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**Department:**  
**Public Works and Roads**  
**North West Provincial Government**  
**Republic of South Africa**

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## **HEAD OF DEPARTMENT**

# **FINANCIAL DELEGATIONS OF POWERS AND DUTIES BY THE ACCOUNTING OFFICER**

**2018/2019**

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### DELEGATION OF POWERS AND DUTIES IN TERMS OF SECTION 44 OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999 (ACT 1 OF 1999 AS AMENDED BY ACT 29 OF 1999) BY THE ACCOUNTING OFFICER OF THE NORTH WEST DEPARTMENT OF PUBLIC WORKS AND ROADS

Under the powers vested in me by section 44 of the Public Finance Management Act, 1999 (Act 1 of 1999 as amended by Act 29 of 1999), I, **PAKISO MOTHUPI**, Accounting Officer for the **NORTH WEST DEPARTMENT OF PUBLIC WORKS AND ROADS** hereby delegate the powers and duties assigned to me by the said Act, as well as any powers and duties to assist me in complying with a duty, as set out in Annexure A of the attached Delegation Framework, to such individuals or holders of a specific post specifically referred to. These powers and duties are inclusive of those excluded by the said Act from being delegated.

The Delegation Framework must be read and implemented as a whole.

Signed at Mmabatho this 11 day of 2018.

**ACCOUNTING OFFICER**

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### **PART 1: CONTEXT**

1.1. Delegation is the process through which a portion of authority assigned to an official is passed on to a lower level official who in turn has the authority to deploy resources in his or her area of responsibility to execute a specific task.

1.2. In this context:

- (i) 'Accountability' and 'Responsibility' means that the official who delegates authority remains accountable and the lower level official must be held responsible for the execution of the delegated power or authority.
  - (ii) 'Centralisation' considers where the responsibility for decision-making authority is vested, i.e. the degree to which decision-making is concentrated at a single point in the organisation.
  - (iii) 'Decentralisation' is when authority is widely dispersed within the organisation.
  - (iv) Centralisation and decentralisation does not refer to geographical dispersion.
- 1.3. The delegation process is essential to every Accounting Officer as this is a mechanism through which the Accounting Officer can ensure the achievement of effective, efficient and economical service delivery by officials.

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1.4. Management processes are dependent on the concept of delegation. It is therefore important that this concept and its advantages during implementation is understood by all parties involved. Some of the key advantages are the following:

- Managers who allow their staff to accept more responsibilities are in a better position themselves to accept more responsibilities and higher levels of authority.
- Delegations encourage officials to exercise judgment and to accept accountability.
- Better decisions are often taken by officials who operate closer to implementation.
- Decision-making processes are quicker and enhances officials' confidence to make future decisions.

1.5. It has been established by various oversight bodies, that the following key transversal challenges relating to current AO delegations need to be addressed:

- Inconsistency in the different levels of delegations.
- No indication is given by officials of which delegation is utilised when a delegated authority is exercised.
- Where a discretionary delegated power is utilised and the provisions of PAJA applies, there is uncertainty as to what factors should be considered.

### **■ PART 2: ALIGNMENT WITH GOVERNMENT'S STRATEGIC PLANS**

2.1. Officials must also be mindful of the values of the Provincial Government, namely competence, accountability, integrity, responsiveness and caring when exercising the authority delegated to them.

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### PART 3: OBJECTIVES

#### 3.1. The Delegation Framework aims to:

- (a) Review and update the previous AO Delegations to reflect powers prescribed to the Accounting Officer in terms of the PFMA inclusive of the Treasury Regulations, National Treasury Instructions and Provincial Treasury Instructions mindful of the requirements of effective work-flows and proper segregation of duties.
- (b) Provide guidance on the certification required when exercising a delegation.
- (c) Provide clarity of the relevant legal framework in relation to financial legislation relevant to the execution of official responsibilities.
- (d) Promote consistency.
- (e) Make officials/employees aware of their delegatory mandates and responsibilities.
- (f) Instil best practice.
- (g) Prevent irregular, fruitless and wasteful expenditure.
- (h) Strengthen the control environment.
- (i) Prevent the undermining of the financial management system.
- (j) Promote efficiency, effectiveness and economy.

