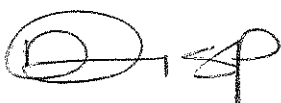


the dr&pw

Department:
Roads and Public Works
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

**DEPARTMENTAL POLICY AND
PROCEDURES ON
HANDLING FRUITLESS AND
WASTEFUL EXPENDITURE**

Original Policy to Office of
CFO.

Received: 

Date: 4/3/2013

TABLE OF CONTENTS

Contents	Page
1. DEFINITIONS.....	2
2. POLICY STATEMENT.....	3
3. INTRODUCTION AND BACKGROUND	3
4. REGULATORY FRAMEWORK	4
5. OBJECTIVE AND SCOPE.....	8
6. PRINCIPLES, VALUES AND PHILOSOPHY.....	8
7. PROCEDURES.....	6
8. ROLES AND RESPONSIBILITIES	15
9. RESOURCE IMPLICATIONS	17
9.1 An Enabling Environment.....	17
9.2 Human Capital Requirements	17
9.3 Financial Resources	18
10. MONITORING AND EVALUATION	18
11. POLICY REVIEW.....	18
12. APPROVAL.....	19

1. DEFINITIONS

Unless otherwise indicated, the following terms shall be defined as follows:

Department	Refers the Department of Roads and Public within the Northern Cape Provincial Administration
Financial Misconduct	Refers to any intentional act to acquire financial gain for oneself or for those of relatives, friends, or associates from or through activities and transactions related to the business of the Department
FMC	Financial Misconduct Committee
Fruitless and Wasteful Expenditure	As defined in the Act, means expenditure that was made in vain and would have been avoided had reasonable care been exercised.
HOD	Head of Department

2. POLICY STATEMENT

This is a policy directive on fruitless and wasteful expenditure; and how to deal with cases which are considered financial misconduct under the Public Finance Management Act, No. 1 of 1999, Sections 38.

The main purpose of the policy is to:-

- a) To outline procedures with regards to the handling of wasteful and fruitless expenditure.
- b) Familiarise employees with the consequences of committing such acts; e.g. incurring expenses when not necessary or in vain.

3. INTRODUCTION AND BACKGROUND

Section 38 (c) (ii) & (iii) of the Public Finance Management Act 1 of 1999 (as amended) requires that the "Accounting Authority" of the department must, *inter alia*, take effective and appropriate steps to prevent:

- Unauthorised expenditure;
- Fruitless & wasteful expenditure;
- Fruitless and wasteful expenditure;
- Losses resulting from criminal conduct; and
- Manage available working capital efficiently and economically..

In order for the department to address the above, all processes and procedures relating to expenditure control and management must be complied with by all officials concerned and be continuously reviewed and monitored; and these include:-

- Budget;
 - Procurement;
 - Payments and
-

- Accounting and Reporting

4. REGULATORY FRAMEWORK

- 4.1. The Constitution of the Republic of South Africa (Act No. 108 of 1996), section 215 and 217,
- 4.2. Section 38 of the Public Finance Management Act no.1 of 1999 (as amended by Act no 29 of 1999) dealing with general responsibilities of accounting officers and specifically subsections:

Subsection	Detail
38 (1)(a)(i),	AO must ensure: that a department has and maintains effective, efficient and transparent systems of financial and risk management and internal control and;
38 (1)(a)(iii),	an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective and;
38 (1)(a)(iv),	system for properly evaluating all major capital projects prior to a final decision on the project;
38(1)(b)	responsible for the effective, efficient, economical and transparent use of the resources of the department, trading entity or constitutional institution;
38(1)(c)(ii),	take effective and appropriate steps to prevent unauthorised, irregular and fruitless and wasteful expenditure and losses resulting from criminal conduct;
38(1)(f)	must settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed or agreed period;
38(1)(g)	on discovery of any unauthorised, irregular or fruitless and wasteful expenditure, must immediately report, in writing, particulars of the expenditure to the relevant treasury and in the case of irregular expenditure involving the procurement of goods or services, also to the relevant tender board;
38(1)(h)(ii)	must take effective and appropriate disciplinary steps against any official makes or permits an unauthorised expenditure, irregular expenditure or fruitless and wasteful expenditure.

