

# **Endumeni Municipality**

## **Audit Committee**

**MINUTES OF THE AUDIT COMMITTEE MEETING HELD ON WEDNESDAY, 16 FEBRUARY 2011  
AT 10h00 IN THE COUNCIL CHAMBERS, CIVIC CENTRE, DUNDEE 3000**

**ooOoo**

**PRESENT:** Mr N Rajkumar, The Chairman  
Mr V Mseleku, Member  
Mr JB Maltman, Acting Municipal Manager  
Mr I Grisdale, Chief Financial Officer  
Mr CJ Carelse, Acting Manager Technical Services  
Mr Ryaan Lahldas, Gobodo Inc

**ooOoo**

### **1. OPENING**

Mr N Rajkumar, the Chairman welcomed everyone. Mr Mseleku opened the meeting with prayer.

### **2. NOTICE OF MEETING**

Mr N Rajkumar, read the Notice of the Meeting aloud.

### **3. APPLICATION FOR LEAVE OF ABSENCE / APOLOGIES**

Mr L Steenkamp and Mr S Perumall.

### **4. OFFICIAL ANNOUNCEMENTS**

None

### **5. CONFIRMATION OF PREVIOUS MINUTES**

The minutes of the meeting held on the 27<sup>th</sup> of August 2010 and attached to the Agenda as Annexure A was approved.

**6. STATUTORY APPOINTMENTS AND ELECTIONS**

Nil

**7. QUESTIONS OF WHICH NOTICE HAS BEEN GIVEN**

None

**8. MATTERS ADJOURNED FROM PREVIOUS MEETING, INCLUDING MATTERS TO BE RE-CONSIDERED (MOTIONS) EXCLUDING DEFERRED MOTIONS**

Nil

**9. PECUNIARY INTEREST**

None. In future to be noted, "Officials and Members".

**10. DETERMINATION OF AGENDA**

**AC 8(1)**

**INTERNAL AUDIT VISIT REPORTS FOR 2009/2010 – VISIT 1, 2 and 3**

The reports were duly noted.

**AC 8(2)**

**SCM COMPLIANCE ASSESSMENT FOR 2009/2010**

Report noted. CFO to prepare supply chain management implementation plan in order to review SCM policy and furthermore centralise all purchases via SCM unit. Revised SCM plan together with approved SCM Organogram to be included in 2010/2011 budget and submitted for the consideration of Audit Committee and Council during April 2011.

**AC 8(3)**

**GOBODO FINDINGS – VISIT 1,2&3 2010/2011**

Findings noted.

Mr Rajkumar expressed concern regarding the duplication of queries on the report and requested clarity as to the fact that there are no follow ups reports issued by Gobodo. Mr Lahidas explained that it presented a problem to do follow ups if reports as responses are not finalised on time by the Municipality.

Mr Maltman commented that all municipal responses to reports had been completed during the 2009/2010 fiscal year. However the signed final internal audit reports were only issued to municipality on the 8<sup>th</sup> of December 2010 and the 11<sup>th</sup> of January 2011 six months after the close of the financial year and said reports were in fact tabled for the consideration of the next Audit Committee. (Copy of email's attached to minutes)

Management feedback on Visit 1 2010/2011 to be ready by 10 March 2011.  
Report to be submitted to Audit Committee at the next meeting to be held on 31 March 2011.

#### **AC 8(4)**

##### **SDBIP REPORTS**

Reports were noted by the Audit Committee. In future, reports to be submitted to members in electronic format as the copies are not legible.

Safety Committees requested to follow up on their minutes. Steps taken by Safety Committees need to indicate follow up interventions in each meeting's minute.

#### **AC 8(5)**

##### **ANNUAL REPORT 2009/2010**

Report noted and it be recommended the annual report 2009/2010 be adopted without reservation.

#### **AC 8(6)**

##### **PROGRESS REPORT – CURRENT VISITS GOBODO INC.**

Duplication of item AC 8(3)

#### **AC 8(7)**

##### **ENDUMENI MUNICIPALITY – GLENCOE OFFICE**

- **Current progress of investigation as well as Forensic Audit &**
- **Discussion of internal control**

Mr Ryaan Lahidas from Gobodo confirmed that he is providing Mr Maltman with regular progress reports regarding the matter and work done by them at Glencoe. The Gobodo adhoc audit report of the Glencoe Cash Office will be issued by 31 March 2011.

#### **AC 8(8)**

##### **A. OUTSTANDING ACCOUNTS UMZINYATHI**

Gobodo busy with audit of supporting documents relating to outstanding Water and Sanitation Accounts. All copies to be finalised & ready for audit per council resolution by not later than 28 February 2011. Gobodo report to be issued by 31

March 2011 and submitted for consideration of Audit Committee and Council at a joint meeting to be convened in early April 2011.

## **B. OUTSTANDING ACCOUNTS – STAFF**

Memorandum of Advice received from Advocate Blomkamp handed out at the meeting. Specimen letter also attached. Letters to be forwarded to staff during March 2011 and deductions are to commence in the April 2011 salary run. Consideration to be given to individual circumstances, and CFO to determine amounts to be deducted.

### **AC 8(9)**

#### **ASSETS HANDED OVER TO CHURCH – STATUS**

Confirmation that Council has resolved not to proceed.

### **AC 8(10)**

#### **AUDIT REPORT 30/06/2010**

Dealt with under AC 8(5)

### **AC 8(11)**

#### **MONTHLY RETURNS TO NATIONAL TREASURY**

Letter received from KZN Treasury handed out at the meeting. This item is to stay on the Agenda. At each meeting report to be given of status as to returns outstanding, if any.

**The following items AC 8(12) – AC 8(14) added at meeting**

### **AC 8(12)**

#### **SUB-COMMITTEE MEETING – ASSETS & PURCHASE OF CASEWARE**

Meeting to be convened Friday, 18 February 2011 at 14h00 in Council Chambers.