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### **PART 4: APPLICATION**

- 4.1. The Delegation Framework is applicable to all officials employed by the Department of Public Works and Roads. When exercising a delegatory authority the principles of PAJA apply, which is discussed in Part 8 below.
- 4.2. When exercising a delegated power an official has to apply his/her mind and must be able to show cause for "applying of his/her mind", more so when discretion is applied. Discretionary power is identified when the wording 'may' is used.
- 4.3. It is important to know that a delegatee **MAY NOT**:
  - (i) Exercise the delegation beyond the geographical, location parameters or area of responsibility described in the delegation.
  - (ii) Exercise the delegation resulting in an illegal activity.
  - (iii) Exercise the delegation contrary to relevant court judgements.
  - (iv) Prescribe additional conditions to a delegation, if not expressly allowed.
  - (v) Exercise a delegation beyond timeframes prescribed.
- 4.4. Note that an official acting in a post may only exercise the delegations assigned to that post if such official was duly appointed in an acting position in accordance with the Public Service Act, 1994 (as amended)

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### PART 5: MAINTENANCE

5.1. Review of the Delegation Framework is considered under, *inter alia*, the following circumstances:

- (i) Changes in legislation, regulations and treasury instructions.
- (ii) Court judgments and other legal interpretations.
- (iii) Changes in the strategic, tactical, operational and control environment.
- (iv) Changes in business processes and organisational structures.
- (v) New Accounting Officer [optional].
- (vi) Management requests.
- (vii) Recommendations/resolutions from oversight bodies.
- (viii) Every financial year.

5.2. Maintenance will be performed by the Chief Directorate: Financial Management

5.3. Amendments must be recommended by the CFO and approved by AO.

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### **PART 6: IMPLEMENTATION**

- 6.1. All officials must be committed to full compliance with the letter and spirit of these delegations in order to enhance corporate governance, departmental operations and service delivery.
- 6.2. It is the responsibility of management to bring the content of this Delegation Framework to the attention of all parties within their area of responsibility and control.
- 6.3. It is the responsibility of management to ensure that job descriptions are aligned to the delegations.
- 6.4. Non-compliance with the Delegation Framework will result in appropriate disciplinary or criminal procedures being considered and instituted against the relevant officials where deemed necessary.
- 6.5. Direct clarification of and solicit training on any matter contained in the Delegation Framework, to the Chief Directorate: Financial Management

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### PART 7: GOVERNANCE AND REGULATORY FRAMEWORK

7.1. Section 44(1) of the PFMA provides that the AO may in writing, delegate any powers entrusted or delegated to him/her in terms of the PFMA to an official in that department OR instruct that official to perform any of the duties assigned to him/her in terms of the PFMA.

7.2. Section 44(2) of the PFMA further provides that these delegations:

- Are subject to any limitations and conditions prescribed or imposed by the Treasury or AO.
  - May either be to a specific individual or the holder of a specific post in the department.
  - Does not divest the AO of the responsibility to exercise the delegated power.
- 7.3. Section 44(3) of the PFMA provides that the AO may confirm, vary or revoke any decision taken in terms of such delegation, subject to any rights vested as a consequence of the decision.
- 7.4. **NOTE:** The general rule of delegations is that when a delegatee performs a power entrusted to another person on behalf of such person, the latter person still remains accountable but the delegate remains responsible.
- 7.5. Administrative Law and practice promotes the following important principles:
- The AO may, at any time, limit or revoke any delegation subject to rights being vested due to a delegated power already being exercised (refer to the discussion in Part 8).
  - The AO may also exercise the power although it has been delegated.

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- When executed, the power of delegation must be restrictively interpreted (*Kasiyamhuru v The Minister of Home Affairs 1999 (1) SA 643*) which means that the delegate must only do what is explicitly delegated.

7.6. Section 1 of the PFMA defines 'this Act' to include any regulations and instructions issued in terms of sections 69, 76, 85 or 91 by the National Treasury. The latter has the effect that the Accounting Officer may delegate any powers entrusted to him/her in relation thereto.

7.7. In addition, section 18(2)(a) of the PFMA empowers the Provincial Treasury to issue Provincial Treasury Instructions [PTI's] not inconsistent with 'this Act', meaning not inconsistent with the provisions of the PFMA, TR's and TI's as referred to above. Notwithstanding the fact that the PFMA does not specifically enable a Provincial Treasury to assign additional powers to an Accounting Officer, the issued PTI's in certain instances do, however, give powers to Accounting Officers. To enable the Accounting Officer to delegate these powers it is essential to define 'this Act' in this instance in broader terms to incorporate PTI's. The latter will promote sound corporate governance. This situation must not be confused in instances where the Provincial Treasury delegates its powers to Accounting Officers in terms of section 20 of the PFMA.

