



USAID | **SOUTH AFRICA**
FROM THE AMERICAN PEOPLE

GENERAL MANAGEMENT ASSISTANCE CONTRACT (GMAC)

Contract No: 674-C-00-01-00051-00

MTI Subcontract No.: 0153-0305-PO-TA49

FINAL REPORT

- A. ANALYSIS & RECOMMENDATIONS**
- B. ACCREDITATION FRAMEWORK**
- C. ACCREDITATION GUIDELINES**

Technical services to assist the Government of South Africa's Department of Housing develop a model framework and accompanying implementation guidelines for the accreditation of municipalities to administer national housing programmes

15 August 2005

MATTHEW NELL & ASSOCIATES
in association with
TEAM MANAGEMENT SOLUTIONS

This report was produced for review by the United States Agency for International Development. It was prepared by Matthew Nell and Associates in consortium with Team Management Solutions, under Mega-Tech, Inc.'s prime contract and addresses USAID/South Africa's Strategic Objective No. 6: Increased Access to Shelter and Environmentally Sound Municipal Services



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This final report presents the analysis and recommendations for the development of a framework and model implementation guidelines for the accreditation of municipalities to administer national housing programmes. Two other documents are of relevance and should be read in conjunction with this report. These are:

1. Report 2: Framework for the Accreditation of Municipalities
2. Report 3: Model Implementation Guidelines for the Accreditation of Municipalities to Administer National Housing Programmes

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I. THE ACCREDITATION OF MUNICIPALITIES: ANALYSIS & RECOMMENDATIONS

1. INTRODUCTION

The Department of Housing (the Department), as part of its new Comprehensive Housing Plan, “Breaking New Ground in Housing Delivery,” has begun a process of accrediting metros and large cities to administer national housing programmes as the first step towards the accreditation of the full complement of South African municipalities. Current plans call for the Department to embark on a 10-year, phased programme. This envisages the accreditation of South Africa’s nine largest cities (including metros) in 2005-2006 and of other qualified municipalities during the 2006-2015 period.

Matthew Nell and Associates, in consortium with Team Management Solutions, has been appointed by Mega-Tech Inc. under its prime contract with USAID/South Africa to provide technical services to assist the Government of South Africa’s Department of Housing **(a) develop a framework for the accreditation of municipalities to administer national housing programmes and (b) prepare model implementation guidelines for this purpose.**¹

This document sets out the team’s findings, and constitutes Deliverable 4 in terms of the contract with Mega-Tech. It incorporates comments on the preliminary report (Deliverable 3), as well as those received at the national workshop with key stakeholders at national, provincial and municipal level, which took place on 12 July 2005.

Two other documents are of relevance and should be read in conjunction with this report. These are:

- Framework for the Accreditation of Municipalities
- Model Implementation Guidelines for the Accreditation of Municipalities to Administer National Housing Programmes

1.1. Brief

The Department of Housing seeks to develop a framework to direct the accreditation of municipalities for the administration of national housing programmes and to establish appropriate implementation guidelines for this purpose. The framework is expected to address policy, constitutional, and legislative aspects of accreditation to enable municipalities to manage the full range of housing instruments within their areas of jurisdiction. In order to be accredited, municipalities will have to demonstrate their capacity to plan, implement, and maintain both projects and programmes that are well

¹ Mega-Tech Inc. Contract No. 0153-0305-PO-TA49, Part 1, Section 1.1, Purpose.

integrated within IDPs and the three-year rolling capital investment programmes mandated by the Municipal Finance Management Act (MFMA).

The team has been asked to (a) develop a framework for the accreditation of municipalities to administer national housing programmes and (b) prepare the necessary documentation and implementation guidelines for the first phase of the accreditation process, focusing on achieving accreditation of the first nine largest cities (3 metros and 6 aspirants) by the Department by the end of 2005.²

Key issues and objectives of the Department in terms of the overall municipal accreditation process are to³:

- **National Housing Code:**
 - determine whether the underlying guidance for the accreditation of municipalities, as contained in the current National Housing Code: (a) is sufficient and can continue to be applied or (b) requires amendment and/or policy enhancement to facilitate the accreditation of municipalities;
 - identify and address gaps in the current Code that are likely to impact on the accreditation framework and implementation guidelines;
- **Definition of accreditation:** examine the two principles for decentralisation of the housing function, namely assignment and delegation, and determine the most appropriate principle for accreditation;
- **Roles and responsibilities** to be undertaken by municipalities and provincial housing departments, if applicable, in the housing delivery process;
- **Accountability:** establish the appropriate levels of accountability of accounting officers in both the municipalities and the provincial housing departments;
- **Funding:** consider the management of the housing subsidy funding and the manner in which funding will flow to the development agents, given the different levels of accreditation;
- **Performance requirements:** establish the performance requirements and code of conduct for the contracting parties, penalty clauses for non-performance, and exit strategies;
- **Transferable assets:** define the manner in which transferable assets should be dealt with, in the event of these assets being perceived as historic liabilities;
- **Institutional arrangements and operational funding:** consider the post establishment, structure requirements, and the funding in respect of operationalising dedicated housing units in the accredited municipalities, taking into account the status of existing housing units and the manner in which they are currently being funded;
- **Human resources:**
 - consider the roles and responsibilities of the different levels of personnel that will be required for the various levels of accreditation;

² Mega-Tech Inc. Contract No. 0153-0305-PO-TA49, Part 1, Section 2.3, Contractor Tasks

³ Mega-Tech Inc. Contract No. 0153-0305-PO-TA49, Part 1, Section 2.2, Background

- examine the employment conditions of the staff in both the provincial and the local spheres of government and consider the extent to which transfers may be necessary;
- **Arbitration:** define whether the right to act as arbiter should reside with the Department in the event of a dispute arising;
- **Business plans and contracts:** establish the formats for the content and framework of all business plans and contracts;
- **Monitoring & evaluation:** define monitoring and evaluation indicators; and
- **IT systems:** detail the information system requirements in respect of accessing the Housing Subsidy System, the National Housing Subsidy Database, the National Population Registry, and the National Deeds Office.

While the more immediate focus is on these issues and objectives as they apply to accreditation of the metros and larger municipalities, the brief also notes that the possible future accreditation of district municipalities and the impact of this type of accreditation on legislation are also of concern to the Department.

1.2. Methodology

In response to the brief, the approach comprised four phases:

- **Phase 1: Project initiation:** This phase involved an initial briefing session, a background literature review, and the preparation of a Work Plan. This was submitted to the Department on 30 May 2005.
- **Phase 2: Research:** Structured interviews with the relevant municipal, provincial and national officials were held. that the brief determined that the three case studies would be eThekweni in KwaZulu Natal, Ekurhuleni in Gauteng, and Cape Town in the Western Cape, all of whom have expressed an intention to become accredited and who are at various stages of the existing process. Respondents included those set out in the following table.

Table 1: Interviews held

Location	Interviews held
eThekweni, KwaZulu Natal	<ul style="list-style-type: none"> • Combined KZN DoH and eThekweni meeting with <ul style="list-style-type: none"> ○ KZN DoH: SZF Nyabdu, D Dunstan, SA Mncabe, M Zwana, R Mohan, C Robinson, N Qhobosheane, B Shabane ○ eThekweni: C Pather, S Thabede, M Byerley, W Ngubane, Y Sacoor, P Babudayal. • Individual meetings held with: <ul style="list-style-type: none"> ○ Yunus Sacoor (eThekweni) ○ Mark Byerley and Paul Babudayal (eThekweni) ○ Cogie Pather (eThekweni) ○ Nonhlanhla Qhobosheane Dave Dunstan (KZN DoH)
Cape Town, Western Cape	Meetings held with: <ul style="list-style-type: none"> • Seth Makethuka, Basil Davidson, Jens Kuhn (City of Cape Town) • Hildegard Fas (W Cape DoH)
Ekurhuleni, Gauteng	Meetings held with: <ul style="list-style-type: none"> • Willem Odendaal (Gauteng DoH)

Location	Interviews held
	<ul style="list-style-type: none"> • Neville Chaine (Ekurhuleni)
National Government	<ul style="list-style-type: none"> • Sharon Lewis (Treasury) • J Wallis, D von Broembsen, L vd Walt, J Bayat, E Graaf, R Becker (National DoH)

In the course of these interviews, the team received further documentation regarding the accreditation efforts of specific municipalities and key issues such as the funding formula. A full list of literature reviewed as part of this study is attached as Annexure 1.

Finally, the team participated as observers in the Department of Housing's own accreditation workshop with key municipal and provincial officials on 14 June 2005.

- **Phase 3: Preliminary proposals:** This phase involved the consideration of key issues and the development of preliminary proposals based on the analysis conducted in Phase 2. It culminated in the preparation of a draft report including the team's preliminary findings and recommendations as well as the accreditation framework. The report was presented at a workshop on 12 July 2005. The list of key issues raised at the workshop is included in Annexure 2.
- **Phase 4: Final Proposals:** This phase involved the finalisation of proposals in this Final Report, which compiles the findings of the project and incorporates comments received in Phase 3.

2. BACKGROUND

Municipal accreditation for the administration of national housing programmes is not a new concept. Rooted in the principle of cooperative governance, as set out in Chapter 3 of the Constitution, the application of the concepts of assignment or delegation of functions to municipalities in respect of housing is set out in Section 10 of the Housing Act, 1997. The Housing Act explicitly states

10 (1) Any municipality may apply in writing to the MEC in the form determined by the MEC to be accredited under subsection (2) for the purposes of administering one or more national housing programmes.

Further sub-sections of the Act go on to describe application, role, funding and monitoring of accredited municipalities. The mechanism for accreditation is set out in Part 2, Section 2.3 of the National Housing Code:

“It is the constitutional responsibility of both national and provincial government to assign to a municipality the administration of matters such as housing if that matter would be more effectively administered at a local level and if the municipality has the capacity to administer it. In this regard, and in keeping with the spirit of devolution, the Housing Act provides for the accreditation of municipalities to administer national housing programmes.”

And further

“A municipality is accredited if an application to the MEC for accreditation status is approved.”

Notwithstanding these legislative parameters, however, accreditation has not happened. In 2000 the erstwhile Durban Metropolitan Council (eThekweni municipality) submitted the first application to the MEC for Housing in KwaZulu Natal. eThekweni argued that it had the capacity to administer national housing programmes. However, the application was not supported at provincial level and consequently accreditation was not granted.

Since then, other cities have engaged to varying degrees with accreditation with their respective provincial housing MECs.

To date, no municipalities have been formally accredited to administer national housing programmes.

The issue of accreditation has retained national attention, however, primarily because of the linkage it is believed to have with improved delivery. In his 21 May 2004 State of the Nation address, President Thabo Mbeki made reference to the need to ‘strengthen our system of local government’, so that it will make a meaningful contribution towards the struggle against poverty and underdevelopment. He pointed out that this needed to take place within the context of an even stronger system of cooperative governance, the foundation for which had already been laid by the passing of the Intergovernmental Relations Framework during the current year. The President also expressed concern about the slow pace of housing delivery in some of the provinces, and he expressed the desire to see an intensification of the housing delivery programme with the assistance of the relevant role-players.

2.1. Legislative instruction via DORA in 2005

Possibly as a result of the President's comments, the 2005 edition of the annual Division of Revenue Act (DORA) addresses the issue of municipal accreditation in respect of housing programmes explicitly. A direct extract from the Act is set out in Section 3, below.

The constitutional principle of devolution, as set out in section 156 of the national constitution, is clearly evident within DORA's legislative instruction.⁴ Treasury is of the view that funding and implementation efficiency of local delivery initiatives is dependent on funding streams being targeted directly at the local level. In the context of substantial housing backlogs across the country, it is expected that such devolution will result in more efficient and therefore accelerated delivery. Further, it is hoped that the coordination of funding will also result in the coordination of development processes. In this regard, mechanisms to devolve the Municipal Infrastructure Grant (MIG) have already been developed, and it is expected that mechanisms to devolve transport subsidies will also be developed. It is Treasury's long term expectation that accreditation to administer national housing programmes will eventually be extended to all municipalities across the country.⁵

There is a variety of legislation that together calls for and impacts upon the issue of municipal accreditation for the administration of national housing programmes. This broad policy and legislative framework is set out in Part 1 Section 3, of this report. DORA 2005, however, is the most forceful of these, and has made the issue an area for urgent attention by the national and provincial Departments of Housing as well as municipalities.

2.2. Department of Housing's national programme for municipal accreditation

The national Department of Housing's emphasis on the accreditation of municipalities to administer national housing programmes stems from a very real concern with the pace and nature of housing delivery at the local level. In her Budget Speech in June 2004, the Minister of Housing, Dr Lindiwe Sisulu argued that the Department of Housing needed to create appropriate mechanisms which will facilitate the delivery of houses. She added that the capacitation of municipalities and the need to fast-track mechanisms for land availability were high priorities on her agenda.

Government's commitment to this issue was reinforced in September 2004, with the Cabinet approval of the Department of Housing's "Breaking New Ground" housing strategy. The slowdown in delivery and the under-expenditure of provincial budgets is noted in Breaking New Ground with concern. The strategy document explains:

Capacity constraints exist in all spheres of government, but have been experienced most acutely at local government level. The ability of local government to facilitate the establishment of sustainable housing environments is threatened by a lack of capacity to effectively package and align departmental funding streams, employ innovative planning principles, acquire affordable land and sustain a dedicated group of officials.

⁴ Section 156(4) of the Constitution also states that: "The national government and provincial governments must assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5 which necessarily relates to local government, if: (a) that matter would most effectively be administered locally; and (b) the municipality has the capacity to administer."

⁵ Discussion with Sharon Lewis, National Treasury, on 17 July 2005.

Later, the strategy document establishes “the accreditation of municipalities” to be a key intervention within an overall strategy to adjust institutional arrangements with government.

At its meeting on 14-15 October 2004, the Heads of Housing Departments Committee resolved that:

- a. *Each Provincial Housing Department will enter into negotiations with a relevant Metro and/or a large city council within the Province that has the financial, administrative, professional and technological capacity to fulfill its housing responsibilities and to administer the National Housing Programmes, either as a level one or level two accredited municipality;*
- b. *the Provincial Housing Departments will then enter into negotiations with the relevant Municipality, draw up an agreement for the applicable level of accreditation status;*
- c. *the names of the identified Metro/cities will be forwarded to the National Department on or before 30 November 2004; and*
- d. *each Provincial Housing Department will forward a report to the National Department which will detail the processes and procedures put into place; the agreements arrived at and the manner in which the agreements would be implemented.⁶*

In terms of its draft framework, the Department is planning to accredit nine municipalities in 2005/06, a further nine in 2006/07 and another fifteen in 2007/08. The municipalities that have been identified in this regard for 2005/06 are set out below.

Table 2: Municipalities proposed for accreditation in 2005/06

FINANCIAL YEAR	NUMBER OF PROPOSED <i>LEVEL 1 OR LEVEL 2</i> ACCREDITATIONS
2005/06	Eastern Cape: Nelson Mandela Free State: Mangaung Gauteng: Ekurhuleni KwaZulu-Natal: e'Thekwini Limpopo: Polokwane Mpumalanga: To confirm Northern Cape: To confirm North West: To confirm Western Cape: To confirm

⁶ Letter from the Acting Director General, National Department of Housing, to Heads of Departments regarding accreditation of municipalities, dated 23 November 2004.

3. POLICY AND LEGISLATIVE FRAMEWORK

The policy and legislative framework for the accreditation of municipalities to administer national housing programmes is rooted in the constitution and detailed in the Housing Act, 1997, the National Housing Code, 2000, and other legislation. Further to this, recent developments in respect of national housing policy, the annual Division of Revenue Act, 2005, and the draft guidelines to the Municipal Systems Act have shifted the terrain somewhat. These issues and their implications are considered in the sections below.

3.1. Existing Framework

The existing policy and legislative framework that has provided a basis for municipal accreditation up until now includes the Constitution, the Housing Act (1997), the National Housing Code (2000), and provincial legislation and statutes. The relevance of these specifically to accreditation is discussed in the following sections.

3.1.1. The Constitution

The overall provision for municipal assignment is set out quite clearly in the constitution. Section 156(4) of the Constitution provides that the national government *must* assign to a municipality, *by agreement*, and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5. Part A of Schedule 4 includes the item “housing”. Once assigned, the municipality would also have the power to legislate in respect of what it is entitled to administer. This provision arises from the constitutional principles of devolution and cooperative government (as set out in Chapter 3) and that, simply, specific matters and functions should necessarily relate to local government if such matters or functions would most effectively be administered locally and the municipality has sufficient capacity in this regard.

In addition to section 156(4), there are three further provisions of relevance:

- Section 99 and section 126 of the Constitution allow for the assignment of an executive statutory power or function from a Cabinet Member that is to be exercised or performed in terms of an Act of Parliament to a Municipal Council and from an MEC to a Municipal Council respectively. These assignments *require agreement between the relevant Cabinet Member or MEC and the Municipal Council, must be consistent with the Act in terms of which the relevant power or function is exercised or performed and takes effect upon proclamation in the gazette by the President, or Premier as the case may be.*
- Section 238 of the Constitution allows national or provincial government to delegate specific statutory functions and the power to exercise any power or perform any function for any other executive organ of state on an agency or delegation basis. Delegation here is not delegation of powers within an organ of state from one individual to another but from the national/provincial sphere to the municipal sphere. Still, there needs to be specific legislation in each case, and allowing for the delegation.

3.1.2. The Housing Act, 1997

The provisions of the Housing Act, 1997 (Act No. 107 of 1997) and particularly section 10 thereof have the most substantial impact on the accreditation of municipalities and the administration of subsidies at municipal level.

Section 10 states that:

- **Application:** A municipality may apply to the MEC in the form determined by the MEC to be accredited for purposes of administering one or more national housing programmes (s10(1)).
- **Obligation by MEC to accredit municipalities that comply with the criteria:** If the MEC is satisfied that the municipality which made an application complies with the criteria for the accreditation of municipalities as determined by the Minister of Housing after consultation with the MEC, the MEC *must* accredit the municipality for purposes of one or more of the national housing programmes mentioned in the application (s10(2)(a)).
- **Substance of accreditation:** An accredited municipality may administer any national housing programme in respect of which accreditation has been granted but “subject the directions of the MEC consistent with the national housing policy” (s10(3)(a)).
- **Municipal obligations in respect of national policy:** It must in the performance of its functions under the section carry out the policy directives of the MEC consistent with national housing policy, including the rules of any applicable national housing programme (s10(5)(a)).
- **Effect of accreditation:** It may exercise such powers and must perform such duties of the relevant PHDB (now department) as are necessary for the administration of such national housing programme (s10(3)(b)).
- **Performance review:** The MEC must regularly review an accredited municipality “on the basis of adequate performance against the criteria for accreditation” (s10(c)(i)).
 - *Reporting:* The MEC may request a municipality to report on its activities under the section (s10(5)(b)).
 - *Provincial sanction against municipal failure to perform:* If the municipality fails to perform, the MEC may intervene and take the steps necessary to ensure adequate performance (s10(3)(c)(ii)).
- **Funding:** The MEC may, after consultation with the PHDB (now department), out of money paid into the relevant provincial housing development fund, allocate to an accredited municipality in the province such amounts as the MEC consider necessary (s10(4)(a)).
- **Accounting and financial reporting:** The accounting officer must out of the money allocated to the municipality transfer such money as may be required for the administration of (i) the housing subsidy scheme and (ii) any other national housing programme (s10(4)(b)).

- *The accounting officer remains the accounting officer in respect of money so transferred (s10(4)(c)).* Whilst there are provisions for delegation by the Director General of his or her duties (except as accounting officer under sections 11(5) and 12(2)(b)), these duties may only be delegated to staff in the department (s18).
- A municipality must maintain separate accounts into which money transferred must be deposited and out of which all disbursements in connection with the administration of the national housing programme in question must be made (s10(4)(d)).
- For the disbursement of money to a vendor for VAT purposes, the municipality is considered the agent of the province (s10(e)).
- The CEO of the municipality must as soon as possible but within two months of 31 March each year, submit detailed statements signed by him or her, showing the results of the previous year's transactions and the balance sheets of the accounts concerned, to the accounting officer (s10(4)(f)(i)).
- The accounting officer must within five months after the end of the financial year, incorporate such statements and balance sheets required to be prepared by that officer in terms of any applicable provincial legislation (s10(4)(f)(ii)).
- The books and statements of account and balance sheets in respect of transferred money must be audited by the Auditor General (s10(4)(g)(i)), who may require any person including municipal employees to make available for examination all books, registers and documents which would in his/her opinion facilitate the carrying out of the such audit.

Notwithstanding their subservience to the Constitution, the accreditation provisions of the Housing Act preceded the drafting of the Constitution and more recent local government legislation. Principles of interpretation dictate that in the case of conflicting legislation, one must as far as possible give the provisions an interpretation so as not to render the provisions consistent. If this is not possible, the later enactment would take precedence on the particular point. A provision in a later Act can be interpreted to repeal a conflicting provision in an earlier Act only where that is a necessary conclusion.

3.1.3. The National Housing Code, 2000

The National Housing Code is subordinate legislation which in essence contains the various "regulations" or matters which may in terms of the Housing Act be prescribed. As such, it also contains the criteria and procedural aspects relating to the accreditation of municipalities as contemplated in section 10 of the Housing Act. Pages 110 to 118 of the Housing Code deal with municipal accreditation.

The Code distinguishes between two levels of accreditation.

- Level One Accreditation involves the administration of non-credit linked individual subsidies.
- Level Two Accreditation relates to the administration of non-credit linked individual subsidies, project linked subsidies, project linked and individual consolidation

subsidies, institutional subsidies and the management of the payouts of residual amounts of non-credit linked subsidies and individual consolidation subsidies. This level of accreditation requires more sophisticated administrative systems.

The Code requires the conclusion of an agreement with the municipality dealing with the powers, duties, functions and responsibilities “assigned” to the municipality, financing arrangements, minimum capacity specification, performance standards, reporting standards, an agency fee payable for administration to be determined by the Minister, and the MEC’s rights in the case of breach. A draft agreement is attached to the section in the Code, which is required to be approved by the state attorney in each case. It is determined that the agreement takes effect on proclamation in the government gazette “*in terms of section 126 of the constitution*”.

The Code specifies further that the submission of a business plan and housing development programme to the satisfaction of the PHDB (now department) will be required and specifies the detail requirements in this regard (refer p 116 to 118 of the Code).

3.1.4. Provincial Legislation

A quick scan of provincial legislation has revealed that at least two provinces have legislation impacting on the issue of municipal accreditation.

The Gauteng Housing Act, 1998 (Act No. 6 of 1998) maintains the framework set by the Housing Act, 1997, and carries certain provisions further:

- The MEC must allocate money from the Gauteng Provincial Housing Fund to any accredited municipality provided that the municipality concerned maintains separate accounts for the administration of national housing programmes (s4(g)).
- Section 21 provides that the department must make arrangements for the transfer of housing assets, liabilities, rights, duties and obligations to accredited municipalities (s21(d)) and monitor and manage national housing programmes implemented in the province and projects approved by the province or an accredited municipality (s21(g)).
- The MEC is also empowered to make regulations in respect of the accreditation of municipalities (s25(a)). It is not known whether any regulations have been made.

The KwaZulu Natal Housing Act 1998 generally mirrors the requirements of the National Housing Act of 1997.

3.2. New developments in respect of accreditation

In recent years there have been policy and legislative developments that directly impact on the framework within which the accreditation process must operate. These include the new housing strategy for integrated and sustainable human settlements (“Breaking New Ground”), the annual Division of Revenue Act (2005), and the draft guidelines to the Municipal Systems Act (2000) which were issued this year for comment. The relevance of these documents in respect of accreditation is explored below.

3.2.1. *New Housing Strategy: Breaking New Ground*

The primary policy reference for municipal accreditation to administer national housing programmes is found in the Department of Housing's new housing strategy for integrated and sustainable human settlements, popularly known as "Breaking New Ground". Framed under a wider set of proposals entitled "expanding the role of local government" the national accreditation programme is introduced with the intention of enhancing the coordination of housing delivery with other local development programmes, while also increasing the rate of delivery.

The housing strategy, Breaking New Ground, envisions that accredited municipalities will:

- *Establish housing units with staff complements adequate to carry out project and program requirements.*
- *Establish cross-sectoral, Sustainable Human Settlements Planning Committees including senior staff from at least but not limited to the municipal offices for housing, planning, economic development, infrastructure/engineering, MIG PIU, and land reform.*
- *Submit complete inventories of municipally-owned land including identification of land suitable for low cost housing and justification for exclusion of other municipally-owned land.*
- *Submit a Council resolution indicating the willingness of the municipality to meet DoH anti-corruption, monitoring and reporting requirements as an integral part of the overall performance reporting required under the MFMA.*

A range of stakeholders are also expected to be included in the accreditation process including National and Provincial Housing Departments, Metros, District Municipalities, and Local Municipalities. The strategy expects that the first nine municipalities would be accredited within 2005, a further twenty in 2006, and so on until all 284 municipalities are accredited within a ten year period.

3.2.2. *The Division of Revenue Act (DORA)*

The Division of Revenue Act, 2005 (DORA), contains specific provisions relating to the accreditation of municipalities for purposes of the administration of national housing programmes. DORA is an annual occurrence: the current Act will again be repealed in 2006.

Section 17 of the Act deals specifically with integrated housing and human settlement development allocations:

17. (1) The provincial accounting officer responsible for housing must—

(a) facilitate applications for accreditation in terms of the Housing Act, 1997 (Act No. 107 of 1997) from 1 April 2005 from all category A municipalities, and all category B municipalities identified by the transferring national officer in respect of each province; and (b) within six months of receiving applications from the municipalities contemplated in paragraph (a), complete the accreditation of those municipalities.

(2) (a) A municipality whose accreditation application was refused may lodge an objection to the refusal with the transferring national officer.

(b) The transferring national officer must on receipt of an objection take all necessary steps to facilitate accreditation as soon as possible, but no later than 60 days after the objection was received.

(3) Accreditation granted in terms of subsection (1) must—

(a) at least include—

(i) authority to administer housing programmes, including the administration of all housing subsidy applications;

(ii) authority to grant subsidies and approve projects, subject to subsection (4), to be funded from uncommitted housing funds from the 2006/07 financial year;

(iii) an obligation to maintain compliance with the capacity and system requirements prescribed by the provincial accounting officer responsible for housing;

(iv) an obligation to provide monthly reports on housing delivery; and

(v) an obligation to provide information on the levying and collection of rental in respect of all municipal owned houses; and

(b) be implemented progressively during the financial year and finalised by 30 June 2006.

(4) An accredited municipality must, in exercising its authority in terms of subsection (3)(a)(ii)—

(a) take into account any criteria for the prioritisation of projects as determined by the province; and

(b) participate in housing programme forums established by the transferring national department.

