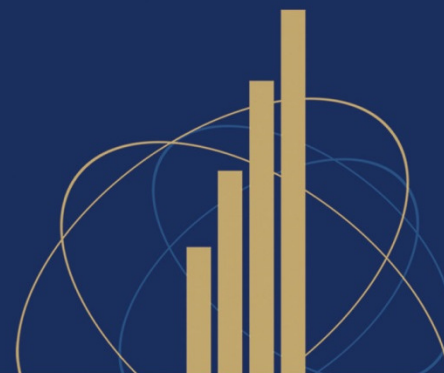




# Functions performed not assigned to municipalities and the budgetary implications (IDP/SDBIP)



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**Definitions:** An **unfunded** mandate is when a provincial or a local sphere of government must perform a function, action or programme but does not get any funding for it. This function is not the constitutional/legislative responsibility of that level or sphere of government, e.g. housing, health provision, emergency services in the case of local government.

**Under-funded** mandate is also not the responsibility of that sphere of government, however, partial funding is received from the responsible sphere of government.

**Non-mandated functions** are those that a sphere of government takes upon itself voluntarily, such as the giving of study bursaries, provision of Wi-Fi services, etc. Although very necessary, however, these are nice to haves and so often local governments cannot afford this since they cannot even perform their constitutional duties.

**Unfunded** mandates are also known as cost shifting in Australia or service responsibility downloading in Canada. Unfunded mandates are a contested terrain between governmental spheres.

### Framework for managing unfunded mandates

- All mandates are to have a legal basis;
- The financial and fiscal implications of a function shifts to the receiving sphere, however, the implications ought to have been clarified with the Financial and Fiscal commission for its recommendations to the Finance minister as prescribed by section 3 of the Financial and Fiscal Commission Act (FFC) (Act 99 of 1997);
- All resources associated with delivering a service are to follow such function, meaning current assets, current and future budgets.
- This requires executive decision-making authority of the assignment or delegation and it must be acknowledged and pledged by both spheres of government.

**Objectives of local government** – Section 152 of the Constitution of the Republic of SA (Act no 106 of 1996).

- Provision of democratic and accountable government;
- Ensuring the provision of sustainable services;
- Promotion of socio-economic development;
- Promotion of a safe and healthy environment; and
- Encouraging community involvement and community organisations in local government matters.

Section 40 of the Constitution – states that local government is a distinctive sphere of government and that the republic constitutes of national, provincial and local spheres of government that are distinctive, interdependent and interrelated, it also refers to the principles of co-operative government and intergovernmental relations

**Functions** can be transferred in terms of the Municipal Systems Act, Act 32 of 2000 (MSA), however, the 2003 amendment thereof prevents unfunded mandates that flow from legislative assignments (section 9 and 10),

A 2003 amendment of the FFC act requires organs of state to assess the financial and fiscal implications before mandating functions and they also have to obtain recommendations from the commission before legislating such delegation of functions.

Section 10A of the MSA requires that the transferring organ must ensure funding and capacity building to go with the imposition of duties to a receiving organ.



### **Principals that are essential for local government funding**

- Only functions that are best performed locally should be devolved to lower levels, taking into account capacity and competency of the individual municipality;
- Delegation agreements should be in place and be in writing, service level agreement (SLA);
- Firstly, a cost-benefit analysis of a service is to be undertaken before accepting a mandate.
- Funding must be according to municipal responsibilities in order to ensure financial sustainability, viability and for the municipality to generate own funding;
- All delegations by higher spheres must be accompanied by the requisite funding/resources;
- Municipal funding sources must be constitutionally entrenched and legislatively guaranteed;

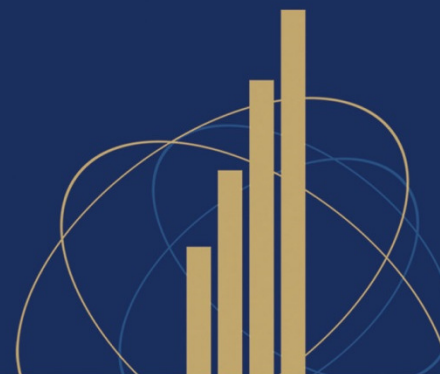
## Impact of unfunded under-funded mandates on IDP/SDBIP

- Conditional grants/transfers ought to be limited to national policies that are executed at local government, e.g. health, environmental protection, social development, etc.
- Municipalities should be able to access international capital markets for borrowing, however, this should be subject to legislation/rules and guidelines with good monitoring in order to prevent major socio-economic upheavals that threaten national financial stability;
- Effective decentralisation and local independence require appropriate fiscal autonomy;
- Funding should largely be from local taxes/fees/charges for cost recovery purposes and for rates and tariffs to be cost reflective; and
- Grants/transfers from national government must be unconditional and not aimed at particular projects while municipal policy discretion should not be impeded by these grants and transfers.





# Thank You!



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