

ST - B13

C.W. STROUD (308 8469)/L.A. VAN ZYL (308-8481)

COUNCIL: 27 NOVEMBER 2003

*4, 3, 2 Mac Marker*

80. FINANCE DEPARTMENT  
FUND TRANSFER POLICY



Report of the Acting Municipal Manager:

"1. PURPOSE

The purpose of the report is:

- to establish and approve a policy framework by which departmental budgets can be managed by departmental heads to ensure effective financial management; and
- to adhere to financial management reform responsibilities which require compliance as far as possible to the MFMB (Municipal Finance Management Bill), which National Treasury advise will be enacted in the near future.

2. BACKGROUND

On 25 April 2002 the Council approved the revision of the policy regarding deviations of the budget, which included the Virement Policy for the departmental management of expenditure and income items.

The approval of the 2003/2004 to 2005/2006 medium term budget by Council on 29 May 2003 laid a sound foundation for the continued development and improvement of continued sustainable service delivery. Further the current format in which the budget has been approved, as well as the statutory requirements of the MFMB necessitate the revision of the fund transfer policy as approved on 25 April 2002.

3. DISCUSSION OF PROPOSED POLICY AND PROCEDURE

Applicable and relevant legislative directives from the Municipal Finance Management Bill (MFMB) are set out in Annexure A.

With the approval of the 2003/2004 to 2005/2006 medium term budget, Council approved a high level operating budget summary, as well as a consolidated operating budget statement. It was also resolved that all Departments ensure compliance with the currently approved Financial By-Laws and Policy regarding Deviations from the Budget, by ensuring that the approved budget allocations, per group of expenditure, as well as the total expenditure approved on their Operating Budget, is not exceeded.

Taking into consideration the definition of a "vote" and other prescriptions in terms of the MFMB, as well as the format in which the operating budget was approved by Council, it has become necessary in the interest of effective and efficient financial management to formalise a fund transfer methodology, which aims at empowering the respective departmental heads to manage their respective operational budgets, within the stipulations of the MFMB and create an environment of accountability within each respective department (functional unit). This methodology takes cognisance of different groups of expenditure contained in the operating budget that are manageable and others that are regarded as non-manageable. Different rules would be applicable to these respective groups of expenditure. The aim of the MFMB is to redefine the meaning of the Operational Budget "vote" to a strategic summarised level controlled by the Council, where as currently "vote" is generally understood to refer to "line-item" detail.

It is therefore recommended that based on the definition of a "vote" in terms of the MFMB, each department (functional budget) within the Municipality be considered a "vote" and that any further reference to vote/votes be considered to be one or more of the following departments (functional units):

- Political Office
- Office of the Municipal Manager
- General and Assessment Rates
- Office of the Chief Operating Officer
- Finance
- Corporate Services
- Legal and Secretarial Services
- Economic Development, Transport and Tourism
- Marketing and Communications
- Health and Social Development
- Emergency Management Services
- Metropolitan Police
- Housing, City Planning, Land and Environmental Planning
- Service Delivery: Electricity
- Service Delivery: Water and Sanitation
- Service Delivery: Roads and Stormwater

Furthermore, the following is an expenditure group breakdown of the operating statement approved by Council with regard to the 2003/2004 to 2005/2006 operational medium term budget:

- A Group: Remuneration
- C Group: Administrative Expenditure
- D Group: General Expenditure
- E Group: Municipal Rates and Services
- F Group: Raw and Consumption Materials
- G Group: Departmental Charges
- H Group: Repairs and Maintenance
- I Group: Capital Charges
- J Group: Contributions
- K Group: Contribution to Capital Outlay
- M Group: Minus charged out

The implementation of the proposed operational fund transfer policy will subsequently be dealt with as follows and will form the basis of the policy:

#### NON-MANAGABLE EXPENDITURE GROUP(S)

Owing directly to the nature of these expenditure groups and the fact that these expenditure groups can be considered to be non manageable by the respective departments, no fund transfers can be made with regard to the following expenditure groups, save with the explicit approval of the Council in terms of Section 160 of the Constitution and as contemplated in section 28 (municipal adjustments budgets) of the MFMB:

- G Group: Departmental Charges
- I Group: Capital Charges
- J Group: Contributions
- M Group: Minus charged out

#### PARTIALLY MANAGEABLE EXPENDITURE GROUP

The A Group: Remuneration can be managed only within the limitations of this group and subsequently fund transfers can only take place within the expenditure group, limited to the total allocation for the vote (functional unit) concerned. Any excess expenditure or additional funding requests for this group of expenditure shall be referred to the Council for approval in terms of section 28 of the MFMB.

#### MANAGEABLE EXPENDITURE GROUPS

The following expenditure groups can be fully managed within the limits of the respective group allocations and therefore fund transfers can take place within the vote or functional unit between these groups, provided that the total budget allocation for the combined groups are not exceeded.

- C Group: Administrative Expenditure
- D Group: General Expenditure
- E Group: Municipal Rates and Services
- F Group: Raw and Consumption Materials
- H Group: Repairs and Maintenance
- K Group: Contribution to Capital Outlay

It is therefore recommended that the above mentioned groups be managed by the respective departmental heads (SEO's), and that fund transfers can take place between these groups within the vote (functional unit/department) concerned. In the case of the three service delivery votes (functional units), the respective General Managers, in collaboration with the Strategic Executive Officer (SEO) for Service Delivery, will manage these votes independently, owing to the effect on tariffs and charges that any fund transfers may have. Cognisance needs to be especially taken by those responsible for "trading" enterprises of the proposed intent of section 100(c) of the MFMB, which requires that action is taken to reduce expenditure when revenue is anticipated to be less than budgeted.

The/...

The concept of a fund transfer also needs to be clearly defined in order to avoid any misunderstanding or confusion. In order for a Department/ functional unit to transfer funds from one expenditure item to another expenditure item, a saving has to be identified within the limitations of the approved item allocations on the respective departmental budgets. The Department/ functional unit concerned must ensure that the intended transfer amount is available against the item and must clearly indicate to which item it will be transferred. Any deviation will have to be reported to the Council in terms of sections 1, 15, 29, 32 and 70 of the MFMB.

It needs to be noted that the proposed policy and all subsequent transfers will be carefully monitored by the Financial Management Division of the Finance Department, to ensure that all the intended transfers are within the stipulations of the proposed policy. Furthermore, all votes (functional units) will have to ensure that the implications of the intended transfers are known and that these implications have been taken into consideration, bearing in mind their service delivery objectives and outcomes in terms of their strategic operational plans and service delivery implementation plans.

The following is a summary of the proposed administrative process for fund transfers:

- A formal fund transfer request, which has been signed and approved by the SEO/Departmental Head or delegated official (in terms of written delegation of powers approved by the SEO), must be submitted to the Finance Department (Financial Management Division).
- No individual fund transfer of less than R500 will be considered by the Finance Department, owing to the administrative burden.
- The SEO shall inform the CFO of his/her chosen delegates for approval of fund transfers (limited to three delegated officials per Vote), if he/she should choose to delegate this function. It will therefore be necessary for the SEO to formally inform the CFO of the authorised officials and provide their respective signatures for control purposes.
- The Finance Department (Financial Management Division) will ultimately be authorised to do the financial technical assessment of the requested transfers and subsequently approve or decline the requests.
- Should any individual request for the transfer of funds be declined by the Finance Department, the request will have to be submitted to the Council for consideration and approval, in the format of a formal report, on which the Finance Department will render formal comments.
- In the case of Capital Projects funded from Loans and Special Funds, all amendments (ie new projects, retiming of expenditures and re-allocation of savings on projects, etc) must be considered and approved by the Council in terms of Section 160 of the Constitution.
- All current policies (ie Staffing and remuneration policy, Procurement policy, Cellular allowances policy, Entertainment allowances policy, etc), as amended from time to time by the Council, shall be applicable and will be applied by the Finance Department when requests for fund transfers are technically assessed for approval.
- Requests for the transfer of funds shall be done beforehand (a-priori) and not afterwards (ex post facto). In the case of ex post facto authorization, the actions of the Head of Department / Strategic Executive Officer will have to be condoned by the Council. The Council will have to consider the provisions of

the MFMB regarding “Unauthorised Expenditure” and “Irregular Expenditure”, as defined in Section 1 of Chapter 1.

