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**SUBJECT:** REPORT ON THE PAYMMENT OF SUPPLIERS (SERVICE PROVIDERS) WITHIN 30-DAYS AND THE ROLE OF THE SPECIAL UNIT WITHIN THE DEPARTMENT OF PLANNING, MONITORING AND EVALUATION (DPME)

**DATE:**  **14 SEPTEMBER 2016**

1. **PURPOSE**
	1. To submit to the Portfolio Committee an analysis on payment of invoices and report on interventions implemented to fast-track the payment of suppliers (or service providers) by government within the stipulated 30-days period. This period is stipulated in the regulations prescribed by National Treasury in terms of the Public Finance Management Act (PFMA) of 1999 (as amended) and the Municipal Finance Management Act of 2003.
2. **BACKGROUND**

2.1 In terms of Section 38(1)(f) of the PFMA of 1999 (as amended), Accounting Officers are required to settle all contractual obligations and pay all money owing, including intergovernmental claims, within the prescribed and agreed period.On the 15th March 2005, National Treasury published regulations in terms of the PFMA of 1999, requiring Accounting Officers to pay invoices within 30 days of receipt. These regulations specified that the prescribed period for the payment of suppliers is 30-days from receipt of a legitimate (undisputed) invoice.

* 1. Cabinet has issued different directives to government departments to ensure that departments settle all legitimate invoices from suppliers within 30 days. In the case of a disputed invoice, feedback must immediately be provided to the service provider that the department concerned does not agree with the invoice.
	2. Cabinet noted with concern non-compliance with this matter, and further noted the devastating impact of the non-payment of suppliers within 30-days on Small, Micro and Medium Enterprises (SMMEs), as well as the negative impact on service delivery. Many SMMEs have collapsed because of this malaise. Even bigger corporates have been negatively affected, and others have to retrench workers, with an adverse impact on the livelihoods of families.
	3. Cabinet therefore took resolutions in 2009 and 2010 that departments must implement mechanisms to ensure payments are processed within 30 days.
	4. National Treasury also issued a communique in May 2010 that non-compliance with PFMA and Treasury Regulations constitute grounds for financial misconduct.
	5. To enforce monitoring of the payment of suppliers, National Treasury issued an instruction note on 30 November 2011, requiring national departments and provinces to submit monthly exception reports for late and/or non-payment of suppliers within 30 days and reasons thereof.
	6. In 2012 and 2013, Cabinet also agreed that financial misconduct proceedings should be instituted against errant officials, and that the Executing Authorities and Accounting Officers should enforce compliance.

**3. MONITORING OF 30 DAYS PAYEMNT OF INVOICES**

3.1. Payment of service providers or suppliers within 30-days is a key priority monitored by government from as way back as 2009. Since 2011, the current administration has included a requirement for all Directors-General (DGs) to report to the Forum of South African Directors-General (FOSAD) on the timeous payment of suppliers. Outcome 12 Chapter of the 2014-2019 MTSF also reports, amongst others, on the performance of departments regarding compliance with 30 days payment of invoices.

3.2 In addition, a special Unit has been established within DPME and works in a trilateral partnership with National Treasury and DPSA. The mandate of the Special Unit include investigating cases where there is late or non-payment of legitimate invoices within 30 days, identify the causes for delays and non-payment in aforementioned cases, facilitate the process for instituting misconduct proceedings to ensure that there are consequences for late and non-payment of legitimate invoices and support /intervene in cases of continuous non- compliance.

3.3 The following shows the latest progress on payment of invoices by National and Provincial Departments as monitored by the DPME Unit. The data is as at June 2016, thus covering performance for the first quarter of the 2016/17 financial year.

3.3.1 **NATIONAL DEPARTMENTS**: As at June 2016, the number of legitimate invoices paid after 30 days were 17 668 to the value of R340 million. This figure is high compared to June 2015, where 13 803 invoices to the value of R224 million were paid after 30 days.

 An analysis of national departments’ performance for the first quarter of 2016/17 is as follows:

 Table 1: National Departments: Invoices paid after 30 days April- June 2016

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| **INVOICES PAID AFTER 30 DAYS** |
| **Month** | **Number of Invoices**  | **Rand Value** |
| April 2016 | 11 375 | R327 559 415 |
| May 2016 | 20 948 | R305 158 185 |
| June 2016 | 17 668 | R340 011 659 |

3.3.2 Table 1 above shows a fluctuating trend in the number of invoices paid after 30 days, with a sharp rise in May 2016 where 20 948 invoices were not paid on time. This fluctuation was further demonstrated in June 2016 where a minor improvement was experienced with a total of 17 668 invoices paid after 30 days. The rand value of these invoices remain a concern, with R340 million not paid on time to service providers in June 2016.