4.3. Section 44 of the Public Finance Management Act no.1 of 1999 (as amended by Act no 29 of 1999) dealing with the assignment of powers and duties (delegations) by accounting officer

Subsection	Detail
44(1)	The Accounting Officer may:
44(1)(a)	in writing delegate any of the powers entrusted or delegated him in terms of this Act, to an official in the department;
44(1)ba)	instruct any official in that department to perform any of the duties assigned to him in terms of this Act

4.4. Section 45 of the Public Finance Management Act no.1 of 1999 (as amended by Act no 29 of 1999) dealing with the responsibilities of other officials and specifically subsections:

Subsection	Detail
45(a)	An official: must ensure that the system of financial management and internal control established for that department, trading entity or constitutional institution is carried out within the area of responsibility of that official and;
45(b)	is responsible for the effective, efficient, economical and transparent use of financial and other resources within that official's area of responsibility and;
45(c)	must take effective and appropriate steps to prevent, within that official's area of responsibility, any unauthorised expenditure, irregular expenditure and fruitless and wasteful expenditure and;
45(d)	must comply with the provisions of this Act to the extent applicable to that official, including any delegations and instructions in terms of section 44.

4.5. Treasury Regulation issued March 2005 and specifically:

Subsection	Detail

Subsection	Detail
TR 9.1.1	The accounting officer of an institution must exercise all reasonable care to prevent and detect unauthorised, irregular, fruitless and wasteful expenditure, and must for this purpose implement effective, efficient and transparent processes of financial and risk management.
TR 9.1.2	When an official of an institution discovers unauthorised, irregular or fruitless and wasteful expenditure, that official must immediately report such expenditure to the accounting officer. In the case of a department, such expenditure must also be reported in the monthly report, as required by section 40(4)(b) of the Act. Irregular expenditure incurred by a department in contravention of tender procedures must also be brought to the notice of the relevant tender board or procurement authority, whichever applicable.
TR 9.1.3	When an accounting officer determines the appropriateness of disciplinary steps against an official in terms of section 38(1)(g) of the Act, the accounting officer must take into account – (a) the circumstances of the transgression; (b) the extent of the expenditure involved; and (c) the nature and seriousness of the transgression.
TR 9.1.4	The recovery of losses or damages resulting from unauthorised, irregular or fruitless and wasteful expenditure must be dealt with in accordance with regulation 12.
TR 9.1.5	The amount of the unauthorised, irregular, fruitless and wasteful expenditure must be disclosed as a note to the annual financial statements of the institution.
TR 11.4.1	An accounting officer may only write off debts owed to the State if he or she is satisfied that – (a) all reasonable steps have been taken to recover the debt and the debt is irrecoverable, or, (b) he or she is convinced that – (i) recovery of the debt would be uneconomical; (ii) recovery would cause undue hardship to the debtor or his or her dependants; or (iii) it would be to the advantage of the state to effect a settlement of its claim or to waive the claim.
TR 11.4.2	An accounting officer must ensure that all debts written off are done in accordance with a write off policy determined by the accounting officer.
TR 11.4.3	All debts written off must be disclosed in the annual financial statements, indicating the policy in terms of which the debt was

Subsection	Detail
	written off.
TR 12.7.1	Losses or damages suffered by an institution because of an act committed or omitted by an official, must be recovered from such an official if that official is liable in law.
TR 12.7.2	The accounting officer must determine the amount of the loss or damage and, in writing, request that official to pay the amount within 30 days or in reasonable installments. If the official fails to comply with the request, the matter must be handed to the State Attorney for the recovery of the loss or damage.
TR 12.7.3	A claim against an official must be waived if the conditions in paragraph 12.2.1(a) to (g) are not applicable.
TR 12.7.4	If in doubt, the accounting officer of the institution must consult the State Attorney on questions of law in the implementation of paragraphs 12.7.1 and 12.7.3.

- 4.6. Part 2 (Management Arrangements) section 4 dealing with financial misconduct;
- 4.7. Part 4 (Revenue and expenditure management) section 8 dealing with expenditure management and section 9 dealing with Unauthorized, irregular, fruitless and wasteful expenditure.
- 4.8. Part 6 (Frameworks) section 16A dealing with Supply Chain Management.
- 4.9. The Public Service Act, Act No. 103 of 1994 which has financial implications for a department.
- 4.10. The Public Service Amendment Act, Act No. 13 of 1996 which has financial implication for a department.
- 4.11. The Prevention and Combating of Corrupt Activities Act (12 of 2004) aims to prevent and fight corruption in the Government and in the Public Sector.

