

(24 August 2001 – to date)

## **LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 32 OF 2000**

*(Gazette No. 21776, Notice No. 1187, dated 20 November 2000. Commencement date: 1 March 2001 – unless otherwise indicated) [Proc. No. R18, Gazette No. 22091, dated 23 February 2001]*

## **LOCAL GOVERNMENT: MUNICIPAL PLANNING AND PERFORMANCE MANAGEMENT REGULATIONS, 2001**

*Published under Government Notice R796 in Government Gazette 22605, dated 24 August 2001.  
Commencement date: 24 August 2001*

Under section 120, read with sections 37, 43 and 49 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), I, Fholisani Sydney Mufamadi, after consultation with the MEC's for local government and organised local government representing local government nationally, hereby make the regulations in the Schedule.

**F. S. MUFAMADI**

**Minister for Provincial and Local Government**

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#### **CHAPTER 1 INTERPRETATION**

##### **1. Definitions**

In these regulations a word or phrase to which a meaning has been assigned in the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), has that meaning and, unless the context otherwise indicates

**"ad hoc committee"** means a committee appointed in terms of section 33(1) of the Act;

**"financial year"** means the financial year of municipalities that end on 30 June of each year;

**"input indicator"** means an indicator that measures the costs, resources and time used to produce an output;

**"outcome indicator"** means an indicator that measures the quality and or impact of an output on achieving a particular objective;

**"output indicator"** means an indicator that measures the results of activities, processes and strategies of a program of a municipality;

**"the Act"** means the Local Government: Municipal Systems Act, 2000.

#### **CHAPTER 2 INTEGRATED DEVELOPMENT PLANNING**

##### **2. Detail of integrated development plan**

- (1) A municipality's integrated development plan must at least identify-
  - (a) the institutional framework, which must include an organogram, required for-
    - (i) the implementation of the integrated development plan; and
    - (ii) addressing the municipality's internal transformation needs,  
  
as informed by the strategies and programmes set out in the integrated development plan;
  - (b) any investment initiatives in the municipality;
  - (c) any development initiatives in the municipality, including infrastructure, physical, social, economic and institutional development;
  - (d) all known projects, plans and programs to be implemented ' within the municipality by any organ of state; and
  - (e) the key performance indicators set by the municipality.
- (2) An integrated development plan may-
  - (a) have attached to it maps, statistics and other appropriate documents; or
  - (b) refer to maps, statistics and other appropriate documents that are not attached, provided they are open for public inspection at the offices of the municipality in question.
- (3) A financial plan reflected in a municipality's integrated development plan must at least
  - (a) include the budget projection required by section 26(h) of the Act;
  - (b) indicate the financial resources that are available for capital project developments and operational expenditure; and
  - (c) include a financial strategy that defines sound financial management and expenditure control, as well as ways and means of increasing revenues and external funding for the municipality and its development priorities and objectives, which strategy may address the following:
    - (i) Revenue raising strategies;
    - (ii) asset management strategies;

- (iii) financial management strategies;
  - (iv) capital financing strategies;
  - (v) operational financing strategies; and
  - (vi) strategies that would enhance cost-effectiveness.
- (4) A spatial development framework reflected in a municipality's integrated development plan must-
- (a) give effect to the principles contained in Chapter 1 of the Development Facilitation Act, 1995 (Act No. 67 of 1995);
  - (b) set out objectives that reflect the desired- spatial form of the municipality;
  - (c) contain strategies and policies regarding the manner in which to achieve the objectives referred to in paragraph (b), which strategies and policies must-
    - (i) indicate desired patterns of land use within the municipality;
    - (ii) address the spatial reconstruction of the municipality; and
    - (iii) provide strategic guidance in respect of the location and nature of development within the municipality;
  - (d) set out basic guidelines for a land use management system in the municipality;
  - (e) set out a capital investment framework for the municipality's development programs;
  - (f) contain a strategic assessment of the environmental impact of the spatial development framework;
  - (g) identify programs and projects for the development of land within the municipality;
  - (h) be aligned with the spatial development frameworks reflected in the integrated development plans of neighbouring municipalities; and
  - (i) provide a visual representation of the desired spatial form of the municipality, which representation:
    - (i) must indicate where public and private land development and infrastructure investment should take place;

- (ii) must indicate desired or undesired utilisation of space in a particular area;
- (iii) may delineate the urban edge;
- (iv) must identify areas where strategic intervention is required; and
- (v) must indicate areas where priority spending is required.