(5) Notwithstanding any provision in any law, section 35 of the Public Finance Management Act, section 3 of the Financial and Fiscal Commission Act, 1997 (Act No. 99 of 1997), and sections 9 and 10 of the Municipal Systems Act do not apply to the accreditation of municipalities in terms of the Housing Act, 1997 (Act No. 107 of 1997).

DORA provides for the accreditation of Category A and B municipalities within the 2005/2006 financial year. The responsibility is given to the provincial accounting officer with the assistance of the MEC, who needs to exercise the discretion.

DORA also defines the content of accreditation, that it must include

- authority to administer housing programmes, including the administration of all housing subsidy applications,
- authority to grant subsidies and approve projects (to be funded from uncommitted housing funds from the 2006/07 financial year);
- an obligation to maintain compliance with the capacity and system requirements prescribed by the provincial accounting officer responsible for housing;
- an obligation to provide monthly reports on housing delivery; and
- an obligation to provide information on the levying and collection of rental in respect of municipal owned houses.

Section 17(5) is of particular importance insofar as it *excludes the operation of certain provisions of other legislation which would have delayed accreditation of municipalities by MECs due to the procedural and other prescripts*. The “exemption” relates to issues such as:

- “**unfunded mandates**” – specifically the requirement of section 35 of the Public Finance Management Act, to the effect that draft national legislation assigning

additional functions or powers or imposes obligations on a principal government must be accompanied by a memorandum giving a financial projection of the financial implications to the province;

- **the requirement for advice** to be obtained from Financial and Fiscal Commission under section 3 of the Financial and Fiscal Commission Act, 1997 (Act No. 99 of 1997) prior to the assignment of a function; and
- **the requirement to review the financial implications of assignment**, as defined in sections 9 and 10 of the Municipal Systems Act. That Act requires that before there is an assignment of a function or power to municipalities or categories thereof, the Financial and Fiscal Commission needs to be requested to assess the financial implications and there need to be consultation, in the case of a Minister wishing to assign a function, with the Minister of Local Government, the Minister of Finance and organized local government (nationally), and in the case of a MEC wishing to assign, consultation with the MEC for Local Government, the MEC for Finance and organized local government (provincial). When introducing legislation relating to assignment, the Municipal Systems Act also requires that it must be accompanied in the normal course, by a memorandum dealing with specific issues relating to the financial implications on municipalities. Similarly, prior to assigning a function to a municipality, the Minister of Local Government and Treasury need to be provided with a memorandum on financial implications.

However, in the case of accreditation of municipalities for purposes of the Housing Act, all these requirements have been dispensed with. It is important to ensure that this “exemption” is re-enacted in 2006, if the process has not been completed and there are municipalities still to be accredited.

3.2.3. The Proposed Guidelines Relating to Assignment and Delegation under the Municipal Systems Act

A draft policy on assignment was adopted in 2003. On the 22nd April 2005, the Minister for Provincial and Local Government published draft assignment and delegation guidelines for comment (*Notice 636 of 2005; published in Gazette No 27518*). Comment on these guidelines was due on 20 May 2005.

It must be appreciated that these are *draft* guidelines. Secondly, they constitute *guidelines and not rules*. Hence, one must caution against these guidelines being treated *as if law* at this stage. At the same time it would be unwise to ignore these guidelines as they present DPLG thinking on the matter and would appear to be based on sound principles. The key points are dealt with below.

“Assignment” is defined as the “permanent transfer of the authority role in relation to a function from national or provincial government to local government”. *The authority role is defined to mean “the role exercised by the sphere of government with responsibility for ensuring that a particular function is exercised competently and which involves responsibility in relation to the function for administration, planning, revenue raising through grant funding, taxes or user fees, policy development, supply related legislation, appointment of service providers, monitoring service provision and intervening in the case of poor performance and ownership of fixed assets associated with the function”.* It may or may not include the “provider role”. Assignments are *permanent* – a province may

exercise supervisory powers to correct non-performance but *may not revoke the assignment* (par 10).

“Delegation” is defined as the “temporary transfer of the provider role from national or provincial government to local government”. The “provider role” is defined as the “delivery of services to end-users and may involve responsibility for the operational maintenance and capital requirements of the services”. A function must not be assigned unless the function does not relate to other functions already allocated to local government, would not be administered effectively locally, and the municipality does not have the capacity to administer the function (par 5). There cannot be more than one authority for a function. *So the authority role must be transferred in full when there is an assignment, a function must not be split between spheres of government, and a function must not be split between a district and a local municipality* (par 6).

The guidelines state a preference for general assignments (par 7). The function to be assigned must be defined clearly, comprehensively, unambiguously (par 8). The principle is stated that resources/finance should follow function and that equitable share allocations must be paid to the organ of state responsible for the function following assignment (which implies recalculation of equitable share allocations, revision of formulae for integrated capital grants etc.) (par 9). Personnel transfer must also to be effected (par 12). Mandatory consultation is to take place but the applicable provisions of DORA (above) overrides the guidelines. Procedurally, notice is also required to be given to the local government representative, being SALGA (where a general assignment is contemplated) or the relevant municipality (par 15).

The guidelines also propose criteria for deciding which approach to take – assignment or delegation. These include, on a weighted basis, legislative or policy indicators, technical, operational or financial factors, capacity, comparative capacity, greater accountability to those benefiting from the exercise of the function, the extent to which a function requires a single authority across a province or the Republic, cost or efficiency benefits, implications for intergovernmental fiscal arrangements, transfer costs of staff, assets and advice. Capacity may be measured with reference to households with access to basic services, the extent to which capital budgets are spent each year, financial viability (debt-coverage ratio, debtors’ ratio and cost coverage ration) and the history of delivery of the function to be assigned. The guidelines provide for asymmetric general assignments where the implementation of assigning legislation has the result that only certain municipalities receive an assignment. An important distinction is drawn between general (legislative transfer to all municipalities) and specific assignment (contractual transfer to individual municipalities). This would not seem to be in accordance with the provisions of the Constitution which require contractual arrangements under both scenarios (see above).

Delegation is proposed as an option only where assignment is not appropriate because the *permanent* transfer of the *entire* authority role is not appropriate. Issues to be addressed in a service level agreement are the term of the delegation, service levels, performance indicators, risks transferred, whether the municipality will be acting as an agent, any remuneration. The guidelines also contain specific provisions relating to staff transfer including pension fund issues. The guidelines also set out budget process implications, require the acceptance of an assignment or delegation to be addressed in the planning process, intergovernmental disputes. In respect of assets and liabilities it is provided that the authority *should own the assets required to undertake the function for*

which it is responsible and assets must be transferred unless the parties agree otherwise. The municipality must also accept existing liabilities.

3.3. Conclusions

The legal framework for the assignment of housing functions is complex and characterised by a multiplicity of provisions contained in different pieces of legislation impacting on the subject matter. These provisions are not harmonious. In addition, the framework is not a static one. It continues to evolve as different departments within government consider how the Constitutional imperative might be met. However, given the existing and evolving framework, the following conclusions can be drawn:

- It is clear that the current provisions of the **Housing Act** relating to accreditation are outdated and that the provisions relating to the ongoing accountability of the accounting officer are problematic. Until such time as legislative amendment can cure this, and the provisions relating to accreditation can be brought in line with current thinking on assignment, the provisions of the Housing Act (save to the extent that it could be argued that these provisions have been repealed by necessary implication), remain in force and would require adherence.
- The criteria set out in the **National Housing Code** are outdated and require for instance that the municipality must be a municipality under the now repealed section 10B Of the Local Government Transition Act, 1993. Further, various of the criteria are not or no longer appropriate for accreditation. Unlike the Housing Act, however, the provisions of the Code can and should with immediate effect be substituted with a new policy framework to give effect to the accreditation of the first number of municipalities.
- The **proposed guidelines on assignment** envisage a situation where the municipality would be entitled to the transfer of assets required to perform a function assigned. The details hereof need to be worked out in respect of the accreditation of municipalities to perform certain housing functions. The said guidelines need to be amended to accommodate the proposals set out in this report and it will be necessary for the Department to engage with DPLG in this regard.

4. ANALYSIS: PROGRESS OF MUNICIPAL ACCREDITATION TO DATE

Notwithstanding a policy and legislative environment that, at least on the face of it, would appear supportive, no municipalities have been accredited to administer national housing programmes to date. In the course of this research, the team sought to understand the reasons for this failure of the policy and legislative framework to realise the Constitutional intent for accreditation. The approach involved engagement with three municipalities (eThekweni, Ekurhuleni, and Cape Town) and their respective provincial administrations.⁷ The team tested reasons for past failure and key issues that should be included in a future framework. The national Department of Housing also held a special dedicated meeting on the accreditation of municipalities to administer the housing subsidy scheme, on the 14th of June, as part of its accreditation programme. Finally, the team presented their preliminary findings and recommendations to a workshop of key stakeholders, also convened by the national Department of Housing, on 12 July 2005. Comments raised in the interviews conducted by the team, as well as at the two workshops contributed to the analysis set out here.

4.1. Constraints to accreditation within the current environment

As a result of discussions held with various stakeholders, the team has identified six broad reasons for the failure of the accreditation programme as set out in the National Housing Code. These are

- **Lack of explicit support from the provinces concerned.** The Housing Act is clear in placing the authority for the approval of accreditation with the MEC for Housing in the province where the municipality is situated. Such approval will result in a substantial reduction of subsidy funds directly under the decision-making authority of the MEC. The national Minister of Housing has no statutory authority over this approval process.
- **Issues of authority and responsibility of the provincial accounting officer.** In terms of the Housing Act, 1997, the accounting officer of the Province (that is, the Head of Department) transfers funds to the municipality, but remains the accounting officer of the funds. Provincial accounting officers have therefore been reluctant to transfer authority for expenditure without responsibility.
- **The funding of the accreditation administration.** Currently the administration of the subsidies is funded by the provinces themselves in the course of their undertaking that function. The Housing Code does not address the issue of funding for the subsidy administration process in the event of accreditation. This is a key issue as such administration is likely to cost an additional several million rands per annum. This has been referred to by some municipalities as the so-called “un-funded mandate” debate.
- **The quantum of funding** to be allocated to an accredited municipality is not clearly defined, and thus is left to the discretion of the Province concerned. This has created tension in the negotiations as provinces have sought to retain control over their

⁷ In these three study areas, the team met with the Executive Director (or equivalent position) of the municipal housing department, as well as the official responsible for the municipality’s accreditation application; and with key officials in the Provincial Department of Housing.

budgets and diminish the amount they allocate to the municipal applicant. The approach has further undermined budgetary certainty for municipalities.

- **Referee and player.** Accreditation determines that a municipality will take control of the approvals process for subsidised housing projects to take place in their area of jurisdiction. The Code clarifies, however, that an accredited municipality may not approve projects where it is the developer. At the same time, the revised “Chapter 3” of the National Housing Code, setting out new procurement procedures, establishes the municipality as developer. This sets up a contradiction that has complicated the definition of functions that a municipality will take on when accredited.
- **Scope.** In a number of instances, the scope of accreditation has been unclear. In addition to the parameters set out by Section 10 of the Housing Act, negotiations have also included reference to Section 15 of the Housing Act, which allows for the transfer of certain property from provincial housing development boards (now provinces) to municipalities. In these instances, the transfer of assets (referred to as “old business” in many cases), has been conflated with the issue of accreditation.

As a result of these problems (and there have been others in specific cases), the accreditation process has not been implemented as intended and no municipalities have been accredited to administer national housing programmes to date. This is despite significant energy being applied on the part of many municipalities in the accreditation application process. Although a legislative and policy framework has appeared to exist, its failure to deal with these critical issues has resulted in the process being stalled.

4.2. Key issues to consider in a new policy framework

In addition to the above, respondents raised a range of issues which they argued would be important to consider in the development of a new framework for municipal accreditation for the administration of national housing programmes. These are explored below.

4.2.1. Rationale for accreditation

Municipalities that are seeking accreditation in terms of the Housing Act, 1997, are doing so largely so they can manage the budgetary allocation process in respect of housing, and establish housing subsidy funding certainty over a medium term expenditure framework (MTEF) term. Some municipalities argue that they are currently at risk for bridge financing subsidised projects on behalf of provinces. It is hoped that accreditation will protect against this problem and overcome red tape involved in provincial payouts to municipalities.⁸

For their part, provinces are also interested in enhanced delivery capacity within their jurisdictions, but are anxious that the capacity of some municipalities is insufficient to respond as required to a devolved responsibility (however structured, by assignment, delegation, etc.) for the administration of housing programmes. Further, there is concern among provinces that loss of decision-making over significant proportions of their housing subsidy budgets could undermine the provinces’ ability to meet their own mandates.

⁸ Discussion with representatives from the eThekweni Municipality, June 2005.

The key rationale for accreditation must be found in the Constitutional imperative that has been placed on national and provincial governments to assign the administration of housing to municipalities (section 156(4), referencing Part A of Schedule 4). Further, the new housing strategy, *Breaking New Ground*, explicitly states the intention for accreditation on the basis that local level control over housing subsidy expenditure will contribute to the development of integrated and sustainable human settlements, as municipalities will be able to consider their housing expenditure together with expenditure in other sectors of the local environment and within the framework of their local Integrated Development Plan.⁹

In addition to these motivations, the principle of devolution also suggests increased efficiencies in implementation, which could contribute to accelerated delivery at the local level.

4.2.2. Delegation vs. assignment, roles and responsibilities

The primary consideration in respect of the delegation versus assignment debate, is that all role players – provinces and accredited municipalities – have full authority, and become fully accountable for the functions that they become responsible for implementing. How this is achieved, however, is variously understood by the different stakeholders. Some believe that assignment is not possible without legislative changes.¹⁰ Some believe that delegation is a feasible option in the short term, while others argue that accreditation will not work in this way.¹¹ The referee / player issue was raised by a number of respondents, who argued that the current contradiction inherent in the Housing Act, which stipulate that municipalities were not permitted to approve their own projects, and the new Chapter 3 Procurement Guidelines, which stipulate that all projects must be driven by municipalities, made it difficult to perform as an accredited municipality.

Most agreed that dual accountability was not an option and that municipalities must be held accountable for the functions they are assigned by accreditation. However, there was also some worry that with the assignment of responsibility for the administration of national housing programmes, the integrity of the national housing policy would be put in jeopardy, as municipalities developed new and possibly divergent policy initiatives. Some municipalities mooted the possibility of differential accreditation, in which it was phased in, or in which it involved only some national housing programmes; not all of them.

The legislative environment, and in particular, the Constitution and the draft guidelines regarding assignment and delegation (to the Municipal Systems Act, 2000), favour assignment. However, given the complications set out in the Housing Act regarding the nature of the accounting officer, this becomes difficult in respect of certain functions in the short term, until the recommended legislative amendments are made.

Further, the actual content of the accreditation functions is also an issue for consideration, given these concerns as well as capacity considerations at the various spheres of

⁹ “This approach will enable municipalities to assume overall responsibility for housing programmes in their areas of jurisdiction, through a greater devolution of responsibility and resources to municipalities”. *Breaking New Ground: Section 5.2.*

¹⁰ KZN DoH; Seth Makethuka, Basil Davidson, Jens Kuhn, City of CT

¹¹ Nonhlanhla Qhobosheane, CD Housing and Dave Dunstan, CD Housing Policy, KZN DoH; Seth Makethuka, City of CT

government. The current policy framework allows for two levels of accreditation – the first being limited to the administration of the individual subsidy programme, and the second including all national housing programmes. However, as most provinces have discontinued the individual subsidy programme, this has meant that the first level of accreditation has been meaningless.

4.2.3. Capacity and accreditation criteria

A number of respondents expressed concern regarding the capacity of municipalities to perform as expected in terms of the accreditation programme. All agreed that capacity building processes, which looked at the range of functions that municipalities would need to perform, be established and implemented by provincial government. In Gauteng, an incremental accreditation approach was recommended, in which accreditation was the end-point of an extended capacity building process. In KwaZulu Natal, the need for targeted training in cash flow management of projects and re-allocations to achieve expenditure was noted.

These concerns are echoed in the national housing strategy: *The ability of local government to facilitate the establishment of sustainable housing environments is threatened by a lack of capacity to effectively package and align departmental funding streams, employ innovative planning principles, acquire affordable land and sustain a dedicated group of officials. (Breaking New Ground, Part A Section 4)*

At the same time, it is important that a definition of what constitutes adequate capacity does not undermine a municipality's intentions for accreditation. To this end, provincial and national government support for the capacity development of municipalities must be established and a formal programme developed in this regard. The team was interested to learn from the National Department of Housing of funding received from the National Treasury to support municipal capacity building. Perhaps this funding could be used within the overall framework for accreditation.

These issues must be considered in detail in the recommendations, as the success of any accreditation programme is dependent on the capacity of the various players to effectively fulfil their defined roles.

4.2.4. Staffing

Similar to budgetary allocations, municipal positions on staffing were based on the principle that resource allocation must follow function. This is supported in the draft guidelines to the Municipal Systems Act regarding assignment and delegation. Both KwaZulu Natal and Gauteng officials argued that provincial staff should follow the functions transferred to local government. They suggested that officials would be amicable to this proposal, as conditions of service were better for local government workers than for the provincial workers. eThekweni argued that there was a need to fund training. Furthermore, municipalities should only be required to take on those provincial staff specifically needed by the municipalities based on a needs analysis.

Clearly this will be an issue particular to each municipality and respective provincial government concerned. However, the principle that resource allocation must follow function is maintained. At the same time, in order to ensure efficiency and guard against

approaches which do not enjoy economies of scale, resource allocation should also be linked to delivery progress. This will be considered in the recommendations.

4.2.5. Allocation formula

The allocation formula was raised as a key issue by eThekweni municipality. The representatives from eThekweni argued that the provincial definition of 'backlog' can have a profound impact on the quantum of funds allocated, often to the detriment of municipalities. In KwaZulu Natal, the province has included traditional dwellings as part of the backlog. This brought down the eThekweni backlog proportion from 48% to 26%.

A current problem is that annual allocations are neither consistent nor appropriately based on the cash flow projections and actual performance of projects within the province. The consequent fluctuations lead to uncertainty and the 'dumping' of funds on the municipality at the last minute, because of the poor performance of other projects.

In this regard, it was recommended that the municipality must get an equitable share based on the real backlogs (and an agreed definition thereof) and prioritisation of key issues (i.e. slum clearance) with certainty in terms of the Medium Term Expenditure Framework.

Funding certainty is fundamental to the success of a municipality's acceptance of the responsibility to administer national housing programmes. At the same time, it is also accepted that provincial and municipal housing departments may have somewhat divergent intentions. It will therefore be recommended that a generic formula be developed and applied on a three-year MTEF basis. Further, the recommendations will also consider how to provide provincial departments of housing with the discretion they will need to meet their provincial housing obligations.

4.2.6. Flow of funds

There was some debate regarding the flow of funds. On the one hand, municipalities argued for access to funding directly from national government, to create certainty. This is certainly intended by the national housing strategy, *Breaking New Ground*, which explicitly states that funds will flow from national to accredited municipalities directly in order to "*reduce transaction costs and unnecessary administration*" (Section 6.3). On the other hand, one province wondered if it would be possible to track the flow of funds once they disappeared into local budgets. This provincial official also wondered what the role of the provincial MEC for housing would be, if major portions of the MEC's budget were assigned to other spheres of government.

Clearly the issue of capacity is critical with respect to the flow of funds and the need to ensure that the objectives for the intended devolution are in fact achieved. This is an issue that will be considered in the recommendations.

4.2.7. Cost of administration

The high costs of administration which would be incurred by accredited municipalities was noted, as were the limited funds available at provincial government to support such administration.

As above, the principle that resource allocation must follow function must also apply here.

4.2.8. Old business

There appears to be a conflation of accreditation with old business. In KwaZulu Natal, the provincial department believes the municipality should take all the housing business within their area so that they can manage the entire portfolio, including the ability to reallocate funding between their own projects both new and old business. The province further argues that the national government should determine the agency fee for the municipalities to administer the old business. The costs associated with administration of old business forms a significant portion of the provincial budget.

This statement resulted in eThekweni municipality pronouncing that they were only prepared to take over the old business R293 towns and hostels on an agency basis.

This issue was raised again at the workshop on 12 July 2005. The team maintains, however, that the issue of old business and the transfer of “old business assets” is separate from the issue of accreditation. While accreditation does involve the transfer of assets necessary to perform the various accreditation functions that have been assigned, these are different from the residential property assets associated with what is termed as old business. Such issues should not be linked in with negotiations regarding accreditation.

4.2.9. Political and policy issues

There was concern regarding the integrity of national policy and the extent to which accredited municipalities would deviate from the national plan. Others expressed worry that accreditation would expose local authority housing officials in the face of patronage politics, as they would be unable to appeal to a higher authority. Gauteng wondered how provincial government would achieve its own political mandates if it had no control over project approval.

Of course, municipalities will always have an obligation to operate within the framework of national and provincial policy. Chapter 3 of the Constitution, which deals with cooperative government, sets out the principles in this regard. More specifically, however, the Housing Act, 1997, also determines that each sphere of government must operate within the broad housing policy framework set by the higher sphere. In keeping with this approach it is recommended that at the local level, municipalities be required to submit their Housing Plan to the provincial department of housing for comment before submitting it for approval as part of their IDP by their local council.

4.2.10. Monitoring and reporting

It was agreed that accreditation would substantially increase the complexity of reporting arrangements for the national Department of Housing. At present, the Provinces collect and assemble data. In the future, the national department would have to deal with many municipal reports. This suggests the need for capacity development not only at the municipal level, but at other spheres of government as well

4.3. Conclusions

The team found the divergence of opinion across and between municipal and provincial stakeholders most striking. There is clearly very little consensus about how accreditation

should occur, what it should involve, how it should be funded, and what the various responsibilities, authorities and accountabilities should be.

Still, there remain a few key issues which resonate across the municipalities and provinces, which should form the basis of the framework:

- Municipalities are only interested in accreditation if it leads to a real change in their authority to carry out housing in their area of jurisdiction. This implies access to the entire budget to which a calculation of their housing need suggests they are entitled. Further, it implies sufficient funding for taking on the additional administrative tasks associated with the new responsibility so that accreditation does not become what has been called an “unfounded mandate”.
- At the same time, provinces are reluctant to relinquish control over financial decision-making in respect of housing in the province, and to diminish their role in implementing national housing programmes.

The comments made by the various respondents have illustrated how important it will be for an accreditation framework to address all of these issues explicitly, so that the confusion which has dominated will be replaced by a clear and implementable process. Further, the six reasons identified for the failure of the accreditation programme to date must be explicitly addressed in the recommendations for a new framework.

5. RECOMMENDATIONS ON A WAY FORWARD

Municipal accreditation has clearly been indicated as a national priority. This priority has been noted in various Presidential speeches, as well as by the Minister of Housing in her Budget Speech to Parliament this year; in policy and legislative initiatives such as the Department of Housing's "Breaking New Ground" strategy, the 2005 Division of Revenue Act and the draft guidelines to the Municipal Systems Act (2000) regarding the assignment and delegation of functions from national or provincial government to local government; as well as in the activities of municipalities themselves which have been pursuing accreditation to administer national housing programmes, as provided for in the Housing Act 1997.

That said, various developments in the environment including some of those mentioned above, suggest that the framework currently set out in the National Housing Code (2000) and the Housing Act (1997) is insufficient. Further, municipalities and provinces have also raised a number of key issues which they find to be constraints to a mutually beneficial accreditation process that responds to the intentions of the Constitution and other legislation.

Consequently, it is recommended that a comprehensive framework for municipal accreditation be drafted, which takes cognisance of the various developments and intentions as expressed by government. Further, it is recommended that a legislative programme be initiated which deals with some of the specific legal stumbling blocks identified in this report.

This section therefore summarises the policy intentions of accreditation in this new environment. The proposed overall approach is then outlined and the legislative implications described. Interim measures will be necessary, and these are set out briefly. Finally, key issues for attention are set out as an initial way forward.

On the basis of these recommendations, separate documents set out (1) the proposed accreditation framework, and (2) model implementation guidelines.

5.1. Policy intentions

*The new human settlements plan envisages the accreditation of municipalities particularly the nine metropolitan areas, secondary towns and ultimately to all municipalities. **A framework is to be established to address various policy, constitutional and legislative aspects in order to enable municipalities to manage the full range of housing instruments within their areas of jurisdiction.** In order to be accredited, municipalities will have to demonstrate their capacity to plan, implement, and maintain both projects and programs that are well integrated within IDPs and within the 3 year rolling capital investment programs mandated by the Municipal Finance Management Act (MFMA). (Breaking New Ground, Part B, Section 5.2 "Expanding the role of local government")*

The central rationale for municipal accreditation for the administration of national housing programmes is the intended impact this will have on housing delivery, both in terms of its nature and scale. As established in the Constitution, which clearly emphasises a principle of devolution, and confirmed in the 2005 edition of the Division of Revenue Act, it is government's policy intention to locate the decision-making authority

and funding capacity for local development at the most local sphere of government. This intention is reinforced in the Department of Housing's new strategy, as set out in the paragraph above.

Accreditation seeks therefore to achieve two inter-linked objectives:

- **Coordinated development (horizontal integration):** First, by locating the decision making authority around the implementation of national housing programmes at the local level, municipalities can coordinate these decisions with other decisions that relate to the broader sustainability of human settlements. Municipalities are a logical site for the effective alignment of inter-departmental and inter-governmental funding streams. With the authority to make such decisions, opportunities for the application of innovative planning principles arise, and this contributes to the potential for improved municipal areas.
- **Accelerated delivery (vertical integration):** Second, the efficiencies associated with devolving delivery authority to the local level should lead to accelerated delivery and improved expenditure patterns. This should result in a reduced requirement to roll over unspent funds as well as a more coordinated approach to planning approval and implementation.

Critically, the rationale and usefulness of any specific approach to accreditation must be interrogated against these two objectives. To the extent that these objectives are not met by accreditation (and in the context of capacity constraints in some municipalities, this is possible), accreditation should not proceed.

5.2. Overall approach: accreditation by levels

The accreditation of municipalities to administer national housing programmes is an urgent matter. In terms of the Division of Revenue Act 2005, the accreditation process must be finalised by 30 June 2006. Further, realisation of the expectations of accreditation, that it will accelerate better planned and targeted delivery, is also urgently required.

However, not all municipalities across South Africa have the necessary capacity to administer national housing programmes. This capacity must be built and such a process will take time. Further, while some municipalities might not have all the necessary capacity to administer all aspects of all national housing programmes, they do have some capacity which could be engaged in the short term in the spirit DORA.

