



UMZIMVUBU
— LOCAL MUNICIPALITY —

**POLICY FOR THE APPOINTMENT OF
CONSULTANTS**

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1. INTRODUCTION

The Supply Chain Management Policy of Council and the Municipal Supply Chain Management Regulations, promulgated in the Government Gazette number 27636 on the 30th May 2005, regulate the appointment of Consultants. Consultants may be procured taking into consideration the Treasury guidelines when such appointments are made. (Section 35 of the Municipal Supply Chain Management Regulations.)

To align the South African public Sector procurement system with international best practices, the following procedures should be followed for selecting, contracting and monitoring consultants required for projects:-

2. DEFINITION For the purposes of this policy the following definitions apply:

“Consultant” - An external person or organization that provides a service to the municipality in those arrears, where the municipality either lacks the required specialized skills or Capacity.

“Lack of Capacity” –

- Insufficient physical resources within the Municipality;

3. Relevant knowledge, expertise and - experience that may not exist within the municipality

4. OBJECTIVE

To give a framework on the appointment of consultants, to ensure that consultants are remunerated within a regulated environment that is fair and equitable, thereby the value added to the Municipality.

5. SCOPE OF APPLICATION

This document informs user departmental officials of the Municipality on the appointment of consultants

6. LEGISLATIVE FRAMEWORK

- a) The municipality operations are governed by an array of different acts and this policy should be understood within that context.
- b) The following Acts and prescripts are central in defining municipality boundaries and areas of influence:
 - I. Local Government: Municipal Structures Act, 1998 (Act of 117 of 1998)
 - II. Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)
 - III. Local Government: Municipal Finance Management Act, 2003 (Act 53 of 2003)
- IV. Treasury Regulations
- V. National Treasury guidelines and prescripts

6. CONSULTANTS

6.1 APPOINTMENT OF CONSULTANTS

- a) All appointments of consultants in the municipality shall be in writing recommended by the Municipal Bid Adjudication Committee and approved by the Accounting Officer.
- b) Managers may recommend the appointment of consultants to render specific services, should there be of the opinion that the Municipality lacks the required skills or necessary capacity and those funds are available within their existing budgets.
- c) The relevant Manager will be responsible to prepare the "Terms of Reference" and submission to the Municipality Specification Committee to recommend to the Accounting Officer for the advertisement to request proposals.

6.1.1 PRIMARY REASONS FOR APPOINTMENT OF CONSULTANTS

Consultants are engaged principally for the following reasons:

- a) To provide specialized services for limited periods without any obligation of permanent employment;
- b) To benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing an assignment;
- c) To provide independent advice on the most suitable approaches, methodologies and solutions of projects.

6.1.2 MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS

When appointing consultants, it is necessary to strive to satisfy the following minimum requirements:

- a) Meeting the highest standards of quality and efficiency;
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b) Obtaining advice that is unbiased that is, being delivered by a consultant acting independently from an affiliation, economic or otherwise, which may cause conflict between the consultant's interests and those of government;

c) Ensuring that the advices proposed or assignments executed, are meeting the ethical principles of the consultancy professions.

6.1.3 SELECTION METHOD(S) FOR THE APPOINTMENT OF CONSULTANTS

The following are methods most generally used for the appointment of consultants:

a) Quality and cost based selection

b) Quality based selection

c) Selection under a fixed budget

d) Least cost selection

e) Single source selection

6.1.4 EMPLOYMENT CONTRACT OR AGREEMENT

a) All appointments shall be by means of a written contract or agreement, between the Municipality and the consultant concerned;

b) The Accounting Officer shall sign as the duly appointed representative of the Municipality;

c) The Accounting Officer may approve the extension of employment contracts or agreements provided that:

- I. Sufficient funds are available;
- II. The extension is required as a result of additional operational requirements;
- III. The original terms of reference have not been deviated from;
- IV. Delivery has been satisfactory and in accordance with the terms of reference; and
- V. There must be a skill transferred.