### **3. Process for amending integrated development plans**

- (1) Only a member or committee of a municipal council) may introduce a proposal for amending the municipality's integrated development plan in the council.
- (2) Any proposal for amending a municipality's integrated development plan must be-
  - (a) accompanied by a memorandum setting out the reasons for the proposal; and
  - (b) aligned with the framework adopted in terms of section 27 of the Act.
- (3) An amendment to a municipality's integrated development plan is adopted by a decision taken by a municipal council in accordance with the rules and orders of the council.
- (4) No amendment to a municipality's integrated development plan may be adopted by the municipal council unless-
  - (a) all the members of the council have been given reasonable notice;
  - (b) the proposed amendment has been published for public comment for a period of at least 21 days in a manner that allows the public an opportunity to make representations with regard to the proposed amendment;
  - (c) the municipality, if it is a district municipality, has complied with subregulation (5); and
  - (d) the municipality, if it is a local municipality, has complied with subregulation (6).
- (5) A district municipality that considers an amendment to its integrated development plan must-
  - (a) consult all the local municipalities in the area of the district municipality on the proposed amendment; and

- (b) take all comments submitted to it by the local municipalities in that area into account before it takes a final decision on the proposed amendment.

(6) A local municipality that considers an amendment to its integrated development plan must-

- (a) consult the district municipality in whose area- it falls on the proposed amendment; and
- (b) take all comments submitted to it by the district municipality into account before it takes a final decision on the proposed amendment.

#### **4. Procedure and manner of referring an objection to *ad hoc* committee**

(1) Whenever a MEC for local government decides to refer an objection to an *ad hoc* committee in terms of section 33(4) of the Act, the MEC must-

- (a) within seven days of such decision, notify the relevant municipal council that the municipal council's objection is being referred to an *ad hoc* committee;
- (b) submit the following to the *ad hoc* committee as soon as it is appointed:
  - (i) A copy of the MEC's request in terms of section 32(2) of the Act;
  - (ii) written reasons for the MEC's proposals referred to in section 32(2)(a) of the Act;
  - (iii) a copy of the municipal council's objection and the reasons for disagreeing with the MEC's proposals.

(2) An *ad hoc* committee must-

- (a) inform the relevant municipal council in writing of the date or dates on which the *ad hoc* committee would consider the municipal council's objection; and
- (b) afford the relevant municipal council at least seven days before such date or dates to make written representations to the *ad hoc* committee regarding the reasons for the MEC's proposals referred to in subregulation (1)(b)(ii).

(3) An *ad hoc* committee must, within 21 days of the date on which it was appointed, notify the relevant municipal council and the MEC concerned in writing of the committee's decision regarding the municipal council's objection.

#### **5. Proceedings of *ad hoc* committee**

- (1)
  - (a) A MEC for local government who appoints an *ad hoc* committee must convene the first meeting of the *ad hoc* committee.
  - (b) The chairperson of the *ad hoc* committee convenes the subsequent meetings of the *ad hoc* committee.
- (2)
  - (a) At the first meeting of the *ad hoc* committee, the members of the *ad hoc* committee must elect a member of the committee as chairperson after nominations have been called for.
  - (b) If the chairperson of the *ad hoc* committee is absent from a specific meeting of the committee, the members present must elect a chairperson from the members present to act as chairperson for that meeting
- (3) An objection referred to an *ad hoc* committee must be decided on the written documentation submitted to it.
- (4)
  - (a) An *ad hoc* committee may determine its own voting procedure for deciding a matter before it, taking into account the requirement of section 33(4) of the Act that at least two spheres of government must agree on the matter.
  - (b) No sphere of government represented in an *ad hoc* committee may abstain from voting.

## 6. Giving effect to integrated development plan

A municipality's integrated- development plan must -

- (a) inform the municipality's annual budget that must be based on the development priorities and objectives referred to in section 26(c) of the Act and the performance targets set by the municipality in terms of regulation 12; and
- (b) be used to prepare action plans for the implementation of strategies identified by the municipality.

## CHAPTER 3 PERFORMANCE MANAGEMENT

### 7. Nature of performance management system

- (1) A municipality's performance management-system entails a framework that describes and represents how the municipality's cycle and processes of performance planning, monitoring, measurement, review, reporting and improvement will be conducted, organised and managed, including determining the roles of the different role-players.
- (2) In developing its performance management system, a municipality must ensure that the system-
  - (a) complies with all the requirements set out in the Act;
  - (b) demonstrates how it is to operate and be managed from the planning stage up to the stages of performance and reporting;
  - (c) clarifies the roles and responsibilities of each role-player, including the local community, in the functioning of the system;
  - (d) clarifies the processes of implementing the system within the framework of the integrated development planning process;
  - (e) determines the frequency of reporting and the lines of accountability for performance;
  - (f) relates to the municipality's employee performance management processes;
  - (g) provides for the procedure by which the system is linked to the municipality's integrated development planning processes; and

## **8. Adoption of performance management system**

A performance management system must be adopted before or at the same time as the commencement by the municipality of the process of setting key performance indicators and targets in accordance with its integrated development plan.