These two key issues must be balanced in defining the overall approach:

- **Enhanced delivery:** On the one hand, the intention is to afford municipalities greater control over their local subsidised housing processes so that they can enhance delivery both in terms of its coordination and scale in their areas of jurisdiction.
- **Sufficient capacity:** On the other hand, municipalities will only be able to enhance delivery with their expanded mandate if they have the capacity to do so. As accreditation involves the conference of new roles and functions on municipalities, this suggests that in all cases, some degree of capacity building will be required.

Given the above, it is proposed that three levels of accreditation be defined, and that these be understood as being at once progressive and simultaneous: municipalities may

apply to be accredited for all three levels, for the first two, or for just the first, depending on their own particular capacity situation. This will enable municipalities with minimum capacity to realise at least some of the accreditation policy intentions, while others, with greater capacity increase their responsibilities in respect of the wider extent of accreditation.

Accreditation levels are both functionally and programmatically defined. All levels are meaningful in terms of how they respond to the principles of accreditation. Progressive levels require a higher degree of capacity, however, which the municipality must demonstrate.

The three levels proposed, and the functions they comprise, are set out in the following table.

Table 3: Proposed Levels of Accreditation

Level	Components and Definition
Level 1	Subsidy budget planning and allocation: including housing subsidy budgetary planning across programmes and projects; planning of subsidy / fund allocations, and project identification. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>
Level 2	Programme management and administration: including project evaluation and approval, contract administration, subsidy registration, programme management including cash flow projection and management and technical (construction) quality assurance. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>
Level 3	Financial administration: including subsidy payment disbursements, and financial reporting and reconciliation. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>

The most critical level of accreditation is that of prioritising how the subsidy budget allocations are applied to specific programmes and projects in the municipal area. **Level one accreditation** is therefore the most significant step that can be made, both in terms of delegating authority and responsibility and enabling integration and coordination to take place.¹² It is proposed that this level of accreditation can be applied immediately to all municipalities with the necessary capacity.

Key issues in respect of this approach are set out below:

- **Accreditation based on criteria:** All municipalities will be entitled to be accredited in respect of all three levels, to the extent that they meet the eligibility criteria, corresponding capacity and governance requirements. The assessment of whether or not a municipality meets the requirements will be done by the municipality's Auditor General or his or her delegate.

¹² A number of municipalities already undertake the functions that together comprise level one accreditation. Once formally accredited for level one, these municipalities will be authorized to undertake such functions without securing provincial department approval as they currently do. It is envisioned that at least all of these municipalities will be able to apply for level one accreditation in the immediate term.

- **Principle of efficiency:** There will be instances, in which it will be inefficient to transfer funding to a municipality – for instance, when a municipality finds it will be unable to deliver the service economically. In such cases, a municipality may decide not to apply for level three accreditation, although it may apply for levels one and two. Similarly, given the relative size of its subsidised housing responsibility, it may also be inefficient for a municipality to seek out level two accreditation. Critically, this decision will rest with the municipality concerned, and not the province. However, it is desirable for all municipalities to, over time, acquire level one accreditation.
- **Provincial roles and responsibilities:** In accrediting municipalities for a particular level of accreditation, the provincial monitoring and oversight role will grow. Provinces will have the authority to stop payments in cases where there is clear evidence of financial or programmatic mismanagement. At the same time, provinces will be responsible for supporting the capacity development of municipalities, and must monitor their performance to identify areas for intervention. This is addressed further in Section 5.2 of this Framework.
- **Exemptions:** Notwithstanding the progressive approach to accreditation, some functions and programmes are better retained at the provincial level. These are:
 - **Special approval of non-eligible individual beneficiaries:** While the subsidy registration function will be devolved to local authorities, provinces will retain responsibility for the approval of extraordinary applications (i.e. special approval of non-qualifiers). This will ensure against any conflict of interests.
 - **Individual subsidies:** The administration of the individual subsidy programme (both in terms of credit linked and non-credit linked) should be retained at the provincial level.¹³ The reason for this relates primarily to the need to support residential mobility and support administrative efficiency and simplicity within a policy framework that encourages secondary market transactions and the linking of credit with subsidies.¹⁴

Further, in order for subsidies to be linked with credit, it is likely that banks will take on the subsidy administration process.¹⁵ It is much simpler, and arguably more efficient for banks to negotiate the procedures associated with such arrangements, with nine provinces, rather than with many provinces and accredited municipalities.

¹³ This point is maintained in the framework, notwithstanding the substantial and ongoing debate as to whether this should be applicable to non-credit linked subsidies.

¹⁴ The Breaking New Ground housing strategy explicitly re-introduces the individual subsidy mechanism to support the development of the secondary (resale) market. It is envisioned that individuals seeking subsidy support in their purchase of existing housing will link this with credit (indeed, there is speculation that this might become an actual requirement of the individual subsidy mechanism). If individual subsidies were administered at the local level, there could be the risk that applicants be required to access subsidies in their municipal area of residence. This would undermine the residential mobility intentions of an Ekurhuleni resident, for instance, seeking to purchase a house in Mogale City. Already, the division of the national allocation into nine provincial budgets constrains inter-provincial residential mobility. For this not to be a problem, accredited municipalities in one province – or indeed across provinces – would need to work out some kind of agreement where subsidy funding is also made available to qualifying beneficiaries not constituting part of the local backlog. This is contrary to the principle of simplicity that guides this policy framework.

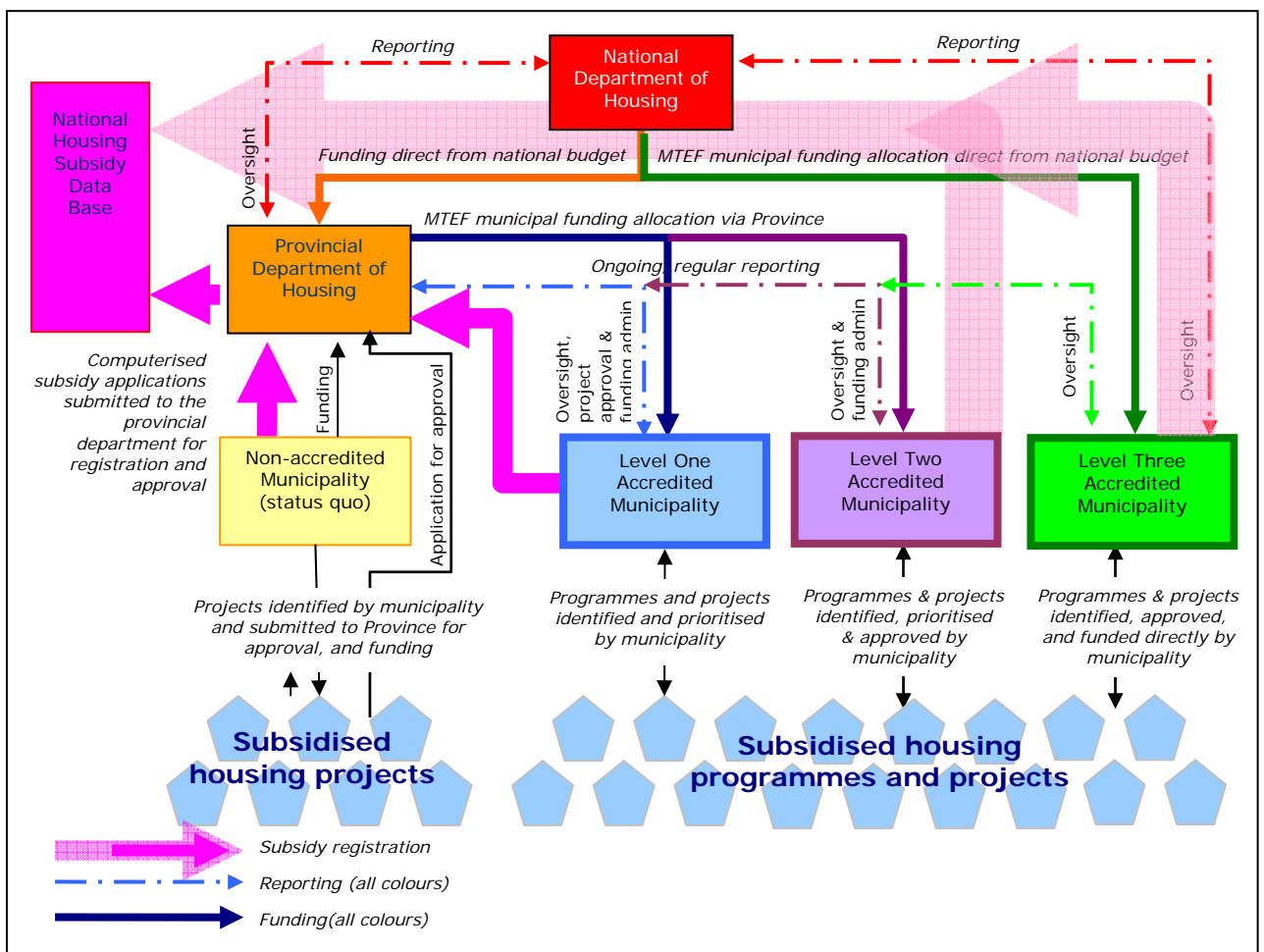
¹⁵ At the time of writing, negotiations with the banks regarding a credit-linked individual subsidy option (for households in the R3501 – R7000 per month income category) were still underway. The outcome of those negotiations must be accommodated in this framework.

- **Relocation subsidies:** the relocation subsidy mechanism refers to subsidies awarded in terms of the Servcon rightsizing programme. Because this programme involves a finite number of prospective beneficiaries and is being phased out, responsibility for administering this mechanism should be retained at provincial level in the interests of administrative efficiency.

5.2.1. Institutional arrangements

The interaction of the various spheres in the context of the various levels of accreditation, is illustrated in the following diagram. In the diagram below, the thick, coloured lines represent funding flows; while the thin dotted lines represent lines of reporting, oversight and accountability.

Figure 1: Accreditation Institutional Arrangements



As illustrated above, the roles and responsibilities of the three spheres of government change depending on the level of accreditation achieved by the particular municipality.

5.3. Scope

Accreditation applies to all housing programmes and all municipalities. But exceptions as described above, apply on the basis of rational capacity considerations and economies of scale.

Municipalities may be accredited to administer national housing programmes. National housing programmes are those as defined by national housing policy, and include housing subsidy programmes such as the Project Linked, Individual, Consolidation, Relocation (rightsizing), Institutional, Peoples' Housing Process, Discount Benefit Scheme, Hostels Upgrading and Rural Subsidy programmes, as well as the pending Informal Settlements Upgrading programme. Once accredited, municipalities will have the authority, responsibility and accountability to administer such programmes on the basis of their level of accreditation (this is elaborated further in the framework).

Assignment of functions does require the transfer of assets necessary to perform those functions. However, the assignment of the functions related to the administration of housing programmes should not require that housing properties be transferred, but rather that transfer be limited to assets relevant to the administration process, such as databases, systems, offices, etc. The administration of the discount benefit scheme currently does not require the province to own the houses being transferred in order to administer this national programme. Similarly, municipalities need not own the fixed property assets associated with the programmes they administer. This is a separate issue to be dealt with between the province and the municipality in separate negotiations and should not be conflated with the housing accreditation process.

5.4. Registration of accreditation

It is recommended that all municipalities shall be entitled to register for a particular level of accreditation, depending on their ability to meet certain capacity criteria. The following process is envisioned:

- Municipalities indicate they want to be accredited in respect of a particular level of accreditation. To do so, they must already have their housing plan approved as part of their IDP by local council resolution.
- On the basis of the municipality's stated intention and identified capacity needs in order to carry out this intention, the province provides targeted technical assistance towards the development of the accreditation business plan.
- This business plan for the particular level or levels of accreditation that is being sought is then developed with the technical support of provincial government, if necessary, and submitted to the province for review.
- Once the business plan is finalized, it is reviewed and approved on the basis of the accreditation guidelines. The province then grants "conditional accreditation" and provides capacity funding to enable the municipality to implement the capacity requirements of the business plan (hiring of staff, development of new systems, etc.).

- Within a specified time frame, the municipality implements the capacity requirements and an auditor (the Auditor General or his or her delegate) confirms compliance by issuing a compliance certificate.
- This compliance certificate is submitted to the provincial department, on the basis of which the municipality gets full assignment of powers.

A municipality may seek accreditation in respect of each level on a consecutive basis, or concurrently, depending on its own capacity parameters and housing intentions. However, no municipality may seek accreditation in respect of level three without already being accredited or seeking accreditation for levels two and one. Similarly, municipalities seeking level two accreditation must already be accredited for level one, or seeking level one accreditation in the same application.

5.4.1. Eligibility criteria

As part of the accreditation process, it is proposed that in order to be eligible for a particular level of accreditation the municipalities must meet specific criteria. These are summarised in the following table and addressed in greater detail in the framework. The table below considers the range of housing functions that a municipality undertakes, whether accredited or not. Those related specifically to the three levels of accreditation are marked in different colours. The column on the right indicates the various sorts of eligibility criteria that it is recommended should be applied:

Table 4: Accreditation eligibility criteria by level

FUNCTIONS	Eligibility criteria
Level One: Subsidy budget planning and allocation process	
Housing subsidy budget	<ul style="list-style-type: none"> • Approved housing strategy, plan and budget • Accreditation business plan – section for level one • Necessary capacity, confirmed by an auditor, including: <ul style="list-style-type: none"> ○ Ability to draft a business plan for level one accreditation. ○ Ability to produce and implement housing strategies, plans and budgets, or commission and manage such functions. ○ Ability to do project identification and assessment
Subsidy / fund allocations	
Project identification	
Level Two: Programme management / administration	
Project / Programme approval	<ul style="list-style-type: none"> • Approved housing strategy, plan and budget • Accreditation business plan – section for level two • HSS in place and ability to undertake subsidy registration function • Necessary capacity, including: <ul style="list-style-type: none"> ○ Ability to draft a business plan for level two accreditation ○ Ability to produce and undertake project feasibility assessments (undertaken by professional engineers, town planners or certified project managers (in-house or contracted)). ○ Programme administration skills / experience in line with the scale of activities planned for the municipality.
Contract administration	
Programme management	
Subsidy registration	
Technical (construction) quality assurance	
Level Three: Financial administration	
Subsidy disbursements	<ul style="list-style-type: none"> • Approved housing strategy, plan and budget • Accreditation business plan – section for level three • Necessary capacity, confirmed by an auditor, including: <ul style="list-style-type: none"> ○ Ability to prepare or commission a business plan for level
Financial reporting and reconciliation	

FUNCTIONS	Eligibility criteria
	three accreditation <ul style="list-style-type: none"> ○ Financial management with ability to review, report and manage subsidy disbursements and financial reporting and reconciliation.

5.4.2. Capacity support towards accreditation

It is acknowledged that few municipalities have the capacity currently to be able to take on immediately all the functions envisioned with accreditation. This capacity will have to be built, even among the larger municipalities. Various capacity building stages are therefore proposed:

- **Pre-accreditation support:** over time, and within a prioritised framework that acknowledges the diverse range of capacity enjoyed by the various municipalities, it is envisioned that all municipalities will seek to be registered for at least level one accreditation. In support of their intentions, provinces will establish a pre-accreditation support programme which has the following objectives:
 - Support the municipality in undertaking a **capacity audit** of its housing department or division.
 - Identify and source the capacity necessary to assist the municipality in drafting an accreditation plan.
- **Accreditation implementation support:** once the province has approved a municipality’s accreditation business plan in principle, it will make funds available for the sourcing and appointment of the capacity necessary to implement this plan. This could include personnel of varying skill levels, business systems, and so on.
- **Ongoing accreditation support:** it is recommended that provinces maintain a special accreditation unit to which accredited municipalities can go to when struggling with a particular aspect of their new functions. This will be a responsive function of the accreditation units which are described in the Framework

5.5. Funding matters

The recommendations in respect of funding relate to two sets of issues. First, they relate to the allocation of housing subsidy funds and the basis on which this allocation is made. Second, they relate to the administrative costs associated with the new responsibilities conferred through accreditation.

5.5.1. Allocation of subsidy funds

In order to ensure the principles of equity, consistency and certainty, it is proposed that national housing subsidy funds be allocated on a standard formula basis that is equally applied across all accredited municipalities and provinces. However, the problem raised by provinces, that they need sufficient budget after accreditation to be able to also respond to provincial priorities is noted. Consequently, to ensure that provincial housing departments are not undermined in their ability to meet their housing responsibilities and provincial priorities, a degree of discretion for provinces is also recommended.

In this regard, it is proposed that the national housing subsidy budget be articulated in two parts:

- **An equitable subsidy allocation** comprising, say 80% of the national housing subsidy budget. Allocations from this fund to provinces and municipalities would be on the basis of a single formula that would apply equally across all jurisdictions, and which would be set within the parameters of the three-year medium term expenditure framework. For levels one and two accreditation, allocations would be dedicated to the accredited municipality but held and administered by the provincial government, disbursed against actual cash flow requirements. For level three accreditation, allocations would be made to the accredited municipality directly from the national fund, disbursed on a cash flow basis.
- **A provincial housing subsidy supplement**, comprising, say 20% of the national housing subsidy budget would be allocated to provinces on the basis of the same formula, but including all areas within the province, for discretionary allocation by the Provincial housing MEC. MEC's would then have the discretion to top up the municipal funding from the national housing subsidy fund with the 20% discretionary funding proportional to the accredited municipality, or with part, or to direct it in some other way, depending on provincial priorities. It is recommended that this mechanism be established for a finite amount of time – for five years – with a required review in the fifth year, to determine its efficiency and effectiveness in realising the objectives of enhanced delivery and the principles set out above.

In respect of both funds, accredited municipalities and provinces will be required to submit a budget every year, within the framework of the three year MTEF.

5.5.2. Operational funding

It is recognised that in accepting the wider mandate afforded by accreditation at whatever level, municipalities will be incurring higher operational costs. In keeping with the principle that guards against un-funded mandates, it is recommended that operational funding in line with the level of accreditation and the delivery progress within that level be awarded. The definition of a specific tariff tied to delivery – i.e. a fee per number of times a particular function is undertaken – is important also as a self-regulatory mechanism to ensure that economies of scale are maintained.

Assignment requires that the funding to implement the assigned functions be provided. However, in the short term, until the new legislation has been put in place to provide for assignment, it is recommended that such operational funding be awarded directly from national government. Once the legislative changes have been effected and assignment takes place, such funding should be derived from the provincial operating budgets, as the functions transferred through accreditation are functions that should no longer be performed at provincial level.

That said, it is also true that accreditation will necessarily lead to expanded capacity requirements on the part of all spheres of government as each adapts to the new roles in respect of the accreditation arrangements, while also carrying on in respect of its old roles, for the balance of its responsibilities. Consequently, it is also recommended that Treasury be approached to increase the housing budget so as to accommodate the financial realities of accreditation.

5.6. Conflict resolution, mediation and arbitration

It is envisioned that conflict may arise between the national department and province or municipality, between a province and a municipality, between provinces, or between municipalities. In such cases, a clear conflict resolution procedure will assist in resolving the dispute timeously and without causing undue disruption in respect of the accreditation programme as a whole.

It is proposed that any dispute arising between the MEC and a municipality concerning the assignment of functions which cannot be resolved in accordance with the principles of co-operative government (as set out in Chapter 3 of the Constitution) must be referred to the Minister, for a decision on the matter.

5.7. Implementation measures

Given the urgency of the municipal accreditation programme, and that the proposal set out in this document is not possible in the short term given regulatory constraints, interim measures are proposed together with a longer term framework:

1. In the interim (before the recommended legislative amendments are effected), MECs will prioritise specific municipalities for accreditation, and will make the decision as currently set out in the Code. Within this overall approach, the following additional interim measures are proposed:
 - **Political agreement on specific municipalities to be accredited:** as a first step, it is proposed that the Minister agrees with MECs that applications for accreditation received from specified municipalities will be approved, subject to their conforming to the capacity and governance arrangements set out in the accreditation framework. It is understood that this will be a political arrangement, not only between the Minister and MECs, but also including the Mayors. The national government will use this as a pilot phase in which to test the parameters of the accreditation framework and guidelines, and make any amendments necessary.
 - **Limited accreditation:** municipalities identified in this way will be entitled only to access level one and level two accreditation. Level three accreditation is only possible in the longer term with legislative intervention, so that the constraint relating to the provincial accounting officer is overcome.
 - **National funding of operational costs:** in the interim phase, it is proposed that national government fund the operational costs of accredited municipalities on a delivery-linked tariff basis. The national government should use this period to establish the exact calibration of such a tariff which, in the long term, will be paid from provincial operating budgets.
 - **National programme:** the national Minister of Housing declares the revised accreditation framework a national programme.
 - **Accreditation process:** municipalities targeted for accreditation must meet the eligibility criteria and submit an accreditation business plan in the prescribed format to meet the requirements for accreditation.
2. In the longer term:

- **Annual prioritization:** Provinces will engage with their municipalities on an annual basis to establish which municipalities intend to register their accreditation. On the basis of this consultation, provinces will agree annually (on a MTEF basis) with the national department at MINMEC on the municipalities prioritized each year for accreditation – this becomes the basis on which they have to perform.
- **Right to dispute:** If a municipality is not on this list, they can make special application to the province to be included in the plan for accreditation. Where there is a conflict between the province and the municipality, normal conflict resolution procedures, as set out elsewhere in the overall framework, will apply.

The team maintains the principle that municipalities cannot be forced to be accredited. In addition, should they wish accreditation and demonstrate their ability, they also cannot or should not be denied this right. To expedite the process, an organized approach must be followed, as set out in 5.4 above.

5.8. Legislative recommendations

These recommendations have a series of legislative implications which will need to be addressed before implementation is possible. While the interim measures set out in 5.5 are being pursued, it is further recommended that amendments to the following pieces of policy and legislation are drafted and sent through the necessary legislative pathways towards promulgation.

1. **The Housing Act, 1997.** Section 10 of the Act sets out the parameters that relate to accreditation. It is proposed that the entire section be repealed and that a new section be drafted to accommodate the recommendations made in this report as a matter of urgency. A proposal is set out in Annexure 3 to this report.

Specific constraints within the Housing Act as it currently stands, with respect to the proposals made in this report, are summarised briefly in the following table.

Table 5: Constraints identified in the Housing Act

Proposed approach	Contradictions in the Housing Act, 1997
All municipalities are deemed accredited if they satisfy certain eligibility criteria.	A municipality may apply to the MEC in the form determined by the MEC to be accredited for purposes of administering one or more national housing programmes (s10(1)).
Municipalities are evaluated by auditors on the extent to which they comply with the capacity and governance requirements.	If the MEC is satisfied that the municipality which made an application complies with the criteria for the accreditation of municipalities as determined by the Minister (of Housing), after consultation with the MEC, the MEC <i>must</i> accredit the municipality for purposes of one or more of the national housing programmes mentioned in the application (s10(2)(a)).
Municipalities may be accredited for a particular level of accreditation, which is explicitly defined in the framework.	An accredited municipality may administer any national housing programme in respect of which accreditation has been granted but “subject the directions of the MEC consistent with the national housing policy” (s10(3)(a)).
A municipality <i>must</i> report on a <i>quarterly</i> basis to the province regarding delivery progress and financial reconciliation.	The MEC <i>may</i> request a municipality to report on its activities under the section (s10(5)(b)). The CEO of the municipality must as soon as possible but within two months of 31 March each year, submit detailed

Proposed approach	Contradictions in the Housing Act, 1997
<p>A municipality must further submit financial reconciliation statements on an annual basis to national government.</p>	<p>statements signed by him or her, showing the results of the previous year's transactions and the balance sheets of the accounts concerned, to the accounting officer (s10(4)(f)(i)). The accounting officer must within five months after the end of the financial year, incorporate such statements and balance sheets required to be prepared by that officer in terms of any applicable provincial legislation (s10(4)(f)(ii)).</p>
<p>Funding allocations are done on a formula basis, and municipalities will be entitled to 80% of the total amount determined by the formula. The MEC will have discretion over 20% of the subsidy funding.</p>	<p>The MEC may, after consultation with the PHDB (now department), out of money paid into the relevant provincial housing development fund, allocate to an accredited municipality in the province such amounts as the MEC consider necessary (s10(4)(a)).</p>
<p>Operational funding is done on the basis of a delivery-based tariff.</p>	<p>The accounting officer must out of the money allocated to the municipality transfer such money as may be required for the administration of (i) the housing subsidy scheme and (ii) any other national housing programme (s10(4)(b)).</p>
<p>Authority and accountability must accompany responsibility. Therefore, if the municipality is responsible for a series of accreditation functions involving financial amounts, it must also be accountable for such amounts.</p>	<p>The accounting officer remains the accounting officer in respect of money so transferred (s10(4)(c)). Whilst there are provisions for delegation and assignment by the Director General of his or her duties (except as accounting officer under sections 11(5) and 12(2)(b)), these duties may only be delegated or "assigned" to staff in the department (s18).</p>
<p>Again, authority and accountability must accompany responsibility.</p>	<p>For the disbursement of money to a vendor for VAT purposes, the municipality is considered the agent of the province (s10(e)).</p>

The above suggests that the proposals set out in this report are not feasible within the current regulatory environment, and are consequently long term in nature.

- 2. The National Housing Code:** The National Housing Code (or whatever policy document replaces the Code) will need to be revised in line with the amendments to the Housing Act. Specifically, national policy will need to include an accreditation framework and guidelines based on these recommendations.

The new policy framework should require an agreement to be concluded between the MEC and the relevant municipality (dealing with key performance and accountability issues), generally in accordance with the constitutional provisions relating to assignment and the draft guidelines on assignment (to the extent that they are compatible). Accreditation should be effected in such a manner that, notwithstanding the term "accreditation", it in reality and in law constitutes an assignment in accordance with the procedures stipulated in the Constitution.

Accreditation of municipalities forming part of the first generation of assignments, remains a discretion to be exercised by the MEC and which needs to be exercised by the MEC based on an application before the MEC to which he/she needs to apply his or her mind. Accreditation will take effect on the publication of a proclamation by the MEC in the Gazette, subject to the provisions thereof. The Proclamation will set out, as per the new policy framework which replaces the applicable provisions of the Housing Code, the relevant functions, the capacity requirements to be met and the

professional certification required to be lodged with the MEC in this regard before, in each case, the assignment of the relevant function would take effect.

The second generation of assignments would take place in terms of specific enabling legislation contained in a new, totally redrafted section 10 of the Housing Act, drafted with specific reference to the provisions of the Constitution and in general conformity with the proposed guidelines under the Local Government: Municipal Systems Act and DORA and addressing the problematic provisions regarding financial accountability, conflicting provisions relating to the opening of accounts. It would provide for assignment of functions in accordance with specific regulations reflecting the policy framework replacing the provisions of the Housing Code and would specifically allow for a tiered system of functions to be assigned simultaneously subject to professional certification of capacity requirements having been met. It would allow for provincial monitoring and intervention but not for the withdrawal of assigned functions. Funding would be effected directly through DORA to the municipality in accordance with a formula allowing also for sufficient funding to enable to province to perform its functions. It would also provide that the assignments effected in the previous stage be deemed to have been assigned of the new section 10.

