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Department:
Cooperative Governance
REPUBLIC OF SOUTH AFRICA

BRIEFING ON REGULATIONS, TURN-AROUND STRATEGY & WARD COMMITTEE FUNDING MODEL

PRESENTATION TO NATIONAL COUNCIL OF
PROVINCES (LGTAS)

28th JULY 2010

OVERVIEW OF PRESENTATION

1. Draft Disaster Management Volunteer Regulations
2. Draft Regulations on the participation of municipal staff members as candidates for national, provincial and municipal elections
3. Local Government Turn-Around Strategy
4. Funding Model for Ward Committee Members



PART ONE:

DRAFT DISASTER MANAGEMENT VOLUNTEER REGULATIONS

DRAFT DISASTER MANAGEMENT VOLUNTEER REGULATIONS



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Overview

- Legislative Basis and Requirements
- Background
- Provisions contained in proposed regulations



Legislative Basis and Requirements

- In terms of section 59 of Disaster Management Act No. 57 of 2002 the Minister may make regulations not inconsistent with Act.
- Section 58 of the Act inter alia deals with the establishment of a unit of volunteers to participate in disaster management in a municipal area.
- Section 58 also provides that Minister may prescribe the command structure and various other aspects pertaining to the establishment of such a unit.
- Section 59(4) of the Act inter alia provides that any regulation made by the Minister must be referred to the National Council of Provinces for purposes of sections 146(6) of the Constitution.



Legislative Basis and Requirements (continued)

Section 58 of the Act further provides that the Minister may prescribe the following:

- a) the command structure of a unit of volunteers;
- b) components within a unit of volunteers;
- c) the requirements for, and recruitment of, a volunteer;
- d) the manner in which any member of a unit of volunteers is to be activated and deployed;
- e) the training of volunteers;
- f) the use of equipment by volunteers;
- g) the defraying of expenses incurred by volunteers;
- h) uniforms of volunteers;
- i) insignia to be worn by –
 - different units of volunteers;
 - different components within a unit of volunteers; and
 - different positions of command within a unit of volunteers; and
 - the transfer of a volunteer from one unit of volunteers to another unit of volunteers.



Background to Proposed Regulations

- a) The proposed Volunteer Regulations endeavors to address all of the above.
- b) Prior to 2005, several consultations by means of meetings and workshops with relevant disaster management stakeholders were held in an attempt to compile a comprehensive set of draft regulations.
- c) Large amount of consensus on most issues was reached prior the first draft for public comments.
- d) First draft of regulations was published for public comment in Government Gazette No. 27991 on 9 September 2005.
- e) Several comments were received from a variety of stakeholders and role-players in the period allowed for comments, which were scrutinised and where appropriate, included in the draft regulations.
- f) Many attempts thereafter were made and discussions and workshops held with relevant stakeholders and the Legal Section of the Department to produce a set of regulations that would address every aspect of a unit of volunteers.



Background (continued)

- g) These discussions eventually led to the 9th draft of the regulations.
- h) Decision was taken to arrange a final workshop including all possible stakeholders to try and finalise regulations.
- i) Core group of disaster management experts was thereafter tasked to assist with suggestions and amendments emanating from the workshop.
- j) On 26 March 2008 final draft was forwarded to the Department of Justice and Constitutional Development for consideration.
- k) Amendments and suggestions made by the Office of the Chief State Law Adviser have been accepted and included.



Background (continued)

- l) At Disaster Management Indaba on 10 July 2008, one of the Commissions specifically discussed the proposed Volunteer Regulations.
- m) Proposals that came out of Commission:
 - provision be made to ensure that registered volunteers are not exploited or misused by municipalities, e.g. by refraining from filling vacancies and using volunteers to perform tasks.
 - municipalities be informed that insurance cover for volunteers in case of death or injury should be provided for and that no unit of volunteers will be recognised by the NDMC unless proof of insurance cover can be provided.
 - a trained volunteer should, over a period of time, be afforded the opportunity to apply for a vacancy in the existing structure of a municipality where the person is a volunteer.
- n) It was agreed that these matters would be dealt with administratively once regulations had been adopted by Parliament.