## **9. Setting of key performance indicators**

- (1)
  - (a) A municipality must set key performance indicators, including input indicators, output indicators and outcome indicators, in respect of each of the development priorities and objectives referred to in section 26(c) of the Act.
  - (b) A key performance indicator must be measurable, relevant, objective and precise.
- (2) In setting key performance indicators, a municipality must ensure that-

- (a) communities are involved; and
- (b) the key performance indicators inform the indicators set for -
  - (i) all its administrative units and employees; and
  - (ii) every municipal entity and service provider with whom the municipality has entered into a service delivery agreement.

## 10. General key performance indicators

The following general key performance indicators are prescribed in terms of section 43 of the Act:

- (a) The percentage of households with access to basic level of water, sanitation, electricity and solid waste removal;
- (b) the percentage of households earning less than R1100 per month with access to free basic services;
- (c) the percentage of a municipality's capital budget actually spent on capital projects identified for a particular financial year in terms of the municipality's integrated development plan;
- (d) the number of jobs created through municipality's local economic development initiatives including capital projects
- (e) the number of people from employment equity target groups employed in the three highest levels of management in compliance with a municipality's approved employment equity plan;
- (f) the percentage of a municipality's budget actually spent on implementing its workplace skills plan; and
- (g) financial viability as expressed by the following ratios:

$$(i) \quad A = \frac{B - C}{D}$$

Where -

"A" represents debt coverage

"B" represents total operating revenue received

"C" represents operating grants

"D" represents debt service payments (i.e. interest + redemption) due within the financial year;

$$(ii) \quad A = \frac{B}{C}$$

Where -

"A" represents outstanding service debtors to revenue

"B" represents total outstanding service debtors

"C" represents annual revenue actually received for services;

$$(iii) \quad A = \frac{B + C}{D}$$

Where -

"A" represents cost coverage

"B" represents all available cash at a particular time

"C" represents investments

"D" represents monthly fixed operating expenditure.

## 11. Review of key performance indicators

- (1) A municipality must review its key performance indicators annually as part of the performance review process referred to in regulation 13.
- (2) Whenever a municipality amends its integrated development plan in terms of section 34 of the Act, the municipality must, as part of the process referred to in regulation 3, review those key performance indicators that will be affected by such amendment.

## 12. Setting of performance targets

- (1) A municipality must, for each financial year, set performance targets for each of the key performance indicators set by it.
- (2) A performance target set in terms of subregulation (1) must -
  - (a) be practical and realistic;
  - (b) measure the efficiency, effectiveness, quality and impact of the performance of the municipality, administrative component, structure, body or person for whom a target has been set;

- (c) be commensurate with available resources;
- (d) be commensurate with the municipality's capacity; and
- (e) be consistent with the municipality's development priorities and objectives set out in its integrated development plan.

**13. Monitoring, measurement and review of performance**

- (1) A municipality must, after consultation with the local community, develop and implement mechanisms, systems and processes for the monitoring, measurement and review of performance in respect of the key performance indicators and performance targets set by it.
- (2) The mechanisms, systems and processes for monitoring in terms of subregulation (1) must-
  - (a) provide for reporting to the municipal council at least twice a year;
  - (b) be designed in a manner that enables the municipality to detect early indications of under-performance; and
  - (c) provide for corrective measures where under-performance has been identified.
- (3) Performance measurement in terms of subregulation (1) must include the measurement of -
  - (a) costs, resources and time used to produce outputs in accordance with the input indicators referred to in regulation 9;
  - (b) the extent to which the municipality's activities or processes produced outputs in accordance with the output indicators referred to in regulation 9; and
  - (c) the total improvement brought by outputs in accordance with the outcome indicators referred to in regulation 9.
- (4) The mechanisms, systems and processes for review in terms of subregulation (1) must at least-
  - (a) identify the strengths, weaknesses, opportunities and threats of the municipality in meeting the key performance indicators and performance targets set by it, as well as the general key performance indicators prescribed by regulation 10;
  - (b) review the key performance indicators set by the municipality in terms of regulation 9; and

- (c) allow the local community to participate in the review process.

#### **14. Internal auditing of performance measurements**

(1)

- (a) A municipality must develop and implement mechanisms, systems and processes for auditing the results of performance measurements as part of its internal auditing processes.
- (b) Any auditing in terms of paragraph (a) must include assessments of the following:
  - (i) The functionality of the municipality's performance management system;
  - (ii) whether the municipality's performance management system complies with the Act; and
  - (iii) the extent to which the municipality's performance measurements are reliable in measuring performance of municipalities on indicators referred to in regulation 9 and 10
- (c) A municipality's internal auditors must -
  - (i) on a continuous basis audit the performance measurements of the municipality; and
  - (ii) submit quarterly reports on their audits to the municipal manager and the performance audit committee referred to in subregulation (2).