3. **Provincial Housing Acts:** To the extent that Provincial Housing Acts and accompanying regulations echo provisions made in Section 10 of the Housing Act, 1997, these will need to be amended.
4. **The Division of Revenue Act, 2005:** While an annually adopted and repealed piece of legislation, provisions within the current DORA (2005) do not align with these recommendations. Specifically, the Act suggests that accreditation:
 - Includes 17(3)(a)(i) “authority to administer housing programmes, including the administration of all housing subsidy applications.” It is our recommendation that this particular function remain with provincial government, if not be centralised further at national level.
 - Includes 17(3)(a)(v) “an obligation to provide information on the levying and collection of rental in respect of all municipal owned houses” It is our recommendation that the issue of “old business” or the transfer of assets not be conflated with the issue of accreditation.
 - 17(3)(b) “must be implemented progressively during the financial year and finalised by 30 June 2005.” It is recommended that accreditation be granted in levels, and that a pilot intervention of selected municipalities be identified in the interim while longer term legislative changes are finalised. Consequently it is highly unlikely that this deadline will be met.
 - The current exemptions contained in DORA aimed at expediting accreditation need to be re-enacted in the next DORA

In addition it is essential that DORA is implemented in a manner which creates certainty over any MTEF period as to the conditions applicable to the application of subsidy funding.

5. **Municipal Systems Act (2000): Draft guidelines relating to the assignment and delegation of functions from national or provincial government to local government:** These will have to accommodate the existing Section 10 of the Housing

Act in the short term, will have to take account of the proposed tiered assignment concept and allow for certification of capacity by external professionals, The guidelines currently also do not take account of the provisions of DORA in respect of accreditation. It is necessary to engage with DPLG and to make this report available to them in order to avoid conflicting provisions. Comments regarding the draft guidelines are set out in Annexure 4 to this report.

6. CONCLUSIONS: KEY SUCCESS FACTORS

The accreditation of municipalities to administer national housing programmes has been a national priority since the promulgation of the constitution in 1996. In 1997, the Housing Act confirmed the housing application of the constitutional imperative of assignment and opened the door for accreditation to take place within the housing sector. In 2000, the National Housing Code elaborated on various criteria, procedures and guidelines in the implementation of the national housing accreditation programme.

All of this notwithstanding, no municipality has been accredited to date.

This document has summarised and analysed the situation as it currently exists and sought to understand why accreditation has failed in the past. The recommendations for a revised framework, outlined in detail in a separate document, arise therefore explicitly from this experience, while also being guided by comments received from specific municipalities, provincial departments of housing, and national government departments (housing and treasury). Further, the proposals have been shaped by an evolving policy and legislative framework in which accreditation, and the principle of devolution has received increasing attention. However, given this evolving context, interim arrangements have been proposed while longer term measures are developed and secured.

In order to ensure that the proposed framework succeeds the following issues are put forward as key success factors, which will require attention by the implementers of this proposal.

6.1. Feasibility of a short-term approach

Every effort has been made to take the subjectivity out of the municipal accreditation process and to make the process as streamlined and uncontested as possible. However, current legislation, specifically section 10 of the Housing Act, 1997, affords considerable discretion to MECs in determining the accreditation process in their provinces. It has therefore been recommended that in the short term, until this section of the Act is revised, a political arrangement between the Minister, MECs and Mayors will be required. This raises the question if such an arrangement is possible? Surely all involved are aware of the DORA 2005 imperatives. Further, it could be argued that the process has already been lengthy and that agreement is imminent. However, if such cannot be secured, it may be necessary to wait for the legislative interventions. This would certainly take longer than the June 2006 deadline set by DORA 2005. The possibility of such an outcome must be considered by policy makers.

6.2. Capacity constraints at all levels

The proposed approach envisions not simply a transferring of roles and responsibilities from one sphere of government to another, but rather a broadening of government housing functions that accompanies such a transfer of roles. While accredited municipalities will be required to take on a host of new roles and functions, and will be in need of specific capacity to make this happen, provincial and national government will also face capacity challenges. Furthermore, the subsidy management information

systems for accredited municipalities will require development and enhancement in order to facilitate subsidy administration, reconciliation and reporting in a standardised system.

At the provincial level, it will be necessary to expand the monitoring and oversight function that, while currently already within the mandate of provincial government, has played a relatively minor role in the housing delivery process to date. Monitoring municipal adherence to national housing policy becomes especially important in the context of widespread municipal accreditation. Further, the provincial capacity building role set out in the Constitution must be considered within the context of these proposals and given greater emphasis.

At the national level, additional capacity to engage with now more than nine players will be required. This will be necessary in the financing divisions of national government, in respect of both disbursements and financial monitoring and reconciliation. Further, it will be necessary for national government to also monitor adherence to national housing policy across the country. Feedback mechanisms which allow for national government to learn lessons from municipal responses will also be required.

Capacity building needs at the local level will of course be the most significant. In this regard, both national and provincial government will need to develop a process which supports the growth of municipalities into their level one, two and three accreditation mandates.

All of this notwithstanding, the state housing sector as it exists in the national, provincial and municipal spheres of government is already capacity constrained. Additional capacity will be required, in terms of human resources, information technology, and critically, financial resources. It is not clear at this stage where this support will come from.

6.3. Shifting the provincial role

As suggested in the paragraph above, municipal accreditation will lead to a fairly fundamental shift in the role of provincial government while retaining the existing functions for the non-accredited municipalities. As provincial government loses more and more of its budget to accredited municipalities, its responsibilities in monitoring and oversight will increase. Provinces will need to consider how to structure such shifts within their operations, and how to phase in these shifts, keeping pace with the accreditation process in the province. The benefit of the municipal accreditation process is that it arguably provides an additional layer of capacity – as evidenced in the provincial monitoring and oversight role. There are substantial opportunities for creativity in this regard. Provinces will need to think strategically how to maximise these for the benefit of housing delivery in their areas of jurisdiction.

6.4. Maintaining the rate of delivery

While the overall intention of a municipal accreditation programme is to enhance delivery and ultimately, lead to accelerated delivery, a very real challenge in the initial stages will be to maintain the rate of delivery that currently exists. Provinces and municipalities will need to develop their systems, frameworks and procedures in advance, so that the shifts involved in municipal accreditation do not stall the delivery process. To some extent, the phased system of accreditation “levels” will assist in this process – though in some cases a municipality may apply for all three levels at once. An implementation plan, setting out

in careful detail the transition process from one system to the other must be included among the criteria for accreditation.

ANNEXURE 1: REFERENCES

Legislation:

1. Division of Revenue Act, 2005
2. Financial and Fiscal Commissions Act, 1997
3. Gauteng Housing Act, 1998
4. Housing Act, 1997
5. KwaZulu Natal Housing Act, 1998
6. Local Government: Municipal Systems Act, 2000, and draft assignment and delegation guidelines for comment (Notice 636 of 2005; published in Gazette No 27518).
7. Municipal Finance Management Act
8. Public Finance Management Act
9. The Constitution of the Republic of South Africa, 1996

Policy:

10. The National Housing Code. Department of Housing. March 2000
11. Breaking New Ground: A Comprehensive Plan for the Development of Sustainable Human Settlements. Department of Housing. September 2004.
12. Draft Policy Framework For The Assignment Of Powers And Functions To The Local Government Sphere. Department of Provincial and Local Government. November 2003.

Miscellaneous documentation:

National Department:

13. A Framework To Guide The Pilot Phase Of Accrediting Metros To Administer National Housing Programmes And To Undertake Housing Development. Submission to the Heads of Housing, 8 October 2004.
14. Implementation Plan, undated.
15. Accreditation Nominations, undated.

Western Cape:

16. Memorandum to the Minister of Local Government & Housing from the Director: Policy and Strategy regarding "Briefing on Housing Accreditation", dated 17 May 2005.

Gauteng:

17. Project: Pilot Accreditation of Ekurhuleni Metropolitan Municipality. Project No: 041. Dated 18 January 2005.

18. Business Plan: Pilot Accreditation of the Ekurhuleni Metropolitan Municipality in terms of Section 10(2) of the Housing Act, 107 of 1997.
19. Project: Sedibeng Council: Programme Management Support. Project No: 046. Dated 8 March 2005.
20. Memorandum of Understanding (Draft) entered into by and between the Department of Housing – Gauteng Provincial Government and Ekurhuleni Metropolitan Municipality. Dated 8 March 2005.

KwaZulu Natal

21. Metro Accreditation: Framework and Preliminary Business Plan. Version 3. Dated July 2000.
22. Metro Accreditation: Progress report dated 31 May 2000
23. Letter of Intent: Application for Accreditation Level 2. Addressed to the MEC for Housing, KwaZulu Natal, from the Acting Executive Director, Durban Metro Housing. Dated 9 May 2000.
24. Letter of Intent: Application for Accreditation Level 2. Addressed to the MEC for Housing, KwaZulu Natal, from the Executive Director, Durban Metro Housing. Dated 28 March 2000.

ANNEXURE 2: KEY ISSUES RAISED AT THE NATIONAL WORKSHOP ON MUNICIPAL ACCREDITATION

This note provides a summary of the key issues raised at the National Workshop, held in at the National Department of Housing's offices in Pretoria on 12 July 2005. The consulting team's response to these issues is set out in the final column in the table below.

Issue	Response
1. Language used in document, especially regarding the relationship ("lack of political consensus") between municipalities and provinces	Noted. This will be addressed in the final report.
2. Emphasis on integrated sustainable human settlements in BNG doesn't come through strongly – go back to core objectives of BNG and show how this policy enhances it	Agreed. The link between accreditation and Breaking New Ground will be expanded upon in the final report.
3. Primacy of the constitution determines that accreditation a fait accompli.	Agreed. This will be emphasized in the final report.
4. Municipalities cannot make the decision regarding accreditation on their own – this is an issue of cooperative governance.	<p>Noted. The framework will set out the following:</p> <ol style="list-style-type: none"> 1. In the interim (before the recommended legislative amendments are effected), MECs will prioritise specific municipalities for accreditation, and will make the decision as currently set out in the Code. 2. In the longer term: <ul style="list-style-type: none"> • Provinces will engage with their municipalities on an annual basis to establish which municipalities intend to register their accreditation. • On the basis of this consultation, provinces will agree annually (on a MTEF basis) with the national department at MINMEC on the municipalities prioritized each year for accreditation – this becomes the basis on which they have to perform. • If a municipality is not on this list, they can make special application to the province to be included in the plan for accreditation. Where there is a conflict between the province and the municipality, normal conflict resolution procedures, as set out elsewhere in the overall framework, will apply. <p>We maintain the principle that municipalities cannot be forced to be accredited. In addition, should they wish accreditation and demonstrate their ability, they also cannot or should not be denied this right. To expedite the process, an organized approach must be followed. In this</p>

Issue	Response
	<p>regard, the following is envisioned:</p> <ol style="list-style-type: none"> 1. Municipalities indicate they want to be accredited: must already have their housing plan, incorporated within their IDP. 2. On the basis of their stated intention, municipalities receive capacity support from province to develop their accreditation business plan. 3. This business plan is then developed. 4. The province approves the business plan on the basis of the accreditation guidelines, grants “conditional accreditation” and provides capacity funding to enable the municipality to use in implementing the capacity requirements of the business plan 5. Within a specified time frame, the municipality implements the capacity requirements and auditor confirms compliance. 6. Once satisfied, the auditor issues a compliance certificate, on the basis of which the municipality gets full assignment of powers. <p>We will include a new section in the framework which will consider implementing the accreditation process: in the initial years, this will have to be a managed process to ensure that proper resources are deployed, etc...</p> <p>A separate section on conflict resolution and the mediation / arbitration processes to be followed will also be included.</p> <p>Further, in the spirit of cooperative governance, recommendations regarding performance requirements for each sphere of government as it performs throughout the accreditation process will be included in the guidelines.</p>
<p>5. Funding formula needs attention – different issues arise when the money is directed to municipalities</p>	<p>Noted. It is the team’s view that this must be consistently applied both in terms of the allocation from national to province, and from national to municipalities. Constitutional principles of equity require this approach. We do note that MINMEC has the prerogative to review the formula as they determine necessary – but again, this must always be applied consistently across provinces and accredited municipalities.</p>
<p>6. Delivery-based tariff</p>	<p>Yes. This needs to be clarified further in the report. Specifically, that the tariff applies to stages in the delivery process must be emphasized.</p>

Issue	Response
7. Ratio too prescriptive	Noted. However, we cannot see how one can specify a ratio that isn't prescriptive. We have tried to reduce the prescriptiveness of a 100% allocation by introducing the 20% variable.
8. Issue of asset management must be addressed – cannot ignore	Noted. Will review. But this is not an issue for accreditation.
9. Confused why registration is being left to province – not efficient	<p>Noted that this is not adequately explained in the report – we will address this. The reason relates to efficiency and the need to retain the integrity of the system. Further, it is useful from a checks and balances point of view for province to maintain authority for reviewing special applications and to make decisions in this regard.</p> <p>Our proposal is that the subsidy application be entered electronically at the local level:</p> <ol style="list-style-type: none"> 1. municipality types in everything, completes the documentation, verifying objective facts 2. submits electronic form into the system which confirms eligibility or not 3. if eligible, province enters it into the database and municipality allocates the housing unit to the qualifying beneficiary
10. Confused why individual and relocation not devolved to local.	<p>Noted that our reasons for this should be clarified:</p> <ul style="list-style-type: none"> ○ Relocation – this programme is about to be discontinued (Servcon programme) - it will be more efficient to retain it at province for such a short period. ○ Individual- this is to accommodate requirements of credit-linked subsidy and to facilitate mobility within the province.
11. Why not move social housing to central level or at least keep it at province?	We do not agree. Local level prioritization can happen independent from national programme as defined in new policy
12. Scenario testing in terms of post accreditation – risks of taking on accreditation, as per different sorts of local government? Risk of municipality going into litigation over delivery while being accredited (referee / player)	<p>Risks must be dealt with in the requirements of the business plan, transitional process, and compliance verification before functions are assigned.</p> <p>Referee / player: this is resolved by chapter 3 because there are no longer any players – municipality or province is the only developer. The issue of checks and balances is a governance issue which is already dealt with consistently by municipalities.</p> <p>We will also define “developer”.</p>

Issue	Response
13. Levels proposal – level 1 is business as usual; rather split vertically by programme / were happy with former levels as set out in Code / split doesn't help with project management	We will clarify our position more strongly in the report.
14. Issue of provincial housing programmes	<p>The accreditation programme involves the accreditation to administer national housing programmes. Provinces may choose to devolve their provincial programmes, or may use the 20% provincial discretionary funding proposed, in this regard.</p> <p>Of course, in terms of cooperative governance and the prescripts of the constitution, the municipal housing plan must always be consistent with the provincial housing strategy and policy.</p> <p>Further, provinces are constitutionally entitled to intervene where municipalities are in default and not upholding their constitutional obligations in this regard.</p>
15. How to manage current contractual commitments in the hand over process	Noted. It will be required that this is provided for in the business plan. This will be part of the transitional hand over process. Our best practice recommendation is that province should finish current contractual obligations, unless otherwise agreed
16. Fund alignment should happen at provincial level – i.e. MIG funds might not all be used for housing	Agree with the principle of alignment, but MIG has already been transferred to the municipalities, so this becomes the required site for alignment.
17. Analysis of detailed approval process and steps at provincial level – how can these be consolidated	The assignment of these powers to the municipality will encourage municipalities to make it more efficient. It is not in our mandate to redesign this process.
18. City capacity to gear up working capital for developments – to take out loans	This is a separate legal matter. If the municipality has housing as part of its competence, then it will be able to raise money for housing.
19. Emphasis on metros	This emphasis is a direct consequence of the terms of reference. However, the team has been very careful to ensure that the proposed approach works with all types of municipality.
20. Differentiation in terms of various local authorities – how will this work in terms of funding, accreditation, etc.	We accept that explicit mention of the different municipality types is required, and will address this in our final report. However, as stated above, the proposed approach is explicitly

Issue	Response
	designed to work with all types of municipality. It is our view that the relationship between district councils and local municipalities cannot be regulated in the framework, but must be worked out practically in terms of the realities on the ground.
21. Intergovernmental relations	Agreed. This will be addressed in the final report.
22. P 46 – governance arrangements	Agreed. This section will be enhanced to illustrate the range of governance relationships and accountabilities.
23. Pre-accreditation phase to assist municipalities in getting necessary capacity in place / funding for this	Agreed. This will be developed and included in the overall framework and guidelines.
24. Greater emphasis on capacity building issue and differentiation between expertise and resources	Agreed. This section of the report will be enhanced.
25. Explicit engagement with sections in the Code which should be retained; others which should be dispensed with.	Agreed. We will develop a table which summarises this – a table which engages similarly with the Housing Act is already included in the document.
26. Definition of “developer”	Agreed. This will be included in the final report.
27. Difference between programme management and project management.	This will be clarified in the report.
28. Reporting requirements and the management of differing financial year-ends between the province and the municipalities.	Agreed. This will be addressed in the guidelines.
29. Forms, agreements, etc. necessary for the process of accreditation	Noted. Relevant forms and agreements will be included in the guidelines.
30. Change in the term “accreditation”	Noted. We do not believe any value would be added by changing the name as it is commonly understood.

ANNEXURE 3: PROPOSED AMENDMENTS TO SECTION 10 OF THE HOUSING ACT

Proposed Amended Section 10 of the Housing Act

Accreditation of municipalities

14(1) The Premier of a province may, as contemplated in sections 126 and 156 of the Constitution, assign housing functions to municipalities accredited in respect of such functions.

(2) The Premier must, as contemplated in sections 126 and 156 of the Constitution, publish the assignment of any such function by proclamation in the *Provincial Gazette*.

(3) An assignment of a function takes effect on the date of the proclamation contemplated in subsection (2).

(4) The Minister may prescribe a policy framework for the accreditation of municipalities and the assignment of functions to municipalities.

(5) The prescribed policy framework may provide for –

- (a) different housing functions, including tiers of housing functions that may be assigned;
- (b) the necessary capacity requirements for the purpose of any assignment of various functions to a municipality;
- (c) the sequence, if any, in which functions may be assigned;
- (d) the procedures to be followed and forms and documents to be submitted for purposes of accreditation and the assignment of functions including any certificates required to be submitted by a professional or other person;
- (e) the plans and reports to be submitted by an accredited municipality and the timeframes within which such reports must be submitted and to whom it must be submitted and the monitoring of accredited municipalities;
- (f) the institutional, funding, systems and capacity arrangements relating to accreditation; and
- (g) any other matter that the Minister considers necessary or expedient for the assignment of housing functions to municipalities or to achieve the objectives of this section.

(6) The MEC must, upon the receipt by the MEC of the prescribed documentation, complying with any prescribed requirements, accredit the municipality and procure the proclamation by the Premier of the assignment of any function or functions as contemplated in subsection (2).

(7) An accredited municipality must –

- (a) ensure that the prescribed capacity requirements for the assignment of a function are maintained;
- (b) perform the function assigned effectively;
- (c) submit such reports as may be prescribed;
- (d) comply with any prescribed obligations in terms of the policy framework.

(8) The MEC must –

- (a) monitor the performance of the functions assigned to an accredited municipality; and

- (b) where a municipality fails to perform a function adequately, take such steps as may be necessary to ensure the adequate performance of the function by the municipality.
- (9) Any dispute arising between a MEC and a municipality concerning the assignment of a function, must be referred to the Minister, whose decision shall be final and binding.

ANNEXURE 4: COMMENTS ON DRAFT GUIDELINES TO THE MUNICIPAL SYSTEMS ACT

Comments on the draft guidelines relating to assignment and delegation under the Local Government: Municipal Systems Act

1. The guidelines need to take account of the general proposals contained in the report submitted by the Shisaka/Teamworks Consortium.
2. The guidelines need to acknowledge the existence of the current section 10 of the Housing Act and need to take account of the proposed substitution of the section as per Appendix...
3. The guidelines need to acknowledge the need for more detailed capacity requirements in respect of certain housing functions, rather than more general indicators of capacity.
4. The guidelines need to acknowledge that certain functions build upon others and that in certain circumstances the tiering of functions would be appropriate.
5. The guidelines need to acknowledge the usefulness of external professionals in the determination of whether certain capacities are in place or not.
6. The guidelines need to consider the constitutional requirement that assignment requires agreement between the parties.
7. The guidelines need to take into account the provisions of DORA on the accreditation of municipalities in the context of the assignment of housing functions and specifically the fact that it overrides certain provisions of the guidelines requiring adherence to provisions such as sections 9 and 10 of the Systems Act.
8. The thinking on asymmetric general assignment specifically needs to take account of the mechanism proposed in respect of the new section 10 as set out in Annexure 3.



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REPORT 2: ACCREDITATION FRAMEWORK

Technical services to assist the Government of South Africa's Department of Housing develop a model framework and accompanying implementation guidelines for the accreditation of municipalities to administer national housing programmes

FINAL: 15 August 2005

MATTHEW NELL & ASSOCIATES
in association with
TEAM MANAGEMENT SOLUTIONS

This report was produced for review by the United States Agency for International Development. It was prepared by Matthew Nell and Associates in consortium with Team Management Solutions, under Mega-Tech, Inc.'s prime contract and addresses USAID/South Africa's Strategic Objective No. 6: Increased Access to Shelter and Environmentally Sound Municipal Services

This framework for the accreditation of municipalities to administer national housing programmes is Report 2 of a series of three reports. Report 3 relates to the Model Implementation Guidelines for the Accreditation of Municipalities to Administer National Housing Programmes. The basis for the policy set out in this framework is elaborated upon in Report 1: Analysis and Recommendations.

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Abbreviations and Definitions

ABP	Accreditation Business Plan
Accreditation	Accreditation is a concept within the Housing Act, 1997; Housing Code, 2000; and DORA, 2005. Accreditation as a concept relates to <u>entities</u> and their approval for a particular purpose in accordance with certain criteria.
Assignment	Assignment is a concept in the Constitution, and relates to the permanent transfer of functions (including the authority in respect thereof) to another level of government. In terms of this policy framework, municipalities become accredited for the assignment of specific housing functions. The constitutional basis and framework for accreditation is to be found in this concept.
BNG	Breaking New Ground: the new housing strategy for sustainable human settlements, approved by Cabinet in September 2004
DORA	Division of Revenue Act (Annual)
HSS	Housing Subsidy System
IDP	Integrated Development Plan, incorporating the municipality's housing plan
IT	Information Technology
IYM	In-Year Monitoring report of expenditure against budget and funds transferred required to be submitted before the 20 th of every month in terms of DORA and Treasury requirements
KPA	Key Performance Indicator
Level	Level of accreditation applied for
MEC	Provincial Member of the Executive Council responsible for housing
MINMEC	Committee of the Housing Minister and nine housing MECs
MFMA	Municipal Finance Management Act
MHC	Municipal Housing Committee delegated responsibility for housing affairs by the municipal council
MIG	Municipal Infrastructure Grant
MTEF	Medium Term Expenditure Framework
NDOH	National Department of Housing
NHSDB	National Housing Subsidy Data Base
PDOH	Provincial Department of Housing
PFMA	Public Finance Management Act
SCM	Supply Chain Management

I. ACCREDITATION FRAMEWORK

*The new human settlements plan envisages the accreditation of municipalities particularly the nine metropolitan areas, secondary towns and ultimately to all municipalities. **A framework is to be established to address various policy, constitutional and legislative aspects in order to enable municipalities to manage the full range of housing instruments within their areas of jurisdiction.** In order to be accredited, municipalities will have to demonstrate their capacity to plan, implement, and maintain both projects and programs that are well integrated within IDPs and within the 3 year rolling capital investment programs mandated by the Municipal Finance Management Act (MFMA). (Breaking New Ground, Part B, Section 5.2 “Expanding the role of local government”)*

1. RATIONALE FOR ACCREDITATION

*The national government and provincial governments **must** assign to a municipality, by agreement and subject to any conditions, the administration of a matter listed in Part A of Schedule 4¹ or Part A of Schedule 5 which necessarily elates to local government, if (a) that matter would most effectively be administered locally; and (b) the municipality has the capacity to administer it. (The Constitution of the Republic of South Africa, 1996; Section 156(4).)*

Required by the Constitution, the accreditation of municipalities to administer national housing programmes has been emphasised as a key government priority in support of an overall principle for cooperative government. Reference to the critical need for accreditation has been made by the President, in his State of the Nation Address in 2004, by the Minister of Housing when she delivered her Budget Speech to Parliament in both 2004 and 2005, by the National Department of Housing in its new housing strategy “Breaking New Ground” and by National Treasury, in the Division of Revenue Act, 2005. All of these references clearly indicate that it is government’s policy intention to locate the decision-making authority and funding capacity for local development at the most local sphere of government.

The rationale behind this move towards accreditation is rooted in the Constitution, and can be found further within the logic of good and cooperative governance, and current constraints in the housing delivery process that are leading to decelerated delivery and an increase in provincial budgetary roll-overs.

Accreditation seeks to achieve two inter-linked objectives:

- **Coordinated development (horizontal integration):** First, by locating the decision making authority around the implementation of national housing programmes at the local level, municipalities can coordinate these decisions with other decisions that

¹ Housing is listed as a functional area in Part A, Schedule 4

relate to the broader sustainability of human settlements. Municipalities are a logical site for the effective alignment of inter-departmental and inter-governmental funding streams. With the authority to make such decisions, opportunities for the application of innovative planning principles arise, and this contributes to the potential for the development of integrated and sustainable human settlements within municipal jurisdictions. This is a key emphasis of the Comprehensive Plan for the Development of Sustainable Human Settlements, “Breaking New Ground”.

- **Accelerated delivery (vertical integration):** Second, the efficiencies associated with devolving delivery authority to the local level should lead to accelerated delivery and improved expenditure patterns. This should result in a reduced requirement to roll over unspent funds as well as a more coordinated approach to planning approval and implementation.

Critically, the rationale and usefulness of any specific approach to accreditation must be interrogated against these two objectives. To the extent that these objectives are not met by accreditation (and in the context of capacity constraints in some municipalities, this is possible), accreditation should not proceed.

It must also be noted that the accreditation of a municipality involves the assignment of certain clearly defined functions in respect of the administration of national housing programmes.² This does not detract from any housing functions or powers a municipality may already have. This also does not include the power to design housing programmes to be funded from national housing subsidy funds.

