

# **AM AHLATHI LOCAL MUNICIPALITY**



## **USE OF CONSULTANTS POLICY 2020**

**Approved by Council .....**

**Implementation Date .....**

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## **1. Introduction**

## **2. Definition**

For the purposes of this policy the following definitions will apply:

**“Consultant”**- An external person or organisation 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

## **3. Objective**

Ensure that consultants are paid within a regulated environment that is fair and equitable, thereby maximising the value added to the municipality.

## **4. Scope of Application**

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

## **5. Legislative Framework**

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

The following Acts and prescripts are central in defining the municipality’s boundaries and areas of influence:

- Local Government: Municipal Structures Act, 1998 (Act of 117 of 1998)
- Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)
- Local Government: Municipal Finance Management Act, 2003 (Act 53 of 2003)

- Treasury Regulations (Gazette No: 42514 Municipal Cost Containment Regulations).
- MFMA Circular no 82 & 97.
- National Treasury guidelines and prescripts

## **6. CONSULTANTS**

### **6.1 APPOINTMENT OF CONSULTANTS**

The Municipality will undertake all engagements of consultants in accordance with the SCM Regulations and the municipality's SCM Policy. All appointments of consultants in the municipality shall be in writing recommended by the Municipal Bid Adjudication Committee and approved by the Accounting Officer.

Managers may recommend the appointment of consultants to render specific services, should they be of the opinion that the Municipality lacks the required skills or necessary capacity and those funds are available within their existing budgets.

The relevant Manager will be responsible to prepare the “**Terms of Reference**” for submission to the Municipal Specification Committee to recommend to the Accounting Officer for the advertisement to request proposals. The relevant Manager should also ensure that an exact “specification” of the work to be accomplished accompanies the tender and is used as a monitoring tool, is appropriately recorded and monitored. The municipality will only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required. This Gap Analysis Report (Attached as Annexure A) is to be used when procuring Consultancy Services through the Supply Chain Management Process. The report should be submitted together with the “Formal Request for Purchases” form to the Supply Chain Management Unit, prior to commencement of the supply chain process.

#### **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;
- 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 advice 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 skills transfer.

d) The Accounting Officer should ensure that contracts for consultants include retention and penalty clauses for poor performance and in this regard against the above specification, the accounting officer must invoke such clauses, where deemed necessary.

e) The Accounting officer must appoint consultants on a time and cost basis with specific start and end dates. These dates must be clearly stated in the contract or agreement.

#### **6.1.5 TERMS AND CONDITIONS**

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

- a) Defined deliverables and quantifiable minimum service levels;
- 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;
- h) The method of payment; and

Dispute resolution mechanisms, inclusive of steps to be taken if service delivery is not satisfactory

#### **6.1.6 PERFORMANCE MANAGEMENT**

The performance of the consultant under the agreement must be monitored by the end user department on monthly basis: The end user must complete the performance evaluation of the consultant in the

prescribed format and submit the completed form to the Supply Chain Management (SCM) Unit for monitoring and recordkeeping purposes. Any instances of non-performance must be duly reported, and a record of non-performing consultants should be kept by the SCM Unit.

## **6.2 PAYMENT OF CONSULTANTS**

Consultants, including construction and infrastructure related services, must only be remunerated at the rates equal to or below those:

- a) determined in the “Guidelines on fees for audits done on behalf of the Auditor-General South Africa”, issued by the South African Institute of Chartered Accountants (SAICA);
- b) set out in the “Guide on Hourly Fee Rates for Consultants”, by the Department of Public Service and Administration (DPSA); or
- c) Prescribed by the body regulating the profession of the consultant.
- d) At a rate determined fair or equitable by the Accounting Officer and agreed upon by both parties.

Travelling and subsistence costs for the appointment of consultants must be in accordance with the travelling and subsistence policy of the municipality and the contract price should specify all travelling and subsistence costs.

## **6.3 REVIEW AND APPROVAL**

The content of this policy will be reviewed and approved by Council as and when required, to reflect the current stance on the appointment of consultants within the Amahlathi Local Municipality.

# **ANNEXURE A: GAP ANALYSIS REPORT**



<p style="text-align: center;"><b>Amahlathi Local Municipality</b></p> <p style="text-align: center;"><b>GAP Analysis: Procurement of Consulting Services</b></p>
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**Introduction:**

According to National Treasury MFMA Circular No. 82: Cost Containment Measures:

*“Accounting Officers must only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.”*

This basic Gap Analysis Report is to be used when procuring Consultancy Services through the Supply Chain Management Process. The report should be submitted together with the “Formal Request for Purchases” form to the Supply Chain Management Unit, prior to commencement of the supply chain process.

**Gap Analysis:**

Section A: User Information	
Directorate	
Department/ Section	
Project Name	
Costs	
Section B: GAP Analysis: Details on Consulting services required	
Scope: Details on type of consulting services required	
Intended Output	

<b>Motivation &amp; Identification of Gaps:</b> <i>(Reasons confirming that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required)</i>	
<b>Effect if Services are not procured</b>	

Section C: Recommendation by Relevant Head of Department/ Manager	
<i>Based on the above reasons, I hereby confirm that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.</i>	
<b>Name:</b>	
<b>Signature :</b>	
<b>Date:</b>	
<b>Comments:</b>	