



public works

Department:
Public Works
REPUBLIC OF SOUTH AFRICA

DIRECTIVE: CONTINGENT LIABILITY AND ASSETS

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DEPARTMENT OF PUBLIC WORKS

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Glossary of terms

"The Department / DPW" means The National Department of Public Works and its Regional Offices.

"Line Manager" means an official at the level of Director and above at Head Office and Regional Offices, and includes officials that are so designated.

"Official" means an employee of the Department.

"Headquarters" means the place of operation at which the official is based.

"SMS member" or "Senior Manager" means an official at salary level 13 to 16.

"HO/RO" means Head office or Regional Office

"Department" means the Departments of Public Works

"PFMA" means Public Finance Management Act



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1. PURPOSE

- 1.1. The purpose of this circular is to communicate to all Head of Units, Finance Managers and Legal Service officials of the Department on the process to manage Contingent Liabilities and Contingent Assets.

2. ROLES AND RESPONSIBILITIES

2.1. ACCOUNTING OFFICER AND CHIEF FINANCIAL OFFICER

Effective implementation of the Departmental Reporting Framework requires departments to have in

place a range of delegations, policies and procedures that outline the responsibilities within the department for the various elements of the framework. This is primarily the job of the Chief Financial Officer (CFO) who , if delegated by the Accounting Officer, must:

- maintain a close liaison with the accounting officer and all managers;
- respond to changing needs for financial information and advice;
- make a major contribution to the financial aspects of the strategic planning process;
- ensure that internal financial targets and budgets are fully consistent with the strategic plan and any associated agreement with Government;
- manage working capital, assets and liabilities;
- pay accounts and collect receipts;
- maintain systems of internal control, which comply with internal audit requirements; 7
- undertake product and service costing tasks 7



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3. RELATIONSHIP WITH OTHER POLICIES AND CIRCULARS

3.1. Other policies and circulars that are closely related to the Financial Statement Framework Directive are:

- Records Management Policy
- Irregular Expenditure Management Policy
- Debtors and Revenue Management Policy

4. DISCUSSION

4.1. This circular is issued to align the current processes with the preparation guide issued by National Treasury.

4.2. Following are the definitions of Contingent Liability and Contingent Assets

4.2.1. Contingent Liability

4.2.1.1. A Contingent Liability is a possible obligation that arises from past events and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the department; or

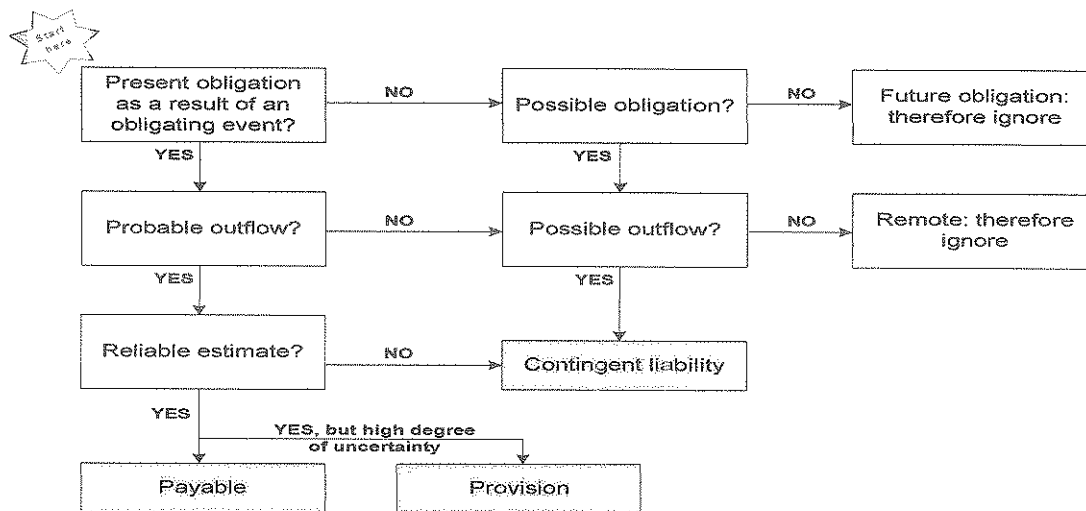
4.2.1.2. A Contingent Liability is a present obligation that arises from past events but is not recognised because:

- i. It is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation; or
- ii. The amount of the obligation cannot be measured with sufficient reliability.


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4.3. The concept is illustrated in the decision trees below.

4.3.1. Contingent liability



4.4. Contingent Asset

4.4.1. A Contingent Asset is a possible asset that arises from past events, and whose existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity.

4.4.2. To understand a Contingent Liability it is important to first understand the concept of a liability and a provision.

4.4.3. In an accrual environment, a liability is recognised when it is either virtually certain or probable (more likely than not) that the entity has a present obligation and the amount can be determined with absolute certainty.

4.5. A provision is a liability and it is recognised when the entity has a present obligation to transfer resources to another party, but there may not be absolute certainty about when it will happen and it is measured at an amount that represents at least a reasonable estimate of the liability.