Provisions contained in proposed Regulations

The following provisions are contained in the draft Volunteer Regulations:

- Section 1: deals with the various definitions.
- Section 2: regulates the establishment or disestablishment of a unit of volunteers.
- Section 3: deals with the command structure of a unit of volunteers.
- Section 4: describes the components within a unit of volunteers.
- Section 5: deals with the requirements for volunteers.
- Section 6: regulates the recruitment of volunteers.
- Section 7: deals with the records to be kept and processed by the municipal disaster management centre.
- Section 8: describes the national corporate identity for South African volunteers.
- Section 9: deals with the training of volunteers.



Provisions contained in proposed Regulations (continued)

- Section 10: deals with uniform training requirements for a volunteer
- Section 11: describes the control of a volunteer rendering a service
- Section 12: deals with suitable clothing for a volunteer performing a specific duty.
- Section 13: deals with equipment issued to volunteers.
- Section 14: describes the emblem to be worn by volunteers.
- Section 15: defraying of expenses incurred by volunteers.
- Section 16: transfer of volunteers.
- Section 17: termination of a volunteer's membership.
- Section 18: informs that a municipality is not precluded from calling on persons who are not members of a unit of volunteers to assist the municipality in dealing with a disaster.
- Section 19: contains the offence clause.
- Section 20: describes the short title



Provisions contained in proposed Regulations (continued)

Annexures:

- a) Annexure A(1) is the application form to be completed for enrolment as a volunteer.
- b) Annexure A(2) is an Undertaking/Code of Conduct to be completed by a potential volunteer.
- c) Annexure A(3) is a Consent by the Parent or Guardian of a person under the age of 18 years.
- d) Annexure B comprises a health questionnaire for disaster management volunteers.
- e) Annexure C describes the identity card to be worn by a volunteer.
- f) Annexure D describes apparel for a volunteer (reflective jacket).
- g) Annexure E describes apparel for a Component Leader (reflective jacket).



PART TWO:

DRAFT REGULATIONS ON PARTICIPATION OF MUNICIPAL STAFF AS CANDIDATES FOR ELECTIONS

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BACKGROUND

- a) These regulations represent the departure from a dispensation that did not prescribe limits and conditions for the participation of municipal staff members in any election to the dispensation that prescribes such limits and conditions.
- b) These Regulations are in terms of Section 71A of the LG: Municipal Systems Act, 2000 (Act No. 32 of 2000) as amended in 2008.
- c) This provision of the Act empowers the Minister to prescribe limits and conditions in the form of regulations for all municipal staff members who during an election period stand to be elected into public office.



BACKGROUND (Cont)

- d) South Africa as a country regularly holds national, provincial and local government elections and by-elections.
- e) Elected candidates for national Parliament and Provincial legislatures become full time members of these institutions.
- f) However, of those elected candidates for municipal councils - some are full time and some are part-time councilors.
- g) In the National and Provincial sphere the public servants' participation in any election is regulated through the Public Service Regulations, 2001 that prescribes limits and conditions for public servants.
- h) In the Local Government sphere the participation of municipal staff members in the National, Provincial and Local government spheres has been regulated by legislation only without prescribed limits and conditions.



IMPLICATIONS

- a) Municipalities will be able to effectively manage staff members who stand for public office in any election;
- b) Participation of municipal staff member in any election would have consequences;
- c) A municipal staff member would be deemed to have resigned from his/her employment from the date of occupation on a full time basis, the designated public office, either in the national Parliament, provincial Legislature or municipal Council;
- d) A municipal staff member who is a candidate for any election and is not elected to public office will retain his/her employment in the municipality;
- e) A municipal staff member who chooses to participate as a candidate for any election and is issued with a certificate in terms of section 31(3) Electoral Act, 1998 shall take leave from not later than the next working day;



IMPLICATIONS (Cont)

- f) Safeguard constitutional right of every municipal staff member to stand for public office in any election;
- g) Protects municipality's resources against misuse by municipal staff members who chooses to stand for public office;
- h) Regulations will apply equally to all municipal staff members;
- i) The proposed regulations would also ensure stability, in the administration of the municipality and continuation of uninterrupted service delivery during a period of any election; and
- j) A certain level of uniformity among all the spheres on this subject matter.