6.1.5 TERMS AND CONDITIONS

Written contracts or agreements shall, as a minimum, contain the following:

a) Defined deliverables;

b) The mechanisms allowing for the frequent monitoring of progress in terms of the agreed

objectives;

- c) The period of employment;
- d) The terms and conditions in terms of a specific regulation, code or collective agreement or tender;
- e) The notice period required by either side to terminate the contract;
- f) The rates agreed upon;
- g) The frequency of payment; and
- h) The method of payment.

6.2 PAYMENT OF CONSULTANTS

The payment of a consultant appointed on contract shall be:

- a) Where the consultant belongs to a professional body, the rate of payments as stipulated by that body; or
- b) In any other case, the rate as stipulated by Treasury Guidelines or:-
- c) At a rate determined fair or equitable by the Accounting Officer and agreed upon by both parties.

6.3 TRAINING OR TRANSFER OF KNOWLEDGE AND SKILLS

If the assignment includes an important component for training or transfer of knowledge and skills, the terms of reference should indicate the objectives, nature, scope and goals of the training program, including details of trainers and trainees, skills to be transferred, time frames and monitoring and evaluation arrangements. The cost for training program should be included in the consultant's contract and the budget for the assignment.

6.4 ESTABLISHMENT OF A LIST OF APPROVED SERVICE SUPPLIERS

Where consultancy services are required on a recurring basis, a panel of consultants/list of approved service suppliers for the rendering of these services may be established. These panels/lists should be established through the competitive bidding process, usually for services that are of a routine or simple nature where the scope and content of the work to be done can be described in detail.

6.5 EVALUATION OF THE PERFORMANCE OF CONSULTANTS

6.5.1 Consultants should observe due diligence and prevailing standards in the performance of the assignment. The accounting officer should evaluate the performance of consultants appointed in a fair and confidential process. In the case of repeated poor performance, the firm should be notified and provided an opportunity to explain the reasons for it and the remedial action proposed.

6.5.2 Consultants should be responsible for the accuracy and suitability of their work. Although accounting officers supervise and review the consultants' work, no modifications should be made in the final documents prepared by the consultants without mutual agreement. In the case of supervision of works, consultants may have more or less authority to supervise, from full responsibility as an independent engineer, to that of advisor to the client with little authority to make decisions, as determined by the accounting officer and captured in the contract agreement between the accounting officer and the consultant.

7. CONFLICT OF INTEREST

7.1 Consultants are required to provide professional, objective and impartial advice and at all times hold the client's interests paramount, without any consideration for future work and strictly avoid conflicts with other assignments or their own corporate interests. Consultants should not be hired for any assignment that would be in conflict with their prior or current obligations to other clients, or that may place them in a position of not being able to carry out the assignment in the best interest of the State. Without limitation on the generality of this rule, consultants should not be hired under the following circumstances:

7.2 A firm, which has been engaged by the accounting officer to provide goods or works for a project and any of its affiliates, should be disqualified from providing consulting services for the same project. Similarly, a firm hired to provide consulting services for the preparation or implementation of a project and any of its affiliates, should be disqualified from subsequently providing goods or works or services related to the initial assignment (other than a continuation of the firm's earlier consulting services as described below) for the same project, unless the various firms (consultants, contractors, or suppliers) are performing the contractor's obligations under a turnkey or design-and-build contract; Consultants or any of their affiliates should not be hired for any assignment that, by its nature, may be in conflict with another assignment of the consultants. As an example, consultants hired to prepare an engineering design for an infrastructure project should not be engaged to prepare an independent environmental assessment for the same project, and consultants assisting a client in the privatization of public assets should not purchase, nor advise purchasers of such assets.

8. GAP ANALYSIS

Accounting officers and accounting authorities, when appointing and managing consultants and consultancy projects, must critically evaluate the internal control processes of their respective institutions to ensure that value for money is achieved when making use of consultants.

8.1 DEFINITION OF A GAP ANALYSIS.

A gap analysis in relation to this policy may be defined as gaps identified between current available human resources and human resources required to complete a specific project. This means that institutions should first conduct a skills gap analysis within its structures prior to seeking the use of consultants.