7.8. In addition, section 42A of the Public Service Act, 1994, read with Chapter 1 part 2 of the Public Service Regulations, 2001, the Directive on Public Administration and Management Delegations, 2014, and the Principles of Public Administration and Financial Delegations approved by Cabinet on 7 August 2013, makes provisions as assigned to the Accounting Officer to the delegated official/s to appoint an individual in Acting capacity to fulfill duties and responsibilities entrusted to such delegated official/s, but it does not eliminate the accountability of the initial delegated official/s as prescribed by the Promotion of Administrative Justice Act no. 3 of 2000, as a delegated power cannot be delegated further than the authorized delegated provisions as approved by the Accounting Officer within this financial delegations.

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### FINANCIAL DELEGATIONS OF POWERS AND DUTIES BY THE ACCOUNTING OFFICER OF NORTH WEST DEPARTMENT OF PUBLIC WORKS AND ROADS IN ACCORDANCE WITH SECTION 44 OF THE PUBLIC FINANCE MANAGEMENT ACT, 1999 (ACT NO 1 OF 1999) IN RESPECT OF VOTE 11 FOR THE 2018/2019 FINANCIAL YEAR

Code No	Description of the Item	Limitations	Lowest Rank delegated to Head Office	Lowest delegated at District	Notes
<b>01) OPEN QUOTATION (R1,00 to R500 000,00)</b>					
1.1	Open Quotations R1.00 to R2 000.00	<R2 000	Chief User Clerk	DD SCM	Lowest quotation
1.2	Open quotations R2 000.00 to R30 000.00	<R 30 000.00	DD SCM recommend; Director SCM approve	DD SCM approve	Lowest quotation
1.3	Open quotations R30 000 to R500 000.00	<R500 000.00	DD SCM recommend; Director SCM approve	District Director approve	PPFA SCM evaluation
1.4	Signing of Original Purchase Orders for goods and services	<R30 000	Senior Admin. Officer or Equivalent – Supply Chain Management	Senior Admin Officer or Equivalent – Supply Chain Management	
		R30 000 – R500 000	DD SCM recommend; Director SCM approve	AD SCM	
1.5	Signing of payment certificate and authorisation of control forms	R1.00 – R500 000	Deputy Director Expenditure Management/ Director: Finance	Deputy Director Finance	Recommendation from Programme Manager
1.6	Deviation from procurement procedure	>R0 – R30 000.00	Director SCM/CFO		

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## OFFICE OF HEAD OF DEPARTMENT

Code No	Description of the item	Limitations	Lowest Rank delegated to Head Office	Lowest delegated at District	Notes
<b>2) OPEN BIDS (R 500 000.00 TO R 5 000 000.00)</b>					
2.1	Open bids R500 000 to R5 000 000	<R5 000 000	Accounting Officer	District adjudication committee; Approve by Accounting Officer	
2.2	Signing of original purchase order for goods and services	R500 000 to R5 000 000	DD SCM; Director Finance/SCM approve	DD: SCM	
2.3	Signing of payment certificates and fee claims and authorisation of control forms  Signing of payment certificates and fee claims and authorisation of control forms	R500 000 - R1 000 000	Deputy Director Expenditure	Deputy Director: Finance	<ul style="list-style-type: none"> <li>At least 5 sealed quotations must be sourced by SCM.</li> <li>Bid documents;</li> <li>Apply prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations</li> <li>Number and list of service providers identified must be kept in file.</li> </ul>
		R1000 000 - R2 000 000	Director Financial Management/ Director: SCM	District Director	
		R2 000 000.00 – R5 000 000.00	CFO	Chief Director: District Operations	
2.4	Deviation from procurement procedure	>R0 - Unlimited	Accounting Officer		Documented proof of invitation must be provided in instances where its less than 5 bidders respond

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Code No	Description of the Item	Limitations	Lowest Rank delegated to Head Office	Lowest delegated at District	Notes
<b>3) OPEN BIDS MORE THAN R 500 000</b>					
3.1	Awarding of Open Bids >R500 000	>R500 000 to R5 000 000	Departmental Bid Adjudication Committee and approval by Accounting Officer	District Bid Adjudication Committee and approval by Accounting Officer	Competitive Bidding Bid documents;
		>R5 000 000	Recommended by DBAC and approval by Accounting Officer	Not Delegated	Apply prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations
3.2	Signing of departmental Contracts / Project Contract / Service level Agreement		Accounting Officer recommended by Director Legal and Programme Manager	Recommended by Chief Director District Operations	
3.3	Amendments and Cancellation of contract and bid	Regulations in terms of PFMA, Treasury	Accounting Officer	Not Delegated	Cancellation must comply with legislative and regulatory requirements
3.4	(i) Extension of time for construction related contracts and (ii) Normal contract extension		Accounting Officer	Not delegated	Recommended by District Director/Programme Manager
3.5	Signing of original purchase orders for goods and services	>R500 000 to R5 000 000	Director SCM	DD: SCM	Recommended by DBAC
		>R5 000 000	Director SCM	DD: SCM	Recommended by DBAC