#### 4. CONCLUSION:

Chapter 4, section 17 of the MFMB clearly states that an annual budget must be accompanied by measurable performance objectives for each vote in the budget, taking into account the municipality’s integrated development plan. Serious emphasis is placed on the Service Delivery Implementation Plan of the Municipality and the subsequent performance against this plan.

It is therefore the opinion of the Finance Department that the proposed fund transfer policy will empower each respective department/functional unit (vote) and the departmental head to perform at the predetermined objectives and build capacity for efficient, effective and transparent financial management. The departmental budgets and subsequent performance levels, which are directly related to the financial outcomes, necessitates a new approach to the fund transfer concept.

The Municipal Financial Management Bill, Section 172 (2) reads as follows:

“A senior manager or other official of a municipal entity exercising financial management responsibilities and to whom a power or duty was delegated in terms of section 106, commits an act of financial misconduct if that manager or official deliberately or negligently-

- (a) fails to carry out the delegated duty;
- (b) contravenes or fails to comply with a condition of the delegated power of duty;
- (c) makes an irregular or fruitless and wasteful expenditure; or
- (d) provides incorrect or misleading information to the accounting officer for the purpose of a document referred to in subsection (1)(d).”

Taking the above into consideration it is recommended that the SEO of each respective vote (functional unit/department) manage the fund transfers and therefore becomes ultimately accountable and responsible for that specific vote. As previously stated, the Finance Department will carefully monitor the process and subsequently advice and facilitate the process in consultation with the respective departments to ensure compliance and financial sustainability at all times.

All fund transfers not approved by the Finance Department will be referred back to the appropriate SEO with a recommendation to draft a report to the Council for approval.

#### 5. COMMENTS FROM OTHER DEPARTMENTS:

##### 5.1 COMMENTS OF THE HEAD: LEGAL AND SECRETARIAL SERVICES

‘From a perusal of the report it is evident that the proposed “Fund Transfer Policy” is in essence very similar to the existing “Veriment Method Policy” previously approved by Council.

The envisaged/...

The envisaged Municipal Finance Management Act however expressly defines a "Vote" for purposes of the implementation of the said act. In this regard it is to be noted that Part 2: Financial Administration (Sections 77, 78 and 79) emphasises the responsibilities of the Municipal Manager, Chief Financial Officer and Senior Managers who are responsible for managing the respective votes (functions) of the Municipality. The responsibilities are in line with the proposed policy.

In view of the aforesaid, it is submitted that the recommendations can be supported; subject thereto that the envisaged legislation be re-visited once enacted to ensure that no amendments had been made and that the policy will still comply with the said legislation.'

## 5.2 COMMENTS OF THE CHIEF FINANCIAL OFFICER

'The Finance Department concurs with the content and recommendations of this report, which has the objectives to empower the Strategic Executive Officers in a financial management sense and to streamline the administrative processes.

The streamlined processes will have a positive effect on the number of reports submitted to Council for the approval of fund transfers.'

(Note: Section 160(3)(b) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) stipulates that all questions concerning the approval of budgets, must be determined by a decision with a supporting vote of a majority of the members of the Council. In the case of the City of Tshwane Metropolitan Municipality this means that at least 77 Councillors must vote in favour of the proposal.)

