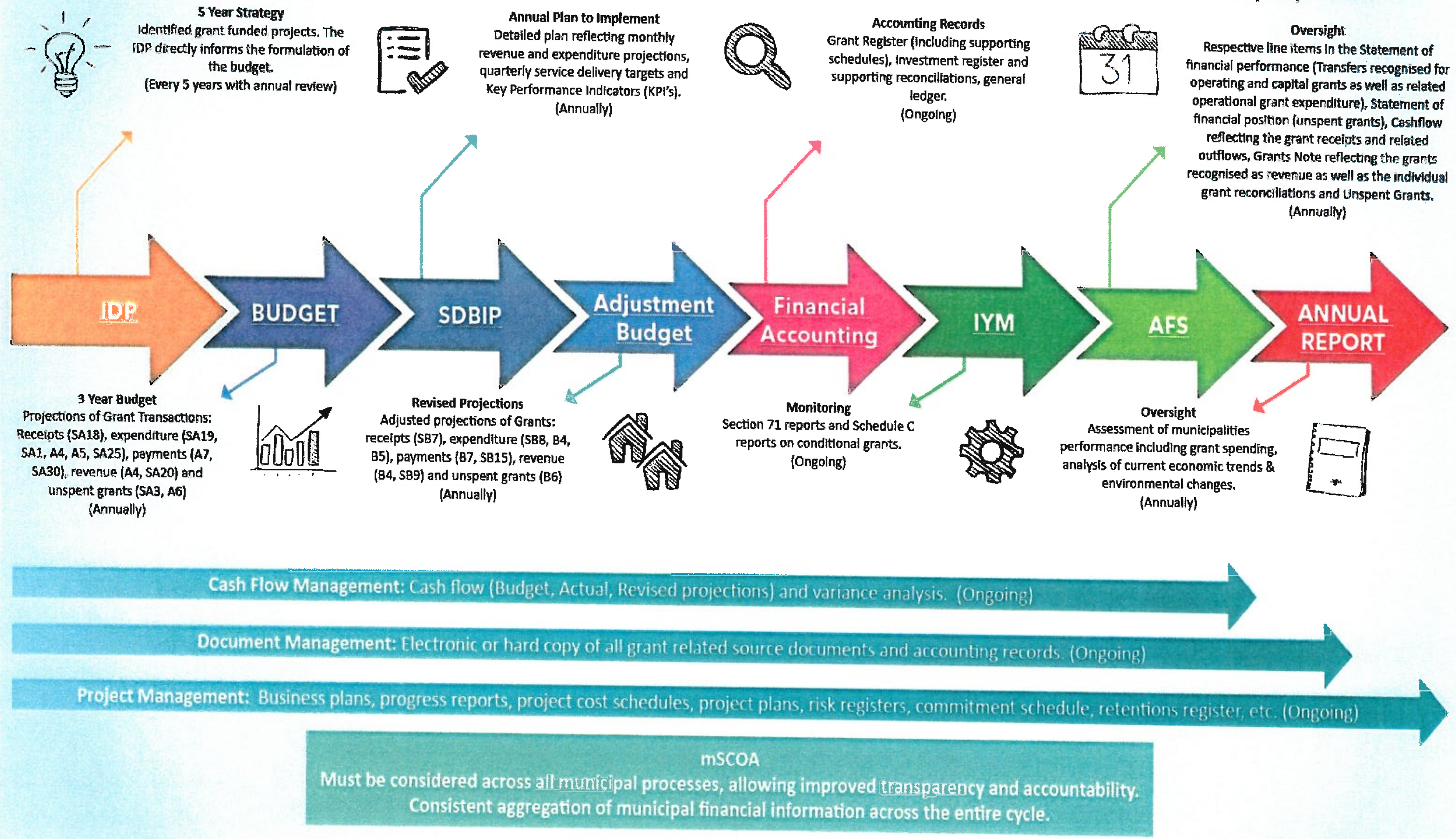
Annexure 2 – Summary of Legislation

Annexure 1

High Level Grant Management Process

Grant management affects various municipal processes and it is thus essential to view the impact of grant funds across the municipal environment. The diagram below provides the basic foundation to understanding how the different processes interrelate.