5. OBJECTIVE AND SCOPE

The main objectives of the policy are:

- 5.1. To emphasize and to enhance the accountability of department employees with regards to the utilization of Department of Roads and Public Works resources;
- 5.2. To ensure adherence to the Public Finance Management Act, Treasury Regulations and relevant Northern Cape Provincial Administration (Provincial Treasury) provisions on fruitless and wasteful expenditure.
- 5.3. To ensure timeous detection, processing and recording of fruitless and wasteful expenditure by the department;
- 5.4. Outline the procedures that must be followed by staff members with regards to fruitless and wasteful expenditure; and
- 5.5. To provide guidance as to the accounting treatment, reporting and disclosures regarding fruitless and wasteful expenditure.

6. PRINCIPLES, VALUES AND PHILOSOPHY

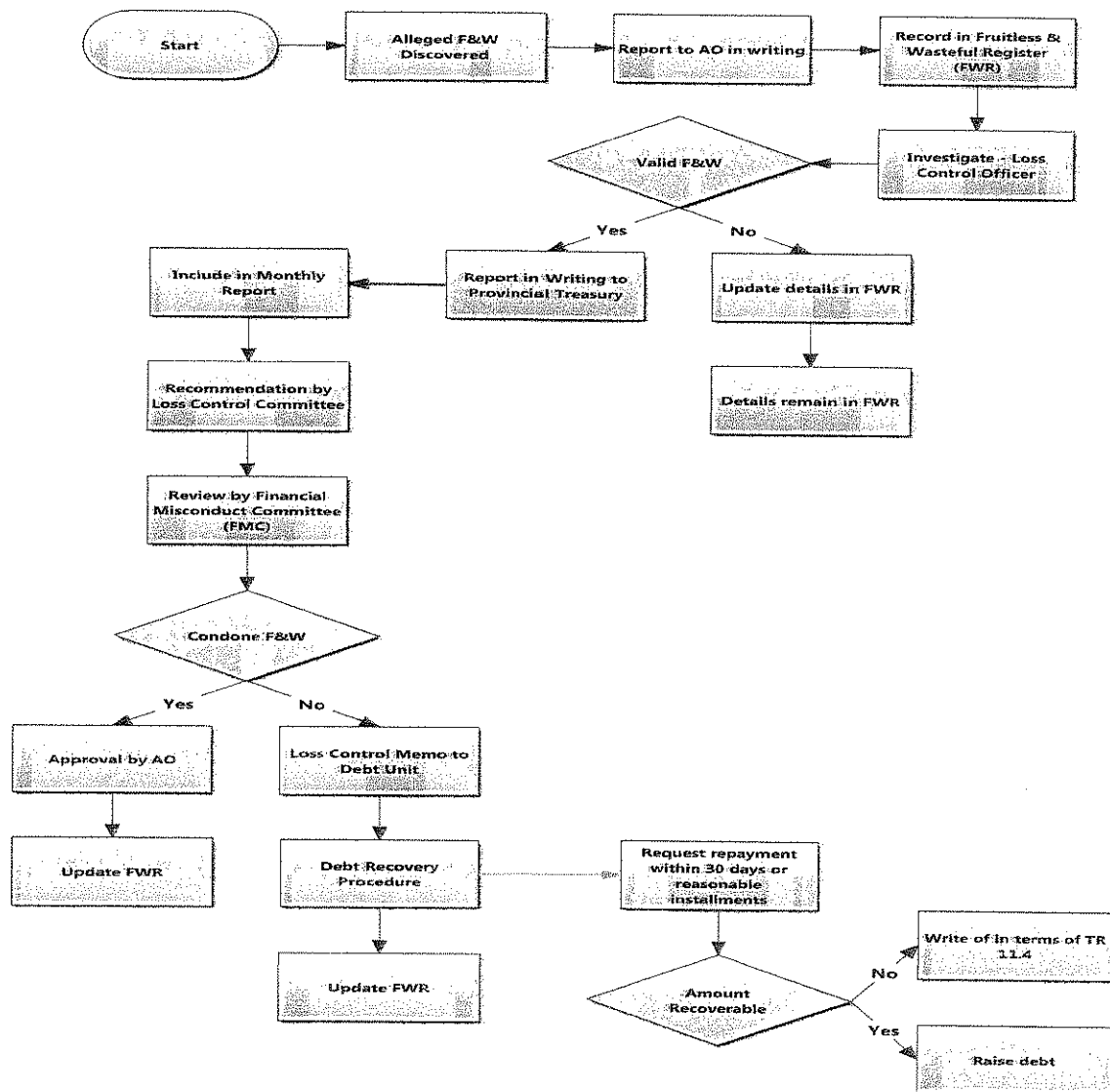
This policy is intended to reflect the department's commitment to the principles, goals and ideals described in the department vision and core values.