### **AC 8(13)**

#### **PHOTOCOPY MACHINE – COMMUNICATIONS OFFICE**

Mr Rajkumar recommended that it might be more fruitful to rent / lease a machine that includes maintenance and repairs, than it would be to buy a machine and then still have to maintain and repair it. Specifications for the machine are to be determined before a decision can be made.

**AC 8(14)**

**DATE OF NEXT AUDIT COMMITTEE MEETING**

Determined as 31 March 2011. To be submitted at this meeting, Gobodo Final Reports - Visits 1, 2 and 3 of 2009/2010 together with Final Report of Visit 1 of 2010/2011. Gobodo to provide a report on follow ups done on these reports for submission to the committee on 31 March 2011.

**AC 8(15)**

**MANAGEMENT REPORT**

Report back on follow up interventions to AG 2009/2010 Management Report shall be submitted to meeting on 31 March 2011.

**AC 8(16)**

**AUDIT COMMITTEE – GENERAL**

Confirmation given that Draft Financial Statements will be reviewed by Gobodo and Audit Committee before submission to Auditor General.

Management Meetings – Mr Maltman to arrange dates for meetings between individual managers & the members of the Audit Committee during March 2011.

**11. CLOSURE**

There being no further items to discuss, the Chairman declared the meeting closed at 11h40.

Chairperson: .....

Date: ..... 21/02/2011 .....



## Surina Viljoen

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**From:** Ryaan Lahldas [ryaan.lahldas@gobodo.co.za]  
**Sent:** 12 January 2011 10:00  
**To:** surina@endumeni.gov.za  
**Subject:** RE: Visit 1 and 2 reports  
**Attachments:** Visit 3 signed.pdf

Hi.

Attached is the signed page.

Regards.

**From:** Surina Viljoen [mailto:surina@endumeni.gov.za]  
**Sent:** Wednesday, January 12, 2011 8:59 AM  
**To:** Ryaan Lahldas  
**Subject:** RE: Visit 1 and 2 reports

Hi Ryaan

Just a reminder – need to send out the signed copy with my Agenda

*Surina Viljoen*

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Personal Assistant to the  
Chief Financial Officer  
Endumeni Municipality

Tel (034) 2122121 Fax (034) 2122192

**From:** Ryaan Lahldas [mailto:ryaan.lahldas@gobodo.co.za]  
**Sent:** 11 January 2011 09:15 AM  
**To:** surina@endumeni.gov.za  
**Subject:** RE: Visit 1 and 2 reports

Hi Surina.

The partner will only be in tomorrow and the copy for signing is with him

Attached is the unsigned report.

Signed copy to be sent tomorrow.

Regards.

**From:** Surina Viljoen [mailto:surina@endumeni.gov.za]  
**Sent:** Tuesday, January 11, 2011 7:47 AM  
**To:** Ryaan Lahldas  
**Subject:** FW: Visit 1 and 2 reports

Hi Ryaan

Could you please confirm whether I can go ahead and use the Visit 3 report of 2010 (the copy that was attached to the August Audit Committee Meeting's Agenda?)

I need to send out the Agenda's.

Thank you

*Surina Viljoen*

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Personal Assistant to the  
Chief Financial Officer  
Endumeni Municipality

Tel (034) 2122121 Fax (034) 2122192

**From:** Surina Viljoen [mailto:surina@endumeni.gov.za]

**Sent:** 07 January 2011 16:01 PM

**To:** 'ryaan.lahldas@gobodo.co.za'

**Subject:** RE: Visit 1 and 2 reports

Hi Ryaan

Can you please forward the final visit 3 report for the 09/10 financial year please. Mr Maltman wants me to arrange a meeting.

Thank you

*Surina Viljoen*

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Personal Assistant to the  
Chief Financial Officer  
Endumeni Municipality

Tel (034) 2122121 Fax (034) 2122192

**From:** Ryaan Lahldas [mailto:ryaan.lahldas@gobodo.co.za]

**Sent:** 08 December 2010 15:31 PM

**To:** 'Bart Maltman'; 'Ian Grisdale'; surina@endumeni.gov.za

**Cc:** 'Naveen Rajkumar'

**Subject:** Visit 1 and 2 reports

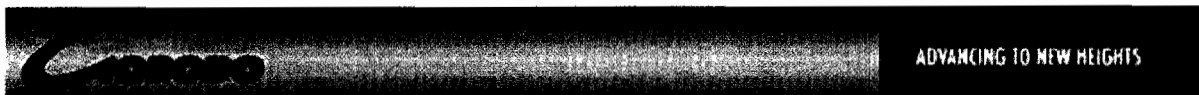
Good day.

Please find attached the visit 1 and 2 reports for the 2009 / 2010 financial year.

Visit 3 should be sent by Friday.

Thank you and kind regards,





Ryaan Lahldas




Assistant Manager - Gobodo Chartered Accountants (SA) (Durban office)

2 Flanders Place, Mount Edgecombe, 4301

P.O. Box 1644, Mount Edgecombe, 4301

 +27 (0)31 539 4800  +27 (0)31 502 3167  +27 (0)82 563 9344  [ryaan.lahldas@gobodo.co.za](mailto:ryaan.lahldas@gobodo.co.za)

 *Please consider the environment before printing this email and/or any related attachments*

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**Documents handed out at Meeting:**

**16 February 2011**



# KWAZULU-NATAL PROVINCIAL TREASURY

**OFFICE OF THE MEC FOR FINANCE**

Telephone : 033 846 6800  
Fax : 033 846 6801/2

P O Box 3613  
Pietermaritzburg 3200

2<sup>nd</sup> floor Natalia Building  
330 Langalibalele Street  
Pietermaritzburg, 3201

Our reference:  
Inkomba yethu:  
Ons verwysing:

Date: 31<sup>st</sup> January 2011  
Usuku:  
Datum:

To: MAYOR  
MUNICIPAL MANAGERS  
CHIEF FINANCIAL OFFICERS  
KWAZULU NATAL MUNICIPALITIES

## PROVINCIAL TREASURY CIRCULAR TC/RM 5 OF 2010/11

### NON-COMPLIANCE WITH THE MFMA REPORTING REQUIREMENTS

It is of serious concern that a number of municipalities in KwaZulu-Natal are not fully complying with the Municipal Finance Management Act (MFMA) (Act No. 56 of 2003) and the 2010 Division of Revenue Act (DoRA).