1.1. The Conceptual Framework

Before detailing the provisions of various laws impacting on accreditation it is necessary to explain certain legal concepts. “Accreditation”, technically, is the recognition by an authority of the fact an entity has met certain criteria and standards for purposes of fulfilling a particular function. Accreditation, in itself therefore does not transfer functions from one level of government to another. Legally, functions can only be transferred from one level of government to another through assignment or delegation. The essential difference between these two concepts is that assignment involves a permanent transfer of the function, which includes the transfer of the authority role – and this includes in theory the right to legislate on that which has been assigned and the right to receive directly the funds and the assets necessary to perform the function. “Delegation”, on the other hand, is not a permanent transfer of functions, it does not include the transfer of the authority role, nor does it entitle the entity to which a function has been delegated to legislate on the matter or to direct funding from the fiscus. Delegation merely entails the exercise of a function on behalf of the delegating authority, the ultimate authority still vest in the authority that delegates (who can revoke the delegation or exercise the function him or herself). In this framework document, “accreditation” will be used in the broader sense of denoting the process ending with the assignment of functions, in the technical sense, by formal proclamation of assignment by the Premier in the Gazette.³ The accreditation of

² This flows logically from sections 126 and 156 of the Constitution.

³ Further distinctions are sometimes made depending on whether an assignment is to all municipalities, to one or to a particular class. However, these distinctions stem from the proposed guidelines under the Municipal Systems Act and are not relevant here.³

municipalities entails assignment rather than delegation because the constitution require assignment of housing functions, and because a permanent transfer of functions and authority is envisaged. This framework therefore seeks to achieve outcomes consistent with an assignment of functions as envisaged in the Constitution.

1.2. Legislative framework

The legislative framework for the accreditation of municipalities to administer national housing programmes is rooted in the Constitution and detailed in the Housing Act, 1997. Further to this, the annual Division of Revenue Act, 2005, and the draft guidelines to the Municipal Systems Act are also of relevance.⁴

- **The Constitution of the Republic of South Africa, 1996:** The overall intention for the assignment of functions to municipalities accreditation is set out quite clearly in the constitution. Section 156(4) of the Constitution provides that the national government *must* assign to a municipality, *by agreement*, and subject to any conditions, the administration of a matter listed in Part A of Schedule 4 or Part A of Schedule 5. Part A of Schedule 4 includes the item “housing”. Once assigned, the municipality would also have the power to legislate in respect of what it is entitled to administer but only to the extent of its own administration thereof– this would not include the power to change the content or rules of the functions assigned. This provision arises from the constitutional principles of devolution and cooperative government (as set out in Chapter 3) and that, simply, specific matters and functions should necessarily relate to local government if such matters or functions would most effectively be administered locally and the municipality has sufficient capacity in this regard.

In addition to section 156(4), there are three further provisions of relevance:

- Section 99 and section 126 of the Constitution allow for the assignment of an executive statutory power or function from national and provincial level to a municipality respectively.
 - Section 238 of the Constitution allows national or provincial government to delegate specific statutory functions and the power to exercise any power or perform any function for any other executive organ of state on an agency or delegation basis. Delegation is not, however, considered in this framework.
- **The Housing Act, 1997:** Section 10 of the Act deals explicitly with accreditation.

10 (1) Any municipality may apply in writing to the MEC in the form determined by the MEC to be accredited under subsection (2) for the purposes of administering one or more national housing programmes.

Further sub-sections of the Act go on to describe application, role, funding and monitoring of accredited municipalities.

⁴ A more detailed overview and discussion of the policy and legislative framework for the municipal accreditation programme and its specific implications, is set out in Section 3 of Report 1: Analysis and Recommendations.

The previous mechanism for accreditation was set out in Part 2, Section 2.3 of the National Housing Code⁵:

“It is the constitutional responsibility of both national and provincial government to assign to a municipality the administration of matters such as housing if that matter would be more effectively administered at a local level and if the municipality has the capacity to administer it. In this regard, and in keeping with the spirit of devolution, the Housing Act provides for the accreditation of municipalities to administer national housing programmes.”

And further

“A municipality is accredited if an application to the MEC for accreditation status is approved.”

The current provisions of Section 10 of the Housing Act are not consistent with the Division of Revenue Act (2005) and the Proposed Guidelines Relating to Assignment and Delegation under the Municipal Systems Act and will be revised to accommodate this policy framework for the accreditation of municipalities to administer national housing programmes.⁶

- **The Division of Revenue Act (DORA):** this is annual legislation which accompanies the national budget and sets the framework for financing arrangements between the various spheres of government. The Division of Revenue Act, 2005, contains specific provisions relating to the accreditation of municipalities for purposes of the administration of national housing programmes. The Division of Revenue Act is an annual occurrence: the current Act will again be repealed in 2006.

Section 17 of the Act deals specifically with integrated housing and human settlement development allocations, and provides for the accreditation of municipalities to administer national housing programmes within the 2005/2006 financial year. The responsibility for accreditation is given to the provincial accounting officer with the assistance of the MEC, who needs to exercise discretion.

Section 17(5) is of particular importance insofar as it *excludes the operation of certain provisions of other legislation which would have delayed accreditation of municipalities by MECs due to the procedural and other prescripts*. The “exemption” relates to issues such as un-funded mandates, the requirement for advice to be obtained from the Financial and Fiscal Commission, and the requirement to review the financial implications of assignment.

- **The Proposed Guidelines Relating to Assignment and Delegation under the Municipal Systems Act:** A draft policy on assignment was adopted in 2003. On the 22nd April 2005, the Minister for Provincial and Local Government published draft assignment and delegation guidelines for comment (*Notice 636 of 2005; published in Gazette No 27518*). Comment on these guidelines was due on 20 May 2005. While

⁵ It is noted that the National Housing Code is being redrafted. Reference is made here only to illustrate original thinking in respect of the municipal accreditation programme, as well as to record the status quo which will continue to exist until the Code is formally replaced by another policy document.

⁶ Recommendations for a revised Section 10 of the Housing Act are included as Annexure 4 in Report 1: Analysis and Recommendations”.

the guidelines are guidelines, and not law, and while they remain in draft form, this framework has been designed with the guidelines in mind.

1.3. Principles of accreditation

The accreditation framework is based on the following eight key principles:

1. **Logical application of roles and functional assignments:** The driving rationale behind accreditation is that it makes delivery more efficient and effective, and that as a result of a concentration of funding at the local level, municipalities are better able to make productive decisions on the developmental progress in their areas of jurisdiction. To the extent that these expectations are achieved by the assignment of specific responsibilities, municipalities must be accredited to take on such responsibilities. It is accepted, however, that municipalities will be challenged in taking on these roles. Therefore, the assignment of functions and roles that, while being part of the overall “administration of national housing programme” category of functions, does not facilitate enhanced delivery should be avoided.
2. **Authority and accountability must accompany responsibility:** Accreditation involving a transfer of responsibility in respect of decision-making in the administration of national housing programmes must be accompanied by accountability for such decision-making, and critically, real authority to perform in that role. Consequently, provincial governments cannot retain authority for a function while transferring responsibility. Municipalities must also be fully accountable for their actions in their new role.
3. **Accreditation follows capacity:** In order to ensure that delivery is not interrupted or undermined, accreditation must only be granted on the basis of (existing or created) capacity within the municipality concerned. Capacity criteria will increase with the level of accreditation that is being applied for, and will include the ability to undertake budgetary planning for and to allocate subsidies to subsidy projects within the municipal area, procurement capacity and municipal financial administration capacity. Some municipalities may not have the necessary capacity in the current instance. Provincial housing departments (with funding from the national department) will therefore be responsible to facilitate the necessary capacitation processes among municipalities seeking accreditation in their province, before accreditation can be granted.
4. **Funding follows function:** Accreditation must not become an “un-funded mandate”; it is important that municipalities have sufficient funding to operate within the new roles for which they become accredited. However, systems efficiency is also an important principle which must be pursued so that municipalities receive funding only based on their delivery success. In addition, municipalities must have sufficient funding to create the necessary capacity to perform the functions associated with accreditation. Developing the capacity to become eligible for accreditation must also not be construed as an “un-funded mandate”.
5. **Funding arrangements must be consistent, certain, and beyond interrogation:** It would be counter-productive for the funding arrangements, including the annual allocation of housing subsidy funding to the accredited municipality, to be an annual source of negotiation and dispute between the province and the municipality. Funding arrangements must first be linked to the Medium Term Expenditure Framework through the DORA, with annual budgets on a three-year rolling basis. Further, the

calculation of housing funds to accredited municipalities must be transparent and consistently applied without exception. Notwithstanding the above, to the extent that any accredited municipality is failing to utilise its budget a relevant province may recommend the reallocation of under-utilised portions to another municipality during a particular financial year.

6. **Efficiency:** The accreditation of a municipality to administer national housing programmes in respect of either level one, two, or three accreditation must result in improved efficiencies in the housing process. It is accepted, therefore that some municipalities might not seek level two or three accreditation, given the level of housing demand in their area of jurisdiction which may not allow them to achieve economies of scale.
7. **Universal and flexible application across the country:** the accreditation framework must be equally applicable to metropolitan (Category A), local (Category B) and district (Category C) municipalities across South Africa, in urban, peri-urban and rural areas. In this regard, the framework must accommodate the variety of housing intentions being expressed at a local level, and the varying capacity that exists to realise these intentions. District municipalities, for instance, may seek to become accredited on behalf of one or more of the local councils that operate in their area of jurisdiction. How this arrangement should work, and on what basis, is an issue that must be negotiated at the local level in consultation with the relevant provincial government. This framework must not undermine such a process by creating restrictions that exclude any particular type of municipality from participating in the accreditation programme.
8. **Cooperative government:** in keeping with the constitutional origins of accreditation, a fundamental component of the accreditation programme is that it supports enhanced cooperation across the three spheres of government. Notwithstanding the assignment of key functions to the municipal level that accreditation envisions, national and provincial departments continue to play key roles in ensuring the overall goal of access to adequate housing is met across the country. Communication channels between the three spheres must be developed in such a way so that capacity is enhanced and the overall system functions more efficiently.

2. OVERALL APPROACH

Overall, accreditation involves the transfer of functions relating to the administration of national housing programmes from provincial to municipal level as envisioned in Section 156(4) read with section 126 of the Constitution. This will enable municipalities to plan the implementation of the range of their development functions on a coordinated basis. However, in order for this new approach to be effective, municipalities must have the capacity required to take on these functions. **This implies an enhanced capacity building, supporting and monitoring and evaluation role for provincial departments** as they assist municipalities in taking on their new functions, and monitor their progress in this regard. Further, **it implies that national government (assisted by the provinces) expand its financial administration, capacity building and monitoring role** beyond the nine provinces to also include accredited municipalities as they will become responsible for determining the focus of national housing programmes in their municipal areas.

2.1. Three levels of accreditation

Given that the capacity of municipalities is not uniform, three levels of accreditation are created. Municipalities will be entitled to determine to which level they become accredited and the pace at which they access accreditation for such levels. Their intentions will be supported by Provincial departments, as well as national government, as part of a focused capacity building programme.

Accreditation levels are both functionally and programmatically defined. All levels are meaningful in terms of how they respond to the principles of accreditation, given the various capacity constraints that might be experienced by different municipalities. In respect of each level, functions are assigned to the municipality. Progressive levels require a higher degree of capacity, which the municipality must demonstrate to the satisfaction of an external auditor appointed by the Auditor General, or by the Auditor General directly. This approach is set out in more detail later on in the framework.

The three levels are:

- Level one: Subsidy budget planning and allocation
- Level two: Programme management and administration
- Level three: Financial administration

The most critical level of accreditation is that of prioritising how the subsidies are applied to specific programmes and projects in the municipal area. **Level one accreditation, subsidy budget planning and allocation**, including the assignment of housing subsidy budgetary planning functions across national and provincial housing programmes and projects; the assignment of subsidy / fund allocations, and the assignment of project identification functions. This is therefore the most significant step that can be made, both in terms of delegating authority and responsibility and enabling integration and

coordination to take place.⁷ This level of accreditation can be applied immediately to all municipalities with the necessary capacity and which meet the eligibility criteria. This will include focused internal capacity to commission, produce and implement housing strategies, plans and budgets. Further, they will be required to do the range of tasks associated with project identification and preliminary project assessments. MECs, in consultation with municipalities that already enjoy such capacity, will need to programme an appropriate and ordered accreditation process in their provinces.

Level two accreditation, programme management and administration, including the assignment of project evaluation and approval functions; the assignment of contract administration, subsidy registration, programme management including cash flow projection and management and technical (construction) quality assurance functions. This involves the additional devolution of responsibility for programme management and administration. In order to undertake the functions associated with this level, municipalities will require the necessary capacity to commission, produce and implement project feasibility assessments, which will be undertaken by professional engineers, town planners or certified project managers. Municipalities will also require programme administration skills and experience in line with the scale of activities planned for the municipality including project cash flow management. With level two accreditation, subsidy registration via the HSS into the NHSDB is also devolved to the municipality. This means that they will be required to install standardized programme management systems and a municipal HSS.

Municipalities with level one and two accreditation will not, however, undertake the financial management of their budgets. This will continue to be undertaken by provincial government, which has the capacity and systems necessary for that function to proceed efficiently, especially given the current inadequate legislative framework that will govern these arrangements. That said, legislative provisions in DORA will ensure that provincial departments will be obliged to allocate funding as prioritized and programmed by the accredited municipality, in a manner that is both effective and efficient and which does not delay the municipality's ability to operate within their sphere of responsibility.

Level three accreditation involves the additional assignment of responsibility for financial administration and includes subsidy payment disbursements, and financial reporting and reconciliation.⁸ In order to undertake the functions associated with the financial administration, municipalities will require focused internal financial management and administrative capacity. In addition, the municipality will be required to have in place financial systems that are compliant with national specifications. A standard subsidy financial administration package, including reporting systems, management information systems, standard accounting procedures, and so on will be required.

Key issues in respect of this approach are set out below:

⁷ A number of municipalities already undertake the functions that together comprise level one accreditation. Once formally accredited for level one, these municipalities will be authorized to undertake such functions without securing provincial department approval as they currently do. It is envisioned that at least all of these municipalities will be able to apply for level one accreditation in the immediate term.

⁸ In the short term, prior to the legislative amendments that are proposed, it will not be possible for municipalities be assigned level three accreditation. This is because of the Housing Act and National Housing Code stipulations that the provincial accounting officer remain accountable for housing funds of accredited municipalities. It is proposed that this aspect of the current legislation and policy is amended before any municipality is extended level three accreditation.

- **Accreditation based on criteria:** All municipalities will be entitled to be accredited in respect of all three levels, to the extent that they meet the eligibility criteria, corresponding capacity and governance requirements. The assessment of whether or not a municipality meets the requirements will be done by the municipality's external auditor. This is explained later in this framework, in Section 2.2.1, below.
- **Principle of efficiency:** There will be instances, in which it will be inefficient to transfer funding to a municipality – for instance, when a municipality finds it will be unable to deliver the service economically. In such cases, a municipality may decide not to apply for level three accreditation, although it may apply for levels one and two. Similarly, given the relative size of its subsidised housing responsibility, it may also be inefficient for a municipality to seek out level two accreditation. Critically, this decision will rest with the municipality concerned, and not the province. However, it is desirable for all municipalities to, over time, acquire level one accreditation.
- **Provincial roles and responsibilities:** In accrediting municipalities for a particular level of accreditation, the provincial monitoring and oversight role will grow. Provinces will have the authority to stop payments in cases where there is clear evidence of financial or programmatic mismanagement. At the same time, provinces will be responsible for supporting the capacity development of municipalities, and must monitor their performance to identify areas for intervention. This is addressed further in Section 5.2 of this Framework.
- **Exemptions:** Notwithstanding the progressive approach to accreditation, some functions and programmes are better retained at the provincial level. These are:
 - **Special approval of non-eligible individual beneficiaries:** While the subsidy registration function will be devolved to local authorities, provinces will retain responsibility for the approval of extraordinary applications (i.e. special approval of non-qualifiers). This will ensure against any conflict of interests.
 - **Individual subsidies:** The administration of the individual subsidy programme (both in terms of credit linked and non-credit linked) should be retained at the provincial level.⁹ The reason for this relates primarily to the need to support residential mobility and support administrative efficiency and simplicity within a policy framework that encourages secondary market transactions and the linking of credit with subsidies.¹⁰

⁹ This point is maintained in the framework, notwithstanding the substantial and ongoing debate as to whether this should be applicable to non-credit linked subsidies.

¹⁰ The Breaking New Ground housing strategy explicitly re-introduces the individual subsidy mechanism to support the development of the secondary (resale) market. It is envisioned that individuals seeking subsidy support in their purchase of existing housing will link this with credit (indeed, there is speculation that this might become an actual requirement of the individual subsidy mechanism). If individual subsidies were administered at the local level, there could be the risk that applicants be required to access subsidies in their municipal area of residence. This would undermine the residential mobility intentions of an Ekurhuleni resident, for instance, seeking to purchase a house in Mogale City. Already, the division of the national allocation into nine provincial budgets constrains inter-provincial residential mobility. For this not to be a problem, accredited municipalities in one province – or indeed across provinces – would need to work out some kind of agreement where subsidy funding is also made available to qualifying beneficiaries not constituting part of the local backlog. This is contrary to the principle of simplicity that guides this policy framework.

Further, in order for subsidies to be linked with credit, it is likely that banks will take on the subsidy administration process.¹¹ It is much simpler, and arguably more efficient for banks to negotiate the procedures associated with such arrangements, with nine provinces, rather than with many provinces and accredited municipalities.

- **Relocation subsidies:** the relocation subsidy mechanism refers to subsidies awarded in terms of the Servcon rightsizing programme. Because this programme involves a finite number of prospective beneficiaries and is being phased out, responsibility for administering this mechanism should be retained at provincial level in the interests of administrative efficiency.

The three levels, and the functions they comprise, are summarised in the following table.

Table 1: Levels of Housing Accreditation

Level	Components and Definition
Level 1	Subsidy budget planning and allocation: including housing subsidy budgetary planning across programmes and projects; planning of subsidy / fund allocations, and project identification. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>
Level 2	Programme management and administration: including project evaluation and approval, contract administration, subsidy registration, programme management including cash flow projection and management and technical (construction) quality assurance. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>
Level 3	Financial administration: including subsidy payment disbursements, and financial reporting and reconciliation. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>

By creating three levels of accreditation, it is intended that all municipalities will be accredited for some level within the medium term, within the spirit the housing policy and in line with sections 156(4) and 126 of the Constitution. The principle of applying responsibility for a function at the lowest logical sphere of government is important, insofar as it leads to accelerated and better coordinated housing delivery. This will challenge each and every sphere of government, be it at the national, provincial or local sphere of government, to work to the best of their capacity in the interests of better housing provision across the country and a concerted, national response to the urgent housing need.

¹¹ At the time of writing, negotiations with the banks regarding a credit-linked individual subsidy option (for households in the R3501 – R7000 per month income category) were still underway. The outcome of those negotiations must be accommodated in this framework.

2.2. Accessing accreditation

All municipalities shall be entitled to a particular level of accreditation, depending on their ability to meet certain capacity criteria. The following process will apply¹²:

- **Accreditation application:** Municipalities indicate they want to be accredited in respect of a particular level of accreditation. To do so, they must already have their housing plan approved by a municipal council resolution as part of the wider IDP process in which municipalities are required to engage. Municipalities which have already had submitted an application for accreditation in terms of the previous framework as set out in the National Housing Code (2000) will have to nonetheless submit a new application in terms of this framework.
- **Pre-accreditation capacitation:** On the basis of the municipality's stated intention and identified capacity needs in order to carry out this intention, the province provides targeted technical assistance towards the development of the accreditation business plan. (This should be funded by the national department of housing in terms of a programme specifically designed to facilitate municipal accreditation).
- **Accreditation business plan:** The business plan is then developed for the particular level or levels of accreditation that is being sought with the technical support of provincial government, if necessary, and submitted to the province for review.
- **Endorsement of accreditation business plan, conditional accreditation approval, and capacitation funding:** Once the business plan is finalized, it is reviewed and approved on the basis of the accreditation guidelines. The province then grants "conditional accreditation" and provides capacity funding to enable the municipality to implement the capacity requirements of the business plan (hiring of staff, development of new systems, etc.).
- **Implementation of accreditation business plan:** on the basis of the conditional accreditation approval, the municipality implements the business plan and provides monthly progress reports to the provincial department of housing.
- **Compliance certification:** Within a specified time frame, the municipality implements the capacity requirements and an auditor (either the Auditor General or his or her designate)¹³ confirms compliance by issuing a compliance certificate. This certificate confirms that the municipality has fulfilled the capacity requirements in terms of the business plan and is entitled to receive full accreditation for the level applied for.
- **Accreditation approval:** This compliance certificate is submitted to the provincial department, on the basis of which the Premier or MEC issues a proclamation,

¹² This process is set out in Section 5 of the Implementation Guidelines, Report 3.

¹³ The Auditor-General is responsible for the audit of a municipality (section 92 of the Local Government: Municipal Finance Management Act, 2003 (Ac No. 56 of 2003)). He can delegate or designate certain functions to other persons eg auditors. The Auditor-General is appointed in terms of section 193 of the Constitution and there is an Act governing his affairs: the Public Audit Act, 2004 (Act No. 25 of 2004), which says he can undertake other functions against payment of a fee as long as it does not amount to the creation of policy or is something which he needs to audit later on. The Municipal Finance Management Act and the Municipal Systems Act is silent on the appointment of other auditors.

assigning the municipality the functions relevant to the level of accreditation applied for.¹⁴

A municipality may seek accreditation in respect of each level on a consecutive basis, or concurrently, depending on its own capacity parameters and housing intentions. However, no municipality may seek accreditation in respect of level three without already being accredited or seeking accreditation for levels two and one. Similarly, municipalities seeking level two accreditation must already be accredited for level one, or seeking level one accreditation in the same application.¹⁵

2.2.1. Eligibility criteria

Municipalities must meet specific criteria in order to be accredited for a particular level. These are summarised in the following table and addressed in greater detail throughout this framework. The table below considers the range of housing functions that a municipality undertakes, whether accredited or not. Those related specifically to the three levels of accreditation are marked in different colours. The column on the right indicates the various sorts of eligibility criteria that it is recommended should be applied:

Table 2: Accreditation eligibility criteria by level

FUNCTIONS	Eligibility criteria
Level One: Subsidy budget planning and allocation process	
Housing subsidy budget	<ul style="list-style-type: none"> • Approved housing strategy, plan and budget • Accreditation business plan – section for level one • Necessary capacity, confirmed by an auditor, including: <ul style="list-style-type: none"> ○ Ability to draft a business plan for level one accreditation. ○ Ability to produce and implement housing strategies, plans and budgets, or commission and manage such functions. ○ Ability to do project identification and assessment
Subsidy / fund allocations	
Project identification	
Level Two: Programme management / administration	
Project / Programme approval	<ul style="list-style-type: none"> • Approved housing strategy, plan and budget • Accreditation business plan – section for level two • HSS in place and ability to undertake subsidy registration function • Necessary capacity, including: <ul style="list-style-type: none"> ○ Ability to draft a business plan for level two accreditation ○ Ability to produce and undertake project feasibility assessments (undertaken by professional engineers, town planners or certified project managers (in-house or contracted)). ○ Programme administration skills / experience in line with the scale of activities planned for the municipality.
Contract administration	
Programme management	
Subsidy registration	
Technical (construction) quality assurance	
Level Three: Financial administration	
Subsidy disbursements	<ul style="list-style-type: none"> • Approved housing strategy, plan and budget

¹⁴ The accreditation of a municipality involves the assignment of certain clearly defined functions in respect of the administration of national housing programmes, and not to design local programmes to be funded with national housing subsidy funds.

¹⁵ It is also recommended that level three accreditation only be granted once Section 10 of the Housing Act has been amended in line with this policy framework. The reason for this relates to the provision that the provincial accounting officer remain accountable for what would become the municipal housing budget.

FUNCTIONS	Eligibility criteria
Financial reporting and reconciliation	<ul style="list-style-type: none"> • Accreditation business plan – section for level three • Necessary capacity, confirmed by an auditor, including: <ul style="list-style-type: none"> ○ Ability to prepare or commission a business plan for level three accreditation ○ Financial management with ability to review, report and manage subsidy disbursements and financial reporting and reconciliation.

2.2.2. Capacity support towards accreditation

It is acknowledged that few municipalities have the capacity currently to be able to take on immediately all the functions envisioned with accreditation. This capacity will have to be built, even among the larger municipalities. Various capacity building stages are therefore proposed:

- **Pre-accreditation support:** over time, and within a prioritised framework that acknowledges the diverse range of capacity enjoyed by the various municipalities, it is envisioned that all municipalities will seek to be registered for at least level one accreditation. In support of their intentions, province will establish a pre-accreditation support programme which has the following objectives:
 - Support the municipality in undertaking a **capacity audit** of its housing department or division.
 - Identify and source the capacity necessary to assist the municipality in drafting an accreditation plan.
 - Support for municipalities that currently are unable to undertake current housing functions. This could include support in drafting a Housing Strategy and Plan.
 - Other forms of support required as demonstrated by the particular municipality concerned.
- **Accreditation implementation support:** once the province has approved a municipality's accreditation business plan in principle, it will make funds available for the sourcing and appointment of the capacity necessary to implement this plan. This could include personnel of varying skill levels, business systems, and so on.
- **Ongoing accreditation support:** it is recommended that provinces maintain a special accreditation unit to which accredited municipalities can go to when struggling with a particular aspect of their new functions. Further, in the spirit of cooperative governance, recommendations regarding performance requirements for each sphere of government as it performs throughout the accreditation process will be included in the guidelines.

3. INSTITUTIONAL ARRANGEMENTS

3.1. Changes to housing roles

The accreditation framework assumes a renewed definition of roles and responsibilities as set out in the table below.