It shall apply to all employees of the NCDRPW, appointed in terms of the Public Service Act, 1994, as amended and other relevant acts.

7. PROCEDURES

The procedures for reporting are set-out in the paragraphs that follow and cover issues such as reporting, investigation, disciplinary action; legal action and grievance procedures.

7.1. SCHEMATIC REPRESENTATION FOR REPORTING REQUIREMENTS



7.2. PROCEDURE FRUITLESS AND WASTEFUL EXPENDITURE

The procedures for the treatment of fruitless and wasteful expenditure are as follows:-

7.2.1. Discovery of fruitless and wasteful expenditure

Any employee of the department who discovers or suspects the occurrence of fruitless and wasteful expenditure to be taking place should immediately notify (report) the Accounting Officer or his / her delegate.

Once the fruitless and wasteful expenditure is discovered, the details should be recorded in the register and raised as a debt; if it is determined that it is recoverable.

7.2.2. Investigation of fruitless and wasteful expenditure

The Accounting Officer or his / her delegate should investigate the suspected fruitless and wasteful expenditure to determine whether the alleged expenditure meet the criteria for the definition of fruitless and wasteful expenditure.

7.2.3. Disciplinary steps and remedial actions

The Accounting Officer must take appropriate disciplinary steps in terms of section 38(1) (h) of the PFMA to recover the amount determined as fruitless and wasteful in accordance with Treasury Regulations 12.7

7.2.4. Reporting of fruitless and wasteful expenditure

Once the investigation is completed and is determined that fruitless and wasteful expenditure has been incurred; the Accounting Officer has the responsibility to report, in writing, in terms of section 38(1) (g) of the PFMA; the particulars of the fruitless and wasteful expenditure to the relevant Treasury in line with the format provided. The Accounting Officer is also required in terms of section 40 (4) (b) of the PFMA read in conjunction with section 9.1.2 of Treasury Regulations to include such detail of fruitless and wasteful expenditure in the monthly reports.

7.2.5. Recovery of fruitless and wasteful expenditure

The Accounting Officer must in writing, instructs the official concerned to pay within one month (30 days) the amount of fruitless and wasteful expenditure as determined. If the official concerned does not heed the request then the matter may handed over to the state attorney to start the legal process of recovering the said debt.

7.2.6. Write-off of the fruitless and wasteful expenditure

After the investigation has been concluded and it becomes evident that fruitless and wasteful expenditure is irrecoverable, then the debt may be written off by the Accounting Officer in terms of the Treasury Regulations 11.4, by crediting the debt account and debiting an expense account called; theft and losses. Amounts written off in terms of the treasury regulations must disclosed as a note to the financial statement.

7.2.7. Fruitless and Wasteful Expenditure

The register must be kept updated in terms of all steps that will be taken in lieu of the recovery of fruitless and wasteful expenditure from the culprit. An example of the Fruitless and Wasteful register is attached as per Annexure 1.

7.3. THE ACCOUNTING TREATMENT

7.3.1. ACCOUNTING POLICIES

Revenue Recognition:

If the amounts recovered as a result of, fruitless and wasteful expenditure are material a revenue recognition accounting policy will be required in the annual financial statements.

The accounting policy for revenue recognition should include the following:

Revenue from non-exchange transactions:

Revenue from the recovery of fruitless and wasteful expenditure is based on legislated procedures including those set out in the Public Finance Management Act (Act no.1 of

1999) and is recognized when the recovery thereof from the responsible MEC or officials is virtually certain.”

Mandatory accounting policy notes required in the Annual Financial Statements:

The inclusion of the following accounting policy notes is mandatory. The accounting policy notes should read as follows:

7.3.2. SUBMISSIONS FOR CONDONATION TO THE RELEVANT DIVISIONS WITHIN THE RELEVANT TREASURY

Submissions to the Provincial Treasury requesting condonation of fruitless and wasteful expenditure must be directed to the following functionaries:

Fruitless & wasteful expenditure related to:	Functionary
Budget related matters	Relevant Budget Analyst within the Public Finance Division who is responsible for the Department's budgetary matters
Accounting related matters	Relevant official within the Office of the Accountant-General
Supply Chain Management related matters (including matters related to the State Tender Board	Chief Director: Supply Chain Management (Norms