8.2 WHAT IS THE PURPOSE OF A GAP ANALYSIS

What is a Gap Analysis and how does it support the work around use of consultants and institutional effectiveness? The purpose of a gap analysis process is to strengthen the ability of institutions to identify skills shortages and skills that are available to the institution which is not being utilized. It is also to ensure that skills that are sourced through consultants are skills that are lacking in an institution. There will be instances where an institution will have the required skills readily available but requires an independent consultant to conduct the work due to the nature of work required.

8.2.1 The policy presents an institution with a framework and an assessment that may be used to assist in carrying out their gap analysis. A variety of instruments may be used to gather data on a gap analysis, which may include amongst others, the use of surveys, results of audits and etc. These instruments are tools to be used to enable institutions to get a clearer picture of their skills/capacity constraints and challenges in achieving certain areas of work that requires specific skills. For this policy, an assessment/checklist was selected as the most suitable and appropriate tool to be used by institutions to assist in performing a gap analysis prior to the appointment of consultants.

8.3 PLANNING AND APPOINTMENT.

The nature and extent of services required should be analysed taking into account the long-term objectives and needs of the institution with a view to differentiating between services where permanent capacity is required and services that are of a non-core nature or specialist services required on a once off or temporary basis.

8.4 SERVICES WHERE PERMANENT CAPACITY IS REQUIRED.

Before a decision is taken to use external capacity, an institution must conduct an assessment of the costs related to making use of external capacity versus the cost of creating and filling internal capacity. The assessment should also take into account whether or not internal capacity and/or other resources required are available to perform the specific project.

ANNEXURE 1: ASSESSMENT FOR DEVELOPMENT OF A GAP ANALYSIS CHECKLIST

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NO.	QUESTION	YES/NO	COMMENTS
	Did the institution analyse the cost-effectiveness of permanent capacity versus making use of consultants, while ensuring continuity and service delivery?		
1.	Did the institution analyse the nature and extent of services to be outsourced and whether they were specialised, once-off, temporary services, or services that were of a non-specialised nature		
2.	Was consideration given to whether the objectives of the institution would be better achieved through the appointment of consultants or permanent staff?		
3.	Does the skill and experience exist in the institution for the required task?		
4.	How often does the institution use the skills required for the tasks performed by external capacity (consultants)?		
5.	Was there lack of permanently appointed staff with necessary skills and experience in the institution, which necessitated the appointment of consultants as a compensating measure?		
6.	Has the institution considered filling the vacant position and has the institution considered hiring a person on a permanent appointment to perform the required task?		
7.	Are internal processes to appoint permanent staff inefficient and ineffective?		
8.	Are consultants appointed to monitor work of other consultants or to complete specifications for tenders for which they did not tender?		
9.	Were competitive and transparent appointment processes followed?		
11.	Was proper contract administration provided for setting proper milestones, performance targets, monitoring systems and roles and responsibilities?		
12.	Was transfer of skills included in the		

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	Consultant's contract?		
13.	Were penalty clauses included in the contract of the consultants and were they applied?		
14.	Was there a limit to the consultant's budget?		
15.	Were consultants employed in high or critical positions such as CFO position?		
16.	Is the work of consultants formally reviewed by the relevant staff (middle management and senior management) involved with the subject matter?		
17.	Was the actual work performed by consultants matched with the contractual requirements?		
18.	Do institutions have measures in place to avoid contracts being prolonged or varied above 15% of the contract value?		
19.	Did institutions close the consultant's project properly to ensure that all the deliverables were met, implemented and properly filed?		

9. AMENDMENT AND/OR ABOLITION OF THIS POLICY

This policy may be amended or repealed by Council as it may deem necessary.

Date of Approval: _____

Council resolution no.: _____

Approved by:

GPT NOTA
MUNICIPAL MANAGER

APPROVAL OF THE POLICY

The Municipal Council has approved this policy and amendments thereof.

AUTHENTICATION

The amendments of the policy and or the new policy was adopted by the Council on the
23/01/2020.....

As per Council Resolution number 215/19/20.....

Signed off


Mr. G.P.T. Nota

Municipal Manager


Cllr. N.F Ngonyolo

Speaker of the Council