DEPARTMENTS AND ORGANISATIONS CONSULTED

- ❖ All Provincial Departments responsible for local government
- ❖ South African Local Government Association.
- ❖ The Department of Public Service and Administration
- ❖ The South African Local Government Bargaining Council



PROVISIONS OF THE REGULATIONS

- a) Regulations 1 and 2 provide respectively for definitions and the scope of application for the regulations
- b) Regulation 3 provides for conditions applicable to a staff member after being officially declared a candidate for public office;
- c) Regulation 4 provides for steps that should be taken by the municipality to ensure maintenance and continuity of job functions and services
- d) Regulation 5 provides for staff members with performance agreements
- e) Regulations 6 and 7 respectively provide for the limits on the usage of municipal equipments and facilities and municipal data and information



PROVISIONS OF THE REGULATIONS (Cont)

- f) Regulation 8 prohibits the use of any staff member by the candidate, or acceptance of assistance from any other staff members, for the purpose of elections;
- g) Regulation 9 provides for municipality's right to urgently request critical information and documentation for the purposes of business continuity and management of the municipality;
- h) Regulation 10 provides for consequences should there be any breach of these regulations;
- i) Regulation 11 and 12 respectively provide for the short title of these regulations, and the effective date of these regulations



PART THREE:

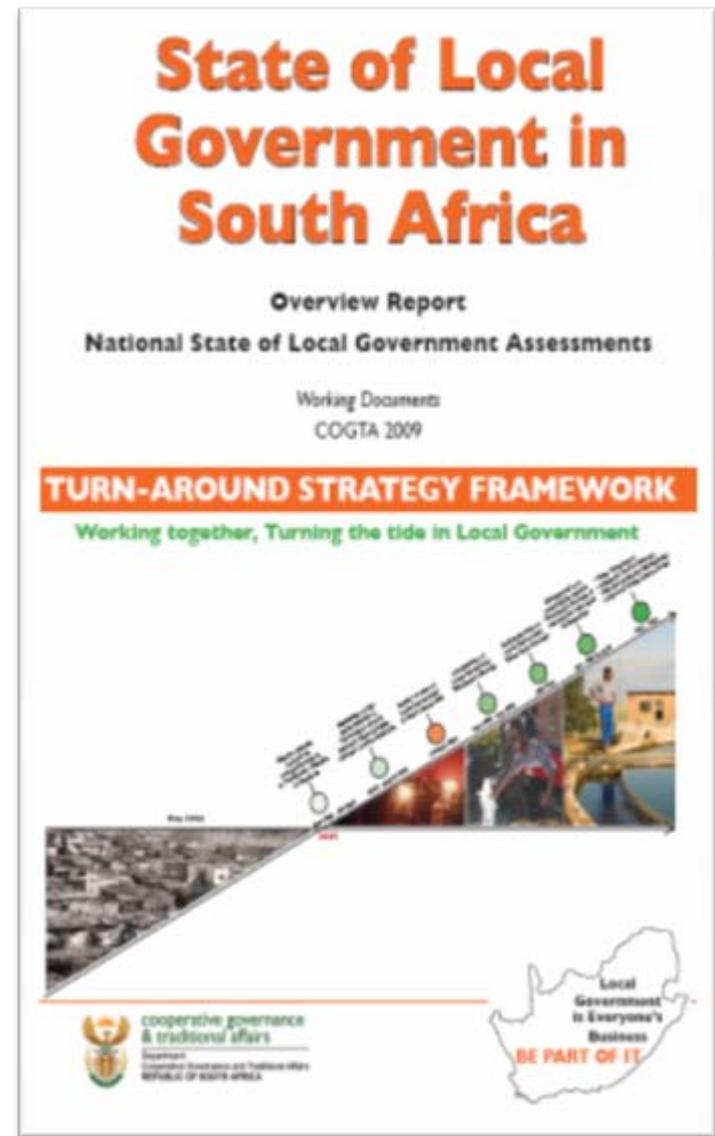
LOCAL GOVERNMENT TURN- AROUND STRATEGY

LOCAL GOVERNMENT TURN- AROUND STRATEGY



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STATE OF LOCAL GOVERNMENT: PROBLEM STATEMENT

Overall the system of local government is *working*, but it is in *distress*. There are many failures & weaknesses that stem from external factors to internal ones in municipalities.