7.4. DISCIPLINARY ACTION

The Accounting Officer of the Department is empowered in terms of the Public Finance Management Act to effect disciplinary actions against any individual within the department who is found to have committed acts of financial misconduct that could result in the financial loss or damage to the department and the provisions of the Act are quoted verbatim below as follows:-

The Accounting officer must take effective and appropriate disciplinary steps against any official in the service of the department, who:

- a) Contravenes or fails to comply with a provision of the Public Finance Management Act, Act 1 of 1999 as amended;
- b) Commits an Act which undermines the financial management and internal control systems of the department; and

- c) Makes or permits an unauthorised expenditure, fruitless & wasteful expenditure or fruitless and wasteful expenditure
- d) Collect all revenue which has accrued to the Department

When disciplinary action is being considered, departments are advised to contact the Directorate Human Capital Management (Human Resources – Labour Relations) to ensure compliance with collective bargaining agreements and Department of Roads and Public Work HR policies.

Human Resources must be informed of any disciplinary action being considered to also ensure that employee's rights related to compensation and benefits are protected and reasonable employee relations are maintained. It is also advisable that departmental employees from regional and district offices should regularly discuss cases of financial misconduct amongst themselves.

Should you act in any way that infringes the terms of this policy, you may face disciplinary action. In cases of serious violations involving deception, this may lead to the matter being dealt with through the department's formal grievance and disputes procedure.

Failure to take disciplinary action where required under this policy shall itself be a breach of financial discipline under this policy.

7.5. LEGAL ACTION

The department shall investigate allegations of fruitless and wasteful expenditure against any political office bearer, the accounting officer, the chief financial officer, a senior manager or other official of the department.

If the investigation warrants such a step, institute disciplinary proceedings against the political office bearer, the accounting officer, chief financial officer or that senior manager or other official in accordance with the PFMA and PSA.

7.6. GRIEVANCE HANDLING

If you consider that this policy has not been applied fairly or correctly, you should raise the matter initially with your immediate supervisor. If you subsequently remain dissatisfied by any response you receive, you may take up this matter with your

employee representative, the human capital management department, or any member of senior management. Serious grievances may also ultimately be handled through the Department's formal grievance and disputes procedure.

8. ROLES AND RESPONSIBILITIES

RESPONSIBLE PERSON	RESPONSIBILITY	TIME FRAME
Employee	<ul style="list-style-type: none"> If he comes aware of or suspects the occurrence of fruitless & wasteful expenditure must immediately report, in writing such expenditure to the Accounting Officer or his/her delegate 	<ul style="list-style-type: none"> Continuously
	<ul style="list-style-type: none"> Prevent fruitless & wasteful expenditure 	<ul style="list-style-type: none"> Continuously
	<ul style="list-style-type: none"> Where fraudulent activities are suspected, they should be reported immediately. 	<ul style="list-style-type: none"> Continuously
The Executive Authority / Member of the Executive Council (MEC)	<ul style="list-style-type: none"> The Executive Authority must investigate allegations of financial misconduct against the Accounting Officer and if necessary institute disciplinary proceedings 	<ul style="list-style-type: none"> As required
The Accounting Officer / Head of Department	<ul style="list-style-type: none"> Must take effective and appropriate steps to prevent unauthorised, fruitless & wasteful and fruitless and wasteful expenditure and losses resulting from criminal conduct. 	<ul style="list-style-type: none"> Continuously
	<ul style="list-style-type: none"> Must investigate allegations of financial misconduct and if necessary institute disciplinary proceedings. 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> Sections 81 - 86 of the PFMA also make provisions for sanctions against non-compliance. Persons who are found responsible for non-compliance are liable to a charge of financial misconduct which may lead to a dismissal or suspension. 	<ul style="list-style-type: none"> As required
The Human Capital Management	<ul style="list-style-type: none"> Labour Relation Officer will issue reports to Head of Department. 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> The Human Resource section must consult with the Head of the Unit / Directorate when internal discipline involves suspension or termination of employee's service. 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> Assist in ensuring that any action conforms to collective bargaining agreements and departmental policies, as well as informed on employee rights including those related to compensation and benefits. 	<ul style="list-style-type: none"> As required

