



REPUBLIC OF GHANA

**2018 BUDGET
IMPLEMENTATION
INSTRUCTIONS –
GENERAL ISSUES
MINISTRY OF FINANCE**

29TH JANUARY 2018

3.4 THE USE OF PURCHASE ORDER (PO)

All contract awards for goods, services and works must be preceded by a GIFMIS generated Purchase Order (PO). MDAs are to note that it is an offence under Sub-section 1(b) of Section 98 of the PFM Act, to issue a local purchase order outside the Ghana Integrated Financial Management Information System or any other electronic platform in use by Government.

3.5 EXPIRY OF 2017 APPROPRIATION

The 2017 financial year has ended and is officially closed to all transactions. Each appropriation approved by Parliament in 2017, has ceased to have effect, as stipulated in Sub-Section 1 of Section 26 of the PFM Act, 2016, Act 921.

3.6 UNDISCHARGED COMMITMENTS AT THE END OF 2017

All undischarged goods and services as well as capital expenditure commitments at the end of 2017 are to be the first charges on MDAs' 2018 Budget. MDAs that have undischarged commitments from 2017 must initiate and charge them against their approved 2018 Budget. Ministry of Finance will process specific warrants for approval on the GIFMIS platform to facilitate the payment of the outstanding claims.

3.7 PAYMENT OF COMPENSATION IN RESPECT OF LAND AND PROPERTY

As part of measures to streamline payment in respect of compensation arising from acquisition of land by the state or destruction of property as a result of construction of roads or any other infrastructure, MDAs must obtain prior approval from Cabinet before submitting claims to MoF for payment. The request to Cabinet must indicate the past and present ownership, the purpose for the acquisition of the land or property, and any history of related payments, as well as, other relevant documents.

3.8 SIGNATORIES TO APPLICATIONS FOR WARRANTS AND APPROVALS

All written applications for Commencement and Specific warrants and approvals to MoF should be signed by the Minister or Deputy Minister of the MDA. In their absence, the Chief Director may sign the letters. In the case of the Commissions, the Head of the Commission or any of his or her Deputies should sign the letter.

3.9 ADOPTION OF COMPETITIVE TENDER PROCESSES

As part of measures to ensure value for money, government will adopt competitive tender processes to eliminate wastages in the procurement of works, goods and services in the public sector.

3.10 ENFORCEMENT OF THE PUBLIC PROCUREMENT ACT

As part of public expenditure management framework, Government will strictly enforce the provisions of the Public Procurement Act, 2003 (Act 921) as amended by Public Procurement (Amendment) Act, 2016 (Act 914) (the 'Public Procurement Act'), especially with regard to sole sourcing, which has proven to pose significant risks to fiscal policy management. To ensure that public procurements are done within budgetary constraints, it has been deemed expedient to strengthen the procurement process by introducing another level of approval for MDAs and MMDAs. To this end, sole sourced procurements by MDAs and MMDAs beyond **GH¢50 million** shall be subject to explicit approval by **CABINET**, before submission to the Public Procurement Authority (PPA) for consideration and approval. MDAs and MMDAs are to note that for procurements up to **GH¢5million**, written approval of the **SECTOR MINISTER** is needed before submission to the PPA, whilst the written approval of the **MINISTER FOR FINANCE** is needed for procurement with values from **GH¢5 MILLION TO GH¢50 MILLION**, before submission to PPA.

3.11 FORMAL REQUESTS FOR PAYMENT FOR WORKS/GOODS/SERVICES

It has been observed over the years that requests for releases from MDAs for works done, goods supplied or services rendered are not always accompanied by formal request for payment by contractors/suppliers/service providers. With immediate effect, all requests for payment must be accompanied by a formal request for payment from the contractor, supplier or service provider on the company's letterhead, and duly signed by designated director or personnel.

3.12 VERIFICATION AND CERTIFICATION OF MDAs CLAIMS BY INTERNAL AUDIT UNITS

Internal Audit Units of MDAs are required to scrutinize and certify all claims being submitted to MoF requesting for release of funds. With respect to allowances, they must ensure that officials submitting such claims are duly entitled and the rates are in accordance with approved rates issued by MoF.

Besides, Internal Audit Units of MDAs are required to verify and certify claims in respect of works and supply of goods and services. It is expected that Internal Audit Units of MDAs will verify and certify that works have been executed or goods have been supplied and received into store. Heads of Internal Audit Units will issue certification reports indicating that claims in respect of allowances, works and goods as well as services constitute proper charge on government and payment should be made. In the event of the Head of Internal Audit Unit making false certification, the appropriate sanctions under the Public Financial Management Act, 2016, Act 921, will be applied.