The diagram provides an overview of the impact/outcomes of grant related transactions on the relevant municipal processes



Annexure 1

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**
IDP	
Preparation of the IDP which directly informs the preparation of the budget. The IDP will identify grant funded projects	Every 5 years (Reviewed annually)
BUDGET	
Municipalities must reflect all grants gazetted (from national, provincial and local) on the revenue, expenditure and cash flow section of their 2019/20 budgets, as well as for the outer years of the MTREF. This must be prepared with reference to the payment schedule (which may also be used to monitor actual grant receipts) from the National Treasury website as well as project plans, costing schedules, etc.	30 June
SDBIP	
Preparation and implementation of the detailed plan reflecting monthly revenue and expenditure projections, quarterly performance targets and key performance indicators	Annually
FINANCIAL ACCOUNTING	
As the grant is spent the municipality needs to recognise the related expenditure, creditor and subsequent payment. All conditional grants received must be recorded as a liability until the related expenditure meets the conditions of the respective grant and thereafter will be recognized as revenue	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 (revenue recognised), adjustments, closing balance etc. The amount per grant register must be reconciled to the amount per the General Ledger.	Monthly
IYM	
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 are consistent. National Treasury will refer to Section 71 reports in the event of uncertainty regarding grant disclosure in the pre-audited AFS.	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 2019 conditional grant expenditure reports.	01 August 2019
AFS	
When preparing their annual financial statements to be submitted to the office of Auditor-General, National Treasury and Provincial Treasury by 31 August 2019, a municipality must determine what portion of each national conditional allocation it received remained unspent as at 30 June 2019. 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. 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 2018/19 Financial Year
ROLLOVER PROCESS	
Municipality to motivate to National Treasury in terms of Section 22 of DoRA 2018 that: • The funds are committed to identifiable projects. • 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 the following; a. Proof that the project tender was published and the period for tender submissions closed before 31 March; b. Proof that a contractor or service provider was appointed for delivery of a project before 31 March;	31 August 2019 (National Treasury will not consider any rollover requests that are incomplete or that are received after this deadline)

c. Proof of a project tender, including appointment of a contractor or service provider for delivery of a service before 30 June in cases where additional funding was allocated during the course of the final year of the project; and d. Evidence that all projects linked to an allocation will be fully utilized by 30 June 2020 (attach cash flow projection for the applicable grant) 4. A progress report (including percentages) on the status of each of the projects implementation (attach a visible implementation plan); 5. The amount of funds committed to each project and the conditional allocation of which the funds are 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 6 months from date of vacancy)*** 9. Consideration also given to cash available in the bank (net position including short term investments), as at 30 June 2018 in line with the cash flow statements to finance the rollover request. If the full amount requested for rollover is not entirely cashed backed, such a rollover will not be approved. National Treasury will not approve portions of rollover requests. 10. Compliance with in year reporting requirements in terms of Section 71 & 72 of the MFMA and Section 12 of 2018 DoRA. (Signed off by MM and CFO) 11. Submission of pre-audit AFS. (Including accurate and full disclosure of grant related notes) 10. No rollover application will be approved which contains evidence that the application is linked to invoices that were issued within the last 30 days of the municipal financial year end. 11. No rollover application project constituted through Regulation 32 of the Municipal Supply Chain Management Regulations will be approved. Projects linked to additional funding and disasters are exempted. **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. The municipality needs to submit the rollover application pack to National Treasury, Provincial Treasury and the relevant transferring officer.	31 August 2019
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 (If cannot withstand the impact of being offset against the equitable share in one installment).	22 October 2019
National Treasury will communicate the final unspent conditional grant amount by the 5 November 2019.	5 November 2019
Municipalities have within 14 days of receipt of the notification to: • Propose an alternative date for offsetting; • Make written submissions why the full or part of the amount should not be offset; or • Propose an alternative date by which the amount shall be paid into the NRF. Request for payment arrangements following the lapse of the 14 days will not be considered. The payment arrangement is limited to 3 repayments.	Within 14 days of notification
Municipality to repay the remaining unspent conditional grant funds that are not subject to a specific repayment agreement/schedule 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	18 November 2019
Any unspent conditional grant funds not repaid to the National Revenue Fund or for which there is no payment arrangement will be offset against the municipality's equitable share allocation.	2 December 2019
ADJUSTMENTS BUDGET	
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 – NT MFMA Circular No.51). The adjustments budget must take into account the impact of funds that have been offset or returned. Municipality to appropriate rollover funds (related spending) in an adjustments budget.	Within 60 days after rollovers are gazetted in annual Adjustments Estimate Government Gazette
OTHER REPORTING REQUIREMENTS	
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 .This template must be submitted together with the normal in year reporting template for conditional grant spending for the year.	Monthly
OTHER IMPORTANT LEGISLATION	
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