ROOT CAUSES

Local Government is a key part of the reconstruction and development effort in our country. The aims of democratizing our society and growing our economy inclusively can only be realized through a *responsive, accountable, effective and efficient Local Government system* that is part of a Developmental State. Root causes for some of the problems experienced in the Local Government System include:

- a. *Systemic factors, i.e. linked to model of local government;*
- b. *Policy and legislative factors;*
- c. *Political factors;*
- d. *Weaknesses in the accountability systems;*
- e. *Capacity and skills constraints;*
- f. *Weak intergovernmental support and oversight; and*
- g. *Issues associated with the inter-governmental fiscal system*



Local Government Ten Point Plan

1. Improve the **quantity and quality of municipal basic services** to the people in the areas of access to water, sanitation, electricity, waste management, roads and disaster management.
2. Enhance the municipal contribution to job creation and sustainable livelihoods through **Local Economic Development (LED)**.
3. Ensure the development & adoption of **reliable and credible Integrated Development Plans (IDPs)**.
4. Deepen democracy through a **refined Ward Committee model**.
5. Build and **strengthen the administrative, institutional and financial capabilities** of municipalities.
6. Create a **single window of coordination** for the support, monitoring and intervention in municipalities.
7. **Uproot fraud, corruption, nepotism** and all forms of maladministration affecting local government.
8. Develop a coherent and **cohesive system of governance** and a **more equitable intergovernmental fiscal system**.
9. Develop and strengthen a **politically and administratively stable system** of municipalities.
10. Restore the **institutional integrity** of municipalities.

Progress to Date

1. Municipal TAS process completed 30 April 2010 (*a very few outstanding*)
2. *170 MTAS's awaiting Council adoption during July*
3. Process of receiving, registering and processing completed IDP / MTAS plans at national CoGTA in process
4. COGTA MinMEC (March 2010) decided that Rapid Response Teams must be established at all three levels of government to address the challenges & grievances of communities
5. *Policy and Legislative Reforms to improve cooperative Governance and Local Government: Proposed legislation will be submitted to Parliament during 2010 - 2011 on key areas (e.g. prohibition of municipal officials from holding political office bearing positions, consultation with the MEC / Minister on the appointment / suspension / dismissal processes of S57 staff; new Bill on Interventions in provinces and Municipalities etc.)*

Successful implementation of the LGTAS and the 10 Point Plan for LG depends on effective coordination and accountability for performance

Progress to Date

1. MINMEC approved the contractual commitment between Minister and MECs on LGTAS: Performance contracts (Outcome 9 , including LGTAS, to be signed in August)
2. Guidelines to Phase 3 of the LGTAS roll-out prepared and distributed, including:
 - ❑ Guide for assessment of the MTAS plan
 - ❑ Guide for evaluation of the municipal turnaround process: close-out report of phases 1 and 2
3. MTAS baseline credibility questions added to the IDP Credibility Framework.

PROGRESS ON MUNICIPAL TURNAROUND STRATEGIES

PROVINCES (Municipalities)	LGTAS SESSIONS	DEVELOPED MTAS	MTAS ADOPTED (COUNCIL RESOLUTION)	MTAS RECEIVED (LOGTAP)
1. KZN (61)	59 (96.7%)	60 (98.3%)	1 (1.6%)	52 (90%)
2. MP (21)	21 (100%)	21(100%)	1 (4.8%)	16 (76%)
3. GP (15)	20(133%)	13 (86.6%)	3 (20%)	12 (80%)
4. NW (24)	24 (100%)	21 (87.5%)	0 (0%)	21(87.5%)
5. FS (25)	25 (100%)	25(100%)	25 (100%)	24 (100%)
6. L (30)	30 (100%)	30 (100%)	26 (86.6%)	26 (86.7%)
7. NC (32)	32(100%)	32 (100%)	32 (100%)	32 (100%)
8. WC (30)	30 (100%)	27 (90%)	18 (60%)	25 (83.3%)
9. EC (45)	42(93.3%)	44 (97.7%)	7 (15.5%)	43 (95.5%)
TOTAL: 9 (283)	278 (98.2%)	272 (96.1%)	113 (39.9%)	251 (88.7%)