3.13 OFFENCES AND PENALTIES UNDER PFM ACT 2016, ACT 921

Ministry of Finance wishes to bring to the attention of all MDAs and MMDAs the offences and penalties indicated in Section 96 of the Public Financial Management Act, 2016, (Act 921), some of which are listed below. All MDAs are required to familiarize themselves with all the offences and penalties in the PFM Act so as to avoid committing them:

- (1) A person, acting in an office or employment connected with the procurement or control of Government stores, or the collection, management or disbursement of amounts in respect of a public fund or a public trust who
 - (a) makes an unauthorised commitment resulting in a financial obligation for the Government,
 - (b) fails to collect moneys due to the Government,
 - (c) is responsible for any improper payment of public funds or payment of money that is not duly verified in line with existing procedures,
 - (d) is responsible for any deficiency in or for the loss, damage or destruction of any public funds, stamp, security, stores or any other Government property,

(e) accepts or receives money or valuable consideration for the performance of an official duty,

(f) in relation to the duties of that person, wilfully makes or signs a false certificate, false return or false entry in a book, or

(g) fails to report knowledge or information in respect of fraud committed by a person against the Government, contrary to any enactment related to public financial management, to the appropriate authority or law enforcement authority

commits an offence and is liable on summary conviction to a term of imprisonment of not less than six months and not more than five years or to a fine of not less than one hundred penalty units and not more than two thousand, five hundred penalty units or to both.

(2) A person, acting in an office or employment connected with the procurement or control of Government stores, or the collection, management or disbursement of amounts in respect of a public fund or a public trust who authorises an expenditure exceeding the approved appropriation in the relevant budget commits an offence and is liable on summary conviction to a term of imprisonment of not less than six months and not more than twelve months or to a fine of not more than the value of the assessed impact of the commitment or to both.

(3) A person who promises, offers or gives money or any other valuable consideration to another person, acting in an office or employment,

(a) connected with the procurement or control of government stores,

(b) connected with the collection, management or disbursement of amounts in respect of a public fund or a public trust, or

(c) with the intent to influence

(i) a decision or action on any question or matter that is pending or is likely to be brought before the person in an official capacity, or

(ii) a person to commit fraud against the Government or to connive with, take part in or allow an opportunity for the commission of the fraud

commits an offence and is liable on summary conviction to a fine of not more than three times the amount offered or accepted or a term of imprisonment of not less than six months and not more than two years or to both.

A Principal Spending Officer or any other public officer shall not commit Government to a financial liability, including contingent liability, unless that Principal Spending Officer is specifically authorized to do so under this Act, the Regulations or directives issued pursuant to this Act. A Principal Spending Officer who contravenes this is liable to an administrative penalty of two thousand penalty units.

(1) A person who

(a) refuses or fails to produce or submit any information required under this Act,

(b) issues a local purchase order outside the Ghana Integrated Financial Management Information System or any other electronic platform in use by Government,

(c) misuses or permits the misuse of any Government property which results in a loss of public resources,

(d) contravenes or knowingly permits another person to contravene a provision of this Act or the Regulations, or

(e) instigates another person to contravene a provision of this Act or the Regulations,

commits an offence and where no penalty is provided for the offence, is liable on summary conviction to a fine of not less than one hundred and fifty penalty units and not more than two hundred and fifty penalty units or to a term of imprisonment of not less than six months and not more than two years or to both.

(2) A person who contravenes sub-section (1) is, in addition to the penalty specified in that subsection

(a) liable for any liability contracted on behalf of Government as a result of the contravention; and

(b) subject to disciplinary action by Government including dismissal, demotion or suspension.

3.14 OFFERING LETTERS OF GUARANTEE OR UNDERTAKING TO CONTRACTORS

It has come to the attention of MoF that in spite of Circular No. D39/SF.55 dated 19th July 2013 issued by the Attorney-General’s Department to MDAs to stop giving letters of guarantee or undertaking to contractors, some MDAs continue with the practice. In the event of a contractor or service provider failing to pay its financier, the MDA or the State, as a result of the guarantee or undertaking becomes liable to pay the financier, causing the State to end up in legal tussles which often lead to judgment debt. As a way of safeguarding the interest of the State, it is now required that all MDAs and MMDAs insert the understated clause in all contracts/agreements in order for them to be paid.

“Pursuant to section 96 (1) of the Public Financial Management Act, 2016, (Act 921), it is an offence to make an unauthorised commitment resulting in a financial obligation for the Government.