Following the second quarter of the 2010/11 financial year, it emerged that a number of municipalities in our province are either failing to comply with **ALL** the reporting requirements as set out in the different sections of the MFMA and DoRA or submitting reports for compliance purposes only without ensuring the accuracy of the information submitted.

Some of the most important MFMA and DoRA reporting requirements that have not been complied with and a list of those municipalities that have not been fully complying with those reporting requirements are discussed and attached as the following annexes:

- Annexure A: 2010/11 MFMA Implementation Plan
- Annexure B: 2011/12 Budget Timetable (Schedule of Key deadlines)
- Annexure C: 2010/11 Service Delivery Budget Improvement Plan (SDBIP)
- Annexure D: 2010/11 Appendix B Budget Returns and Annual Returns
- Annexure E: 2010/11 Section 71 Monthly Returns
- Annexure F: 2010/11 Quarterly Returns
- Annexure G: 2010/11 Verification of Figures for Quarter 1 of 2010/11
- Annexure H: Publication of Section 75 Information on Municipal Websites
- Annexure I: Finance Management Grant (FMG) Conditions/Appointment of Municipal Interns

Both the National Treasury and the Provincial Treasury have provided support and training to assist municipalities in meeting their reporting requirements and can no longer overlook any deliberate or inadvertent non-compliance with the law. Should the non-compliance by municipalities persist, the following steps to enforce compliance may be considered:

1. Notify the Auditor-General of the municipality's failure to comply with relevant MFMA reporting requirements.
2. Recommend to the concerned municipality's council that it considers investigating the Accounting Officer in terms of Section 171(4) of the MFMA, with a view to taking disciplinary action against the Accounting Officer in the light of his or her failure to comply with relevant MFMA reporting requirements.
3. Launch an investigation with a view of laying charges against the Accounting Officer for financial misconduct in terms of Section 171 of the MFMA; and
4. Explore options to stop all transfer to the municipality for breach of their reporting obligations.

During the 2009/10 financial year, Provincial Treasury reported non-compliance with the MFMA Reporting Requirements to Legislature on a quarterly basis through the Section 71(7) Report, where the MEC for Finance is required to submit a consolidated statement on the state of municipalities' budgets *to the provincial legislature no later than 45 days after the end of each quarter*. It is therefore the intention of Provincial Treasury to submit a list of those municipalities that are persistently not complying with the MFMA and DoRA reporting requirements to the legislature for their consideration.

The KwaZulu-Natal Provincial Treasury once again through this circular urges all municipalities affected to address their failure to fully comply with all the reporting requirements in terms of the MFMA and DoRA pertaining to the 2010/11 financial year. Provincial Treasury has communicated extensively with municipalities on this topic. You undoubtedly will agree that the Provincial Treasury has been extremely patient and has relentlessly accommodated municipalities. The officials from Provincial Treasury will continue to assist and support their designated municipalities. They will also be following up with each of the municipalities on all non-compliance issues; however, the onus rests with Accounting Officer to ensure that their municipality fully complies with all outstanding reporting requirements **as a matter of urgency but no later than 11 February 2011**.

It should also be noted that our source of information is the National Treasury Local Government Database (lgdatabase). Should your municipality dispute any of the information reflected in the annexes, please provide both the Provincial Treasury and National Treasury with the evidence to confirm any discrepancy.

Yours faithfully



**MS INA CRONJÉ, MPP  
MEC FOR FINANCE**

CC Jan Hattingh, National Treasury  
TV Pillay, National Treasury  
Herman van Zyl, Auditor General

### **Annexure A: 2010/11 MFMA Implementation Plan**

The National Treasury issued MFMA Circular 7 in 2004 together with a “MFMA implementation plan template”. All municipalities were required to prepare and submit the MFMA implementation plan indicating how they would implement the MFMA reforms. The MFMA implementation plan provides municipalities with a starting point to develop and manage the reforms. Furthermore, municipalities were required to establish a steering committee to manage and oversee the MFMA implementation plan. The MFMA implementation plan for 2010/11 was due on 31 October 2010; 8 municipalities have not submitted their implementation plans for the 2010/11 financial year. Those municipalities that did not submit their implementation plans for 2010/11 are listed in Table 1.

**Table 1: List of municipalities that did not submit their MFMA implementation plan for the 2010/11 financial year**

<b>Non Compliant Municipalities</b>	<b>Non Compliant Municipalities</b>	<b>Non Compliant Municipalities</b>
Umdoni	Nquthu	Indaka
Okhahlamba	eDumbe	Umvoti
eMadlangeni	Umhlabuyalingana	

Source: Local Government Database

The non-complying municipalities are urged to upload their 2010/11 MFMA Implementation Plans on [mfma@treasury.gov.za](mailto:mfma@treasury.gov.za) as a matter of urgency and send a copy to the Provincial Treasury.

### **Annexure B: 2011/12 Budget Timetable (Time Schedule of Key deadlines)**

In terms of Section 21 (1)(a) of the MFMA, *the Mayor of a municipality must co-ordinate the processes for preparing the annual budget and for reviewing the municipality's integrated development plan and budget related policies to ensure that the tabled budget and any revisions of the integrated development plan and budget related policies are mutually consistent and credible.* In additional, as required by Section 21 (1)(b), the mayor of a municipality must *at least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines for the various budget related activities.* Also stated in Section 21(2)(e)(ii)(bb), *the mayor of a municipality must provide, on request, any information relating to the budget to any national and provincial organ of states, as may be prescribed.*

The Provincial Treasury has been liaising with the municipalities requesting a copy of the time schedules of key budget deadlines for the 2011/12 financial year. As at 31 January 2011, 2 municipalities in KZN (listed in the Table 2) failed to submit the schedules of key budget deadlines to the National and Provincial Treasuries.

