

MATATIELE LOCAL MUNICIPALITY



MATATIELE
LOCAL MUNICIPALITY

APPOINTMENT OF CONSULTANTS POLICY

<u>POLICY INFORMATION</u>	
<u>DATE OF COUNCIL ADOPTION:</u>	27 MAY 2021
<u>COUNCIL RESOLUTION NUMBER:</u>	<u>1257/27/05/2021</u>
<u>POLICY NUMBER:</u>	MLM/BTO/P01



**MR L MATIWANE
MUNICIPAL MANAGER**

11/08/21
DATE



**CLLR. M.M. MBEDLA
MAYOR**

2021/08/19
DATE



**CLLR N MSHUQWANA
SPEAKER COUNCIL**

30/08/2021
DATE

Authority	Date
HOD Approval	
MM Approval	
Council Approval	
Date of next Review	

Approval of Policy

Please note that the implementation of the policy contained in this document is subject to approval and signing off by all relevant Heads and/or Committees, including but not limited to:

- Municipal Manager; and
- Municipal Council.

MATATIELE LOCAL MUNICIPALITY

APPOINTMENT OF CONSULTANTS POLICY

TABLE OF CONTENT

1. INTRODUCTION	3
2. DEFINITION	3
3. OBJECTIVE	3
4. SCOPE OF APPLICATION	4
5. LEGISLATIVE FRAMEWORK.....	4
6. ACTUAL POLICY.....	4
6.1 APPOINTMENT OF CONSULTANTS	4
6.1.1 PRIMARY REASONS FOR APPOINTMENT OF CONSULTANTS.....	4
6.1.2 MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS.....	4
6.1.3 SELECTION METHODS FOR THE APPOINTMENTS OF CONSULTANTS.....	5
6.1.4 EMPLOYMENT CONTRACT OR AGREEMENT.....	5
6.1.5 TERMS AND CONDITIONS	5
6.1.6 REMUNERATION OF CONSULTANTS	6
6.1.7 MANAGEMENT REPORTING.....	6
6.1.7.1 ANNUAL REPORTING	6
6.2 CONFLICT OF INTEREST.....	9
6.3 ASSOCIATION BETWEEN CONSULTANTS.....	9
7. EFFECTIVE DATE	

1. INTRODUCTION

Section 78 of the Finance Management Act places the onus on each official Within the Department to take responsibility for the effective, efficient, economical and Transparent use of financial and other resources within that official's area of responsibility. In Particular, the official must take effective and appropriate steps to prevent, within that Official's area of responsibility, any unauthorized, irregular, fruitless and wasteful expenditure And any under-collection of revenue due.

The purpose of this section is to explain the procedures for selecting, contracting, and monitoring consultants required for projects. Only the peculiarities of appointing consultants are dealt with herein, as the services to which these procedures apply are of an intellectual and advisory nature. These procedures do not apply to general services such as construction works, manufacture of goods, operation and maintenance of facilities or plants, surveys, exploratory drilling, aerial photography, satellite imagery, catering, cleaning and security in which the physical aspects of the activity predominate.

- (i) For the purpose of this policy, the term *consultant* includes, among others, consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organizations (NGOs) and individuals.
- (ii) Accounting officers may use these organizations as *consultants* to assist in a wide range of activities such as policy advice, accounting officer's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies and identification, preparation and implementation of projects to complement the accounting officers' capabilities in these areas.
- (iii) Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the accounting officer cannot be reasonably expected either to train or to recruit people in the time available.

2. DEFINITION

For the purposes of this policy the following definitions apply:

"Accounting Officer"	-	the municipal manager
"Budget"	-	the appropriated
"CFO"	-	Chief Financial Officer
"Municipality"	-	Matatiele Local Municipality

- | | |
|---------------------------|---|
| “Consultant” | - An external person or organization that provides a service To the municipality in those areas, where the municipality Either lacks the required specialized skills or capacity. |
| “Lack of Capacity” | - Insufficient physical resources within the Municipality; Relevant knowledge, expertise and experience that may not exist within the municipality. |
| “Mscoa” | - Municipal standard chart of accounts |

3. OBJECTIVE

To achieve the desired outcomes on a certain functions or tasks which are technical in nature and also to ensure that consultants are paid within a regulated environment that is fair and equitable, thereby maximizing the value added to the municipality.

4. SCOPE OF APPLICATION

This document informs municipal officials about the policy on appointment of consultants.

5. LEGISLATIVE FRAMEWORK

5.1 The municipality operations are governed by an array of different acts and this policy should be understood within that context.