Reasons for Withholding A transferring officer may withhold an allocation to the municipality for a period of up to 30 days due to the following: • The municipality did not comply with the provisions of DoRA e.g. spending that is not in accordance with the conditions of the grant and the applicable grant framework; or • The municipality did not spend rollovers of conditional allocations approved by National Treasury; or • The municipality did not provide a satisfactory explanation for significant under-spending on previous transfers during the current financial year (2018/2019).	
Stopping of Conditional Grants: Despite Section 18 (Withholding of allocations) National Treasury may in its discretion or on request of a transferring officer or a receiving officer stop the transfer of a Schedule 4 or 5 allocation. Once notice of intention to stop the grant is received from National Treasury, the municipality must within 7 days submit written representation. **Reasons for Stopping** • Once an allocation is officially stopped, the affected municipality will not receive the full gazetted amount as identified in DoRA. This is mainly due to the following: • A serious or persistent material breach by the municipality in failing to comply with the DoRA e.g. spending that is not in accordance with the applicable grant framework i.e. For MIG, a municipality must spend at least 60% of the previous transfer and comply with reporting requirements before the second or subsequent transfers are made. In addition municipalities must spend 40% of the total MIG allocation by December. • A serious or persistent material breach committed by the municipality regarding Section 38(1)(b)(i) of the MFMA, i.e. measures to ensure both transparency and expenditure control (introduced through generally accepted accounting practice, uniform expenditure classifications and uniform treasury norms and standard in terms of Section 216 (1) of the Constitution) • A municipality breaches or fails to comply with any conditions subject to which the allocation is made - Section 38(1)(b)(ii) of the MFMA • NT anticipates substantial under-spending on the allocation or programme funded by the allocation; • Non submission / late submission of monthly reports.	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 2017/18 financial year and regarded as a rollover approved by National Treasury. Refer to Chapter 7 of the Guide to Grant Management for further information.	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. Refer to Chapter 7 of the Guide to Grant Management for further information.	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/acts/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 2018 Division of Revenue Act (DoRA): Unspent Conditional Allocations:

1) Despite anything contrary in the PFMA and MFMA, any conditional allocation or portion thereof that is, in the case of a municipality, not spent at the end of a municipal financial year (2018/19), 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, or provincial treasury, approve a roll-over of a conditional allocation to the next financial year (2019/20) 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 transfers of equitable share or conditional grant allocations to that municipality.
5) Before any funds are offset, National Treasury must give the relevant municipality or transferring officer —
   (a) Notice of the intention to offset amounts against future allocations, the intended amount to be offset, the intended date for the offsetting and the reasons for the offsetting; and
   (b) An opportunity, within 14 days of receipt of the notice, to —
      (i) propose an alternative date for offsetting;
      (ii) make written submissions why the full or a part of the amount should not be offset;
      (iii) propose an alternative date by which the amount shall be paid into the National Revenue Fund.
   (c) National Treasury must—
      (i) accept the date proposed or determine another date; or
      (ii) accept or reject the submissions made as mentioned above.

Section 18 of the 2018 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 (2018/19).
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 to inform the amendment of the payment schedule.
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 shall:
      (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 subsection 3 above.