## ANNEXURES

### A. Municipal Finance Management Bill: Applicable and relevant directives

## RESOLVED:

1. That cognisance be taken of the contents of the report.
2. That the Council resolution of 25 April 2002, for the application of the Virement Method, be rescinded and be replaced with recommendation 3 of this report.
3. That the proposed fund transfer policy pertaining to the operational budget of the various vote(s), as set out in paragraph 3 of the report, be approved.
4. That cognisance be taken of the fact that the accountability with regard to all fund transfers will ultimately reside with the respective Head of Department / Strategic Executive Officer, although the delegation of powers can take place within a vote (functional unit).



5. That/...

5. That cognisance be taken that the intention of this policy is to empower the Strategic Executive Officers with the necessary authority to manage their respective budgets in line with their Strategic Operational Plans and Service Delivery Implementation Plans, and to streamline the administrative processes.
6. That cognisance be taken that the entire process will be carefully monitored by the Finance Department and that the Finance Department will constantly advise and assist vote(s) (functional units/departments).
7. That cognisance be taken that any deviation of the mentioned policy as contained in recommendation 3 will have to be submitted to Council for approval, including Capital amendments before the necessary amendments will be processed.
8. That the Strategic Executive Officers of the various departments inform the Chief Financial Officer of any delegations of power for the approval of fund transfers in writing, including a copy of the applicable signatures.



## ANNEXURE A

## MUNICIPAL FINANCE MANAGEMENT BILL

In terms of the MFMB (Municipal Finance Management Bill), Chapter 1 Section 1 the following definitions are relevant:

- "irregular expenditure"**, in relation to a municipality or municipal entity, means –
- (a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of this Act, and which has not been condoned in terms of section 170;
  - (b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;
  - (c) expenditure incurred by a municipality in contravention of, or that is not in accordance with, a requirement of the Public Office-bearers Act, 1998 (Act No. 20 of 1998); or
  - (d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law,
- but excludes expenditure by a municipality which falls within the definition of "unauthorised expenditure";

**"overspending"–**

- (a) in relation to the budget of a municipality, means causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year's budget for its operational or capital expenditure, as the case may be;
- (b) in relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or
- (c) in relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5) of that section;

**"service delivery and budget implementation plan"** means a detailed plan approved by the mayor of a municipality in terms of section 53 (1) (c) (ii) for implementing the municipality's delivery of municipal services and its annual budget, and which must indicate –

- (a) projections for each month of –
  - (i) revenue to be collected, by source; and
  - (ii) operational and capital expenditure, by vote;
- (b) service delivery targets and performance indicators for each quarter; and
- (c) any other matters that may be prescribed,

and includes any revisions of such plan by the mayor in terms of section 54 (1) (c);

**"unauthorised expenditure"**, in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11 (3), and includes—

- (a) overspending of the total amount appropriated in the municipality's approved budget;
- (b) overspending of the total amount appropriated for a vote in the approved budget;



- (c) expenditure from a vote unrelated to the department or functional area covered by the vote;
- (d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;
- (e) spending of an allocation referred to in paragraph (b) or (c) of the definition of "allocation" otherwise than in accordance with the conditions of the allocation; or
- (f) a grant by the municipality otherwise than in accordance with this Act;

"vote" means—

- (a) one of the main segments into which a budget of a municipality is divided for the appropriation of money for the different departments or functional areas of the municipality; and
  - (b) which specifies the total amount that is appropriated for the purposes of the department or functional area concerned.
- (2) In this Act, a word or expression derived from a word or expression defined in subsection (1) has a corresponding meaning unless the context indicates that another meaning is intended.

Chapter 4 on Municipal Budgets the MFMB determines the **appropriation of funds for expenditure** in Section 15, which reads:

15. A municipality may, except where otherwise provided in this Act, incur expenditure only –
- (a) in terms of an approved budget; and
  - (b) within the limits of the amounts appropriated for the different votes in an approved budget.