I (contractor/supplier name) understand and acknowledge that any unauthorized letter of guarantee or undertaking issued under this contract is unlawful, null and void ab initio, and is not legally binding on government. I understand, acknowledge and agree that any judgment or garnishee order that may be issued in my favour as a result of breach of this contract shall be enforceable against that particular MDA and shall not be enforceable against any other Ministry, Department or Agency of the Government of Ghana that is not a party to this contract.

I understand that, “unauthorized letter of guarantee or undertaking” means one that has not been approved by the Ministry of Finance.”

3.15 LETTERS OF CREDIT

All MDAs/MMDAs that have established one letter of credit (LC) or more that are due for maturity in 2018 are required to meet the claims from their 2018 approved estimates as there is no central vote to cover the LC claims.

3.16 LIFTING OF FUEL BY SECURITY AGENCIES

All Security Agencies are informed that there is no central vote for payment of fuel lifting. Consequently, all expenditures in respect of fuel lifting are to be met from their 2018 Goods and Services approved budget.

3.17 DUTIES AND TAXES

All MDAs are reminded that, they will bear all duties, taxes and other related fees and charges in respect of all imports, local purchases and contracts.

3.18 SOCIAL INTERVENTION PROGRAMMES

All MDAs that have responsibility for implementing social intervention programmes in employment generation, health, education, poverty reduction and sanitation are required to submit detailed quarterly reports on the implementation/performance of these programmes to MoF.

4.0 COMPREHENSIVE RESOURCE ENVELOPE OF MDAs

The approved 2018 Budget of MDAs made progress in capturing all sources of funding to MDAs, including Development Partners Funds (Loans and Grants), Internally Generated Funds and Government of Ghana Funds. MDAs must note that any loan or debt agreement which was not in the 2018 budget cannot be serviced in the 2018 financial year (either by way of drawdown disbursement, down payment or principal or interest payment). From 2018, MoF will ensure that Budgetary Allocations encompass the full scope and nature of the Budgetary Resource Envelope of MDAs, including proper attribution of Development Partner Funds.

4.1 RETENTION OF INTERNALLY GENERATED FUNDS (IGF)

MDAs that have authorisation to retain and use all or portions of their IGFs are required to ensure that due processes are followed in the use of such funds, as per the 2018 Appropriation Act and MDAs Retention of Funds Act, 2007 (Act 735).

4.2 PROCESSING OF IGF TRANSACTIONS

Effective 2018, all IGF generating institutions are required to process their retained IGF portions on the GIFMIS platform. All MDAs are requested to collaborate with the GIFMIS Secretariat to ensure the system is fully installed or configured at their offices to facilitate processing of transactions. Any MDA that cannot process their IGF through the GIFMIS platform for any reason, must seek and receive prior, written authorization from the Controller and Accountant-General before processing their IGF outside the GIFMIS platform.

4.3 GROSS LODGEMENT OF IGF

In line with Government's Capping of earmarked funds Policy, MDAs that have authorisation to retain and use all or portions of their IGF are required to:

- i. lodge all IGF revenue into their respective Holding Accounts opened and maintained for all MDAs at the Bank of Ghana;
- ii. For MDAs that do not lodge their collections into the Holding accounts at Bank of Ghana:
 - a. lodge all IGF collections (Gross) into their respective Operational IGF Accounts at commercial banks;
 - b. The Commercial Banks will be authorised, through standing orders, to split and transfer the appropriate portion of the IGF (that is not to be retained in accordance with the Capping Act) to the appropriate account at Bank of Ghana.

4.4 CEILING ON CONTRACTING AND/OR GUARANTEEING OF NEW NON-CONCESSIONAL EXTERNAL DEBT

All MDAs and SOEs are reminded that for the 2018 fiscal year, Ghana is under the IMF programme. For this, there is an annual ceiling on the contracting or guaranteeing of

non-concessional external debt (commercial loans). This ceiling is now captured as a part of the performance criteria under the IMF programme.

This includes debt contracted or guaranteed by the Government of Ghana and the Bank of Ghana and the following public enterprises: Tema Oil Refinery, Ghana National Petroleum Company, Ghana National Gas Company, Volta River Authority and Electricity Company of Ghana, GRIDCO and Ghana Water Company Limited and the GIIF.

In addition to this, there is an indicative ceiling on new concessional loans. The purpose of all this is to ensure that Ghana's debt dynamics is sustainable over the period.

4.4.1 BORROWING BY MMDAS, PUBLIC CORPORATIONS AND STATE-OWNED ENTERPRISES

All MDAs, MMDAs and SOE's are reminded that in accordance with Section 73 of the PFM Act, a local government authority, public corporation or SOEs is liable for the debt and other obligations without recourse to Central Government, unless otherwise explicitly guaranteed by Government.