3.3.3 The following table shows the performance of all individual national departments on the invoices paid after the prescribed period of 30 days during the first quarter of 2016/17. The table further demonstrates the departments that contributed to the 17 668 invoices that were not paid on time.

Table 2: All National Departments: Invoices paid after 30 days April-June 2016



3.3.4 The above table shows that out of 40 departments, 23 departments have demonstrated an improvement pattern in the payment of invoices in the first quarter of 2016/17, with 10 of those having maintained a clean record of zero invoices throughout the quarter, thus fully complying with the 30 days payment rule. However, the remaining 17 departments have shown a downward trend. Department of Defense is a main transgressor with 10 719 invoices paid after 30 days, followed by Public Works/PMTE (1 601), Home Affairs (963), Water & Sanitation (784), Rural Development (667), IPID (606) and the Office of the Chief Justice and Judicial Administration (517). The above-mentioned departments have significantly contributed to the 17 668 invoices. In addition, the rand value of the invoices has increased from R327 million to R340 million during the quarter, which shows a regression.

3.3.5 Of serious concern is the number of invoices older than 30 days that remain unpaid. In this regard, as at June 2016, **national departments** had a total of 12 870 invoices to the value of R62 million. Compared to June 2015 the total number of invoices older than 30 days that remain unpaid were 4 543 to the value of R410 million. The table below shows a gradual increase in the number of invoices over the quarter, while the rand value has decreased significantly between April and May 2016.

 Table 3: National Departments: Invoices older than 30 days and not paid April-June 2016

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| **INVOICES OLDER THAN 30 DAYS AND NOT PAID** |
| **Month** | **Number of Invoices**  | **Rand Value** |
| April 2016 | 9981 | R499 376 365 |
| May 2016 | 12780 | R55 172 334 |
| June 2016 | 12870 | R62 027 458 |

3.3.6 The following table shows the performance of all national departments on the invoices older than 30 days and unpaid during the first quarter of 2016/17. The table further demonstrates the departments that contributed to the 12 870 invoices that were not paid at all.

Table 4: All National Departments: Invoices older than 30 days and not paid April-June 2016



3.3.7 The table above shows that between April and June 2016, of the 40 departments, 33 of them have demonstrated an improvement in eradicating invoices that are older than 30 days and not paid. It is worth noting that of the 33 departments, 26 of them did not have any invoices older than 30 days and unpaid, thus complying with the 30 payment rule. However, 7 departments have shown a downward trend and amongst them is the department of Public Work with 10 757 invoices, this contributing significantly to the 12870 and followed by Justice and Constitutional Development (1 088), Home Affairs (375), Presidency (331) and Water and Sanitation (151).

3.4 **PROVINCIAL DEPARTMENTS:** As at June 2016, the total number of invoices paid after 30 days was 29 306 to the value of R1.8 billion. In June 2015, the number of invoices paid after 30 days by provincial departments was 30,466 to the value of R1, 6 billion. Table 5 below shows that number of invoices are decreasing over the quarter and the rand value has remained the same in May and June 2016.

 Table 5: Provincial Departments: Invoices paid after 30 days April- June 2016

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| **INVOICES PAID AFTER 30 DAYS**  |
| **Month** | **Number of Invoices**  | **Rand Value** |
| April 2016 | 38 238 | R2 billion |
| May 2016 | 34 613 | R1,8 billion |
| June 2016 | 29 306 | R1,8 billion |

3.4.1 The following table shows the performance of all provincial departments on the invoices paid after the prescribed period of 30 days during the first quarter of 2016/17. The table further demonstrates the provinces that contributed to the 29 306 invoices that were not paid on time.

 Table 6: All Provincial Departments: Invoices paid after 30 days April-June 2016

 

3.4.2 The table above shows that between April and June 2016, only 3 provinces have demonstrated an improvement in payment of invoices older than 30 days, while the rest have shown a downward trend. The performance of Eastern Cape (7 979), Gauteng (6 949), KwaZulu-Natal (3 460) and Northern Cape (2 216) provinces is worrisome as these provinces have contributed to the 29 306 invoices paid after 30 days.

3.4.3 Of serious concern is the number of invoices older than 30 days that remain unpaid. As at June 2016, provincial departments had 39 833 invoices to the value of R3.3 billion unpaid, while in June 2015 a total of 32,339 had not been paid to the value of R 2,5 billion. In essence, both the number and value of invoices older than 30 days and not paid after 30 days has increased**.** Table 7 below shows a decrease in the number of invoices and rand value over the quarter, April-June 2016.