(2)

- (a) A municipality must annually appoint and budget for a performance audit committee consisting of at least three members, the majority of which may not be involved in the municipality as a councillor or an employee.
- (b) A performance audit committee appointed in terms of paragraph (a) must include at least one person who has expertise in performance management.
- (c) A municipality may utilise any audit committee established in terms of ether applicable legislation as the performance audit committee envisaged in paragraph (a), in which case the provisions of this subregulation, read with the necessary changes, apply to such an audit committee.
- (d) The council of a municipality must designate a member of the performance audit committee who is not a councillor or an employee of the municipality as chairperson of the committee.

- (e) If the chairperson of the performance audit committee is absent from a specific meeting of the committee, the members present must elect a chairperson from the members present to act as chairperson for that meeting.
  - (f) In the event of a vacancy occurring amongst the members of the performance audit committee, the municipality concerned must fill that vacancy for the unexpired portion of the vacating member's term of appointment.
  - (g) A municipality must provide secretariat services for its performance audit committee.
  - (h)
    - (i) A local municipality may in stead of appointing a performance audit committee elect to make use of the performance audit committee of the district municipality in whose area it falls, and that performance audit committee is to be regarded as the performance audit committee of the local municipality in question.
    - (ii) A local municipality that elects to make use of the performance audit committee of the district municipality in whose area it falls, must notify that district municipality of its decision and make suitable arrangements with the district municipality regarding the availability of that performance audit committee.
  - (i) A member of the performance audit committee who is not a councillor or an employee of the municipality concerned, may be remunerated taking into account the tariffs determined by the South African Institute of Chartered Accountants in consultation with the Auditor-General.
- (3)
- (a) A performance audit committee must meet at least twice during the financial year of the municipality concerned.
  - (b) A special meeting of the performance audit committee may be called by any member of the committee.
  - (c) A performance audit committee may determine its own procedures after consultation with the executive mayor or the executive committee of the municipality concerned, as the case may be.
- (4)
- (a) A performance audit committee must-
    - (i) review the quarterly reports submitted to it in terms of subregulation (1)(c)(ii);
    - (ii) review the municipality's performance management system and make recommendations in this regard to the council of that municipality; and

- (iii) at least twice during a financial year submit an audit report to the municipal council concerned.
- (b) In reviewing the municipality's performance management system in terms of paragraph (a)(ii), the performance audit committee must focus on economy, efficiency, effectiveness and impact in so far as the key performance indicators and performance targets set by the municipality are concerned.
- (c) A performance audit committee may -
  - (i) communicate directly with the council, municipal manager or the internal; and external auditors of the municipality concerned;
  - (ii) access any municipal records containing information that is needed to perform its duties or exercise its powers;
  - (iii) request any relevant person to attend any of its meetings, and, if necessary, to provide information requested by the committee; and
  - (iv) investigate any matter it deems necessary for the performance of its duties and the exercise of its powers.

#### **CHAPTER 4 MISCELLANEOUS**

#### **15. Community participation in respect of integrated development planning and performance management**

- (1)
  - (a) In the absence of an appropriate municipal wide structure for community participation, a municipality must establish a forum that will enhance community participation in -
    - (i) the drafting and implementation of the municipality's integrated development plan; and
    - (ii) the monitoring, measurement and review of the municipality's performance in relation to the key performance indicators and performance targets set by the municipality.
  - (b) Before establishing a forum in terms of paragraph (a), a municipality must, through appropriate mechanisms, invite the local community to identify persons to serve on the forum, including representatives from ward committees, if any.

- (c) A forum established in terms of paragraph (a) must be representative of the composition of the local community of the municipality concerned.
- (2) A municipality must-
- (a) convene regular meetings of the forum referred to in subregulation (1) to -
    - (i) discuss the process to be followed in drafting the integrated development plan;
    - (ii) consult on the content of the integrated development plan;
    - (iii) monitor the implementation of the integrated development plan;
    - (iv) discuss the development, implementation and review of the municipality's performance management system; and
    - (v) monitor the municipality's performance in relation to the key performance indicators and performance targets set by the municipality; and
  - (b) allow members of the forum at least 14 days before any meeting of the forum to consult their respective constituencies on the matters that will be discussed at such a meeting.
- (3) A municipality must afford the local community at least 21 days to comment on the final draft of its integrated development plan before the plan is submitted to the council for adoption.

## 16. Short title

These regulations are called the Local Government: Municipal Planning and Performance Management Regulations, 2001.