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ENDUMENI LOCAL MUNICIPALITY

A DISASTER RISK MANAGEMENT FUNDING POLICY

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A FUNDING POLICY FOR DISASTER RISK MANAGEMENT IN THE ENDUMENI LOCAL MUNICIPALITY

1. Introduction

Disasters are unpredictable and occur when least expected. The consequence of disasters is that people and infrastructure suffer enormous damages and losses to property and life. There are two specific phases of the consequences of a disaster that requires unplanned for expenditure of public funds;

- Firstly there is the Immediate Response and Relief which is the emergency action taken by the Municipality to assist the victims of the disaster.
- Secondly there is the Post Disaster Reconstruction and Rehabilitation which is the action taken by the Municipality to restore the normal way of life to the community and the environment.

The Constitution of the Republic of South Africa assigns the responsibility to the Local Municipality to act as the first responder in situations where communities and infrastructure are at risk. This response is usually unexpected and not planned for in the Municipal budget.

2. Objective

Endumeni Municipality, in its development of Disaster Management Plans, Structures and Systems, has recognised the need for an official policy on Disaster Management Funding that will guide and govern the way in which the Municipality will financially respond to emergency and disaster incidents.

3. Background

Section 56 of the Disaster Management Act of 2002 (Act 57 of 2002) provides guiding principles for the funding of post-disaster recovery and rehabilitation. This Section also stipulates that Sections 16 and 25 of the Public Finance Management Act of 1999 must be consulted when Public Funds are used in emergency situations

Enabler 3 as contained in the National Policy framework for Disaster Risk Management describes the disaster risk management funding arrangements for organs of state in the national, provincial and local spheres of government and builds on the recommendations made by the Financial and Fiscal Commission (FFC) on funding arrangements in its *Submission on the Division of Revenue 2003/04*

Given the provisions of the Disaster Management Act and the National Policy framework for Disaster Risk Management funding arrangements must be designed in a manner that ensures that disaster risk management activities are funded adequately and in a sustainable way.

The Constitution assigns exclusive or concurrent functions to different spheres of government. Schedule 4 of the Constitution designates disaster risk management as a concurrent national and provincial competence. However, the Disaster Management Act places the responsibility for certain disaster risk management activities squarely within the local government sphere. For example, section 23(7) of the Act states that ***"until a disaster is classified as either a national or a provincial disaster, it must be regarded as a local disaster"***.

In terms of section 10A of the Municipal Systems Act (as amended), the disaster risk management function imposes new constitutional obligations on local government. These obligations are that ***"the responsible Cabinet member, MEC or other organ of state must take appropriate steps to ensure sufficient funding and capacity-building initiatives as may be needed for the performance of the assigned function"***. Since disaster risk management at municipal level encompasses a wide range of activities (including disaster risk reduction, preparedness, response and recovery), funding mechanisms must be designed to allocate optimal resources to each of these activities.

Chapter 6 of the Disaster Management Act outlines two principles that should be applied to funding the cost of a disaster when such an event is declared. **Firstly**, section 56(2) of the Act states that ***"in the event of a disaster, national, provincial and local organs of state may financially contribute to response efforts and post-disaster recovery and rehabilitation"***.

Secondly, the Act assigns the responsibility for repairing or replacing infrastructure to the ***organ of state responsible for the maintenance of such infrastructure.*** Section 57 of the Act, however, provides some leeway for a municipality or provincial government to request financial assistance for recovery and rehabilitation from national government.

The Act attempts to encourage budgeting for disaster recovery and rehabilitation through threshold funding. Section 56(3) allows the Minister to prescribe a percentage of the budget of a provincial or municipal organ of state as a threshold for accessing national funding for disaster response efforts. The extent to which an organ of state has implemented disaster risk reduction

efforts will be taken into account when requests for disaster response and post-disaster rehabilitation funding are considered.

The broad funding guidelines set out in sections 56 and 57 of the Act make access to disaster recovery and rehabilitation funding contingent on organs of state earmarking funds for disaster risk reduction activities.

This principle reduces the risk of moral hazard behaviour on the part of provincial or municipal organs of state by ensuring that they budget for all disaster risk management activities. In this way, national government does not implicitly guarantee the provision of financial assistance to organs of state for disasters that could have been reasonably prevented or reduced in some way.

Apart from the Act, there are other legislative provisions that govern the release of funds for disaster recovery and rehabilitation. Sections 16 and 25 of the PFMA allow the Minister of Finance or relevant MEC to appropriate funds from their respective revenue funds for use in emergency situations. Funds released in terms of these provisions must be reported to either Parliament or the provincial legislature, as the case may be, and to the Auditor-General within 14 days of their authorisation. In addition, these funds must be attributed to a vote when the adjustments budget is passed.

Similarly, Section 29 of the MFMA allows the Mayor of a municipality to authorize unforeseeable and unavoidable expenditure in an emergency. Such expenditure must be ratified by the council in an adjustments budget within 60 days of the expenditure having been incurred. Furthermore, section 29(2)(b) of the MFMA states that unforeseeable and unavoidable expenditure may not exceed a percentage of the budget. This restricts the amount of funds available to respond to emergencies. This percentage must be prescribed by National Treasury in regulations.