Table 7: Provincial Departments: Invoices older than 30 days and not paid

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| **INVOICES OLDER THAN 30 DAYS AND NOT PAID** |
| **Month** | **Number of Invoices**  | **Rand Value** |
| April 2016 | 50 460 | R3,8 billion |
| May 2016 | 43 423 | R3,5 billion |
| June 2016 | 39 833 | R3,3 billion  |

3.4.4 The following table shows the performance of all provincial departments on the invoices older than 30 days and not paid during the first quarter of 2016/17. The table further demonstrates the provinces that contributed to the 39 833 invoices that were not paid at all.

Table 8: All Provincial Departments: Invoices older than 30 days and not paid



3.4.5 The table above shows that between April and June 2016, 8 provinces have demonstrated an upward trend in eradicating invoices that are older than 30 days and not paid. The performance of Mpumalanga and Western Cape provinces is commendable. However, Gauteng province account for almost 50% of the invoices at provincial government with R2, 2 billion of the R3, 3 billion owed to suppliers by the same provincial government.

3.4.6 Overall, Provincial departments remain with the highest number of invoices and rand values. This is largely because implementation of government programmes largely takes place at that sphere of government. The DPME Unit has learnt that the challenges is with mostly with the provincial departments of Education, Health and Public Works across all provinces.

**4. PROGRESS ON THE WORK OF THE DPME UNIT**

4.1 The DPME 30 days payment Unit was established in April 2015 and works in a trilateral cooperation with DPSA and NT. The Unit monitors the performance of departments in relation to 30 days payment of invoices. Chief Financial Officers and Provincial Accountants-General are engaged regularly by the Unit to alert them where performance is poor. In addition, concerted effort was made to specifically visit departments and provinces whose performance is worrisome. These included national departments of Defense, Home Affairs and Water & Sanitation. Provinces that have been visited include Northern Cape, KwaZulu-Natal and North West. Other visits are scheduled to take place during the course of the financial year.

4.2 It should be noted that the purpose of the visits is to identify the root causes of non-payment of invoices. In particular, an inspection is carried out during the visits to assess the entire value chain of payment of invoices, identify blockages and assist departments in putting improvement measures. The visits are also meant to share best practices and obtaining commitment from Chief Financial Officers on improved compliance with payment of invoices.

4.3 Over and above monitoring the performance of departments, the unit assist service providers whose invoices have not been paid by municipalities, national and provincial departments as well as public entities. In this regard, cases are lodged with the Unit, investigations are conducted and payment to the service provider is facilitated where invoices are proven to be legitimate. Since the inception of the unit, a total of 102 cases have been lodged and 47 of those have been closed while 55 cases are in progress. To date, a total amount of **R177 million** has been paid to various service providers as facilitated by the Unit. The following highlights some of the testimonies received from service providers:

*“We really appreciate what your leg of government has done for us. We are at loss of words to tell you how thankful we are” – Tshego Motaung, Babereki Consulting Engineers.*

*“We are very grateful for the great service that you have done us”- Ofentse Ribane, Elt-Pro Transcriptions*

*“On behalf of my company I would like to take this opportunity to thank the department for resolving this matter. I wish and hope that there has been lessons learnt by the municipality with regards to the matter and that no small business should suffer the same fate we did as other small businesses cannot last for this long without payments”- Simthembile Bantubani- Mayibuye Africa*

4.3 The Unit is also faced with a number of challenges in conducting its work and they are as follows:

1. **Capacity Constraints**: the current number of officials allocated to the unit (3 in total) is limited compared to the demands of the work. In addition, the officials have been employed for other tasks. Therefore, this compromises the work of the Unit. The work of both monitoring departments’ performance and facilitating payment of invoices is very intense and requires full attention, especially the latter since it involves citizens who require urgent redress. As a result, the Unit is facing a backlog of cases that are yet to be resolved. The payment of R177 million over a period of 16 months demonstrates that with sufficient capacity, the DPME can achieve more in assisting SMMEs on payment of their invoices. This challenge is currently being addressed through the DPME’s revised structure to ensure that capacity is built around areas that require intervention such as 30 days payment of invoices.
2. **Court Cases:** Cases that are reported at the DPME Unit, yet they are already referred to the courts are sub judice and therefore DPME is not in a position to assist service providers.
3. **Reluctance of suppliers to provide information:** the unit has received complaints from some service providers whom upon contact by DPME officials were not willing to provide further information to process their complaints. These service providers fear that reporting government officials will result in loss of contracts from transgressing departments.