4.4.2 BORROWING BY PUBLIC CORPORATIONS AND STATE-OWNED ENTERPRISES

SOEs are reminded that in accordance with Section 76 of the PFM Act, all SOEs may borrow funds up to the limit determined by the Hon Minister for Finance.

4.4.3 REPORTING REQUIREMENTS BY ALL STATE-OWNED ENTERPRISES

SOEs are to report any new borrowings including overdrafts and any securities at least 21 working days after the end of each quarter. The Ministry would like to remind all SOEs on this provision in Section 77 of the PFM Act.

4.4.4 IMPLEMENTATION OF CREDIT RISK ASSESSMENT FRAMEWORK COMMENCED

Government has started the implementation of Credit Risk Assessment Framework (CRAF) in observance of the provisions of the PFM Act. This framework helps to determine, to a large extent, the ability and willingness of SOEs to repay their debt obligations. In this regard, SOEs seeking government support in the form of guarantee and/or on-lending facilities, are evaluated through the CRAF framework before any request is granted.

The implementation of this measure is to ensure that SOEs will remain creditworthy over the medium to long term.

4.5 PUBLIC PRIVATE PARTNERSHIP (PPP)

We wish to draw your attention to the fact that, Government has adopted Public Private Partnership (PPP) as a financing option for the delivery of public infrastructure and services.

To this end, the National Policy on Public Private Partnerships (PPPs) provides the general principles and the steps that will enable MDAs take full advantage of the opportunities under the policy. Currently, the appropriate legislative framework to consolidate the PPP process in Ghana is before Cabinet for consideration.

MDAs that may embark on various PPP arrangements are advised to follow the processes outlined in the National Policy on PPP.

It should be noted that, Government is currently not in a position to provide any form of financial support including guarantees. In this regard, MDAs are to ensure that all PPP arrangements initiated are commercially and financially viable and will not need Government financial support.

Please note that in addition to provisions in the National PPP Policy, this Ministry is available to provide the needed technical support to MDAs during the entire PPP process.

4.6 DEVELOPMENT PARTNER FUNDS

All MDAs are to ensure that due processes for accessing Development Partner Funds are followed to ensure proper accounting and reporting of budgetary inflow from this funding source.

5.0 REALIGNMENT OF STATUTORY FUNDS

As part of measures to reduce rigidities in the budget, Government will continue to cap all Statutory Funds at 25 percent of tax revenue to allow a realignment of the freed-up revenues into the budget for other government priorities, and make possible increased expenditure on such priorities as education, health, agriculture and infrastructure.

6.0 VALUE BOOKS

MDAs that have approval to retain part or all their Internally Generated Funds are required, in line with the 2018 Budget Guidelines, to pay for their Value Books collected from the Controller and Accountant-General's Department, from their Goods and Services votes.

7.0 AWARD OF CONTRACTS IN FOREIGN CURRENCIES

MDAs are reminded that all contracts funded from Government of Ghana (GoG) resources must be awarded in the local currency, the Cedi. In exceptional circumstances where contracts need to be awarded in foreign currency, prior, written approval must be sought from MoF. However, the responsibility for any foreign exchange losses arising thereof shall be borne solely by the MDA from its approved Goods and Service/Capex budget. Contractors/Service providers who wish for payment to be made to an off-shore foreign account will have to bear the bank transfer and telex costs.

8.0 TAX EXEMPTIONS

It has been observed that some MDAs grant tax exemptions, which they have no authority to grant, in contracts. The authority to grant tax exemptions is vested only in Parliament. MDAs should not conclude contract negotiations or sign any Memorandum of Understanding (MOU) that makes provision for tax exemption of any sort, without the involvement of MoF. MDAs are reminded that beneficiaries of tax exemptions are required to pay the relevant duties and taxes and apply for and obtain refunds from GRA.

9.0 MONITORING AND REPORTING

Forthwith, all MDAs are required to provide quarterly reports on expenditures made, progress on the implementation of programmes and sub-programmes and targets using templates provided for the purpose. Scheduled monitoring visits will be undertaken to inspect project sites where necessary for validation. Please note that subsequent quarter releases will be based on receipt of previous quarter's reports.

10.0 CONCLUSION

It is the expectation of Ministry of Finance that, all MDAs/MMDAs/SOEs will cooperate and strictly comply with these instructions for the smooth implementation of the National Budget and facilitate the attainment of government policy objectives in 2018.