RESPONSIBLE PERSON	RESPONSIBILITY	TIME FRAME
The Financial Misconduct Committee	<ul style="list-style-type: none"> Facilitate the development of the department's procedures on handling cases of possible financial misconduct/ losses or damages as a result of negligence. 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> Establish criteria for the evaluation of possible financial misconduct, losses or damages. 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> Evaluate all cases of possible financial misconduct, which may result in fruitless & wasteful expenditure. 	<ul style="list-style-type: none"> Per schedule
	<ul style="list-style-type: none"> Make recommendations to the HOD on appropriate control processes to be implemented to avoid future recurrence. 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> Make recommendations to the AO on condonement of fruitless & wasteful expenditure. 	<ul style="list-style-type: none"> Per schedule
	<ul style="list-style-type: none"> Make recommendations to the HOD on appropriate disciplinary action against an official/s who had committed financial misconduct, is responsible for a loss to the Agency or has caused damage to the Agency's property/ asset. 	<ul style="list-style-type: none"> Per schedule
	<ul style="list-style-type: none"> Establish whether appropriate processes were followed to determine liability on the part of the official. 	<ul style="list-style-type: none"> Per schedule
	<ul style="list-style-type: none"> Make recommendations to the HOD on the writing off of losses. 	<ul style="list-style-type: none"> Per schedule
Financial Accounting	<ul style="list-style-type: none"> Reporting alleged fruitless & wasteful to AO 	<ul style="list-style-type: none"> As required
	<ul style="list-style-type: none"> Record alleged fruitless & wasteful in register 	<ul style="list-style-type: none"> Five working days after reported
	<ul style="list-style-type: none"> Report confirmed IR to Provincial Treasury 	<ul style="list-style-type: none"> Five working days after updating register
	<ul style="list-style-type: none"> Update Register with IR not confirmed 	<ul style="list-style-type: none"> One working day after confirmation
	<ul style="list-style-type: none"> Include in monthly report 	<ul style="list-style-type: none"> Monthly

RESPONSIBLE PERSON	RESPONSIBILITY	TIME FRAME
	<ul style="list-style-type: none"> • Take debt for IR confirmed onto system and follow debt procedures 	<ul style="list-style-type: none"> • Five working days after updating register
Loss Control Officer	<ul style="list-style-type: none"> • Investigate alleged fruitless & wasteful expenditure 	<ul style="list-style-type: none"> • As required
	<ul style="list-style-type: none"> • Make recommendations to FMC on condonement, disciplinary action and recoupment of IR. 	<ul style="list-style-type: none"> • As per schedule

9. RESOURCE IMPLICATIONS

9.1 An Enabling Environment

- Protection of whistle-blowers through the establishment of a whistle blowing policy in line with the Protected Disclosure Act, Act 6 of 2000.
- Political will in fighting corruptions.
- Strengthening public / private discourse.
- Talking freely about issues relating to fraud, corruption and related activities
- Consider the establishment of a well-publicized means; (i.e. fraud hotlines, government meet the people programmes) to receive and process information from the public on perceived fruitless & wastefulities.

9.2 Human Capital Requirements

- Recruitment of suitably qualified financial misconduct investigators or re-training of inspectorate officials to deal with cases of financial misconduct.
- Training of all departmental employees on issues relating to unauthorised, fruitless & wasteful and fruitless and wasteful expenditure, through the attendance workshops and seminars.
- Induction of the Financial Misconduct Board members.

9.3 Financial Resources

The Chief Financial Officer shall ensure that the Financial Misconduct Committee is adequately funded, with a dedicated budget to ensure the sustainability of the programme.

10. MONITORING AND EVALUATION

The effectiveness of the program will be monitored closely by the Financial Misconduct Board in conjunction with the departmental units such as Labour Relations, Legal Services, Finance, Policy and Planning and Inspectorate.

All reports that relates to the issues concerning financial misconduct will be dealt with confidentially by all relevant parties.

11. POLICY REVIEW

This policy will become effective and applicable after the approval by the Head of Department and is subject to review and amendment on an annual basis. In the event that the policy is amended, the amended policy or provisions thereof will supersede the previous one.

12. APPROVAL

Approved / ~~Not Approved~~

Comments:

.....
.....
.....
.....



HEAD OF DEPARTMENT

10/10/2012

DATE

13. ANNEXURE 1: EXAMPLE OF FRUITLESS AND WASTEFUL EXPENDITURE REGISTER

Register for Irregular expenditure (F&W) (example only)

No.	Date of discovery	Date reported to Accounting	Transaction details				Fin Statements Classification	Responsible person	Status(refer to key)			General comments
			Payment Date	Payment Number	Amount	Payee			Incident	UI	DP	

Key:
 UI - Fruitless and Wasteful expenditure under investigation
 DP - Disciplinary process initiated against responsible person
 TR - Transferred to receivables for recovery