Section 19 of the 2018 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 or a portion thereof to a municipality:
   (a) A serious or persistent material breach by the municipality in failing to comply with DoRA;
   (b) A serious or persistent material breach committed by the municipality in terms of Section 38(1)(b)(i) of the MFMA, i.e. regarding the measures to ensure both transparency and expenditure control (introduced through generally accepted accounting practice, uniform expenditure classifications and uniform treasury norms and standards in terms of Section 216 (2) of the constitution); or
   (c) Breach or failure to comply with any conditions subject to which the allocation is made – Section 38(1)(b)(ii) of the MFMA
   (d) 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 (2018/19).
2) National Treasury must, at least 7 working days prior to stopping an allocation: (Section 1(d) above)
   (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.
3) National Treasury must,
   (a) Comply with Section 38 of the Municipal Finance and Management Act. (Section 1 (a) – (c) above)
   (b) Inform the relevant Provincial Treasury of its intention.
4) National Treasury must give notice in the Gazette of the stopping of an allocation and the effective date of, and reason for, the stopping.
5) 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 2018 Division of Revenue Act (DoRA): Reallocation of Funds

1) When a conditional grant allocation (Schedule 4 or 5) 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, to one or more municipalities, on condition that the allocation must be spent by the end of the 2018/19 financial year.

2) (a) If the transferring officer of Schedule 6 allocation indicates in writing to National Treasury that a portion of the allocation is likely to be underspent, or needs to be reprioritised, National Treasury may determine that portion to be reallocated, as the same type of allocation as it was originally allocated, to another municipality.

   (b) Before requesting a reallocation the transferring officer must notify the affected municipality of the proposed reallocation and give the municipality 14 days to provide comments and propose changes. The transferring officer must submit this information to National Treasury.

   (c) The reallocated portion must be spent by the end of the financial year (2018/19) and is effective from the date of notice in the Gazette.

3) (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 not spent by the end of the 2018/19 financial year, is eligible for a roll-over 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) On a joint request by the transferring officer and the National Disaster Management Centre, established by section 8 of the Disaster Management Act, 2002(Act No. 57 of 2002), the National Treasury may approve that a conditional allocation in Schedule 4, 5, or 6 or a portion thereof, be reallocated to pay for the alleviation of the impact of a disaster or the reconstruction or rehabilitation of infrastructure damage caused by a disaster.

   (b) Before National Treasury approves a reallocation, the receiving officer (Schedule 4 or 5) or transferring officer (Schedule 6) must confirm that the affected funds are not committed in terms of any statutory or contractual obligation.

   (c) The reallocated funds must be utilised in the 2018/19 financial year as the same conditional allocation that was originally made and for the same functional area that the allocation relates to.

   (d) The transferring officer must determine the conditions for spending the reallocated funds, after consultation with the National Disaster Management Centre and with the approval of the National Treasury.

Section 21 of the 2018 Division of Revenue Act (DoRA): Conversion of Allocations

1) If satisfied that the municipality has demonstrated the capacity to implement projects, National Treasury may, at the request of the transferring officer and after consultation with the receiving officer, convert an allocation listed in Part B of Schedule 6 to one listed in Part B of Schedule 5.

2) National Treasury may, after consultation with the transferring officer, receiving officer and provincial treasury, convert an allocation listed in Part B of Schedule 5 to one listed in Part B of Schedule 6 if it is satisfied that:
   - (a) the conversion shall prevent under expenditure or improve level of service delivery relative to the respective allocation;
   - (b) the affected department or municipality has demonstrated the capacity to implement projects;
   - (c) transferring officer has made a demonstrable effort to strengthen the capacity of the receiving officer to implement the allocation, but the receiving officer is still not capable of fully meeting the requirements of the allocation; and
   - (d) there is a history of poor performance in the previous two financial years for the respective allocation to this receiving officer, including withholding and stopping of allocations.

3) If satisfied that a municipality has failed to follow procurement procedures prescribed in terms of the Municipal Finance Management Act, the National Treasury may, at the request of a transferring officer or in its discretion, after consultation with the relevant transferring officer and receiving officer, convert any portion of an allocation listed in Part B of Schedule 5 to one listed in Part B of Schedule 6.

4) Any portion of an allocation converted, must be utilised for the same province or municipality to which the allocation was originally made and if
   - (a) Possible, used to implement the same project or projects that were planned if the allocation has not been converted; or
   - (b) Not possible, the receiving officer must sign an agreement that defines any new project to be funded, before it is implemented.

5) 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.

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

7) If an allocation for immediate disaster response or housing emergency 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.
   - (b) An allocation to provinces for emergency housing to an allocation to municipalities for emergency housing and vice versa.

8) 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 (7) and the effective date referred to in subsection (9); or
   - (b) Provide a copy of the notice to the transferring officer.

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