Section 29 prescribes the procedure for **unforeseen and unavoidable expenditure**, and reads as follows:

- 29.(1) The mayor of a municipality may in emergency or other exceptional circumstances authorise unforeseeable and unavoidable expenditure for which no provision was made in an approved budget.
- (2) Any such expenditure –
    - (a) must be in accordance with any framework that may be prescribed;
    - (b) may not exceed a prescribed percentage of the approved annual budget;
    - (c) must be reported by the mayor to the municipal council at its next meeting; and
    - (d) must be appropriated in an adjustments budget.

Section 32 deals with **unauthorised, irregular and fruitless and wasteful expenditure**, and reads as follows:

- 32.(1) Without limiting liability in terms of the common law or other legislation—
- (a) a political office-bearer of a municipality is liable for unauthorised expenditure if that office-bearer knowingly or after having been advised by the accounting officer of the municipality that expenditure is likely to result in unauthorised expenditure, instructed an official of the municipality to incur the expenditure;
  - (b) the accounting officer is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, subject to subsection (3);

- (c) any political office-bearer or official of a municipality who deliberately or negligently committed, made or authorised an irregular expenditure, is liable for that expenditure; or
  - (d) any political office-bearer or official of a municipality who deliberately or negligently made or authorised a fruitless and wasteful expenditure is liable for that expenditure.
- (2) A municipality must recover unauthorised, irregular or fruitless and wasteful expenditure from the person liable for that expenditure unless the expenditure—
- (a) in the case of unauthorised expenditure, is—
    - (i) authorised in an adjustments budget; or
    - (ii) certified by the municipal council, after investigation by a council committee, as irrecoverable and written off by the council; and
  - (b) in the case of irregular or fruitless and wasteful expenditure, is after investigation by a council committee, certified by the council as irrecoverable and written off by the council.
- (3) If the accounting officer becomes aware that the council, the mayor or the executive committee of the municipality, as the case may be, has taken a decision which, if implemented, is likely to result in unauthorised, irregular or fruitless and wasteful expenditure, the accounting officer is not liable for any ensuing unauthorised, irregular or fruitless and wasteful expenditure provided that the accounting officer has informed the council, the mayor or the executive committee, in writing, that the expenditure is likely to be unauthorised, irregular or fruitless and wasteful expenditure.
- (4) The accounting officer must promptly inform the mayor, the MEC for local government in the province and the Auditor-General, in writing, of—
- (a) any unauthorised, irregular or fruitless and wasteful expenditure incurred by the municipality;
  - (b) whether any person is responsible or under investigation for such unauthorised, irregular or fruitless and wasteful expenditure; and
  - (c) the steps that have been taken—
    - (i) to recover or rectify such expenditure; and
    - (ii) to prevent a recurrence of such expenditure.
- (5) The writing off in terms of subsection (2) of any unauthorised, irregular or fruitless and wasteful expenditure as irrecoverable, is no excuse in criminal or disciplinary proceedings against a person charged with the commission of an offence or a breach of this Act relating to such unauthorised, irregular or fruitless and wasteful expenditure.
- (6) The accounting officer must report to the South African Police Service all cases of alleged —
- (a) irregular expenditure that constitute a criminal offence; and
  - (b) theft and fraud that occurred in the municipality.
- (7) The council of a municipality must take all reasonable steps to ensure that all cases referred to in subsection (6) are reported to the South African Police Service if —
- (a) the charge is against the accounting officer; or
  - (b) the accounting officer fails to comply with that subsection.

- (8) The Minister, acting with the concurrence of the Cabinet member responsible for local government, may regulate the application of this section by regulation in terms of section 168.

Section 69 (1) on **budget implementation** reads as follows:

69. (1) The accounting officer of a municipality is responsible for implementing the municipality's approved budget, including taking all reasonable steps to ensure –
- (a) that the spending of funds is in accordance with the budget and is reduced as necessary when revenue is anticipated to be less than projected in the budget or in the service delivery and budget implementation plan; and
  - (b) that revenue and expenditure are properly monitored.
- (2) When necessary, the accounting officer must prepare an adjustments budget and submit it to the mayor for consideration and tabling in the municipal council.