Phase 4: Implementation Scenario

- Implementation of MTAS plans requires **total intergovernmental effort** horizontally and vertically, together with SALGA, stakeholders and civil society
- **Mobilization of rapid response and 'hands-on' support** will be the primary focus in the national effort to support and turnaround dysfunctional and struggling municipalities
- **The Implementation Forums** will be monitoring implementation of the 12 Outcomes of government; An MoU between the Minister and partners in Government (iro Outcome 9) will inform the Delivery Agreements to be coordinated and monitored; nationally, provincially and locally
- **The DCoG Single Window of Coordination** will -
 - ✓ Work with the sector departments comprising the Delivery forum for Outcome 9
 - ✓ Assist with sector coordination and LGTAS monitoring
 - ✓ Coordinate LGTAS related projects within DCoG
 - ✓ Align policy and legislative reform processes within a cycle of evidence-based learning and as arising from root-cause analysis.

Challenges

- *Sector Departments* at a national and provincial government level have not yet comprehensively committed plans and resources to MTASs;
- *Detailed MTAS assessment process is needed* to ascertain degree of compliance with spatial referencing of sector projects in municipalities and to record and monitor projected commitments
- *Delivery Agreements* with sector departments must be well coordinated
- *SOEs have also not yet committed personnel*: stakeholder dialogue with SoE's and broad range of other stakeholders still needed
- *Capacity challenges* at each sphere to deliver on multiple mandates

Emerging evidence: good practices during the MTAS process

Phase 1 & 2 Report: Mpumalanga, May 5:

Quote: 'During the process of the compilation of the MTAS template, municipalities were committed both politically and administratively'

'Municipalities adhered to the smart concept on the project by considering alignment between MTAS, IDP and the budget'

'The enthusiasm that was displayed by Councillors and senior officials is commendable.'

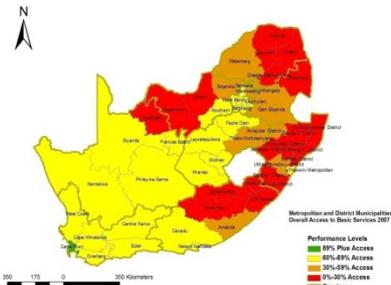
Report to 15 April LGTAS Coordinators' meeting: Free State:

- a. Provincial IGWG team representative of all stakeholders, PMU unit, etc were established
- b. The coordination became the joint responsibility with the Premier's office
- c. Municipalities led their municipal specific processes, where representatives were divided into 5 commissions based on their knowledge of focal point issues.
- d. All commissions were chaired either by a councillor or a section 57 manager

WHAT NEEDS TO BE DONE DIFFERENTLY ?



Differentiated approach



Access to basic services



Community Work Programme

DELIVERY AGREEMENT

For Outcome 9:

A Responsive, accountable, effective and efficient local government system



Single window of coordination



Municipal Finance & Administration



Support to Human Settlements



Refined Ward Committee Model

Taking Differentiation forward: Work in Progress

Four proposed classes of municipalities
Derived from spatial, social, municipal capacity and economic indicators. This index is indicative of municipalities' vulnerability:

Class 1: Very high vulnerability:

Local Municipalities: 57
District Municipalities: 12

Class 2: High vulnerability:

