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Department:
Environment & Nature Conservation
NORTHERN CAPE PROVINCE
REPUBLIC OF SOUTH AFRICA

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DEPARTMENT OF ENVIRONMENT AND NATURE CONSERVATION

CONTINGENT LIABILITIES POLICY 27 SEPTEMBER 2011 FINANCIAL MANAGEMENT UNIT POLICY

A PROSPEROUS AND EQUITABLE SOCIETY LIVING IN HARMONY WITH OUR NATURAL RESOURCES

1. CONCEPTUAL BACKGROUND

1.1 INTRODUCTION

This policy outlines the identification, treatment, recording and disclosure of contingent liabilities of the department according to the requirements of the PFMA

In terms of section 38(1) (d) of the PFMA and section 13.1.4 of the Treasury Regulations The accounting officer of a department is responsible for the management, including the safe-guarding and the maintenance of the assets, *and for the management of the liabilities*, of the department.

The accounting officer must report on all known contingent liabilities of the department in its annual report.

DEFINITION CONTINGENT LIABILITIES

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

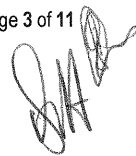
A contingent liability is a present obligation that arises from past events but is not recognised because:

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

1.2 LEGISLATIVE REQUIREMENTS

The following regulatory framework exists:

- Section 40 & 76 of the Public Finance Management Act, (Act No 1 of 1999)
- Treasury Regulations 12 and 22
- Regulations 18 issued in terms of the SA Police Service Act, (Act No 68 of 1995)
- Section 57 of the SA Police Service Act (Act No 68 of 1995)
- Apportionment of Damages Act, 1956 (Act No 34 of 1956)



To understand a contingent liability it is important to first understand the concept of a liability.

In an accrual environment, a liability is recognised when it is either **virtually certain** or **probable (more likely than not)** that the department has a present obligation, the settlement of which will require an outflow of economic benefits or service potential from the department.

A contingent liability is disclosed when it is **possible** that economic benefits will flow from the department, or when an outflow of economic benefits or service potential is probable but cannot be measured reliably.

This concept is illustrated in the table below:

Liabilities	Outflow of economic benefits/service potential		
	Probable (more likely than not)	Possible	Remote
Reliable estimate	Liability (consider including in the note on provisions)	Contingent liability (disclose)	Contingent liability (do nothing)
Not reliable estimate	Contingent liability (disclose)	Contingent liability (disclose)	Contingent liability (do nothing)

The type of disclosures required in the note on contingent liabilities in the financial statement are illustrated below:

Motor vehicle guarantees

The amount that must be disclosed in the department's annual financial statements is the lesser of:

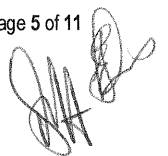
- rand value of the amount guaranteed, or
- the amount outstanding on the loan as at financial year end.

The guarantee will only be settled if a member defaults and the guarantee is called up and is therefore contingent upon that uncertain future event.

This information could be retrieved from Report #7.11.15 on the Persal application. Currently the department did not issue any motor vehicle guarantees and the abovementioned is only applicable for future issued guarantees.

Housing guarantees

The amount that must be disclosed is the rand value of the amount guaranteed as at financial year end.



Note: Where interest is guaranteed, the guaranteed exposure is the sum of capital closing balance and guaranteed interest outstanding, and should be disclosed in the note

It is best practice for the department to agree the value of the guarantee with the guarantor prior to completing the disclosure requirements.

Claims

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 financial year end.

The claim will only be settled when either the court decides that the Department is liable or the Department accepts the liability, both of which are unknown.

Civil claims against the department that have not been settled (by a court order or mutually between the parties) must be included in contingent liabilities. Claims are normally overstated. The amount disclosed is not necessarily the claim amount, but rather the amount determined as the most likely amount that the court will settle on. "Most likely" must be determined by a qualified legal person (such as the State Attorney) or from departmental/provincial history.

The list of current, pending outstanding legal disputes as at financial year end should be obtained from legal services department internally and externally.

SPECIAL CONSIDERATIONS

The following categories are used in respect of payments:

- Ex-gratia (excluding vehicle collisions)
- Vehicle collisions: Ex-gratia payments
- Payment of compensation: Other
- Vehicle collisions: Payments of compensation

Regulation 18(a) of the SA Police Service Act (Act No 68 of 1995) is applicable only in those cases where an official suffered a loss or damage to personal belongings, which are usually carried by such officials during the performance of official duties.

WHERE FINAL SETTLEMENT WAS REACHED AND PAYMENT WAS MADE

These payments will be expensed against the vote. Where final settlement was reached but payment is outstanding as at financial year end, it represents a provision and should be disclosed as such in a disclosure note.

3. POLICY FRAMEWORK

3.1 IDENTIFICATION AND CONSULTATION OF STAKEHOLDERS

This policy does not warrant the inputs of employees because it is regulated by Financial prescripts (requirements of the PFMA) and the Provincial Treasury.

3.2 TIMEFRAMES

This policy was analysed and aligned by the Policy Development, Research and Coordination unit on May 19, 2011. This policy was further modified by incorporating the Departmental letterhead on September 27, 2011.

3.3 IMPLEMENTATION STRATEGY

The implementation date for this policy is _____

3.4 FINANCIAL IMPLICATIONS

The operational implications for this policy will be carried by the Supply Chain Management unit.

3.5 COMMUNICATION

- Provincial Treasury

3.6 COMPLIANCE, MONITORING AND EVALUATION (M&E)

3.7 POLICY REVIEW

This policy will be reviewed when the need arises or in case of the occurrence of extenuating circumstances (political mitigation, or pronouncement by legislation and/or regulations). The contact person for this policy will be required to submit all relevant information pertaining to this policy in conjunction with a signed memo with all amendments (addition or omission) during the third quarter annually.

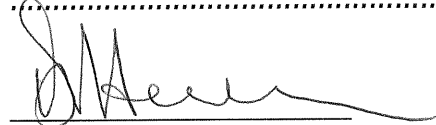
The exception, the Policy development unit will be conducting all extenuating reviews throughout the year, therefore it is paramount that any new information received be submitted to this unit, in order to coordinate the review process of this policy.

3.8 POLICY IMPACT

4. **ADOPTION OF POLICY**

~~Recommended / Not Recommended~~
Comments:

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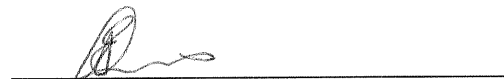


**D VAN HEERDEN
HEAD OF DEPARTMENT**

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DATE

~~Approved / Not Approved~~
Comments:

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**MEC: S LUCAS
MEMBER OF THE EXECUTIVE COUNCIL
DEPARTMENT OF ENVIRONMENT AND
NATURE CONSERVATION.**

7/11/2011
DATE