**Table 2: List of municipalities that did not submit the times schedules of key budget deadlines for 2011/12 financial year**

<b>Non Compliant Municipalities</b>	<b>Non Compliant Municipalities</b>
Impendle	uMuziwabantu

Source: Local Government Database

Municipalities are reminded to submit the times schedules of key budget deadlines for the 2011/12 financial year **immediately.**

### **Annexure C: 2010/11 Service Delivery Budget Improvement Plan (SDBIP)**

Section 53(1) (c) (ii) of the MFMA indicates that *the mayor of a municipality must take all reasonable steps to ensure that the municipality's service delivery and budget implementation plan is approved by the mayor within 28 days after the approval of the budget.*

Section 20(2)(b) of the Municipal Budget and Reporting Regulations further states that the Municipal Manager must submit to the National Treasury and the relevant provincial treasury, in both printed and electronic format, the approved service delivery and budget implementation plan within ten working days after the mayor has approved the plan.

Once again, as per Provincial Treasury circular TC/RM 1 of 2010/11, municipalities were reminded to upload their 2010/11 SDBIP to [lgdocuments@treasury.gov.za](mailto:lgdocuments@treasury.gov.za) **within 28 days after the approval of the budget.** As at 31 January 2011, the SDBIPs for the municipality listed in Table 3 was outstanding. Furthermore, if the SDBIPs for this municipality was not approved by the mayor, this could effectively mean that Section 53(1)(c)(ii) of the MFMA has been breached.

**Table 3: List of municipalities that did not submit their SDBIP for the 2010/11 financial year**

<b>Non Compliant Municipalities</b>
Indaka

Source: Local Government Database

The abovementioned municipalities are required to **urgently** furnish the Provincial Treasury with the SDBIP and the Council Resolution approving the SDBIP. If the SDBIP was not approved, please advise Provincial Treasury with the reasons why the municipality has not approved their SDBIP.

### **Annexure D: 2010/11 Appendix B Budget Returns and Annual Returns**

In terms of Section 22(b) of the MFMA, *the accounting officer of the municipality must submit the annual budget -*

- (a) in both printed and electronic formats to the National Treasury and the relevant Provincial Treasury;*  
*and*
- (b) in either format to any prescribed national or provincial organs of the state and to other municipalities affected by the budget.*

National Treasury uses the budget figures from Appendix B: Budget Returns Forms for their quarterly publication of municipal financial performance. Furthermore, in order for National Treasury to build and maintain data on local government, all municipalities are required to upload a number of annual returns and other important documents. The purpose of collecting data into one database, amongst other things is to assist with effective planning and decision making. In this regard, a number of municipalities have not uploaded their Appendix B Budget Returns Forms and a number of annual returns. Table 4 shows the municipalities that have not uploaded/submitted the relevant return forms. The non-complying municipalities have been identified from the National Treasury database report dated 31 January 2011.

**Table 4: List of municipalities that have not submitted the Appendix B Budget Returns Forms, and Annual Returns**

Name of Return	Period	Non Compliant Municipalities
Asset Management	2010/11	Ugu, Impendle, Uthukela, Nquthu, Umvoti, Newcastle, Mtubatuba and Sisonke
Grant and Subsidies Received	2010/11	Ubuhlebezwe
IDP to Budget	2010/11	Ezinqoleni, Umvoti, eMadlangeni and Ubuhlebezwe

Source: Local Government Database

**Annexure E: Section 71 Monthly Returns**

In terms of Section 71 (1) of the MFMA, *the accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for that month and for the financial year up to the end of that month:*

- (a) *Actual Revenue, per revenue source;*
- (b) *actual borrowings;*
- (c) *actual expenditure, per vote;*
- (d) *actual capital expenditure, per vote;*
- (e) *the amount of any allocations received;*
- (f) *actual expenditure of those allocations" .....*

The Section 71 Monthly Returns are divided into two categories, namely the monthly *Budget Reform Return Forms* and the *Conditional Grants Return Forms*.

As at 31 January 2011, the monthly returns listed in Table 5 has not been submitted to the local government database.

**Table 5: List of municipalities that did not submit the monthly returns**

Name of Return	Period	Non Compliant Municipalities
Age Creditors	October 2010	Mkhambathini
	November 2010	Mkhambathini, Umtshezi, eDumbe, The Big Five False Bay and Maphumulo
	December 2010	Ezinqoleni, Hibiscus, uMshwathi, Umtshezi, Imbabazane, Amajuba, Newcastle, Zululand, eDumbe, Jozini and Maphumulo
Age Debtors	October 2010	Mkhambathini
	November 2010	Mkhambathini, Umtshezi, Okhahlamba, eMadlangeni, The Big Five False Bay and Ingwe
	December 2010	Vulamehlo, Ezinqoleni, uMshwathi, Mpofana, Umtshezi, Okhahlamba, Imbabazane, Amajuba, Newcastle, eMadlangeni, Zululand, eDumbe,