4. Principles underpinning funding arrangements

Any funding arrangement must be consistent with the principles set out in the Disaster Management Act and any other related legislation. Furthermore, the management of intergovernmental transfers must be grounded in public finance theory. Anwar Shah, in his seminal book, *The Reform of Intergovernmental Fiscal Relations in Developing and Emerging Market Economies* (published in 1994), points out that the design of any funding mechanism should ensure that the objectives of the relevant legislation are safeguarded, and that the recipients of the funds are held accountable for implementation of the legislation. According to Shah, the important criteria against which any funding mechanism should be evaluated include:

- **Adequacy.** Municipalities should have adequate resources to perform their functions effectively. In relation to disaster risk management, all organs of state should have access to sufficient funding to be able to discharge their legislative responsibilities.

- **Equity.** Funding mechanisms should ensure that legislation is implemented equitably across provinces and municipalities. This would help to avoid inter-jurisdictional spillovers arising from uneven and inequitable implementation.

- **Predictability.** Any funding mechanism that includes intergovernmental transfers should ensure predictability by making allocations from national to provincial and local organs of state over the term of the Medium-term Expenditure Framework (MTEF). Any allocations to municipalities should be disclosed timeously so that municipalities are able to take cognisance of these allocations in their annual budgets.

- **Administrative efficiency.** The cost of administering the funding mechanisms should be kept to a minimum. Ideally, the funding mechanisms should not impose new reporting obligations on municipal organs of state. Rather, the reporting process should be integrated into the existing reporting cycle.

- **Incentive effects.** Funding mechanisms should be designed in such a way that they provide incentives for sound fiscal management and reduce the likelihood of inefficient fiscal practices. In this way, perverse incentives in the system may be minimized and the risk of moral hazard behaviour by recipients of the funds discouraged.\

- **Autonomy.** The assignment of functions or the transfer of funds between spheres of government should not undermine the constitutionally mandated autonomy of municipal organs of state. The autonomy criterion should be viewed within the context of co-operative governance.

Disasters are by their very nature unpredictable and require an immediate and decisive response. It is vital, therefore, that a balance is struck in the financing framework between the need for financial controls and oversight and the need to ensure that rapid response and recovery are not compromised. Section 214(2) (j) of the Constitution explicitly mentions ***"the need for flexibility in responding to emergencies or other temporary needs"*** as one of the criteria for the equitable division of nationally collected revenue among the three spheres of government.

5. Emergency Funding

Endumeni Local Municipality is exposed to a wide range of natural hazards and other risks. Although not all of the emergency incidents that occur are of a magnitude to be classified as disasters, Endumeni Municipality, as the first responder, is required (in terms of the above guiding Principles) to assist the victims with:-

- Immediate Response and Relief, and
- Post Disaster Reconstruction and Rehabilitation.

6. Endumeni Local Municipality

It is resolved that Endumeni local municipality adopts this policy framework in line with the provisions of Section 56(2) of the Disaster Management Act for the funding of Immediate Response efforts and Post Disaster Recovery and Rehabilitation.

- **Immediate Response and Relief**: Endumeni Municipality, as the first responder, must take responsibility for the immediate protection of the community and the infrastructure.
  - The Disaster Management Officer of the Municipality must immediately respond to an incident and establish a Joint Operations Committee (JOC) in order to co-ordinate the provision of assistance
  - The Official of Endumeni Municipality who is responsible for Disaster Management must be empowered to dispatch personnel and equipment to render assistance to victims of disaster events.
  - The assistance provided may include:-
    - The evacuation of an affected community or part of a community to a safe and sheltered environment;
    - Search and Rescue;
    - The provision of temporary shelter in the form of tents or plastic sheeting;
    - The provision of blankets;
    - The provision of food; and
    - The repair and restoration of infrastructure and essential services.
  - In order to achieve this, the disaster Management Official will need urgent access to emergency funding. It is therefore essential that;
    - The Municipality budget for the acquisition tents, plastic sheeting , blankets and food;
    - The Endumeni Municipality Disaster Management Portfolio Sub-Committee be tasked to fast track access to funding during an emergency as provided for in Section 29(2)(b) of the Local Government Municipal Finance Management Act.

- **<u>Post Disaster Reconstruction and Rehabilitation:</u>** In terms of Section 56(2) of the Disaster Management Act, ***"the organ of state responsible for the maintenance of infrastructure is responsible for the repair and replacement of such infrastructure"***

- The cost of restoring normality to the living environment of a community that has been the victims of a disaster is usually enormous and unplanned for. The responsibility for funding starts with the Municipality who can apply for financial assistance from the Province and ultimately from the National Treasury.

  - In terms of Sections 16 and 25 of the Public Finance Management Act, both the National Government and the Provincial government ***"may use funds from the National Reserve Fund to defray expenditure of an exceptional nature which is not provided for"***

  - The Disaster Management Officer of the Municipality must provide the Municipality with facts regarding the incident in question on a continuous basis **as the incident unfolds** in order to allow the Municipality to assess the magnitude of the financial consequences of the incident

  - The Endumeni Municipality Disaster Management Portfolio Committee proposed in the above sub-paragraph titled "Immediate Response and Relief" must serve as the platform from which all disaster management funding arrangements for both the immediate relief and the longer term reconstruction and rehabilitation funding programs and projects are determined.

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