

AMAJUBA DISTRICT MUNICIPALITY



IRREGULAR OR FRUITLESS AND WASTEFUL EXPENDITURE POLICY

“**IRREGULAR EXPENDITURE**”, means -

- a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the MFMA Act, and which has not been condoned in terms of Section 170 of the MFMA;
- 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 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*";

1. PURPOSE

1.2 The MFMA was promulgated to facilitate the formal management of municipal finances and associated activities. The controls and administrative systems implemented by any Municipality are very relevant to the content of the Act. Certain aspects of the Act refer specifically to activities which might be regarded as being corrupt or fraudulent in nature. Some relevant aspects are as follows:

Unauthorised, irregular or fruitless and wasteful expenditure Section 32 of the Act indicates that, without limiting the liability of the common law or other legislation, the following office bearers in a Municipality are mandated with certain responsibilities, as follows:

- (a) A political office bearer of a Municipality is liable for unauthorised expenditure if that office bearer knowingly instructed an official of the Municipality to incur expenditure, which was likely to be considered unauthorised expenditure;
- (b) The accounting officer (ie Municipal Manager) is liable for unauthorised expenditure deliberately or negligently incurred by the accounting officer, unless the expenditure was incurred following a decision by the mayor or executive committee of the Municipality, resulting in fruitless or wasteful expenditure, provided that the accounting officer has notified the council, the mayor or the executive committee, in

writing, that the expenditure is likely to be considered unauthorised, irregular or fruitless and wasteful;

- (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;
- (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.

Furthermore, in the event of such unauthorised, irregular or wasteful expenditure, the Municipality is required to recover the expenditure from the person liable for the expenditure, unless, the council retrospectively authorises/condones the expenditure on the grounds that it represented an authorised adjustment, or that it is deemed irrecoverable and written off by the council. The writing off- of the expenditure by the council, however, is no excuse in criminal or disciplinary proceedings against the person. The writing off of the expenditure does not signify a condoning of the expenditure.

2. OBJECTIVES OF POLICY

The objectives of the policy include :

1. emphasizing the accountability of employees for the Departments resources; ,
2. ensuring that employees have a clear and comprehensive understanding of the procedures they must follow;
3. ensuring that resources made available to employees are utilised efficiently, effectively, economically and for authorised official purposes; and ensuring that the Department's resources are managed in compliance with the Municipal Finance Management Act, the Treasury Regulations and other relevant legislation,
4. ensure that irregular expenditure is detected, processed and recorded timeously

3. PROCEDURES

- (a) any employee who becomes aware of, or suspects the occurrence of irregular expenditure must immediately report, in writing' such expenditure to the Accounting Officer or his/her delegate;
- (b) on discovery of alleged irregular expenditure, such expenditure must be left in the 'expense account and the Accounting Officer or his/her delegate should record the details of the expenditure in an irregular expenditure register.
- (c) the Accounting Officer or his/her delegate must investigate the alleged irregular

expenditure to determine whether the expenditure meets the definition of irregular expenditure. During the period of investigation the expenditure must remain in the expense account. The results of the investigation will determine the appropriate action to be taken regarding the expenditure.

- (d) should the investigation reveal that the expenditure is in fact valid expenditure and therefore does not constitute irregular expenditure the details of the expenditure should be retained in the register for the purposes of completion (and to provide an appropriate audit trail). The register must then be updated to reflect the outcome of the investigation.
- (e) if the investigation indicates that the expenditure is in fact irregular expenditure the Accounting Officer must immediately report, in writing, the particulars of the expenditure to the relevant Treasury.

4. CONCLUSION

In the event of unauthorized expenditure, the accounting officer is obliged to advise promptly the mayor, the MEC for local government in the province and the Auditor General, in writing, providing details as to:

- (a) the fruitless or wasteful expenditure
 - (b) whether any person is responsible or is under investigation with regard to the expenditure; and
 - (c) the steps taken to recover or rectify such expenditure.
- Where irregular expenditure constitutes a criminal offence, or theft or fraud, the accounting officer must report all such cases to the South African Police.

In the event that the accounting officer is the person responsible for the unauthorized expenditure, then the council must take all reasonable steps to ensure that the police are advised accordingly.

5. ADOPTION OF THE POLICY

Adopted by:

EFFECTIVE DATE

The policy shall come to effect upon approval by Council.

POLICY ADOPTION

This policy has been considered and approved by the **COUNCIL OF AMAJUBA DISTRICT MUNICIPALITY** as follows:

Resolution No:.....

Approval Date: **20 May 2015**