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3.6	Approval of Variation Order		Accounting Officer	Not Delegated	Recommended by District Director/Programme Manager
3.7	Signing of payment certificates and fee claims and authorisation of control forms	R5 000 000.00 – R10 million	CFO	Not Delegated	Recommendation from Programme Manager
3.8	Signing of payment certificates and fee claims and authorisation of control forms	>R10 million	Accounting Officer	Not Delegated	Recommendation from Programme Manager

Code No	Description of the Item	Limitations	Lowest Rank delegated to Head Office	Lowest delegated at District	Notes
<b>4) OTHER ACTIVITIES</b>					
4.1	Cession of payments		Accounting Officer	Not Delegated	
4.2	Recovery of state debt owing by an official by means of instalment on condition that the debtors financial positions is properly taken into account in determining the repayment	<12 months >12 months	CFO Accounting Officer	Not Delegated Not Delegated	Guided by Debt Management Policy and/or Treasury Regulations Cp 11
4.3	Writing off of losses or debts deemed irrecoverable		Accounting Officer	Not Delegated	Guided by Debt Management Policy and/or Treasury Regulations Cp 11
4.4	Allocation of subsidised transport	As per departmental approved benchmark amount	Accounting Officer recommended by Transport Committee	Not Delegated	Guided by Transport Policy

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4.5	Training Budget		CFO	Not Delegated	Guided by Skills Development Plans
4.6	Submissions to Treasury		Accounting Officer / CFO	Not Delegated	
4.7	Submission to EXTECH		Accounting Officer MEC	Not Delegated	
4.8	Submission to EXCO or Committees			Not Delegated	
4.9	Contract /Service Level Agreement for minor equipments such as labour savings devices		Programme manager in consultation with legal services and contract management approved by CFO	Not Delegated	
4.10	Groceries – SMS		Director	Director	
4.11	Authorising sureties and retention money	R 100 000 – R 500 000  >R 500 000	CFO/CD  Accounting officer	CD District Operation	Guided by Cost Containment Policy/ Recommendation from Programme Manager
4.12	Certification of goods and services received		Stores official/ Cost Centre Clerks	District Stores official / Cost Centre Clerks	
4.13	Officials to carry out stock-taking and to report their findings		Assistant Director/equivalent to lead the team	Senior Admin Officer/equivalent to lead the team	
4.14	Officials appointed as Board of Survey		Deputy director/equivalent to lead the team	Deputy director/equivalent to lead the team	
4.15	Approval of Items to be disposed		Accounting Officer		
4.16	Approval and appointment of Loss Control Committee Chairperson of Loss Control		Accounting Officer DD: SCM	Not Delegated DD: SCM	Recommended by Board of survey

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	Committee		Foreman/Chief user/cost centre clerk Deputy Director Expenditure	Foreman/Chief user/cost centre clerk Assistant Director	
4.17	Requisition of stores				
4.18	Release/approval for cheque processing				
4.19	Order Processing for Payment		State Accountant	State Accountant	
4.20	Claims against the Department		Accounting Officer	Not delegated	Recommended by Programme Manager after consultation with Legal services, CFO
4.21	Condoning of penalties on contracts		Recommendation by programme manager after consultation with Legal services /contracts management		
4.22	Appointment of consultants (including infrastructure based on Roster)		Accounting Officer	Not delegated	Recommended by DBAC
4.23	Approval of BAS Journals	<R 1 million <R 5 million >R 5 million	Deputy Director Director Financial Management CFO	Not delegated	

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<b>5) SUBSISTANCE AND TRAVELLING CLAIMS</b>										
5.1	Itinerary for the month		Level 1-10	Deputy Director		Deputy Director		Financial Management		
			Level 11 -12	Director		District Director				
			Level 13	Chief Director		Chief Director				
			Level 14	HOD						
			HOD	CFO/CF						
	S & T Claims		Level 1-10	Deputy Director		Deputy Director		Financial Management		
			Level 11-12	Director		District Director		Policy		
	S & T Claims		Level 13	Chief Director		Chief Director: District Operations		Financial Management		
			Level 14	HOD				Policy		
			HOD	CFO/CD				Financial Management		
5.2	Approval of allocation of cell phone allowance outside approved policy – within the policy			Accounting Officer		Not Delegated		Guided by cell Phone policy		