Local Municipalities 58
District Municipalities: 11

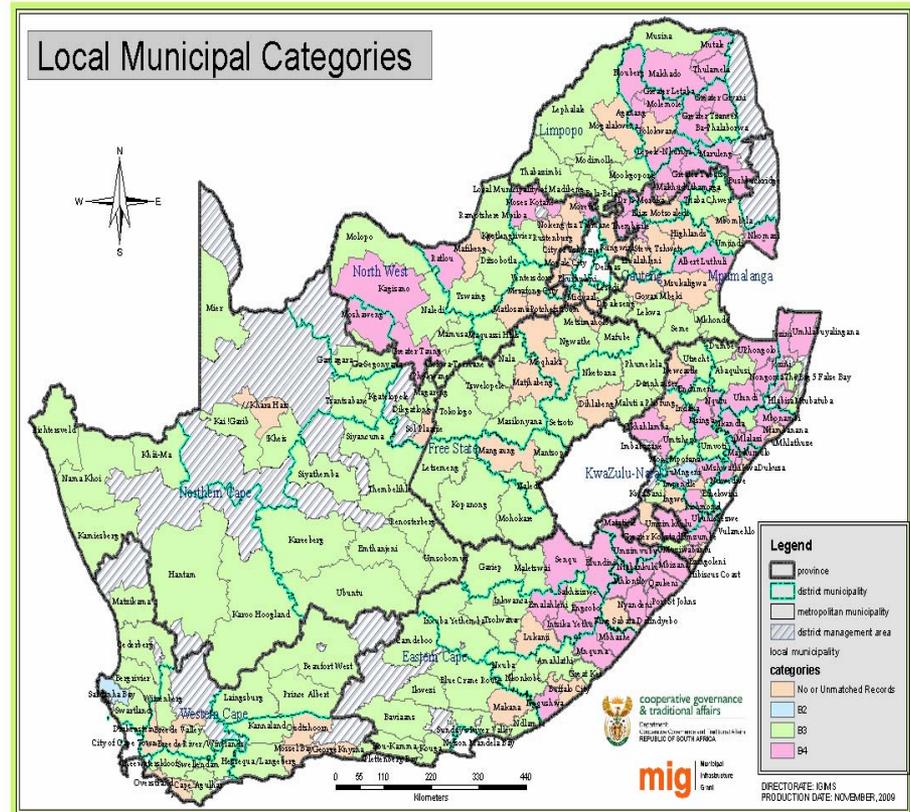
Class 3: Medium vulnerability:

Local Municipalities: 58
District Municipalities: 13

Class 4: Low vulnerability

Metro's: 6,
Local Municipalities: 58
District Municipalities: 12

National Treasury classification of municipal capacity to implement the MFMA and the audit opinions are also taken into consideration.



Once finalised, the new ‘segmented model’ of differentiation will form the **bedrock of the new approach to supporting LG.**

It will inform frameworks for support and intervention developed for the LGTAS and for implementation of Outcome 9.

Supporting Local Government: *What will be done differently through the approach of LGTAS?*

PREVIOUS SUPPORT INITIATIVES	DELIVERY FOCUS FOR LGTAS
<p>Insufficient focus on support and systems for effective <i>implementation</i> of policy and programmes.</p>	<p>Outcomes-Based Approach: Doing things differently: work 'harder, faster and smarter' for efficiency, effectiveness and development orientation of the public service.</p>
<p>1. Driven by technocrats with insufficient guidance and oversight by the executive.</p>	<p>Hands-on political leadership, management, and oversight.</p>
<p>2. Uncoordinated response to responding to symptoms – pre-emptive solutions, rather than application of cause and effect logic, or theory of change.</p>	<p>Focus on underlying root causes of struggles in local government; transcend the obstacles of the past; new, focused 'all-of-government' approach to improving LG performance</p>
<p>3. Progress managed through <i>voluntary</i> intergovernmental cooperation, not well monitored, poor accountability, uneven responsiveness to need for change.</p>	<p>Stronger intergovernmental management & coordination: Monitor and report to MinMec</p>

Supporting Local Government: *What will be done differently through the approach of LGTAS?*

PREVIOUS SUPPORT INITIATIVES	DELIVERY FOCUS FOR LGTAS
Myriad IGR Structures	Refined and expanded mandate for DCoG: A Single Window of Coordination .
Parachuting projects into municipalities	Protecting the institutional integrity of municipalities by working together with the key structures of coordination in each sphere. National and provincial projects affecting a local area must be included in the municipal IDP.
Addressing problems manifesting from uncoordinated legislative amendments.	Structured review of policy and legislation.