5.2 The following Acts and prescripts are central in defining municipality boundaries and areas of influence:

- (1) Municipal Finance Management Act
- (2) Treasury Regulations
- (3) National Treasury guidelines and prescripts

6. ACTUAL POLICY

6.1 APPOINTMENT OF CONSULTANTS

- (1) When contracting professional or consultancy services prior to the invitation of bids, Directorates are required to motivate and obtain approval from the Accounting Officer that the Department is not capable of rendering the required service from its own ranks, owing to a lack of expertise. The Accounting Officer's approval must be obtained well in advance, regardless of the amount (buying of capacity).
- (2) All appointments of consultants in the municipality shall be in writing recommended by the Municipality Bid Adjudication Committee and approved by the Accounting Officer.
- (3) Programme/ Responsibility 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.
- (4) The Programme 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:

- i. To provide specialized services for limited periods without any obligation of permanent employment;
- ii. To benefit from superior knowledge, transfer of skills and upgrading of knowledge base while executing an assignment;
- iii. To provide independent advice on the most suitable approaches, methodologies and solutions of projects.
- iv. The new financial reforms (Mscoa) requires a technical and IT strong accounting expertise to understand and intergrate the systematic procedures. Most importantly to ensure that yearly transactions are Mscoa compliant.

6.1.2 MINIMUM REQUIREMENTS WHEN APPOINTING CONSULTANTS

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

- i. Meeting the highest standards of quality and efficiency;
- ii. 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;
- iii. 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:

- i. Quality and cost based selection
- ii. Quality based selection
- iii. Selection under a fixed budget
- iv. Least cost selection
- v. Single source selection

In determining the most appropriate approach, it may be useful to ask: What sort of Consultancy do I require? Is it for:-

An assignment that is not complex or specialized	Use 'Quality and Cost Base Selection' (QCBS)
A complex or highly specialized assignment, for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms)	Use 'Quality-Based Selection' (QBS)
An assignment that has a high downstream impact and requires the best available experts (for example, management studies of large government agencies)	Use QBS
An assignment that could be carried out in substantially different ways, hence proposals will not be comparable (for example, sector and policy studies in which the value of the services depends on the quality of the analysis)	Use QBS
A simple assignment, which is precisely defined and the budget fixed	Use 'Selection under a fixed budget', but evaluate technical proposals first as in CBS
A standard or routine assignment (e.g. an audit, engineering design of non complex works)	Use 'Least-cost selection' Potential suppliers may be obtained from the list of approved service providers.
A very small assignment which does not justify the preparation and evaluation of competitive proposals	Selection based on consultants' qualifications in Potential suppliers may be obtained from the list of approved service providers.
A task that represents a natural continuation of previous work carried out by the firm	Use 'Single-source selection'
An assignment where only one firm is qualified or has experience of exceptional worth for the assignment	Use 'Single-source selection'
Any other situation	Use 'Quality and cost based selection', either by requesting a "BID" or a "PROPOSAL"

6.1.4 EMPLOYMENT CONTRACT OR AGREEMENT

- All appointments shall be by means of a written contract or agreement, between the Municipality and the consultant concerned;
- The Accounting Officer shall sign as the duly appointed representative of the Municipality;
- The Accounting Officer may terminate the contract or agreement if there is non- or under performance by the consultant.
- 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.
- vi. Extension of the contract may be expanded or varied by no more than 15% for all services of the original value of the contract.

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.

6.1.6 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; and
- b) In any other case, the rate as stipulated by the Auditor-General or at a rate determined fair or equitable by the Accounting Officer and agreed upon by both parties.

6.1.7 MANAGEMENT REPORTING

6.1.7.1 ANNUAL REPORTING

- a) Remuneration paid to consultants during the financial year shall be disclosed as a note to the Annual Financial Statement.
- b) The Accounting officer must monitor on a monthly basis the performance of the consultant under the agreement.

6.2 CONFLICT OF INTEREST

Consultants are requested to provide professional, objective and impartial advice and that 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 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 Province/State. Without limitation on the generality of this rule, consultants should not be hired under the following circumstances:

- (i) A firm, which has been engaged by the accounting officer/authority 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
- (ii) same project, unless the various firms (consultants, contractors or suppliers) are performing the contractor's obligations under a turnkey or design-and-build contract.
- (iii) Consultants or any of their affiliates should not be hired for any assignment which, 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.

6.3 ASSOCIATIONS BETWEEN CONSULTANTS

Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The "association" may take the form of a joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Requests for Proposals (RFPs) from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only

with the approval of the accounting officer/authority or his/her delegate. Accounting officers/authorities should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

7. EFFECTIVE DATE

The appointment of consultants' policy should come into effect as from the date of approval.