- These delegations are subject to the Public Finance Management Act 1999, Treasury Regulations 2005, Treasury Circulars and Supply Chain Management Regulations. You are directed to download copies of these laws / policies from the website of National Treasury. Kindly ensure that you familiarize yourself with the provisions of these policies as non-compliance will be met with heavy penalties on your part. Your attention is particularly drawn to section 45 of the PFMA.

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2. You are further informed that no commitment shall be made unless it is based on a pre-approved quote specifications or terms of reference. The quote specifications or terms of reference will assist you in making sure that a comparative analysis of "like with like" is made before procuring goods or services.
3. The purpose of a closed / sealed quotation is to ensure that all services providers are given fair opportunity to compete in the issued terms of reference/ specification. No faxes and e-mails are allowed. A bid box has been designed for this purpose. No order or quotation shall be processed unless proof is submitted that quotations were sealed / closed. This procedure is the same as the bidding process.
4. These delegations are effective from the 01 April 2018 and depending on your performance, may be reviewed from time to time. I hope these delegations will ensure that you perform optimally and to the best interest of the Department.
- 4.1 Kindly attach your specimen signature for purpose of financial controls, accountability and records in the attached **Annexure B**.
- 4.2 You are further informed that all the decisions that are taken by the officials that you further delegate to act on your behalf must be recorded in the Register of Delegation Decisions attached as **Annexure C**.
- 4.3 Any official who deviates from these delegations will be subjected to disciplinary procedures.
- 4.4 The Delegation of authority to commit public funds and approve expenditure in respect of vote 11, Department of Public Works and Roads for period 2018/2019 financial year is hereby repealed.
- 5 Where powers and duties have been delegated to a certain post level, the incumbents of higher posts in the rank relevant hierarchy may also exercise or perform such powers and duties. If an employee acts in a higher post, the powers attached to that higher post are delegated to such an employee.

**PAKISO MOTHUPI  
HEAD OF DEPARTMENT**

**DATE**

11/04/2018

Initial : .....



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### ANNEXURE B: Acceptance by the Delegated Official

I \_\_\_\_\_, Persal Number \_\_\_\_\_, hereby accept and undertake to adhere to the conditions set out in this delegation of powers relating to financial delegations to procure, commit funds and approve expenditures in respect of vote 11 for the 2018/19 financial year by the accounting officer.

SIGNATURE

FULL NAMES

DATE:

POST TITLE

### Annexure C: Register of Delegation Decisions

Name of Delegated Official: .....

Persal No: .....

Initial: .....



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DATE	REFERENCE TO DELEGATED AUTHORITY	SYNOPSIS OF DECISION TAKEN

Initial :



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## HEAD OF DEPARTMENT

### PART 8: IMPACT WHEN EXECUTING A DELEGATION

- 8.1. The principles of Administrative Law dictate that when an official executes a delegation; such delegation is regarded as an administrative action and has the force of law<sup>1</sup>. The result of the latter is that when an official conducts a legal, illegal or *ultra vires* administrative action, such action may retain its force of law until it is declared by a court of law as being invalid in total and void or voidable, subject to rights already being vested.
- 8.3. Once a delegation has been exercised it is regarded as a **completed** administrative action. A **completed** administrative action is regarded as a *functus officio* action.
- 8.3.1. *Functus officio* is the legal term for an administrative action that has been executed resulting in legal rights being vested. Administrative actions exercised by an appropriate delegate therefore result in such actions being regarded as *functus officio*.

### PART 9: DELEGATIONS

- 9.1. Note that the exercising of the delegations should not be done in isolation; consideration must also be given to other delegations such as:
- (i) HRM delegations issued in terms of the Public Service Act.
  - (ii) Provincial Treasury delegations issued in terms of section 20 of the PFMA.
  - (iii) Delegations issued in terms of other line-function legislation applicable to the Department.

Initial : .....





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9.2. The following guiding principles were applied in arriving at the delegations contained in Annexure A:

- The reason for delegating a power or authority.
- Clarity of authority and responsibility.
- Ability to perform the delegation.
- Relevance.
- Personal and psychological barriers that impede the delegation process.
- Awareness of other impediments to delegations.
- Segregation of duties

Initial :