Table 3: Revised Housing Roles with Respect to Municipal Accreditation

	Existing Responsibilities (Housing Act, 1997; and National Housing Code, 2000)	Consequential responsibilities with accreditation
National	<p><i>To establish and facilitate a sustainable national housing development process.</i></p> <ul style="list-style-type: none"> National policy Goals: sets broad national housing delivery goals; facilitates the setting of provincial housing delivery goals, and; where appropriate, facilitates the setting of housing delivery goals of a municipality. Funding: Receives an annual budgetary allocation from the national budget and based on a formula set by DORA, determines conditional grant allocations for the national housing programme. Performance monitoring: Monitors the performance of the housing sector against housing delivery goals and key indicators Capacity support: assists provinces to develop their administrative capacity; supports and strengthens the capacity of municipalities Consultation: promotes consultation between government and the housing sector. Communication: promotes effective communication in respect of housing development. 	<ul style="list-style-type: none"> Funding: determines housing grant allocations for the national housing programme to level three accredited municipalities. <p>The following existing functions become amplified:</p> <ul style="list-style-type: none"> Performance monitoring Capacity support Consultation Communication <p>The establishment of the following will also become necessary:</p> <ul style="list-style-type: none"> Management information systems formulation, management & enhancement
Provincial	<p><i>To promote and facilitate the provision of adequate housing in the province, within a framework of national policy, after consultation with the provincial organisations representing municipalities.</i></p> <ul style="list-style-type: none"> Provincial policy Provincial legislation Housing development: to coordinate housing development in the province Capacity support for municipalities Intervention to perform municipal duties Multi-year plan Municipal accreditation Provincial legislatures 	<p>Non-accredited municipalities</p> <ul style="list-style-type: none"> To build capacity in preparation for level one accreditation. <p>In terms of level one municipalities</p> <ul style="list-style-type: none"> Housing development: Programme and project prioritisation and allocations devolved to municipality Capacity support is strengthened Oversight role established <p>Management systems need to be developed and maintained</p>

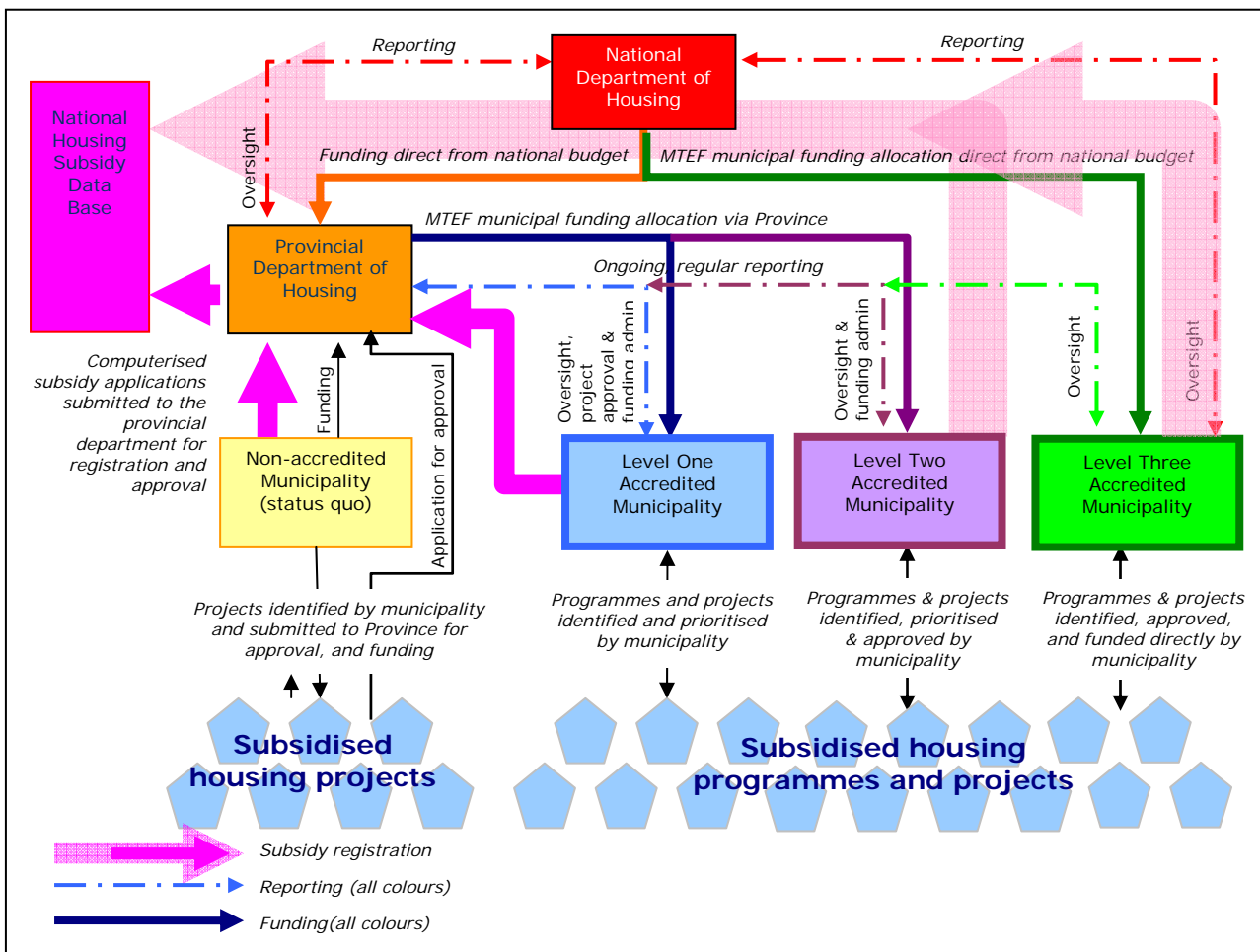
	Existing Responsibilities (Housing Act, 1997; and National Housing Code, 2000)	Consequential responsibilities with accreditation
		<p>In terms of level two municipalities</p> <ul style="list-style-type: none"> • Housing development: Programme administration and management, and subsidy registration is devolved to municipality. All national housing programmes, with the exception of individual and relocation subsidies, which remain the responsibility of the province. • Capacity support is strengthened • Oversight role established • Management systems need to be developed and maintained <hr/> <p>In terms of level three municipalities</p> <ul style="list-style-type: none"> • Housing development: full function is devolved to municipality (allocation, management and financial administration). All national housing programmes, with the exception of individual and relocation subsidies, which remain the responsibility of the province. • Capacity support is strengthened • Oversight role established • Management systems need to be developed and maintained
	Municipalities	<p><i>As part of the process of integrated development planning, to ensure within the framework of national and provincial housing legislation and policy, that the right to have access to adequate housing is realised on a progressive basis.</i></p> <ul style="list-style-type: none"> • Housing delivery goals: to draft an annual Housing Plan as part of the municipal IDP • Housing development: to facilitate and expedite delivery in terms of that plan • Land for housing • Health and safety; efficient services; public environment; conflict resolution; bulk and revenue generating services; land use

Existing Responsibilities (Housing Act, 1997; and National Housing Code, 2000)	Consequential responsibilities with accreditation
	<p>Level three municipalities</p> <ul style="list-style-type: none"> To apply the housing policy directly Subsidy budget planning process Programme management & administration Subsidy registration Financial administration: including subsidy disbursements, and financial reporting and reconciliation. All national housing programmes, with the exception of individual and relocation subsidies, which remain the responsibility of the province. Management systems need to be developed and maintained

3.2. Institutional arrangements

The interaction of the various spheres, and in the context of the various levels of accreditation, is illustrated in the following diagram. In the diagram below, the thick, coloured lines represent funding flows; while the thin dotted lines represent lines of reporting, oversight and accountability.

Figure 1: Accreditation Institutional Arrangements



As illustrated above, the roles and responsibilities of the three spheres of government change depending on the level of accreditation achieved by the particular municipality.

In terms of non-accredited municipalities, funding is allocated to provinces by the national department of housing, on the basis of a formula, articulated in the annual Division of Revenue Act. Municipalities, acting in terms of the Chapter 3 Procurement Procedures for the delivery of subsidised housing, may apply to the Province to carry out subsidised housing projects. In this instance, there is very little budgetary certainty and municipalities have no control over the housing development pathway in their area of jurisdiction.

Level one accredited municipalities have the authority to identify and plan for local level housing programmes and projects and to allocate subsidy funds from their annual allocation to these.. In this regard, level one accreditation assigns the authority and responsibility to respond to national policy directly. Level one municipalities determine their **housing plan** (approved as part of the municipalities IDP by Council resolution, taking into account comments by the province) and which identify the specific programmes and projects to be undertaken within the fiscal year in their municipal area. They must develop the specific individual **project plans** for submission to provincial government for approval. Following provincial approval, the municipality proceeds with implementation on the basis of funding disbursements from provincial government, on a cash flow basis.

Level two accredited municipalities have the added authority and responsibility for evaluating and approving specific projects against agreed project criteria and undertaking the subsidy registration function. In this regard, the step of sending specific project plans to the province for approval is removed. Municipalities will certainly need to establish their own governance arrangements to allow for the necessary checks and approvals, and these will be among the criteria set out for achieving level two accreditation. Following internal approval of the project plan, the municipality proceeds with implementation on the basis of funding disbursements from provincial government, on a cash flow basis. Responsibility for subsidy registration will require that municipalities also put in place municipal Housing Subsidy Systems that can communicate with the National Housing Subsidy Database.

Level three accredited municipalities have the added authority and responsibility for the financial administration of housing development in their area. In this case, the municipal fund allocation will be disbursed on a cash flow basis to the municipality directly from the national department. Again, the necessary governance arrangements will be established and compliance with the MFMA will be ensured. In this case, the municipality will report directly to the national department in respect of housing draw-downs and financial reconciliation, as well as to the province.

Ongoing reporting, monitoring and evaluation is fundamental to the accreditation process. Municipalities must report regularly to province on their progress in respect of delivery, and provide a regular financial reconciliation report. Level three municipalities will also report to the national department of housing. The national department and provinces will need to establish a dedicated monitoring and evaluation function within their structures to engage in this process.

At all levels, a critical component of accreditation is budgetary certainty, defined on a formula-basis over the MTEF term. Once a municipality becomes accredited, the direct budgetary allocation to that municipality is no longer subject to provincial discretion, but rather is determined by the existing formula for equitable share, as set out in the DORA. This certainty gives municipalities the opportunity to respond creatively to their housing responsibilities and to ensure a coordinated and integrated delivery process. At the same time the province will retain discretion over a predefined proportion of the overall provincial housing subsidy budget. The province could allocate additional subsidy funds to the accredited municipality at its discretion. Details regarding the funding arrangements are set out in the next section.

3.3. Summary of key accreditation functions

The key accreditation functions to be performed per level of accreditation are outlined in the following table, together with an outline of existing functions that are performed at municipal and provincial level. New municipal functions are highlighted in bold in the table below.

As illustrated below the accreditation relates directly to three categories of functions:

- Subsidy budget planning process: level one accreditation
- Programme management and administration, including subsidy registration: level two accreditation
- Financial administration: level three accreditation

The remaining categories of functions are not included in the municipal accreditation programme and therefore remain as currently defined:

- Policy and planning: undertaken by both province and municipality as it relates to their own specific areas of jurisdiction.
- Subsidy and property administration: undertaken largely by the developer, which in almost all most cases is the municipality or the province.
- Subsidy registration – special approvals: the approval of special applications will continue to be undertaken by the province.

Table 4: Summary of housing functions

FUNCTIONS	Current	Level 1	Level 2	Level 3
Policy and planning				
Housing strategy: (IDP)	Municipality	Municipality	Municipality	Municipality
Housing plan and budget: (IDP)	Municipality	Municipality	Municipality	Municipality
Housing policies: procurement, allocation, etc.	Municipality	Municipality	Municipality	Municipality
Level 1: Subsidy budget planning process				
Housing subsidy budget	Province	Municipality	Municipality	Municipality
Subsidy / fund allocations	Province	Municipality	Municipality	Municipality
Project identification	Province	Municipality	Municipality	Municipality
Level 2: Programme management / administration				
Project / Programme approval	Province	Province	Municipality	Municipality
Contract administration	Province	Province	Municipality	Municipality
Programme management	Province	Province	Municipality	Municipality
Subsidy registration	Province	Province	Municipality	Municipality
Subsidy registration (Approval of special applications)	Province	Province	Province	Province
Technical (construction) quality assurance	Province	Province	Municipality	Municipality
Level 3: Financial administration				
Subsidy disbursements	Province	Province	Province	Municipality
Financial reporting and reconciliation	Province	Province	Province	Municipality
Subsidy & property administration				
Eligibility check	Developer	Developer	Developer	Developer
Subsidy applications	Developer	Developer	Developer	Developer
Allocation of subsidy / house	Municipality	Municipality	Municipality	Municipality
Transfer	Deeds office	Deeds office	Deeds office	Deeds office
Project management	Developer	Developer	Developer	Developer

4. FUNDING ARRANGEMENTS

Funding arrangements relate to the allocation of housing subsidy funds and to the administrative costs associated with the new responsibilities conferred through accreditation. Further, they relate to the funding of capacitation by municipalities to perform accreditation functions.

4.1. Allocation of subsidy funds

National housing subsidy funds will be allocated from the IGR Transfer Allocations on a formula basis as determined in the annual Division of Revenue Act, which is equally applied across all accredited municipalities and provinces. This will apply to all accredited municipalities, irrespective of their level of accreditation.

However, to ensure that provincial housing departments are not undermined in their ability to meet their housing responsibilities by allocating a significant proportion of what would have comprised their budget to the accredited municipalities in their province, a degree of discretion is also allowed.

On at least a three-year MTEF basis, the national Minister of Housing must agree with provincial housing MECs on a universally applicable formula which takes into account the housing backlog and other agreed and quantifiable factors. As part of these deliberations, the degree of flexibility to be applied in respect of the following two parts (whether they are defined as an 80:20 ratio or some other proportion) must also be defined.¹⁶ This must be applied to all provinces and accredited municipalities in respect of the housing jurisdictions for which they are responsible.

In this regard, the national housing subsidy budget is expressed in two separate parts:

- **An equitable subsidy allocation** comprising 80% of the national housing subsidy budget. Allocations from this fund to provinces and municipalities are on the basis of a single formula that applies equally across all jurisdictions, and which is set within the parameters of the three-year medium term expenditure framework.¹⁷ The allocation will be the same irrespective of the level of accreditation of the particular municipality, because it will be based on the formula. For levels one and two accreditation, allocations will be dedicated to the accredited municipality but held and administered by the provincial government, disbursed against actual cash flow requirements. For level three accreditation, allocations will be made to the accredited municipality directly from the national fund, disbursed on a cash flow basis.
- **A provincial housing subsidy supplement**, comprising 20% of the national housing subsidy budget will be allocated to provinces on the basis of the same formula, but including all areas within the province, for discretionary allocation by the Provincial

¹⁶ This is to provide certainty for municipalities to facilitate project and programme planning, while also allowing a certain degree of flexibility.

¹⁷ A single, nationally-determined formula applying equally to both provinces and municipalities is proposed specifically with regards to the constitutional principle for the promotion of equal opportunity and equal access to government services. It has been suggested that the current formula is inappropriate even in the current arrangements. This is a matter that must be resolved prior to the implementation of the accreditation programme.

housing MEC. A portion of this (defined on the basis of an agreement between the Minister and the MECs as suggested above) should be applied towards the individual subsidy programme to encourage the growth of the secondary residential property market and the potential extension of mortgage finance. MEC's have the discretion to top up the municipal funding from the national housing subsidy fund with the 20% discretionary funding proportional to the accredited municipality, or with part, or to direct it in some other way, depending on provincial priorities.¹⁸

In respect of both parts, accredited municipalities and provinces are required to submit a budget every year, within the framework of the three year MTEF.

4.1.1. Claw back clause

Where it is apparent that particular municipality will not be able to utilise the subsidy budget allocated to it in a particular budget year, the relevant province shall be entitled to reallocate the projected unutilised portion to other municipalities. Should this ever happen, the claw back of subsidy funding must be accompanied by targeted capacitation interventions from the provincial department to assist the municipality develop the necessary capacity to overcome its implementation challenges. The municipality would then fund its delayed projects with allocations to subsequent years. Projects already approved should have first call on any municipal subsidy allocation unless the particular project is in fact formally cancelled.

4.1.2. Funding for individual and relocation subsidy programmes

As noted above, the administration of the individual and relocation subsidy programmes will remain the responsibility of the province. Provinces will draw from their provincial housing subsidy supplement to manage this responsibility. The specific proportion to be dedicated to the individual subsidy programme will be agreed by the MECs and the Minister together to encourage the growth of the secondary residential property market and the potential extension of mortgage finance.

4.2. Operational funding

It is recognised that in accepting the wider responsibilities afforded by accreditation at whatever level, municipalities will be incurring higher operational costs. In keeping with the principle that funding must follow function, a delivery-based tariff has been defined. However, payment of the delivery-based tariff will be conditional on the receipt of the required reporting formats, as set out in the guidelines.

The specific details of this tariff will be set out in the guidelines.¹⁹

¹⁸ This mechanism will only exist for a finite amount of time – for five years. A review at the end of the fifth year will determine its efficiency and effectiveness in realising the objectives of enhanced delivery.

¹⁹ Further explanation of the delivery-based tariff is set out in Section 5.5.2 of the **Final Report: Analysis and Recommendations**. Dated 21 July 2005. Prepared by Matthew Nell & Associates in consortium with Team Management Solutions.

4.3. Funding flows

Funding flows in respect of the equitable subsidy allocation, the provincial housing subsidy supplement, the delivery-based tariff, and funding for capacity building throughout the accreditation process are set out below.

4.3.1. *Equitable subsidy allocation*

For levels one and two accreditation, budgetary allocations in respect of the equitable subsidy allocation are dedicated to the accredited municipality but held by the national government and administered by the provincial government, disbursed against actual cash flow requirements. For level three accreditation, funds are disbursed to the accredited municipality directly from the national government.

4.3.2. *Provincial housing subsidy supplement*

The provincial housing subsidy supplement will constitute a top-slice portion of the national housing subsidy budget (the proportionate size of which will be agreed between the Housing Minister and the provincial MECs), that is then distributed to provinces on the basis of the same formula applied in respect of the equitable subsidy allocation.

Once they have received their supplement, provincial departments can then choose how to allocate such funding either to provincial programmes, or to specific municipalities.

4.3.3. *Operational funding: Delivery-based tariff*

Accreditation will necessarily lead to expanded capacity requirements on the part of all spheres of government as each adapts to the new roles in respect of the accreditation arrangements, while also carrying on in respect of its old roles, for the balance of its responsibilities.

The accreditation of municipalities is a national housing programme for which operational funding must be provided. The delivery-based tariff to cover operational costs will be paid out of the national housing subsidy budget, via the province in terms of level one and two accreditation, and directly in terms of level three accreditation. Consequently, it is also recommended that Treasury be approached to increase the housing subsidy budget so as to accommodate the financial realities of accreditation.

4.3.4. *Capacitation funding*

The success of the municipal accreditation programme is wholly dependent on sufficient capacity existing at each sphere of government to implement their new and enhanced functions effectively. This will necessarily require fairly extensive capacitation. While this framework envisions that each sphere will be responsible for providing the capacity support required by the next sphere, it is also envisioned that the entire costs of capacitation will be supported by national government. This is likely to require a substantial budget, which must be secured. National government must also develop an accreditation capacitation programme on the basis of which this budget can be expended.

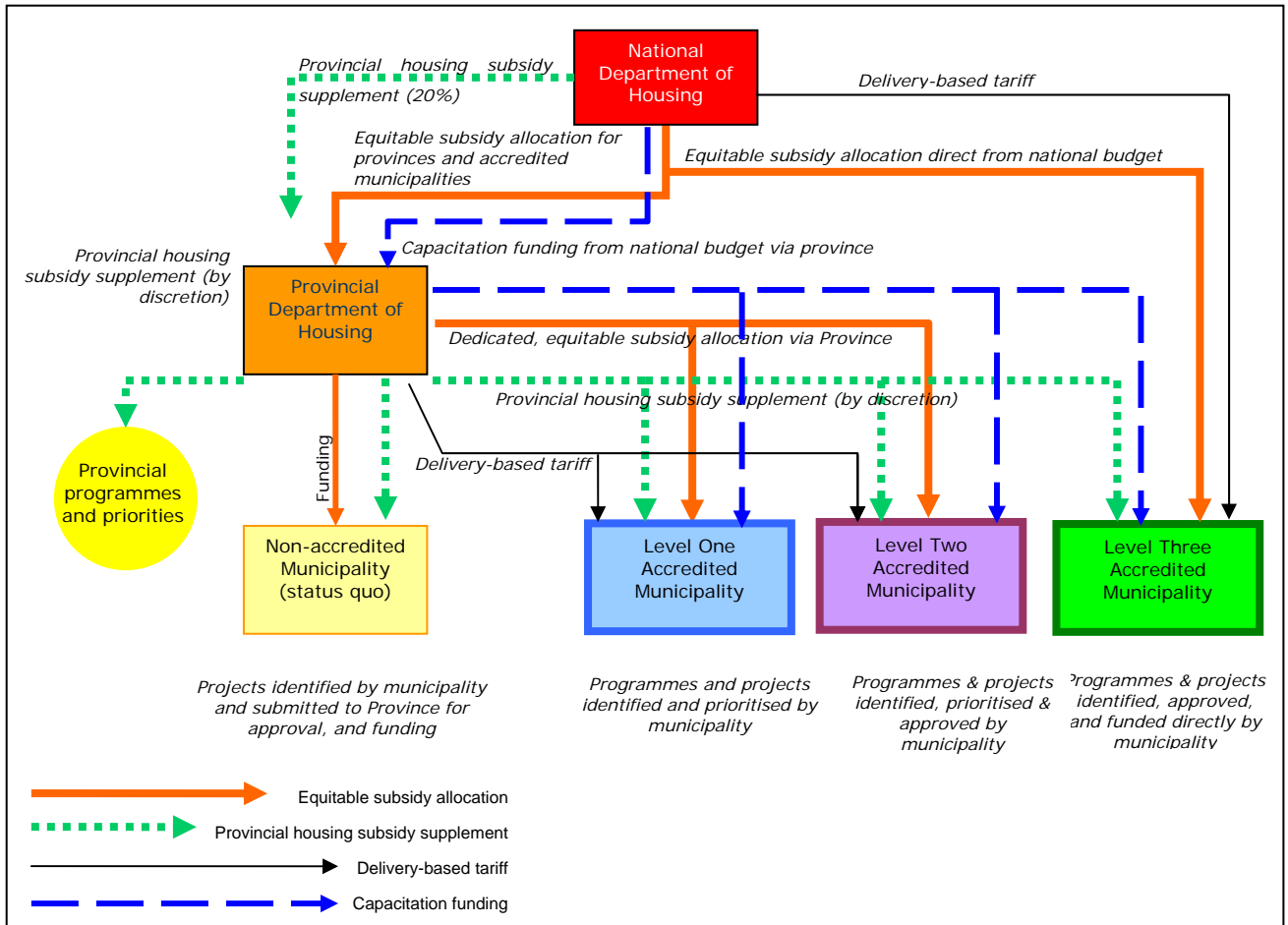
Funding for capacity building will come from national government, but will be paid to the municipality concerned via the provincial government. Three different sorts of capacitation funding are available.

- **Pre-accreditation support:** This is realised by a municipality when it participates in a province's pre-accreditation support programme. Municipalities will seek funded provincial support to:
 - undertake a **capacity audit** of its housing department or division
 - identify and source the capacity necessary to assist the municipality in drafting an accreditation plan
 - if necessary, draft a Housing Strategy and Plan
 - undertake a range of other tasks associated with accreditation, based on the requirements of the particular municipality concerned
- **Accreditation implementation support:** This is realised by a municipality formally seeking a particular level of accreditation, once the province has approved that municipality's accreditation business plan in principle. The province will make funds available for the sourcing and appointment of the capacity necessary to implement this plan. This could include personnel of varying skill levels, business systems, and so on.
- **Ongoing accreditation support:** This is realised by a municipality on a basis to be agreed with the province concerned. Support may be in the form of funding for ongoing capacity building programmes, or the purchase of specific facilities.

4.3.5. Summary

The arrangements for the four different funding flows (equitable subsidy allocation, provincial housing subsidy supplement, delivery-based tariff, and capacitation funding) are illustrated below.

Figure 2: Proposed Arrangements



4.4. Checks and balances

All financial arrangements and the allocation of the housing budget to provincial and municipal government will be governed by the Public Finance Management Act and the Municipal Finance Management Act. Further, accredited municipalities will be required to report on a regular basis to provincial government regarding their progress in respect of housing delivery, and providing a detailed reconciliation of financial activity.

Specific reporting formats will be set out in the guidelines.

5. SYSTEMS AND CAPACITY ARRANGEMENTS

A key principle of the municipal accreditation programme is that municipalities have appropriate and sufficient capacity to take on accreditation functions and responsibilities in advance of registering for a particular level of accreditation. This is essential if the rate of delivery is not to be stalled.

All municipalities will be required to have an annual housing plan that has been reviewed by the province for comment and formally approved by a Council resolution as part of the municipal IDP process – this is not a new requirement. Further, all municipalities seeking accreditation will be required to draft a business plan setting out their participation in the accreditation programme and their decision to register for a particular level. The details in respect of this are set out in the guidelines.

Capacity requirements exist in respect of the human resources, the governance arrangements and the systems and procedures established within the municipality, and differ depending on the level of accreditation that is sought. The arrangements are outlined below.

5.1. Human Resources

All municipalities seeking accreditation must have a dedicated housing function that is formally structured within their municipality. This 'function' may comprise one individual, or many, depending on the capacity that is required given the housing needs and dynamics in the municipal area. Alternatively, municipalities may join in a partnership arrangement to share capacity (i.e. engineering), resources and functions. This must be explicitly set out in a formal agreement that ensures the necessary accountability and responsibility is maintained.

Beyond the establishment of this function, the human resources capacity requirements will vary depending on the level of accreditation.

The table below sets out the specific functions that municipalities registered with the various levels of accreditation will need to perform, and the key capacities that are envisioned to be required.

Table 5: Accreditation Functions and HR capacity implications

FUNCTIONS	HR capacity implications
Policy and planning	
Housing strategy: (IDP)	No change – existing arrangements apply.
Housing plan and budget: (IDP)	
Housing policies: procurement, allocation, etc.	
Level 1: Subsidy budget planning process	
Housing subsidy budget	<ul style="list-style-type: none"> • Ability to draft a business plan for level one accreditation. • Ability to produce and implement housing strategies, plans and budgets, or commission and manage such functions. • Ability to do project identification and assessment
Subsidy / fund allocations	
Project identification	
Level 2: Programme management / administration	
Project / Programme approval	<ul style="list-style-type: none"> • Ability to draft a business plan for level two accreditation • Ability to produce and undertake project feasibility assessments (undertaken by professional engineers, town planners or certified project managers (in-house or contracted)). • Programme administration skills / experience in line with the scale of activities planned for the municipality.
Contract administration	
Programme management	
Subsidy registration	
Technical (construction) quality assurance	
Level 3: Financial administration	
Subsidy disbursements	<ul style="list-style-type: none"> • Ability to prepare or commission a business plan for level three accreditation • Financial management with ability to review, report and manage subsidy disbursements and financial reporting and reconciliation.
Financial reporting and reconciliation	
Subsidy & property administration	
Eligibility check	No change: existing arrangements apply.
Subsidy applications	
Allocation of subsidy / house	
Transfer	
Project management	
Subsidy registration	
Approval of special applications	No change: functions remain responsibility of provincial department.