Name of Return	Period	Non Compliant Municipalities
		Nongoma, Jozini and Ingwe
Capital Acquisitions Actuals	October 2010	Mkhambathini, eDumbe and Maphumulo
	November 2010	Ezingoleni, Mpofana, Umtshezi, eDumbe, The Big Five False Bay, Maphumulo and Ubuhlebezwe
	December 2010	Ezingoleni, uMshwathi, Umtshezi, Imbabazane, Amajuba, Dannhauser, Zululand, eDumbe, Jozini, The Big Five False Bay, Maphumulo and Greater Kokstad
Cash Flow Actuals	July 2010	Ezingoleni
	August 2010	Ezingoleni
	September 2010	Ezingoleni
	October 2010	Ezingoleni, eDumbe
	November 2010	Ezingoleni, uMuziwabantu, Umtshezi and eDumbe
	December 2010	Umdoni, Ezingoleni, uMshwathi, Impendle, Richmond, Umtshezi, Imbabazane, Amajuba, Newcastle, Zululand, eDumbe, Umkhanyakude and Jozini
Financial Performance Actuals	July 2010	Ezingoleni
	August 2010	Ezingoleni
	September 2010	Ezingoleni
	October 2010	Ezingoleni, eDumbe
	November 2010	Ezingoleni, Umtshezi, eMadlangeni and eDumbe
	December 2010	Ezingoleni, uMshwathi, Mpofana, Impendle, Richmond, Umtshezi, Imbabazane, Amajuba, Newcastle, eMadlangeni, Zululand, eDumbe, Umkhanyakude, Jozini, The Big Five False Bay, Mfolozi and Maphumulo

Source: Local Government Database

#### *Conditional Grants Return Forms*

In terms of Section 12(2)(b) of the 2010 DoRA, a municipality must, as part of the report required in terms of Section 71 of the Municipal Finance Management Act, report on their grant expenditure *to the relevant provincial treasury, the National Treasury and the relevant transferring national officer.*

Section 12(4) of 2010 DoRA further specifies that the report by a municipality in terms of Section (2)(b) *must set out for that month and for the financial year up to the end of that month:*

- (a) *the amount received by the municipality;*
- (b) *the amount of funds stopped or withheld from the municipality;*
- (c) *the extent of compliance with this Act and with the conditions of an allocation or part of an allocation provided for in a framework;*

- (d) an explanation of any material problems experienced by the municipality;
- (e) regarding an allocation which has been received and a summary of the steps taken to deal with such problems;
- (f) any matter or information that may be prescribed in the relevant framework for the particular allocation; and
- (g) such other issues and information as the National Treasury may determine.

As at 31 January 2011, the conditional grant returns listed in Table 6 have not been submitted to the local government database.

**Table 6: List of municipalities that did not submit the monthly conditional grants returns for the 2010/11 financial year**

Name of Return	Period	Non Compliant Municipalities
<b>Finance Management Grant</b>	August 2010	eDumbe
	September 2010	eDumbe
	October 2010	eDumbe
	November 2010	Vulamehlo, Umtshezi, Amajuba, eDumbe, Nongoma and Jozini
	December 2010	Vulamehlo, uMshwathi, Richmond, Umtshezi, Okhahlamba, Amajuba, Newcastle, Zululand, eDumbe, Jozini and Maphumulo
<b>Integrated Electrification Programme Grant</b>	July 2010	Ubuhlebezwe
	August 2010	Ubuhlebezwe
	September 2010	eDumbe and Ubuhlebezwe
	October 2010	eDumbe, Jozini and Ubuhlebezwe
	November 2010	uMuziwabantu, Umtshezi, eDumbe, Ulundi, Jozini and Ubuhlebezwe
	December 2010	uMshwathi, Umtshezi, Newcastle, eDumbe, Jozini, Ingwe and Ubuhlebezwe
<b>Municipal Infrastructure Grant</b>	September 2010	eDumbe
	October 2010	eDumbe
	November 2010	Vulamehlo, Umtshezi, Amajuba, eDumbe, Nongoma, Ulundi and Hlabisa
	December 2010	uMgungundlovu, uMshwathi, Richmond, Umtshezi, Okhahlamba, Amajuba, Newcastle, Zululand, eDumbe, Jozini, Hlabisa, Maphumulo and Ingwe
<b>Municipal Systems Improvement</b>	August 2010	eDumbe
	September 2010	eDumbe

Name of Return	Period	Non Compliant Municipalities
Programme Grant	October 2010	eDumbe
	November 2010	Vulamehlo, uMgungundlovu, Umtshezi, Okhahlamba, Amajuba, eDumbe, Nongoma, Ulundi and Jozini
	December 2010	uMshwathi, Richmond, Umtshezi, Okhahlamba, Amajuba, Newcastle, Zululand, eDumbe, Jozini, Maphumulo and Ingwe
Neighbourhood Development Partnership Grant	November 2010	Umtshezi and Nongoma
	December 2010	Umtshezi, Newcastle and Nongoma

Source: Local Government Database

The non-complying municipalities are urged to upload all the outstanding monthly returns as well as the conditional grants returns on the [lgdatabase@treasury.gov.za](mailto:lgdatabase@treasury.gov.za)) by **11 February 2011** and send a copy to Provincial Treasury.

#### **Annexure F: 2010/11 Quarterly Returns**

Section 74(1) of the MFMA states that *the accounting officer of a municipality must submit to the National Treasury, provincial treasury, the department for local government in the province or the Auditor-General such information, returns, documents, explanations and motivations as may be prescribed or as may be required.* Section 104(1)(b) requires the same from the accounting officer of a municipal entity.

Towards this end, National Treasury has prescribed that the quarterly returns must be submitted on borrowing, long term contracts, municipal entities and the implementation of the MFMA priorities (as specified in MFMA Circular No. 38). Table 7 provides the list of municipalities that did not submit the required quarterly returns as at 31 January 2011.

**Table 7: List of municipalities that did not submit the different quarterly returns pertaining to quarter one of the 2010/11 financial year**

Borrowing Monitoring	MFMA Long Term Contracts	MFMA Implementation Priorities
Indaka	Ezinqoleni	Ezinqoleni
Umtshezi	Indaka	

Source: Local Government Database

Municipalities are urgently required to submit all outstanding quarterly returns for 2010/11 to the [lgdatabase@treasury.gov.za](mailto:lgdatabase@treasury.gov.za) by **11 February 2011** and send a copy to Provincial Treasury.