CHANGES REQUIRED TO EXISTING INSTITUTIONAL ARRANGEMENTS, MANAGEMENT PROCESSES AND SKILLS

- a. Improved 'early-warning' system for failing municipalities
- b. Improved & better coordinated support measures, particularly in the 'after care' phase
- c. Strengthened means for intergovernmental oversight
- d. Provincial Departments responsible for Local Government and the Offices of the Premier to be better resourced, structured and capacitated to perform the role of a single window of coordination at a provincial level
- e. Better understanding /role clarification between administration and political interfaces in the local sphere
- f. Improved accountability measures, support systems and resources for local democracy (ward committees)



WAY FORWARD:

The following critical issues need attention going forward:

- a) Establishment of the LGTAS National Command Unit (NCU);
- b) **Improved coordination** and management with regard to existing limited resources and the need to provide additional resources where required (e.g. water provision) for purposes of implementation of the MTAS's;
- c) An improved **communication strategy** to reflect positively on the achievements of provinces and municipalities in relation to the implementation of the LGTAS;

WAY FORWARD:

- e) Identifying and supporting which municipalities are not sustainable e.g. credible means of revenue generation and resulting decisions on their future existence as part of the process to implement the LGTAS;
- f) Building the capacity of the provincial departments of local government by ensuring that they have a common set of functions and human resource capacity that is required to support local government.

PART FOUR:

FUNDING MODEL FOR WARD COMMITTEE MEMBERS

FUNDING MODEL FOR WARD COMMITTEE MEMBERS



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BACKGROUND

October 2008 - Promulgation of Local Government Laws Amendment Act , 2008: Section 73 (5) (a) & (e) of the **Local Government: Municipal Structures Act, 1998, as amended**

“ (b) A metro or local council must develop a policy and determine criteria for and calculation of the out of pocket expenses referred to in paragraph (c) based on a provincial framework determined by the MEC subject to paragraph (e)

(e) The Minister must determine a national framework including criteria for the calculation of the out of pocket expenses referred to in paragraph (b)”

BACKGROUND (Cont)

- **February 2009** - the Minister presented to Cabinet and approval was granted for the Framework to be published for public comments.
- **April 2009** - National Framework Gazetted for Public Comments
- **October 2009** – National Framework: Out of pocket expenses for Ward Committee members, 2009, published



OBJECT OF THE NATIONAL FRAMEWORK

- To improve ward committee functionality by ensuring that ward committee members are more active and able to effectively support their elected ward councillors to serve the community.
- To reimburse ward committee members with any 'out of pocket' expenses that they may have reasonably incurred in undertaking their duties.
- To provide guidelines for provinces to develop provincial specific frameworks within which metropolitan and local councils should set policies for the payment of out of pocket expenses for ward committee members.



ROLE OF MUNICIPALITIES

- Access to office space and equipment;
- Provide technical and administrative assistance through dedicated municipal staff;
- Communication material and community interaction systems and campaigns; and
- Out of pocket expenses for ward committee members



COST DETERMINANTS

- Size and population of the wards
- Number of wards
- Frequency of meetings
- Revenue Base



FUNDING SOURCES

- Municipal Own Revenue Sources
- Local Government Equitable Share (LGES)
- Municipal Systems Improvement Grant (MSIG)



CONSULTATION PROCESS

- A draft Ward Committee Funding Model - presented to a Community Participation and Multilingualism Conference - Government Departments, Municipalities, South African Local Government Association (SALGA), Private Sector & NGOs/CBOs
- National Treasury - consulted as a key stakeholder to contribute in the development of the funding model
- Gazetted for public comments
- Provincial MECs for Local Government consulted



CONCLUSION

MINISTER'S BUDGET SPEECH: *Our strategic posture is guided by the imperative of building a developmental state. We are also guided by the urgent imperative of turning around local government by 2011. It is our intention that by 2011 and 2014 we should have achieved the following:*

- Ward Committees should be given the necessary powers and resources to develop and implement a Ward Development Plan by 2011
- Increased and effective monitoring of service providers by public representatives, officials and communities
- A reformed regime of remuneration and provision for tools of trade for Councillors, **Ward Committee Members** and CDWs by 2011



THANK YOU!



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