When municipalities are granted “conditional accreditation” for a particular level, they will receive provincial support to implement the capacity requirements of their accreditation business plan. These capacity requirements will be based on an analysis of the municipality’s staffing requirements for the particular level of accreditation that is being sought and an audit of what needs to be filled with additional staff. Filling of posts could include the realignment of personnel within the municipality, the new appointment of specific, identified personnel, or the transfer of provincial staff to the new posts established within the municipal department. The municipality will need to negotiate the

approach to be taken with the provincial department, within the parameters defined by the Transfer of Staff to Municipalities Act, 1998 (Act No. 17 of 1998).²⁰

Key personnel requirements are outlined in the guidelines.

5.1.1. Human resources implications at provincial level

The accreditation of municipalities will no doubt have an impact on the human resources arrangements at provincial level. Provinces will need to address this issue based on the agreements they make with the accredited municipality regarding the transfer of staff and other details. Accompanying each approval for accreditation by an MEC (as proclaimed by the Premier), should therefore also be a *provincial accreditation plan* which addresses the consequential shifts in capacities and responsibilities in that province, and how they will be managed. The drafting of the provincial accreditation plan will be the responsibility of the provincial accreditation unit, as set out in 5.2.1 below.

5.2. Capacity support

In order that delivery is not stalled as a result of the accreditation process, it is critical that the necessary capacity for the given level of accreditation is in place within the municipality before the specific roles and functions are assigned. Provinces are responsible together with municipalities for ensuring that such capacity either exists or is developed. National should support this process by providing capacity support to provinces and funding the capacity building process.²¹

5.2.1. Accreditation units at provincial level²²

Provinces must do everything they can to facilitate the capacity development of all municipalities within their area of jurisdiction. Municipalities seeking accreditation will be their priority. Consequently, provinces will be required to establish specific accreditation units within their housing departments, whose responsibility it will be to

- (1) implement capacity building and support programmes in those municipalities on the basis of the needs identified;
- (2) resolve any changes in institutional arrangements, staffing and other details that must happen at provincial level as a result of the accreditation of a particular municipality; and
- (3) resolving any provincial and municipal blockages to the accreditation process, identifying and responding to problems as they arise.

In carrying out their functions, provincial accreditation units will also be responsible for ensuring that all the necessary systems and procedures are in place, both within the

²⁰ Redundancy of provincial staff may become an issue if municipalities do not want to accept their transfer. This is an issue that can only be resolved in negotiations between the specific province and municipality concerned, in terms of the legal process that exists at the local level.

²¹ It is noted that there are a range of programmes at national level (e.g. Project Consolidate) which are explicitly designed to support the development of municipal capacity. These programmes, and their possible application in respect of this accreditation programme, should be considered as part of the capacitation process.

²² For more detail, please refer to Report 3: Accreditation Guidelines.

province and at the municipal level. In this regard, they will need themselves to have the necessary IT, programme and project management, and financial administration capacity to develop the required systems and procedures.

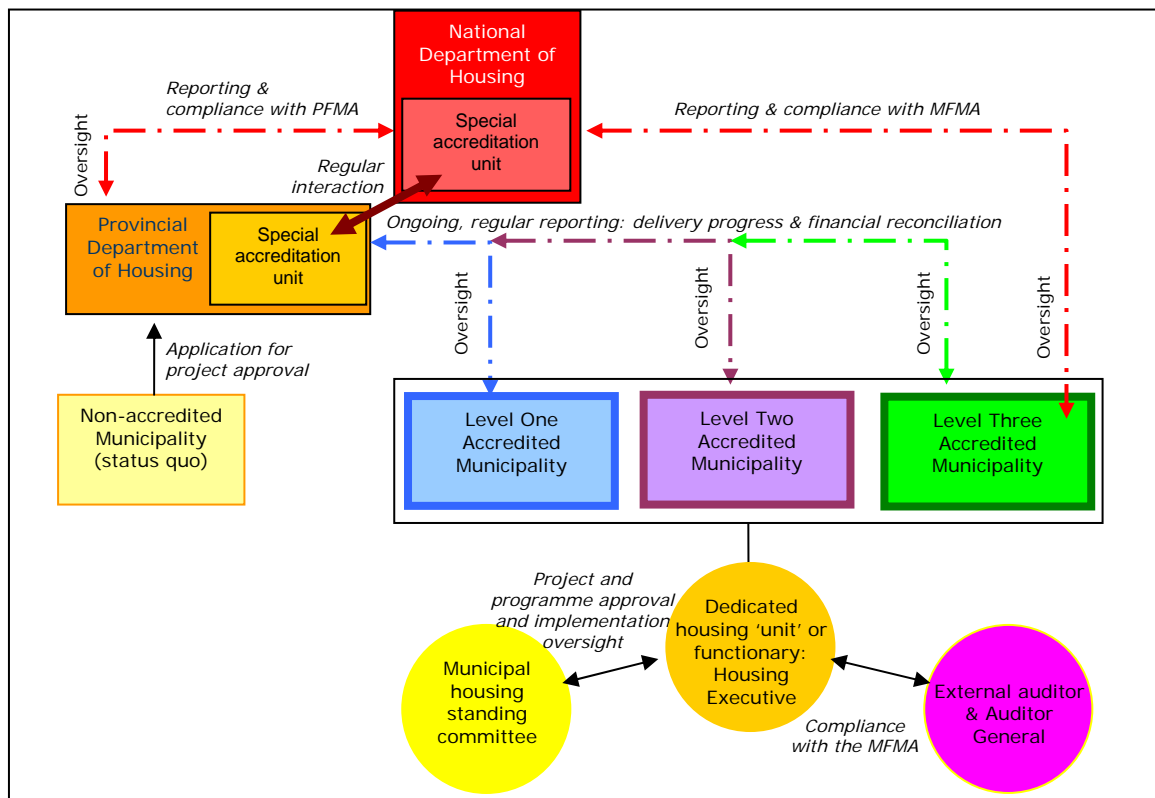
5.2.2. Accreditation unit at national level.

An accreditation unit will also be established at the national level, with the responsibility of monitoring progress of the national accreditation programme. This unit will liaise with the capacity building section of the national department to ensure the capacity development of prioritised municipalities seeking accreditation.

5.3. Governance, Reporting and Oversight Arrangements

A fundamental point of departure is that municipalities operate in a statutorily defined, tried and tested set of governance arrangements. These have been developed over many years by municipalities and have been refined and encoded in the requirements of the Municipal Finance Management Act. This framework does not seek to restate these arrangements but rather to indicate where they apply. All municipalities seeking accreditation must have established governance, reporting and oversight arrangements as illustrated in the following diagram.

Figure 3: Governance, Reporting and Oversight Arrangements²³



As illustrated above, municipalities will establish a dedicated housing 'function' or assign a dedicated functionary to the housing functions in the municipality. This function will engage with the municipal housing standing committee regarding programme and project

²³ The detailed reporting requirements are specified in the guidelines.

prioritisation, subsidy budget planning, project approval and the implementation of other accreditation functions. A municipality may wish to invite the provincial housing department official responsible for accreditation to participate as an observer in its housing standing committee in order to facilitate improved communication and interaction. Further the municipality's housing function will be subject to external audit, and the oversight of the Auditor General in respect of compliance with the MFMA.

At the provincial and national level, special accreditation units will oversee the accreditation process and perform the necessary functions to ensure that it succeeds.

The reporting requirements to be applied are as per those specified in the annual Division of Revenue Act, in the Public Finance and Municipal Finance Management Acts, and by the national Department of Housing. As illustrated above, accredited municipalities will report both to their provincial and the national department of housing. The guidelines seek to streamline reporting so that where possible, the same report is prepared and submitted to both provincial and national government. However, the reporting requirements to the different spheres of government have different intentions. Reporting to the province is required in order to facilitate the province's oversight role and to ensure that progress is consolidated into the province's year end report. Reporting to the national department is required by level three accredited municipalities for accounting purposes and financial reconciliation. Further details are set out in Section 6, below.

5.4. Conflict resolution, mediation and arbitration

It is envisioned that conflict may arise between the national department and province or municipality, between a province and a municipality, between provinces, or between municipalities. In such cases, a clear conflict resolution procedure will assist in resolving the dispute timeously and without causing undue disruption in respect of the accreditation programme as a whole.

It is proposed that any dispute arising between the MEC and a municipality concerning the assignment of functions which cannot be resolved in accordance with the principles of co-operative government (as set out in Chapter 3 of the Constitution) must be referred to the Minister, for a decision on the matter. Further, the Inter-Governmental Relations Act, 2005 must prevail where the matter is not specifically covered in the Housing Act.²⁴

5.5. Systems and Procedures

Systems and procedures relate to the management information and administration systems, the IT and systems requirements, access to databases required, and so on. Minimum systems and procedures requirements, which must be fulfilled before a municipality is accredited, are set out in the table below.

²⁴ At the time of writing, the Inter-Governmental Relations Bill was in the process of being enacted.

Table 6: Systems & Procedures

FUNCTIONS	Expected systems & procedures
Policy and planning	
Housing strategy: (IDP)	No change. Existing systems apply.
Housing plan and budget: (IDP)	
Housing policies: procurement, allocation, etc.	
Level 1: Subsidy budget planning process	
Housing subsidy budget	<p>The implementation of a</p> <ul style="list-style-type: none"> • Budget tracking system, which tracks the total and annual budget allocations from the (1) equitable subsidy allocation and the (2) provincial subsidy supplement, as well as calculates data required in terms of accessing the delivery-based tariff for operational funding. • Document management system, which manages all electronic and physical documentation generated in terms of accreditation, including how and where documents are filed and archived. This should be updated as the municipality registers for each successive level of accreditation. • Accreditation reporting system, which accredited municipalities use to report to the provincial department on overall delivery progress and to provide financial reconciliation accounts. <p>Ability to get spatial planning information, via a Geographic Information System (GIS) which tracks the spatial location of programmes, projects and house project data, or some other kind of system (e.g. head or hut count).²⁵</p>
Subsidy / fund allocations	
Project identification	
Level 2: Programme management / administration	
Project / Programme approval	<p>Programme management systems installed. These should include a</p> <ul style="list-style-type: none"> • Project tracking system, which tracks the status of all projects from application to close out, providing project data on a regular basis • Procedures and operations manual, including all the policies, procedures, procedural steps and pro-forma documentation for the entire housing subsidy administration programme. The manual must be updateable and a regular system for updates must be implemented. • Municipal HSS, which tracks the approved subsidy amount against the project and the payment of the subsidy against project payment milestones. This system should be linked with the National Housing Subsidy Database, the Deeds Register and Population Register.
Contract administration	
Programme management	
Subsidy registration	
Technical (construction) quality assurance	
Level 3: Financial administration	
Subsidy disbursements	<p>Financial systems compliant with specifications from national and provincial government in place, including a</p> <ul style="list-style-type: none"> • Cash flow tracking system which tracks cashflow expenditure against budget for each project and programme, also tracking administration costs.
Financial reporting and reconciliation	

²⁵ Municipalities might also wish to collaborate in accessing a GIS collectively for a region.

FUNCTIONS	Expected systems & procedures
	<ul style="list-style-type: none"> • Reporting systems, management information systems, standard accounting procedures, etc. <p>In respect of these various systems, a standardized system common to all provinces and accredited municipalities must be implemented.</p>
Subsidy & property administration	
Eligibility check	No change – existing systems and procedures apply.
Subsidy applications	
Allocation of subsidy / house	
Transfer	
Project management	
Subsidy registration	
Approval of special applications	No change – existing systems and procedures apply.

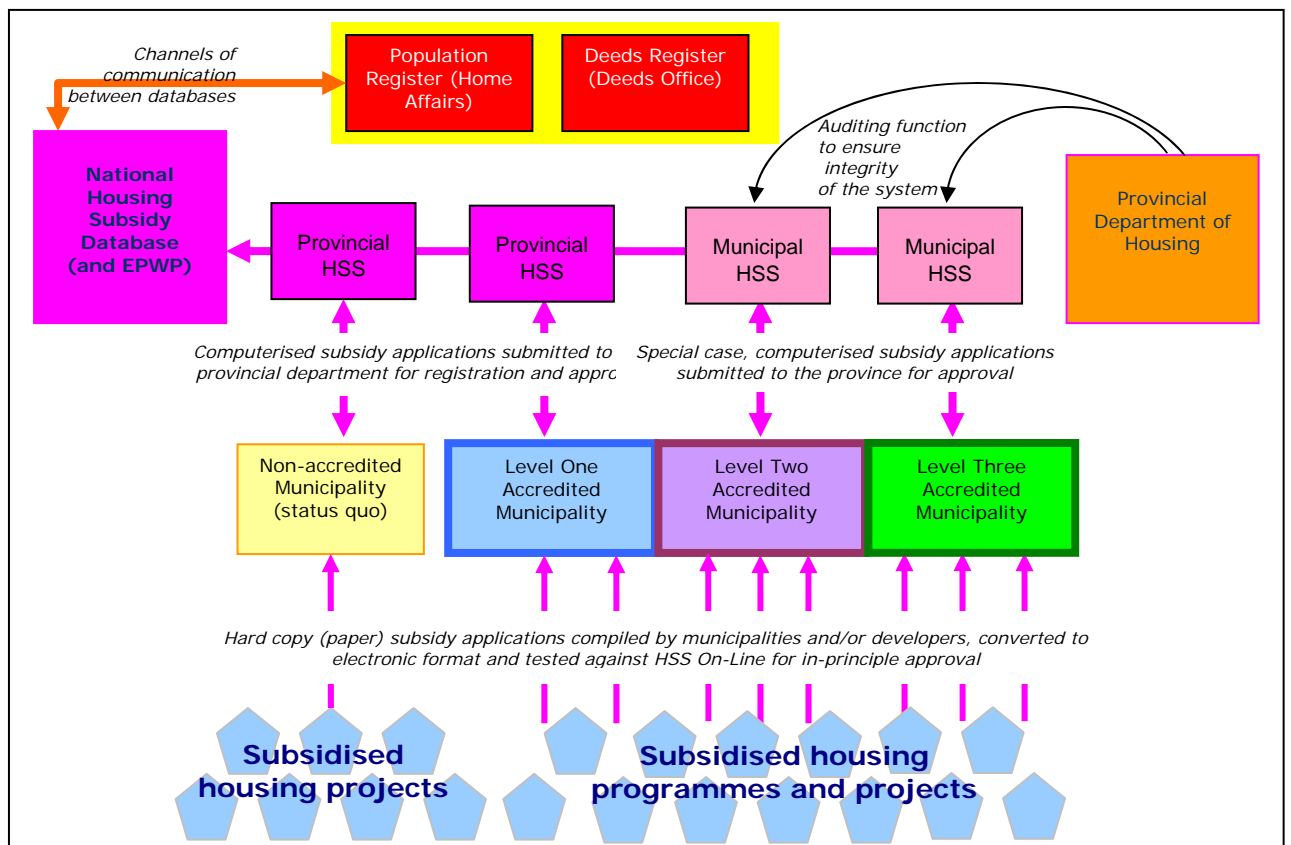
Of course, to the extent that a municipality registers for successive levels of accreditation over time, the capacity developed in terms of the previous level must be updated to accommodate the demands of the subsequent level. Where it is deemed efficient, national or provincial government may require that standardised systems, procedures and packages are implemented as a condition of accreditation to ease communication, reporting and monitoring between administrations and spheres of government.

5.5.1. Subsidy registration

Accredited municipalities will need to establish housing subsidy systems (HSS) to engage with the national housing subsidy database (NHSDB). The national department will assist in this regard.

The arrangements are illustrated below.

Figure 4: Subsidy registration



In respect of the above diagram:

- The municipality receives all documentation, checks that this is sufficient and adequate, verifies objective facts, and enters this into a pre-determined electronic application.
- The electronic application, including all the necessary information in the single electronic file is submitted to the system, HSS-Online, which confirms or denies eligibility.
- If the applicant is eligible for the subsidy, the level two and three municipalities will enter the electronic file into its own HSS database which then links with the National Housing Subsidy Database (NHSDB). For non-accredited, or level one accredited municipalities, the province remains responsible for this function. The municipality then allocates and, if necessary, transfers the housing unit to the qualifying beneficiary.
- Provinces will audit the management of accredited municipalities of their own HSS' and their engagement with the NHSDB to ensure that the integrity of the system is secure.

In instances where a municipality is seeking approval for non-qualifiers on the basis of an exemption from the qualifying criteria, provinces will make this decision, irrespective of the level of accreditation of the particular municipality.

5.5.2. Financial administration

The financial administration systems to be maintained by accredited municipalities will be standardised for each level of accreditation. This will facilitate efficient communication between spheres of government and assist in the overall administration and monitoring process.

All accredited municipalities will be required to submit annual budgets based on the three-year Medium Term Expenditure Framework (MTEF), and reconcile expenditure against these. The budgeting function includes:

- The development of administration (delivery-based tariff) and projects budget and project cash flows (based on the equitable subsidy allocation received).
- The review and endorsement of the budget and cashflow by the Housing Executive and Housing Sub-Committee.
- Submission of budget and cashflow to the province; and review by province.
- Monthly management of the expenditure and cashflow against original budget
- Reporting on expenditure and cashflow against budget.

6. ONGOING REPORTING AND MONITORING REQUIREMENTS

The intention of the municipal accreditation programme is to improve the coordination of delivery and the overall rate of delivery. Widespread municipal accreditation as envisioned in this framework is likely to lead, however, to a multiplicity of players not easily differentiated by sphere of government, and this could challenge the efficiency of the system. Ongoing and regular reporting and monitoring is therefore a fundamental component of the accreditation programme and critical to its success. Without it, the integrity of the national housing programme may be at risk.

The reporting and monitoring system should encompass the following:

- Compliance with national and provincial housing policy
- Compliance with the Municipality's approved Housing Plan (incorporated in the municipal IDP)
- Financial reconciliation, management and administration
- Critical areas for intervention: outputs and outcomes

Nationally standardised reporting systems and formats will be developed specifically around the following:

- Financial reports and reconciliation
- Delivery progress reports covering outputs and outcomes

On an annual basis, an assessment should be conducted of each of the municipalities to verify compliance, effectiveness and impact of their housing programme.

To ensure that accredited municipalities participate as specified in the guidelines, the payment of the delivery-based tariff is linked to provincial receipt of the various required reports.

7. IMPLEMENTATION ARRANGEMENTS

The accreditation of municipalities to administer national housing programmes will be dependent only upon the satisfaction of certain capacity criteria and the subsequent proclamation thereof.

The municipality's external auditor (either the Auditor General or his or her designate) will be responsible for certifying that municipalities meet the required criteria for a given level of accreditation. The criteria for accreditation in respect of the three levels are set out in the guidelines.

The auditor's certificate of compliance will then be submitted, together with the municipal housing plan, the accreditation business plan, and a request for accreditation, to the MEC for Housing of the province in which the municipality is situated. The MEC will review this documentation.

The MEC will advise the Premier and initiate the proclamation of the relevant assignment by the Premier in *Gazette*. Such proclamation could be in respect of more than one municipality in respect of their respective levels of accreditation. The Constitution requires assignment to be by agreement. The request by a municipality to be assigned certain functions and the Proclamation assigning such functions with reference to this framework will constitute such agreement.

7.1. Identification of municipalities for accreditation.

It is not desirable for all municipalities to seek accreditation at once. A phased and ordered process will be important to ensure that the principles of efficiency and enhanced, coordinated delivery are achieved.

In the interim (before the intended legislative amendments, specifically to Section 10 of the Housing Act are effected²⁶) MECs will prioritise specific municipalities in their areas of jurisdiction for accreditation. These municipalities will be invited to apply for accreditation in terms of section 10 of the Housing Act and this policy framework..

In the longer term:

- Provinces will engage with their municipalities on an annual basis to establish which municipalities intend to register their accreditation.
- On the basis of this consultation, provinces will agree annually (on a MTEF basis) with the national department at MINMEC on the municipalities prioritized each year for accreditation – this becomes the basis on which they have to perform.
- If a municipality is not on this list, they can make special application to the province to be included in the plan for accreditation. Where there is a conflict between the province and the municipality, normal conflict resolution procedures, as set out elsewhere in the overall framework, will apply.

²⁶ Recommendations for a revised Section 10 of the Housing Act are included as Annexure 1 in the report entitled "Final Report: Analysis and Recommendations" dated 21 July 2005.

Municipalities cannot be forced to be accredited. In addition, should they wish to be accredited and be able to demonstrate their ability, they also cannot or should not be denied this right.



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REPORT 3: ACCREDITATION GUIDELINES

Technical services to assist the Government of South Africa's Department of Housing develop a model framework and accompanying implementation guidelines for the accreditation of municipalities to administer national housing programmes

FINAL: 15 August 2005

MATTHEW NELL & ASSOCIATES

in association with

TEAM MANAGEMENT SOLUTIONS

This report was produced for review by the United States Agency for International Development. It was prepared by Matthew Nell and Associates in consortium with Team Management Solutions, under Mega-Tech, Inc.s' prime contract and addresses USAID/South Africa's Strategic Objective No. 6: Increased Access to Shelter and Environmentally Sound Municipal Services

These guidelines for the accreditation of municipalities to administer national housing programmes comprise Report 3 of a series of three reports. Report 2 is the Framework for the Accreditation of Municipalities to Administer National Housing Programmes. The basis for the policy set out in the framework and these guidelines is elaborated upon in Report 1: Analysis and Recommendations.

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Abbreviations and Definitions

The following abbreviations and definitions are used within these guidelines.

ABP	Accreditation Business Plan
Accreditation	Accreditation is a concept within the Housing Act, 1997; Housing Code, 2000; and DORA, 2005. Accreditation as a concept relates to <u>entities</u> and their approval for a particular purpose in accordance with certain criteria.
Assignment	Assignment is a concept in the Constitution, and relates to the permanent transfer of functions (including the authority in respect thereof) to another level of government. In terms of this policy framework, municipalities become accredited for the assignment of specific housing functions. The constitutional basis and framework for accreditation is to be found in this concept.
BNG	Breaking New Ground: the new housing strategy for sustainable human settlements, approved by Cabinet in September 2004
DORA	Division of Revenue Act (Annual)
HSS	Housing Subsidy System
IDP	Integrated Development Plan, incorporating the municipality's housing plan
IT	Information Technology
IYM	In-Year Monitoring report of expenditure against budget and funds transferred required to be submitted before the 20 th of every month in terms of DORA and Treasury requirements
KPA	Key Performance Indicator
Level	Level of accreditation applied for
MEC	Provincial Member of the Executive Council responsible for housing
MINMEC	Committee of the Housing Minister and nine housing MECs
MFMA	Municipal Finance Management Act
MHC	Municipal Housing Committee delegated responsibility for housing affairs by the municipal council
MIG	Municipal Infrastructure Grant
MTEF	Medium Term Expenditure Framework
NDOH	National Department of Housing
NHSDB	National Housing Subsidy Data Base
PDOH	Provincial Department of Housing
PFMA	Public Finance Management Act
SCM	Supply Chain Management

1 Purpose

The purpose of the guidelines is to provide guidance for the accreditation of municipalities to carry out the housing functions and includes a programmatic approach to the implementation of accreditation within municipalities.

2 Accreditation Framework

These implementation guidelines are based on the associated accreditation framework and for context should be read in terms of the framework.

For context, salient components of the framework are summarised in these guidelines, however, for details refer to the framework.

3 Accreditation Objective

Municipalities are able to plan, manage and deliver efficiently and effectively sustainable and affordable housing within the area of jurisdiction which meets the needs of the communities they serve.

4 Levels Of Housing Accreditation

Given that the capacity of municipalities is not uniform, three levels of accreditation are defined. Municipalities will be entitled to determine to which level they wish to become accredited and the pace at which they wish to access accreditation for such levels. Their intentions will be supported by provincial departments of housing (PDOH), as well as national government, as part of a focused capacity building programme.

4.1 Defining Levels of Accreditation

Accreditation levels are both functionally and programmatically defined. All levels are meaningful in terms of how they respond to the principles of accreditation.

In respect of each level, functions are assigned to the municipality, as per the Draft Guidelines on Assignment and Delegation of the Municipal Systems Act, 2000.

Progressive levels require a higher degree of capacity, which the municipality must demonstrate to an external auditor.

The three levels, and the functions they comprise, are set out in the following .

Table 1: Levels of Housing Accreditation

Level	Components and Definition
Level 1	The assignment of Subsidy budget planning and allocation functions: including housing subsidy budgetary planning and allocation across programmes and projects; planning of subsidy / fund allocations, and project identification. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidy programmes, which remain the responsibility of the province.</i>

Level	Components and Definition
Level 2	The assignment of programme management and administration functions: including project evaluation and approval, contract administration, subsidy registration, programme management including cash flow projection and management and technical (construction) quality assurance. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidies, which remain the responsibility of the province.</i>
Level 3¹	The assignment of financial administration functions: including subsidy payment disbursements, and financial reporting and reconciliation. <i>Applicable to all national and provincial housing programmes, with the exception of individual and relocation subsidies, which remain the responsibility of the province.</i>

4.2 Functions and Skills Required for Each Level of Accreditation

Level 1 The assignment of **Subsidy budget planning and allocation** functions is the most significant step, both in terms of delegating authority and responsibility and enabling integration and coordination to take place. This will include focused internal capacity to commission, produce and implement housing strategies, plans and budgets. Further, municipalities will be required to do the range of tasks associated with project identification and preliminary project assessments.

Level 2 Programme management and administration involves the additional devolution of responsibility for programme management and administration. In order to undertake the functions associated with this level, municipalities will require the necessary capacity to commission, produce and implement project feasibility assessments, (which will be undertaken by professional engineers, town planners or certified project managers). With level two accreditation, subsidy registration via the HSS into the NHSDDB is assigned to the municipality. Municipalities will also require programme administration skills and experience in line with the scale of activities planned for the municipality including project cash flow management and contract administration. Further, they will be required to install standardized programme management systems and a municipal HSS.

Municipalities with level 1 and 2 accreditation will not, however, undertake the financial management of their budgets. This will continue to be undertaken by provincial government, which has the capacity and systems necessary for that function to proceed efficiently. That said, legislative provisions in DORA will ensure that provincial departments will be obliged to allocate funding as prioritized and programmed by the accredited municipality, in a manner that is both effective and efficient and which does not delay the municipality's ability to operate within their sphere of responsibility.

Level 3 Financial administration involves the additional devolution of responsibility for financial administration. In order to undertake the functions associated with the financial administration, including subsidy payment disbursements and financial reporting and reconciliation, municipalities will require focused internal financial

¹ Level 3 accreditation will only be available as an option once the recommended amendments to the Housing Act, 1997, have been made. These recommendations are set out in Report 1: Analysis and Recommendations.

management and administrative capacity. In addition, the municipality will be required to have in place financial systems that are compliant with national specifications.