Municipalities are also reminded that the quarterly returns pertaining to quarter two were due at the end of January 2011 and should be uploaded to the [lgdatabase@treasury.gov.za](mailto:lgdatabase@treasury.gov.za) and a copy must be sent to the Provincial Treasury.

## **Annexure G: Verification of Figures for Quarter 1 of 2010/11**

Provincial Treasury is concerned about the reliability of budget and expenditure figures published by National Treasury. It was noted in the past that there has been discrepancies in the data submitted to the Local Government Database by municipalities. To ensure that the figures published by National Treasury are reliable, it is imperative that municipalities scrutinise, verify and sign-off the verifications schedules sent to them by National Treasury on a quarterly basis. There are two quarterly verification schedules, namely the:

- (a) Statement of Operating and Capital Expenditure (Section 71 Verification); and
- (b) Conditional Grants Actual Transfers and Expenditure Schedule (Grant Verification).

Table 8 provides the list of municipalities that did not submit signed copies of the required quarterly verifications to National and Provincial Treasury at the end of the first quarter of 2010/11.

**Table 8: List of municipalities that did not submit signed copies of the required quarterly verifications of quarter one of the 2010/11 financial year**

<b>Verifications Not Submitted to National / Provincial Treasury</b>	
<b>Section 71 Verification</b>	<b>Grant Verification</b>
Vulamehlo	Vulamehlo
Umdoni	Umdoni
Ezinqolweni	Ezinqolweni
uMngeni	uMshwathi
Impendle	Impendle
Okhahlamba	Okhahlamba
Imbabazane	eMadlangeni
Nquthu	Amajuba
Amajuba	The Big Five False Bay
Jozini	Mfolozi
Hlabisa	Maphumulo
Mfolozi	iLembe
Ubuhlebezwe	Ingwe
	Greater Kokstad
	Ubuhlebezwe

Source: National and Provincial Treasury

National Treasury has distributed the second quarter verification schedules to municipalities on Monday, 24 January 2011. Please ensure that the schedules are scrutinised for accuracy and if the numbers are correct that the schedules are signed by both the Municipal Manager and the Chief Financial Officer and faxed or scanned and e-mailed to both National and Provincial Treasury by 10h00 on 11 February 2011.

Accepted numbers with regard to the *Statement of Operating and Capital Expenditure* must be signed by both the Municipal Manager and the Chief Financial Officer and faxed to (012) 395-6553 for attention Ms Elsabe Rossouw or scanned and mailed to [lgdocuments@treasury.gov.za](mailto:lgdocuments@treasury.gov.za) and Provincial Treasury at [mfma@kzntreasury.gov.za](mailto:mfma@kzntreasury.gov.za).

Similarly, for the *Conditional Grants Actual Transfers and Expenditure Schedule*, the accepted numbers should also be signed by both the Municipal Manager and the Chief Financial Officer and faxed to (012) 395-6732 and (012) 315-5045 for attention Mr Sello Mashaba or scanned and mailed to [lgdocuments@treasury.gov.za](mailto:lgdocuments@treasury.gov.za) and Provincial Treasury at [mfma@kzntreasury.gov.za](mailto:mfma@kzntreasury.gov.za).

To ensure that the verification schedules submitted are legible, the scanning and e-mailing of the schedules are preferred.

#### **Annexure H: Publication of Section 75 Information on Municipal Websites**

In terms of Section 75(1) of the MFMA, municipalities are required to place the following documents on their municipal websites:

- a) *The annual and adjustments budgets and all budget-related documents;*
- b) *All budget-related policies;*
- c) *Annual Report;*
- d) *All performance agreements required in terms of section 57(1)(b) of the Municipal Systems Act;*
- e) *All service delivery agreements;*
- f) *All long-term borrowing contracts;*
- g) *All supply chain management contracts above a prescribed value;*
- h) *An information statement containing a list of assets over a prescribed value that have been disposed of in terms of section 14(2) or (4) during the previous quarter;*
- i) *Contracts to which subsection (1) of section 33 apply, subject to subsection (3) of that section;*
- j) *Public-private partnership agreements referred to in section 120;*
- k) *All quarterly reports tabled in the council in terms of section 52(d); and*
- l) *Any other documents that must be placed on the website in terms of this Act or any other applicable legislation, or as may be prescribed.*

Section 75(2) of the Act further requires that documents *must be placed on the website not later than five working days after its tabling in council, or on the date on which it must be made public, whichever occurs first.*

As at 31 January 2011, the municipalities listed in Table 9 have not established and/or placed updated copies of the required documents on their websites:

**Table 9: List of municipalities that did not established and/or place updated copies of the required documents on their websites**

<b>Non Compliant Municipalities</b>	<b>Non Compliant Municipalities</b>	<b>Non Compliant Municipalities</b>
Vulamehlo	Richmond	Msinga
Umdoni	uMgungundlovu	Umvoti
Umzambe	Indaka	Umzinyathi
uMuziwabantu	Okhahlamba	Newcastle
Ezinqoleni	Imbabazane	eMadlangeni
uMshwathi	Nquthu	Dannhauser
Mpofana	Jozini	Amajuba

Non Compliant Municipalities	Non Compliant Municipalities	Non Compliant Municipalities
Impendle	The Big Five False Bay	eDumbe
Mkhambathini	Hlabisa	Umkhanyakude
Nongoma	Mtubatuba	Ntambanana
Ulundi	Ndwedwe	Nkandla
Umhlabuyalingana	Ingwe	Maphumulo
Ubuhlebezwe	Sisonke	Ilembe
	Umzimkhulu	

Source: Municipal Websites

The non-complying municipalities are urged to established and/or place updated copies of the required Section 75 documents on their websites **immediately**. Should you experience any challenges with regard to establishing and/or placing updated copies of the required Section 75 documents on your website or require any further clarity pertaining to this matter, kindly inform Provincial Treasury.