4.4 The following could be attributed as some of the challenges associated with non-payment of invoices as experienced by the Unit.

(a) **Systematic challenges:** Lack of a system (IT) to track invoices, lack of financial delegations, especially where designated officials are on leave and a sense of “no urgency” have been detected by the unit as some of the challenges for non or late payment. The latter could be attributed to possible corruption where officials want to be bribed before processing the invoices.

(b) **Non- adherence to Supply Chain Processes:** Service providers are often contracted to do jobs without government following procurement and SCM processes. Often they don’t have an order number, letter of appointment or they have been instructed by officials via unacceptable channels to render services. Invoices emanating out of this context are not legitimate. This is perhaps indicative of the lack of empowerment on the side of service providers and their poor bargaining power as they are at the mercy of government to obtain jobs. Departments are often reluctant to legalise these invoices as they do not want to incur irregular expenditures.

(c) **Poor financial management:** The unit has established that in some departments, the non-payment of invoices is attributed to poor budgeting by government departments, lack of alignment between budget and procurement plans as well as inability to adhere to procurement plans. Upon investigation by DPME, such departments did not have money to pay suppliers. This is also common in local municipalities.

1. **Contractual disagreements:** The unit has learnt that poor contract drafting, different interpretations of the contract clauses by government and service providers, terminations of contracts without informing the affected party are some of the challenges experienced. Invoices raised out of this context are not legitimate as the dispute has to be resolved first before payment is made. The DPME unit facilitates meetings between government and the service providers to ensure that the parties find solutions themselves.
2. **Lack of documented processes (Standard Operating Procedures):** Many departments lack documented processes resulting in delays and errors in executing elementary processes. Payment of invoices is process driven and should be designed in a seamless fashion to ensure that once invoices are proven to be legitimate, they should not be held up due to unforeseen blockages and therefore paid within the prescribed 30 days.
3. **Bad culture in the public sector:** The South African public sector is increasingly being characterised by a very bad culture that has permeated every sphere of government. Officials don’t seem to understand the notion of a “public service”, thinking that the public is beholden to them. This is demonstrated in the lackadaisical approach towards the execution of their duties, be it at service delivery centres across the country to payment of suppliers. The Unit, in various interactions with departments, has also witnessed a resistance to change and lack of receptiveness to new ways that would improve processes. This bad culture also finds expression in high levels of non-compliance as reflected in audit reports.
4. **Subcontracting matters:** Many departments have a hands-off approach where there is sub-contracting matter. This has resulted in many sub-contractors not being paid by the main contractor, many a time resulting in delays in completing of projects.
5. **Lack of capacity:** some departments lack capacity in critical areas of financial management, resulting in backlogs in payment of suppliers. In addition to the vacancy rates, in some instances there is a shortage of skills to execute financial management tasks. This is also reflected in failures by some departments to create simple excel spreadsheets that can be used to enhance their daily activities and automate some routine rudimentary processes.

4.5Future interventions of the unit includes:

* DPME Unit is working with National Treasury (Accountant General and Chief Procurement Officer) to tighten issues of systems for payment, contract drafting and contract management.
* DPME Unit is working with the Department of Small Business Development to conduct a focused research to determine the extent of the problem in the private sector.
* Possible exploration of legal instrument to ensure that payment of invoices by the private sector is given attention. (this will include international bench marking) The DPME envisages to consult with relevant stakeholders within government and private sector on this matter.
* Public education on government procurement processes to empower suppliers will be undertaken. The DPME Unit is working with the Department of Small Business Development in this regard.
1. **RECOMMENDATIONS**

It is recommended that the Portfolio Committee:

* 1. Notes the foregoing progress report on interventions being implemented to fast-track the payment of suppliers (or service providers) by government departments within the stipulated 30-day period. In particular, that **R177 Million** has been paid to various service providers through the intervention of the DPME Unit.
	2. Notes that as at June 2016, National Departments had 17 668 invoices to the value of R340 million paid after 30 days. Provincial department had 29 306 invoices to the value of R1,8 million also paid after 30 days.

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* 1. Notes that as at June 2016, national departments had 12 870 invoices to the value of R62 million older than 30 days and unpaid. Provincial departments had 39 833 to the value of R3,3 billion older than 30 days and not paid.
	2. Notes the challenges associated with non-payment of invoices and the DPME unit’s intervention to assist in resolving such challenges.