



**NATIONAL TREASURY
REPUBLIC OF SOUTH AFRICA**

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**INTERPRETATION OF PFMA, DORA AND TREASURY REGULATIONS WITH
REGARD TO ADVANCE PAYMENTS**


1. Your correspondence dated 25 February 2009 with regard to the above has reference.
2. The Public Finance Management Act (PFMA), 1999 (Act 1 of 1999) promotes the objective of good financial management in order to maximise service delivery through the effective and efficient use of limited state resources.
3. One of the key objectives of the Act is to enable public sector managers to manage, but at the same time holds them accountable for their financial management decisions.
4. In terms of section 38(1)(a)(i) of the PFMA, the accounting officer of a department must ensure that his or her department has and maintains effective, efficient and transparent systems of financial and risk management and internal control.
5. Section 38(1)(b) of the Act also makes accounting officers of departments responsible for the effective, efficient, economical and transparent use of their respective department's resources.

Interpretation of Treasury Regulations and PFMA:
Treasury Regulation 15.10.1.2 dealing with payments in advance

6. In your correspondence dated 18 February 2009 and 25 February 2009, it is indicated that the Independent Development Trust (IDT) implements projects on behalf of government departments. According to the contracts covering these engagements, the IDT acts as an implementing agent for departments and consequently requires departments to make initial advances based on projected cash flows.
7. In terms of Treasury Regulation 15.10.1.1, accounting officers of departments are responsible for establishing systems, procedures and processes to ensure efficient and effective banking and cash management.
8. Treasury Regulation 15.10.1.2(c) provides that 'sound cash management includes avoiding prepayments for goods and services (i.e. payments in advance of the receipt of goods and services), unless required by contractual arrangements with the supplier.'
9. In your correspondence dated 18 February 2009 and 25 February 2009, concern is raised that chief financial officers of certain departments appear reluctant to make advances to the IDT due to the provisions of Treasury Regulation 15.10.1.2(c).
10. This reluctance by departments appears to be impacting negatively on the IDT's ability to implement projects on behalf of departments, based on its business model referred to in paragraph 6 above.
11. Whilst Treasury Regulation 15.10.1.2(c) does not preclude departments from making advances, it is the intention that accounting officers exercise caution when making such advances, taking cognisance of, amongst others, the risks associated with making such an advance.
12. The IDT as an implementing agent for departments is, however, not a supplier in terms of the standard contract of engagement. As an implementing agent, the advance made cannot be construed as a payment at the time when the advance is made. It is only after the IDT has completed its procurement processes, has appointed a service provider and has received the goods and/or services that a payment is made (on behalf of the relevant department). With the entity following this *modus operandi*, government departments are therefore not prohibited from making initial advances to the IDT as its contracted implementing agent.
13. During discussions on 19 March 2009, the IDTs Chief Financial Officer indicated that several provincial departments had raised concern that the annual Division of Revenue Act (DORA) may prohibit the transferring of funds to the IDT for implementing projects. In this regard, it is worthy of note that money paid in terms of DORA are regulated more specifically whereby the particular schedule in terms of which it is promulgated will determine the processes that should be followed in each particular case. Supplementing funding for provincial functions are normally not further regulated and can be applied according to the preference of the authorised department. In this

particular instance, the IDT may be approached to render such services if required to.

14. Therefore, in the case of specific purpose allocations made in terms of the annual Division of Revenue Act, the conditions specified should be complied with in each case by the relevant province. Most importantly, provincial budget approval should be in place and that the published framework is complied with. If this is in place, it does not prohibit or constrain a provincial department to engage the IDT as its implementing agent to execute projects in terms of conditions that may apply to the grant.
15. In the case of advances, it should however be noted that section 26(2)(c) of the Division of Revenue Act, 2009 requires that a receiving officer may not transfer any Schedule 5 or 6 allocations or a portion of such an allocation to any other entity for the performance of a function unless:
 - (a) the receiving officer has certified to the National Treasury that the transfer is not an attempt to artificially inflate its spending estimates and that there are good reasons for the advance payment; and
 - (b) the National Treasury has approved the advance payment.
16. I trust that the aforementioned explanation brings clarity to your enquiry.


JAYCE NAIR
CHIEF DIRECTOR: GOVERNANCE MONITORING AND COMPLIANCE
DATE: 12 May 2009