**Annexure I: Finance Management Grant (FMG) Conditions/Appointment of Municipal Interns**

In terms of the Financial Management Grant (FMG) conditions published in the 2010 DoRA, the grant may be utilised for amongst other things *the establishment of a Budget and Treasury Office with positions filled by appropriately qualified personnel and appointment of a minimum of five interns over a multi year period.*

As at 31 January 2011, the municipalities listed in Table 10 have not appointed five interns.

**Table 10: List of municipalities that did not appointed five interns**

Non Compliant Municipalities	Non Compliant Municipalities	Non Compliant Municipalities
Umdoni	Dannhauser	Ingwe
Hibiscus Coast	Amajuba DM	Kwa Sani
uMngeni	Nongoma	Greater Kokstad
Impendle	Ntambanana	Umzimkhulu
Endumeni	Newcastle	

Source: KZN Provincial Treasury

Please advise Provincial Treasury by no later than **11 February 2011** whether your municipality has appointed five interns or the date by which your municipality anticipates having five interns employed as per DoRA.

**ENDUMENI MUNICIPALITY**

**EXTERNAL STAFF ADVERTISEMENT**

The Endumeni Municipality, an affirmative action and equal opportunity employer herewith invites applications from suitably qualified and competent persons for appointment to the following post:

**FINANCIAL INTERN (TWO YEAR CONTRACT)**

This post requires dedicated and highly motivated individuals, who have recently obtained a three-year tertiary qualification, to participate in an Internship Programme that seeks to capacitate recent graduates for a career in Local Government Finance

**Minimum Requirements:** B.Comm Degree with Accounting and / or Auditing as majors or a relevant three year tertiary qualification with Accounting, Finance and Economics;  
Computer Literacy;  
Good interpersonal skills;  
Excellent verbal and written communication skills.

**Key Performance Areas:** Receive training in and exposure to, inter alia, the following areas:

- Implementation of Financial Management Reforms and the Municipal Finance Management Act
- General Financial Management Administration
- Procurement Administration
- Debtors Administration
- Treasury Management
- Payroll
- Reconciliations
- Financial Statements
- Budgets
- Reports and Returns

**Salary:** The successful applicants will receive an all inclusive employment package of R90,000.00 per annum

The successful candidate will be expected to undergo in house training in the department under supervision of present senior staff and quarterly progress reports will be submitted to Council.

Canvassing for appointment is prohibited and proof thereof will disqualify an applicant.

Enquiries for the above post can be made with the following person: Mr. I Gridale, Chief Financial Officer, Civic Centre, Dundee. Applicants will be required to undergo a proficiency evaluation and interview.

Applications on the official application form, accompanied by certified copies of Testimonials must reach the undersigned by **FRIDAY, 25 FEBRUARY 2011 at 12H00**. Should no response to an application submitted be received within sixty days from the above-mentioned closing date, it must be accepted that your application was unsuccessful.

  
A.B. MALTMAN  
ACTING MUNICIPAL MANAGER  
Private Bag 2024  
DUNDEE  
3000

NOTICE NO.14/2011

*In re:*

**ENDUMENI MUNICIPALITY /  
EMPLOYEES IN ARREARS TO THE MUNICIPALITY FOR RATES AND SERVICE  
CHARGES /  
DEDUCTION OF OUTSTANDING AMOUNTS FROM SALARY**

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**MEMORANDUM OF ADVICE**

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1.

It has been discovered that a number of the Municipality's employees are in arrears for rates and service charges for periods in excess of three months. In the normal course the Municipality would be entitled to deduct the outstanding amounts from the salaries of the employees involved. Item 10 of Schedule 2 of the Local Government: Municipal Systems Act 32 of 2000, which contains the Code of Conduct for municipal staff members, reads:

**"A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period."**

Such deductions would not require the employee's consent. Section 34(1) of the the Basic Conditions of Employment Act 75 of 1997 provides that:

**"(1) An employer may not make any deduction from an employee's remuneration unless-**  
**(a) subject to subsection (2), the employee in writing agrees to the deduction in respect of a debt specified in the agreement; or**

(b) ***the deduction is required or permitted in terms of a law***, collective agreement, court order or arbitration award." (Emphasis added)

The word "law" in section 34(1)(b) refers to statutory provisions.

***Botha and British American Tobacco SA (Pty) Ltd*** (2008) 29 ILJ 1301 (CCMA)

Accordingly, the deductions contemplated by Item 10 of Schedule 2 of the Systems Act fall in that category. Although the provision permitting deductions is contained only in a Code of Conduct contained in a Schedule to the Systems Act, it is given the force of law by section 69 of the Act itself which provides:

"The Code of Conduct contained in Schedule 2 applies to every staff member of a municipality."

2.

However, in the case of certain of the employees who are in arrears, the problem is complicated by the fact that deductions are already being made from their salaries each month by reason of emoluments-attachment orders that have been served upon the Municipality (as the employer) by other creditors of the employees who have obtained judgments against them. In some instances there is the possibility that if the Municipality makes deductions from the employee's salary over a reasonable period to recover its arrears there will be insufficient remaining (after other deductions) to pay the garnishee.

3.

Accordingly, I am asked to advise as to whether the debts owed to the Municipality by the employees "would take preference over the garnishee orders".

4.