4.6. With a contingent liability, there is a greater measure of uncertainty about the fulfillment of the obligation (i.e. it is possibly a liability) or there is uncertainty as to when or how much the present obligation will cost the entity.

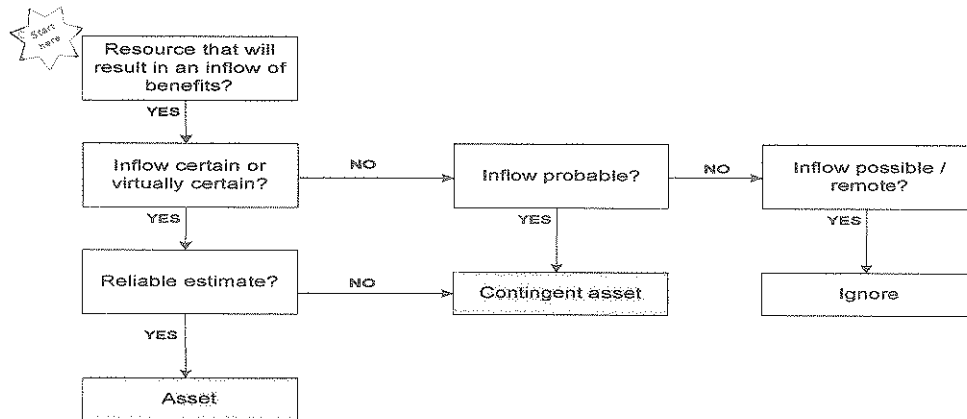
4.7. Similar to a contingent liability, due to the uncertainty with the amount and future outcome, a contingent asset is only disclosed in the disclosure note and not recognised in the statement of


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financial position. The accounting treatment of contingent assets is also the same in an accrual environment.

4.8. The concept is illustrated in the decision trees below

4.8.1. Contingent asset



5. CLAIMS (Contingent Liability)

- 5.1. The amount that must be disclosed in the disclosure note to the Annual Financial Statements of the Department is the estimated settlement value of claims instituted against the Department as at year end.
- 5.2. Method utilized to estimate the value of the contingent liability must be disclosed
- 5.3. Estimate must be done by qualified legal person
- 5.4. Payments made to settle the claims must be paid under the following payments categories:
 - 5.4.1. Ex-gratis (excluding vehicles collisions)
 - 5.4.2. Vehicle collision: Ex-gratia payments
 - 5.4.3. Payments of compensation: other
 - 5.4.4. Vehicles collisions: payments of compensation

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- 5.5. Where final settlement was reached but payments is outstanding as at year end, it represent a provision and should be disclosed as such in the disclosure note


6. VALIDATION

- 6.1. Heads of legal Services must validate the claim upon receipt. Validation of the claim will amongst other factors includes the following:
- 6.1.1. Verify that the claim is intended for the Department of Public Works
 - 6.1.2. All relevant documents pertaining to the summons are attached
 - 6.1.3. An assessments must be made as per the decision tree to determine if the claim must be categorized as Payable or contingent liability
 - i. E.g.: Cases where the Department is contractually liable to make payments i.e. rental for leased property those must be disclosed as payable.

7. ASSESSMENTS

- 7.1. Should the claim qualifies to a contingent liability, Legal Services must assess the merits of the case as per the summons to verify if the case is winnable
- 7.2. Legal Service must review the most likely amount to be paid.
- 7.3. The method used to review the most likely amount must be disclosed (Legal Services to capture the method)
- 7.4. Legal Services must document the method used for the assessments and file the documents with the summons received on the Audit file.

8. REPORTING



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- 8.1. **Meetings must be held monthly** Between Heads of Finance and Heads of Legal Services at the regions to discuss the assessments (merits and quantum) of all cases reported.
- 8.2. Monthly reports must be certified and sent to Head Office (Legal Services) on the 12th of each month and such reports must be sent to Director Financial Accounting.
- 8.3. Quarterly reports for the Interim and Annual Financial Statements must be reviewed and certified by Director Legal Services and Director Financial Accounting at Head Office.
- 8.4. Regional Offices and Head Office must maintain the working files for all cases that are disclosed on the Financial Statement. All minutes of the meetings held must be filled to document all the resolution taken.

9. APPLICABILITY

- 9.1. This circular applies to all Regional Office and Head Office officials within the Department of Public Works for the correct disclosure in the Financial Statement and management of Contingent liability and Contingent asset.
- 9.2. Head of units must ensure that all letters of intent, claims and summons received are reported to Legal Services within 24 hours of receiving.

10. ENQUIRIES

- 10.1. All enquiries pertaining to this circular should be directed to The Director Financial Accounting and Director Litigations

11. Effective date

- 11.1. The directive will be effective from the date of the signature

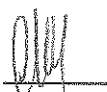
12. TRAINING


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- 12.1. The Directorate Legal Services will provide training on the document to regional offices and Head Office official at the beginning of the financial year.
- 12.2. During the financial year it will be the responsibility of the heads of units to ensure that officials are updated of any new developments with regards to the contingent liabilities and assets.
- 12.3. The directive will be reviewed yearly in line with the financial statements preparation guide

13. References

- National Treasury Regulation
- Public Finance Management Act
- Financial Statements Preparation Guide



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