Section 70 (1) deals with **impending shortfalls and overspending** as follows:

- 70.(1) The accounting officer of a municipality must report in writing to the municipal council –
- (a) any impending—
    - (i) shortfalls in budgeted revenue; and
    - (ii) overspending of the municipality's budget; and
  - (b) any steps taken to prevent or rectify such shortfalls or overspending.

Section 99 (2)(a) under **expenditure management** and Section 100 **budget implementation** of the Municipal Finance Management Bill reads, inter alia, as follows:

- 99.(2) The accounting officer must for the purpose of subsection (1) take all reasonable steps to ensure—
- (a) that the entity has and implements an effective system of expenditure control;”
100. The accounting officer of a municipal entity is responsible for implementing the entity's budget, including taking effective and appropriate steps to ensure that –
- (a) the spending of funds is in accordance with the budget;
  - (b) revenue and expenditure are properly monitored; and
  - (c) spending is reduced as necessary when revenue is anticipated to be less than projected in the budget.”

## **Part 2: Financial administration**

### **Top management of municipalities**

- 77.(1) The top management of a municipality's administration consists of –
- (a) the accounting officer;
  - (b) the chief financial officer;

- (c) all senior managers who are responsible for managing the respective votes of the municipality and to whom powers and duties for this purpose have been delegated in terms of section 79; and
  - (d) any other senior officials designated by the accounting officer.
- (2) The top management must assist the accounting officer in managing and co-ordinating the financial administration of the municipality.

***Senior managers and other officials of municipalities***

- 78.(1) Each senior manager of a municipality and each official of a municipality exercising financial management responsibilities must take all reasonable steps within their respective areas of responsibility to ensure —
- (a) that the system of financial management and internal control established for the municipality is carried out diligently;
  - (b) that the financial and other resources of the municipality are utilised effectively, efficiently, economically and transparently;
  - (c) that any unauthorised, irregular or fruitless and wasteful expenditure and any other losses are prevented;
  - (d) that all revenue due to the municipality is collected;
  - (e) that the assets and liabilities of the municipality are managed effectively and that assets are safeguarded and maintained to the extent necessary;
  - (f) that all information required by the accounting officer for compliance with the provisions of this Act is timeously submitted to the accounting officer; and
  - (g) that the provisions of this Act to the extent applicable to that senior manager or official, including any delegations in terms of section 79, are complied with.
- (2) A senior manager or such official must perform the functions referred to in subsection (1) subject to the directions of the accounting officer of the municipality.

**Delegations**

- 79.(1) The accounting officer of a municipality —
- (a) must for the proper application of this Act in the municipality's administration develop an appropriate system of delegation that will both maximise administrative and operational efficiency and provide adequate checks and balances in the municipality's financial administration;
  - (b) may, in accordance with that system, delegate to a member of the municipality's top management referred to in section 77 or any other official of the municipality —
    - (i) any of the powers or duties assigned to an accounting officer in terms of this Act; or
    - (ii) any powers or duties reasonably necessary to assist the accounting officer in complying with a duty which requires the accounting officer to take reasonable or appropriate steps to ensure the achievement of the aims of a specific provision of this Act; and
  - (c) must regularly review delegations issued in terms of paragraph (b) and, if necessary, amend or withdraw any of those delegations.
- (2) A delegation in terms of subsection (1) —
- (a) must be in writing;
  - (b) is subject to such limitations and conditions as the accounting officer may impose in a specific case;

- (c) may either be to a specific individual or to the holder of a specific post in the municipality;
  - (d) may, in the case of a delegation to a member of the municipality's top management in terms of subsection (1) (b), authorise that member to sub-delegate the delegated power or duty to an official or the holder of a specific post in that member's area of responsibility; and
  - (e) does not divest the accounting officer of the responsibility concerning the exercise of the delegated power or the performance of the delegated duty.
- (3) The accounting officer may confirm, vary or revoke any decision taken in consequence of a delegation or sub-delegation in terms of this section, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