I understand this question to mean: Does the Municipality's entitlement to make deductions in order to recover the debt which is owed to it rank in preference to the Municipality's obligation in terms of the emoluments-attachment order to pay to the judgment creditor each and every month the amount specified in the order "until a sufficient amount has been paid to satisfy the judgment or order obtained against the judgment debtor by the judgment creditor"? (I use the term "rank in preference" loosely here, and not in the technical sense in which certain claims rank in preference to others in situations in which competing claims have to be paid by a trustee or administrator from a limited fund for the payment of all of them such as occurs in insolvency or the payment of maritime claims from a fund derived from the sale of property referred to in section 3(5)(a) to (e) of the Admiralty Jurisdiction Regulation Act 105 of 1983.) The question is really whether the Municipality is entitled to adopt the stance towards a judgment creditor who has obtained an emoluments attachment order that because the employee is also indebted to the Municipality for rates and service charges which the Municipality is entitled by law to recover through deductions from the employee's salary, there are temporarily insufficient funds to make the monthly payments required by the emoluments-attachment order, and accordingly, until the debt to the Municipality has been discharged, the monthly payments to the judgment creditor will be suspended.

5.

In principle the Municipality would not be entitled to adopt that stance. An employer (whether municipality or private entity) would not be entitled in effect to say to the judgment creditor: "I shall be collecting first by way of deductions what the employee owes me, and thereafter I shall continue the deductions that go to pay your debt." The employer's claim is merely a claim; the judgment creditor's claim is one for satisfaction of a judgment debt.

6.

An emoluments-attachment order has the effect of a judgment of a court. (Section 65J(5) of the Magistrates' Courts Act 32 of 1944.) If the employer fails to comply with the emoluments-attachment order by not paying over instalments due, the judgment creditor may obtain a warrant of execution against the employer and execute for the arrear instalment amounts due in terms of the emoluments-attachment order. Failure by the employer to pay over a due instalment does not, however, entitle an execution creditor to levy execution against the employer in respect of the whole of the judgment. It entitles him only to execute for the amount of the arrear instalment due.

7.

In this case where the garnishee is an organ of State execution is more difficult. The judgment creditor could not simply have a warrant of execution issued in terms of section 65J(5). The judgment creditor would be limited to bringing contempt-of-court proceedings in order to attempt to get payment. It is, I consider, unlikely that judgment creditors with judgment debts of the scale involved in this case would, once they knew the facts, take on the Municipality in contempt-of-court proceedings rather than waiting for a few months before payments of the instalments would resume. In any event, were the judgment creditor to bring contempt-of-court proceedings the Municipality could bring a counter-application seeking a variation of the emoluments-attachment order. Section 65J(7) provides that

**"Any emoluments attachment order may at any time on good cause shown be suspended, amended or rescinded by the court, and when suspending any such order the court may impose such conditions as it may deem just and reasonable."**

8.

Furthermore, in a matter touching on sections 65I and 65J of the Magistrates' Courts Act, once the court hears that the debtor has other debts, it is obliged to consider whether the judgment debtor's debts should not all be dealt with collectively. The Court has the power to postpone the proceedings and order the judgment debtor to submit a full statement of his affairs, as prescribed by Form 45 of Annexure 1 to the Magistrates' Courts Rules, and to give notice to each creditor. The Court has the power in those circumstances effectively to convert the proceedings into a section 74 procedure with a view to issuing an administration order. That is not in the interests of a judgment creditor with an emoluments attachment order, and the possibility of that occurring is thus itself likely to deter any attempt to enforce execution against the Municipality once the judgment creditor is aware that the Municipality also has a claim against the debtor.

9.

Accordingly, from a practical point of view, although in theory the judgment creditor can execute against the garnishee, in a case like this where the garnishee is a municipality which is itself owed money by the debtor in respect of rates and service charges, the judgment creditor is unlikely to attempt to enforce its rights, and is likely to acquiesce in an arrangement whereby the Municipality can be paid off first and thereafter the instalments in terms of the emoluments attachment order can resume.

10.

I would recommend that the Municipality should formally give notice in writing to each of its employees who are in arrears in respect of rates and service charges and who are also judgment debtors of a creditor who is being paid instalments by the Municipality in terms of an emoluments attachment order that it intends to recover the arrears by

means of deductions to be made from their salaries over a period, and that such deductions will commence from a certain month (say, 3 months in the future). The notice could draw their attention to the fact that the making of those deductions could have the effect that after the deductions (a) there may be insufficient residue of salary to enable the Municipality to satisfy the emoluments attachment order in favour of the employee's judgment creditor, and (b) there may be insufficient residue of salary left to provide for the employee's own and his dependants' maintenance. In those circumstances the employee would have the right to approach the court for an order rescinding the emoluments attachment order or amending it. The notice could recommend that the employee obtain legal advice on the subject. I attach what I consider to be a suitable format for such notice.

PJ BLOMKAMP

Chamber, Pietermaritzburg  
16 January 2011

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**DRAFT NOTICE**

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**You are presently in arrears to the Endumeni Municipality for rates and/or service charges for a period longer than 3 months. This is a breach of the Code of Conduct for Municipal Staff Members. Item 10 of Schedule 2 of the Local Government: Municipal Systems Act 32 of 2000 entitles the Municipality to deduct the outstanding amounts from your salary.**

**The amount by which you are in arrears for a period longer than 3 months is presently ..... which is made up as follows:**

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

**The amount outstanding will be deducted from your salary in .... instalments of ..... The first such deduction will be made from your ..... 2011 salary. Further deductions will be made from your salary for each succeeding month until the arrears have been paid in full.**

**At present the Municipality makes a monthly deduction from your salary which it is obliged to pay over to a judgment creditor of yours in terms of an emoluments attachment order in favour of that judgment creditor.**

**You should be aware that when the Municipality commences making deductions from your salary in order to recover from you your arrears in respect of rates and/or service charges, that may have the effect that (a) there may be insufficient residue of salary to enable the Municipality to satisfy the emoluments attachment order in favour of your judgment creditor, and (b) there may be insufficient residue of salary left to provide for your own and your dependants' maintenance. In those circumstances you have the right in terms of section 65J(6) and (7) of the Magistrates' Courts Act 32 of 1944 to approach the Magistrate's Court which made the emoluments attachment order for an order**

**rescinding or amending it. It is suggested that you give consideration to such a course or seek legal advice on the issue.**