A municipality may seek accreditation in respect of each level on a consecutive basis, or concurrently, depending on its own capacity parameters and housing intentions. However, no municipality may seek accreditation in respect of level three without already being accredited or seeking accreditation for levels two and one. Similarly, municipalities seeking level two accreditation must already be accredited for level one, or seeking level one accreditation in the same application.

5 Procedure For Accessing Accreditation

All municipalities shall be entitled to apply for a particular level of accreditation, depending on their ability to meet certain capacity criteria. The process is set out in the table below.

Table 2: Procedure for Accessing Accreditation

Step	Description	Responsibility
Step 1	Accreditation Application – Municipalities indicate they want to be accredited in respect of a particular level of accreditation. To do so, they must already have their housing plan (incorporated in their IDP) approved by their council after taking into account comments received from the PDOH. The municipality determines their pre-accreditation capacity needs in order to formulate an accreditation business plan (refer to pre-accreditation application template T01).	Municipality
Step 2	Pre-Accreditation Capacitation – On the basis of the municipality’s stated accreditation intention and identified capacity needs in order to prepare and accreditation business plan, NDOH provides capacitation funding for the pre-accreditation phase through the PDOH in order to provide targeted technical assistance towards the development of the accreditation business plan (i.e. pre-accreditation capacitation funding)	PDOH (with funding from NDOH)
Step 3	Accreditation Business Plan - The municipality prepares the accreditation business plan (see template T02) for the particular level (or levels) of accreditation that is being sought, with the technical support provided by PDOH, if necessary and submits the business plan to the province for review.	Municipality (supported by PDOH with capacitation funding from NDOH)
Step 4	Endorsement of Accreditation Business Plan – The business plan is reviewed by the PDOH and provided it complies with the PDOH requirements is endorsed. Approval on the basis of the accreditation guidelines by the province and the MEC provides “conditional accreditation” to the municipality for the municipality to implement the business plan in pursuit of full accreditation for the level of accreditation applied for. The province provides capacity funding to enable the municipality to	PDOH

Step	Description	Responsibility
	implement the capacity requirements of the business plan (hiring of staff, development of new systems etc.).	
Step 5	Conditional Accreditation Approval – On the basis of the endorsement by the PDOH, the MEC reviews and gives conditional approval i.e. “conditional accreditation” to the municipality for the municipality to implement the business plan in pursuit of accreditation for the level of accreditation applied for.	MEC
Step 6	Capacitation Funding – On the basis of the conditional accreditation approval, the PDOH provides capacity funding through the PDOH to enable the municipality to implement the capacity requirements of the business plan (hiring of staff, staff training, development of new systems, etc.)	PDOH (capacitation funding from PDOH)
Step 7	Implementation of Accreditation Business Plan – On the basis of the conditional accreditation approval by the MEC and capacitation funding provided by PDOH, the municipality implements the business plan and provides monthly progress reports to PDOH (see template T03)	Municipality
Step 8	Compliance Certification – Within the time frame specified in the business plan, the municipality implements the capacity requirements on the basis of which the municipality’s auditors confirm compliance by issuing a “compliance certificate”. This compliance certificate confirms that the municipality has fulfilled the capacity requirements in terms of the business plan and therefore meets the requirements to receive full accreditation for the level applied for. This compliance certificate is submitted to the PDOH. (see template T04)	Municipality’s Auditors – initiated by the Municipality
Step 9	Full Accreditation Approval – On the basis of the issue of the compliance certificate, the MEC approves the accreditation of the municipality and Premier issues a proclamation, assigning the municipality the functions relevant to the level of accreditation applied for	MEC

6 Eligibility Criteria

Municipalities must meet specific criteria in order to be accredited for a particular level. These are summarized in the table below.

Table 3: Accreditation Eligibility Criteria by Level

Accreditation Level	Eligibility Criteria
Conditional Accreditation for Level 1 Subsidy Budget Planning and Allocation	<ul style="list-style-type: none"> • Municipality has established and delegated responsibility to a Housing Committee • Housing Plan in place in terms of IDP • Housing procurement policy and procedure in terms of MFMA & SCM regulations • Housing allocation policy in place • Housing function assigned to appropriately skilled municipal official to signal housing component in place • Accreditation application submitted • Accreditation Business Plan – section for Level 1 submitted and approved • Financial management system in place in terms of the MFMA.
Level 1 Subsidy Budget Planning and Allocation	Level 1 Accreditation capacity confirmed by the municipality's auditor, including ability to produce and implement housing strategies, plans and budgets, or commission and manage such functions and ability to do project identification and assessment
Level 2 Programme Management and Administration	<p>Approved Accreditation business plan – section for Level 2</p> <p>Level 2 Accreditation capacity, confirmed by municipality's auditor including ability to produce and undertake project feasibility assessments (undertaken by professional engineers, town planners or certified project managers –in-house or contracted), programme administration skills / experience in line with the scale of activities planned for the municipality, ability to register beneficiaries on the HSS, programme management system in place and operational</p>
Level 3 Financial Administration	<p>Approved Accreditation business plan – section for Level 3</p> <p>Level 3 Accreditation capacity, confirmed by municipality's auditor including: financial management with ability to review, report and manage subsidy disbursements and financial reporting and reconciliation, HSS in place and operational</p>

7 Accreditation Functions and HR Capacity Implications

Accredited municipalities must be able to carry out specific functions for the various accreditation levels and will thus require specific capacity and skills as well as systems to be able to carry out the accreditation functions. Municipalities may outsource some of the capacity requirements except for the core overall housing accreditation function if this provides a more efficient and economical solution.

7.1 Accreditation Functions

Table below sets out the specific functions that municipalities will need to perform, and the key capacities that will be required for the various levels of accreditation.

Table 4: Accreditation Functions and HR capacity implications

Functions	HR Capacity Implications
Policy and Planning	
Housing strategy: (IDP)	Prerequisite capacity to be in place to meet eligibility criteria comprising policy and housing planning capacity linked to integrated planning
Housing plan and budget: (IDP)	
Housing policies, procurement, allocation, etc.	
Level 1: Subsidy Budget Planning and Allocation	
1. Housing subsidy budget	<ul style="list-style-type: none"> • Ability to prepare (or commission and implement a business plan for Level 1 Accreditation • Ability to produce and implement housing strategies, plans and budgets, or commission and manage such functions. • Ability to do project identification and assessment • Ability to use the HSS modules relevant to Level 1
2. Subsidy / fund allocations	
3. Project identification	
Level 2: Programme Management and Administration	
1. Project / Programme approval	<ul style="list-style-type: none"> • Ability to prepare (or commission) and implement a business plan for Level 2 Accreditation • Ability to produce and undertake project feasibility assessments (undertaken by professional engineers, town planners or certified project managers in-house or contracted). • Ability to administrate the registration of beneficiaries on the HSS, including verification of application documentation as well as use of the HSS modules relevant to Level 2. • Programme and contract administration skills / experience in line with the scale of activities planned for the municipality. • Use Programmed Management Information System • Ability to plan and undertake technical (construction) quality assurance of projects
2. Contract administration	
3. Beneficiary subsidy registration	
4. Programme management	
5. Technical (construction) quality assurance	
Level 3: Financial Administration	
1. Subsidy disbursements	<ul style="list-style-type: none"> • Ability to prepare (or commission) and implement a business plan for Level 3 Accreditation • Financial management with ability to review, report and manage subsidy disbursements, financial reconciliation and reporting • Use of and reporting from the HSS • Reporting in terms of DORA
2. Financial reconciliation and reporting	

7.2 Key Capabilities

In order to carry out the accreditation functions set down in 4 municipalities will require to have in house the suitably qualified personnel (or achieve this through outsourcing) for key capabilities set down in table below. In this context capability refers to the specific skills required - see the next section with respect to capacity i.e. the number of staff required to carry out the various functions:

Table 5: Key Accreditation Capabilities Required

Level 1 Subsidy Budget Planning and Allocation
<ul style="list-style-type: none"> ▪ Housing Management – overall responsibility for the housing accreditation function, requiring good overall management and administration experience and expertise, as well as specific understanding of the housing programmes, accreditation process and housing subsidy administration ▪ Housing Subsidy & Budget Planning – requiring specific expertise in understanding of integrated planning to produce an IDP (incorporating a housing plan), understanding of demographics, housing typologies and housing backlog determination, the national housing programmes and ability to prioritize housing budgets against various housing programmes to best implement the housing plan with the available budget
Level 2 Programme Management and Administration
<ul style="list-style-type: none"> ▪ Programme Management – requiring specific expertise to manage the housing programmes and carry out the contract management, including cash flow projection and management and programme monitoring, technical (construction) quality assurance of housing projects and reporting performance ▪ Contractor Administration – requiring specific skills in contract management and administration including performance and compliance monitoring, payment certification, contract expenditure and budget management ▪ Subsidy Administration – able to register and ensure compliance of individual beneficiary subsidy applications, thorough operational understanding of the HSS, ability to administrate the filling of individual subsidy applications ▪ Technical (construction) quality Control –requiring specific skills in housing quality and contract compliance planning, monitoring and reporting
Level 3 Financial Administration
<ul style="list-style-type: none"> ▪ Financial Administration – requiring an overall and thorough understanding of the MFMA, DORA, the municipal accounting and financial management system, financial reporting requirements, housing subsidy reconciliation for the various housing programmes. Ability to administer the subsidy allocations, reconcile individual subsidies against project expenditures for each housing programme and project, able to provide monthly financial reports and operate the HSS.

7.3 Capacity Requirements

Dependent on the scale of the housing programmes to be administered within the municipality, the capacity (i.e. number of functionaries/staff) needed, within the above capabilities, will vary significantly from large metros to small rural local municipalities. In the former significant capacity and support services will be needed given the scale, scope and complexity of the housing programmes to be managed, whereas in the later

it may be feasible for these functions to be provided by one or two experienced and skilled housing experts i.e. multi-skilled personnel responsible for more than one function.

Municipalities must indicate their capacity requirements and associated operational costs within their accreditation business plans.

7.4 System Requirements

In order to carry out the accreditation functions municipalities will require to have operational capacity in terms of various information and computer systems in order to manage and report. The system requirements for the various accreditation levels are set down in table below.

Table 6: Accreditation System Requirements

Level 1 Subsidy Budget Planning and Allocation
<ul style="list-style-type: none"> ▪ Municipal accounting and financial management system – compliant with the MFMA and in which housing budgets and expenditure per individual project (and cost item within a project) can be tracked and in which the housing transfers and expenditures against the transfers are able to be individually tracked. ▪ Spatial planning system - from various sources (such as plans, waiting lists, settlement head and house counts etc.) or preferably via a Geographic Information System (GIS) which provides demographic information and the spatial location of services, facilities, projects and house project data ▪ Budget tracking system - which tracks the total and annual budget allocations from the (1) equi housing subsidy allocation and the (2) provincial subsidy supplement, as well as calculates data required in terms of accessing the delivery-based tariff for operational funding. ▪ Document management system - which manages all electronic and physical documentation generated in terms of accreditation, including how and where documents are filed and archived. This should be enhanced and expanded as the municipality registers for each successive level of accreditation. ▪ Accreditation reporting system - which accredited municipalities use to report to the provincial department on overall delivery progress and to provide financial summaries ▪ Housing Subsidy System (HSS) – comprising the modules of the HSS appropriate to Level 1 functions including IT links to the province and national department
Level 2 Programme Management and Administration
<ul style="list-style-type: none"> ▪ Project tracking system - which tracks the status of all projects from application to close out, including cash flow projection and tracking actual expenditure against projection and budget and which provides project data on a regular basis ▪ Procedures and operations manual - including all the policies, procedures, procedural steps and pro-forma documentation for the entire housing subsidy administration programme. The manual must be updateable and a regular system for updates must be implemented. ▪ Technical (construction) quality assurance system - which links with the project tracking system ▪ Housing Subsidy System (HSS) – comprising the modules of the HSS appropriate to level 2 functions including registration of individual beneficiary subsidy applications

- **Document management system (DMS)** – expansion of the Level 1 DMS to cater for the Level 2 functions in particular the project data and individual subsidy application documentation.

Level 3 Financial administration

- **Municipal accounting and financial management system** – as for level 1.
- **Cash flow tracking system** – as for level 2 which tracks cash flow expenditure against budget for each project and programme, also tracking administration costs.
- **Housing Subsidy System (HSS)** – comprising the modules of the HSS appropriate to level 3 functions
- **DORA reporting** - requirements in terms of Treasury requirements including monthly In Year Monitoring (IYM) of budget transfers and budget as well as quarterly reporting of financials and outputs.

8 Municipal Procedures Once Assigned Accreditation Functions

Once a municipality has been assigned the functions for a particular level of accreditation, the municipality will be required to perform the accreditation functions applicable to that level. These functions are set down in the table below for the levels of accreditation.

Table 7: Municipal Accreditation Procedures once Assigned Accreditation

Level 1 Subsidy Budget Planning and Allocation

Annual Municipal Housing Budget Planning – On an annual basis in advance of and to coincide with both the municipal annual financial year (July to June) and the provincial MTEF budgeting cycle (August of each year) the municipal housing accreditation manager is required to allocate the municipal housing budget to the various housing programmes and projects operational within the municipality (and include an indicative 3 year allocation in terms of the MTEF budget cycle) taking the following into account:

- 1) The housing priorities in terms of the municipal Housing Plan (as incorporated in the municipality's IDP) and provincial Housing priorities;
- 2) Performance and constraints in meeting the housing backlogs in the previous year;
- 3) Contractual commitments carried forward on projects and programmes from the previous year;
- 4) The availability of MIG funding in support of the infrastructure needs of the housing projects;
- 5) Availability of funding and planned implementation of social facilities associated with new housing projects such as schools and community facilities which could pose constraints ; and
- 6) Any other factors that will influence the budget allocation.

Action steps

The following are the typical action steps which will be involved:

- a) Notification by PDOH of the annual housing budget allocated to the municipality including indicative MTEF 3 year budget allocation based on the budget allocation formula

approved by MINMEC and the provincial priorities;

- b) Preparation of the Annual Housing Budget Allocation Plan by the municipal accreditation manager and submission to the Municipal Housing Committee (MHC) for approval;
- c) Review and approval by MHC;
- d) Approval by Municipal Executive Council (if required by the council in terms of its delegation and governance requirements);
- e) Submission of the approved Annual Municipal Housing Budget Allocation Plan to the PDOH;
- f) Reservation by PDOH of the budget allocations to the housing priorities set down in the municipality's approved budget allocation.

Monthly Reporting - to the PDOH on any changes to allocations as well as the motivation/reasons for such changes.

Level 2 Programme Management and Administration

Annual Housing Implementation Management Plan – On an annual basis in advance of both the municipal annual financial year (July to June) and the provincial MTEF budgeting cycle (August of each year) the municipal housing programme manager is required to prepare an annual housing implementation management plan in response to the municipality's annual housing plan (as incorporated in its IDP) and budget allocation plan indicating how the annual housing targets will be achieved and how the housing programmes will be managed for the year ahead. The plan must take the following into account:

- 1) The housing priorities in terms of the municipal multi-year Housing Plan, as reflected in the Annual Municipal Housing Budget Plan, from which the annual and MTEF housing targets will be derived;
- 2) Performance and constraints in meeting the housing backlogs in the previous year;
- 3) Contractual commitments carried forward on projects and programmes from the previous year;
- 4) The availability of MIG funding in support of the infrastructure needs of the housing projects;
- 5) The availability of funding and planned implementation of social facilities associated with new housing projects such as schools and community facilities which could pose constraints;
- 6) Any other factors that will influence the annual housing implementation plan;
- 7) Resource requirements as well as the resources currently available to manage and implement the plan;
- 8) Analysis of risks and risk mitigation measures;
- 9) Time and milestones to be achieved within the year;
- 10) Key performance measures which will be monitored and reported;
- 11) Budget requirements (capital and operational) to manage and implement the plan;
- 12) Plan for managing technical (construction) quality in the implementation

Action Steps

The following are the typical action steps which will be involved:

- a) Prepare Annual Housing Implementation Management Plan and submit to the Municipal Housing Committee (MHC) for approval;

- b) Review and approval by MHC;
- c) Approval by the Municipal Executive Council (if required by the council in terms of its delegation and governance requirements);
- d) Implementation of the annual housing implementation management plan by the accreditation unit;
- e) Monthly monitoring and reporting of progress and performance against the plan and ongoing planning for the remainder of the year by the housing programme manager.

Contract Administration – monthly administration of the programmes and projects comprising reviewing budgets, expenditure and variations against budget and cash flow and confirming performance against the contracts, payment certification of project payment claims, planning for the remainder of the year and reporting progress.

Technical (construction) quality Control – monthly verification of quality performance within each project and programme against quality standards set in the annual housing implementation management plan.

Reporting – monthly reporting of expenditure, progress, performance, constraints, risks and action plans to the municipal manager and PDOH.

Subsidy Administration – comprising the following key monthly activities:

- 1) Data capture of all individual beneficiary subsidy applications into the HSS;
- 2) Reconciliation of individual subsidies against projects for all project related subsidies (i.e. including not only project linked but also institutional, consolidation, hostels upgrading);
- 3) Confirming approval of the beneficiaries to receive subsidies including checks with the Deeds registry and Population Register via the HSS;
- 4) Filing of all subsidy related documentation both electronically and hard copies of beneficiary subsidy applications and supporting documentation within the subsidy application registry;
- 5) Monthly reporting from the HSS of beneficiary subsidy approvals;
- 6) Preparing motivations for beneficiary application exceptions to the PDOH for approval of exceptions by PDOH;
- 7) Monitoring decisions on exceptions from PDOH and responding with appropriate actions

Level 3 Financial Administration

Financial administration – comprising the following key monthly activities:

- 1) Monthly reconciliation of expenditure against budget for all housing related items including operational costs on the municipal accounting and financial management system;
- 2) Updating the HSS with the expenditure reflected in the municipal financial accounting and management system;
- 3) Monthly reporting of expenditure against budget and cash flow for all housing related costs per programme and per project;
- 4) Preparation of monthly In Year Monitoring (IYM) reports (in terms of DORA) to PDOH for incorporation by the PDOH into the provincial IYM report as well as quarterly DORA report;
- 5) Preparation of monthly report from the HSS to PDOH in the prescribed format;
- 6) Final reconciliation and financial close out of completed projects
- 7) Closure and archiving of completed project files

9 Monitoring And Reporting

9.1 Performance Monitoring

Performance of the municipal housing programmes should be monitored by the PDOH in order to provide early warning of problems so that they can be timeously rectified. Monitoring of performance and reporting against performance and reporting against performance should be focused on the key performance indicators (KPIs) set down in the table below.

Table 8: Key Performance Indicators for Performance Monitoring

Level 1 Subsidy Budget Planning and Allocation
<ol style="list-style-type: none"> 1) Annual municipal housing plan produced and approved by the municipality as part of the IDP and submitted to PDOH. 2) Annual Municipal Housing Budget Allocation Plan prepared and approved by the municipal council and submitted to PDOH on time. 3) All municipal housing budget allocated to programmes and projects according to the time and projections set down in the budget allocation plan. 4) Monthly progress reports provided on time by the municipality.
Level 2 Programme Management and Administration
<ol style="list-style-type: none"> 1) Annual Housing Implementation Management Plan produced and approved by the municipality and submitted to PDOH on time. 2) Monthly and annual subsidy targets achieved. 3) Monthly and annual expenditure achieved. 4) Cash flow projections achieved. 5) Technical (construction) quality of housing products accep and to specification. 6) Monthly progress reports provided on time by the municipality. 7) Individual beneficiary subsidy applications correctly registered on the HSS with correct supporting documentation.
Level 3 Financial Administration
<ol style="list-style-type: none"> 1) Municipality received unqualified audit for housing function. 2) HSS monthly reporting provided on time and to technical (construction) quality requirements. 3) Monthly subsidy reconciliations provided on time and to technical (construction) quality requirements. 4) Monthly reports provided on time and to technical (construction) quality requirements. 5) Project completion reconciliations undertaken timeously.

9.2 Municipal Reporting

Accredited municipalities are required to report monthly, quarterly and annually regarding the performance and progress of the housing programmes and projects of the municipalities. The reporting focuses on financial and subsidy data. Reporting is required for the following purposes:

- a) To PDOH in order to comply with NDOH requirements focused on housing and financial issues;
- b) To PDOH in order to comply with DORA requirement focused on financial issues;
- c) To the municipality for reporting of progress and performance.

As far as possible the reporting should be streamlined in order to reduce duplication. However, this cannot be totally avoided due to the need for different stakeholders to have the information in different formats to meet their specific needs.

The key reporting required is set down in the table below.

Table 9: Reporting from Accredited Municipalities

Level 1 Subsidy Budget Planning and Allocation
<p>1.1 Annual Municipal Housing Budget Allocation Report – progress during formulation to be provided on a monthly basis.</p> <p>1.2 Monthly Reporting – to the PDOH on any changes proposed to allocations as well as the motivation for such changes.</p>
Level 2 Programme Management and Administration
<p>2.1 Annual Housing Implementation Management Plan - progress during formulation to be provided on a monthly basis.</p> <p>2.2 Monthly Implementation Report – of progress and performance against the plan, including progress, performance, constraints, risks and action plans to the municipal manager and PDOH.</p>
Level 3 Financial Administration
<p>3.1 Monthly In Year Monitoring Report (IYM) reports by the latest 15th of each month in terms of DORA to the PDOH for incorporation by the PDOH into the provincial IYM report – format prescribed by National Treasury.</p> <p>3.2 Quarterly DORA Report – including both financials and outputs by 15th of the month after the end of the quarter in question – format prescribed by National Treasury. Quarters end in June, September, December and March of each year.</p> <p>3.3 HSS Monthly Report – from the HSS to PDOH by the 15th of each month – format prescribed by NDOH.</p> <p>3.4 Annual Housing Report – from the HSS to PDOH by the end of April of each year reflecting the annual March year end for provincial and national government – format prescribed by NDOH.</p> <p>3.5 Annual Municipal Report – as prescribed by the municipal manager reflecting the years housing performance against the annual housing plan for the municipal June year end.</p>

9.3 Provincial Monitoring and Reporting

On an annual basis, after the provincial year end the PDOH should carry out an assessment of each of the accredited municipalities to verify compliance, effectiveness and impact of their housing programme. The assessments should be issued to the municipalities for their inputs and in order to share lessons learnt.

10 Accreditation Fees

In order to ensure efficiency in the administration of accreditation by municipalities, the operational cost (Accreditation Fee) payable to municipalities for them to perform the accreditation function will be performance based linked to the subsidy expenditure achieved.

The accreditation fee payable will be a percentage of the municipal housing allocation budget based on the projected operational cost set down in the business plan expressed as a percentage of the housing budget allocated to the municipality as set down below:

$$\text{Accreditation Fee \%} = (\text{Projected annual operational cost} / \text{Municipal housing budget}) \times 100$$

Note the operational costs are for the accreditation functions only and not for the other housing functions which form part of the municipality's normal responsibilities.

Calculation of the Accreditation Fee is given in the example below:

Example 1

Projected annual accreditation operation cost = R500,000

Municipal housing budget = R25,000,000

$$\text{Accreditation Fee \%} = (a. / b.) \times 100 = R500,000 / R25,000,000 \times 100$$

Accreditation Fee % = 2% of Municipal housing budget.

The 2% Accreditation Fee in example 1 above is illustrative only and not the recommended quantum for the fee.

The accreditation fee will be disbursed by the PDOH to the municipality on a drawdown basis proportionate to the housing subsidy expenditure achieved by the municipality provided that:

The projected operational cost is approved by the PDOH and within a norm prescribed by NDOH, which will be based on a typical operational costs norm. This norm will be determined by NDOH and reviewed on the basis of experience gained in the roll out of the accreditation;

The municipality provides the monthly reports required i.e. on the principle of "no report no pay".

The calculation of the monthly accreditation fee payment is shown below in example 2.

Example 2

A = Municipal housing budget R25,000,000

B = Total Subsidy expenditure to date R10,000,000

C = Total previous subsidy expenditure R8,000,000

D = Total subsidy expenditure this month = (B – C) R2,000,000

E = Accreditation Fee %2%

F = Accreditation Fee payable this month = D X E R40,000

11 Annual Funding Cycle

In order to ensure that the annual housing planning synchronizes within both the national / provincial and municipal annual fiscal cycles the planning dates set down in 10 need to be adhered to by both the accredited municipality and PDOH.

The municipal housing programme must run in terms of the national / provincial annual cycle (April to March) in order to fit within the DORA framework and therefore municipalities will have to do two reconciliations within the year for their housing programmes, in order to be able to report both in terms of the national / provincial financial year (April to March) as well as the municipal financial year (July to June). Likewise the quarterly reporting needs to be synchronized to the national / provincial quarters (1st Qtr April to June, 2nd Qtr July to September, 3rd Qtr October to December and 4th Qtr January to March).

Table 10: Annual Housing Accreditation Planning Cycle

Element	Date
1. National and Provincial financial year end	31 March
2. Municipal financial year end	30 June
3. Municipal annual housing plan approved by municipal council (as part of the municipal IDP) and submitted to PDOH	February
4. Municipal housing implementation plan prepared and approved by municipal council (linked to National / Provincial financial year)	March
5. Municipality commences annual housing programme aligned to national / provincial start of financial year	April
6. Municipality reconciles annual housing programme expenditure for period April to March to align with national / provincial annual financial year	April
7. Municipality reconciles annual housing programme expenditure for period July to June to align with municipal annual financial year	July

12 Templates

The following templates form a part of the housing accreditation guidelines:

Template Number	Template Name and Purpose
T01	Pre-Accreditation Application - prepared by the municipality to signal the municipality's intention to apply for accreditation, to indicate the proposed level/s of accreditation and to apply for pre-accreditation capacity support in order to assist the municipality to prepare an accreditation business plan
T02	Accreditation Business Plan – prepared by the municipality to set out the municipality's proposed plan of action to achieve accreditation, level of accreditation sought, transitional arrangements, capacity support requirements and operational costs
T03	Accreditation Business Plan Progress Report – prepared by the municipality to provide monthly progress reports to the PDOH during the implementation of the business plan
T04	Accreditation Compliance Certificate – prepared by the municipality's auditors to signal that the municipality has complied with the accreditation requirements set down in the accreditation business plan and is now eligible for full accreditation to the level applied for
T05	Annual Municipal Housing Budget Allocation Report – prepared by the municipality to determine the allocation of housing budget within the municipality to the various housing programmes and projects
T06	Annual Housing Implementation Management Plan – prepared by the municipality to set out the annual housing implementation targets and management plan for the implementation of the housing programmes
T07	Monthly Progress Report – prepared by the accreditation manager giving expenditure against budget and project cash flow, performance, constraints, risks and action plans