

MUNICIPAL ENTITY FINANCIAL SUPPORT POLICY

Item A-F (32-2016) CM 28/04/2016	REVIEWD INTEGRATED DEVELOPMENT PLAN (IDP) AND MEDIUM TERM REVENUE AND EXPENDITURE FRAME WORK (MTREF): 2016/2017 TO 2018/2019
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Resolved:

5. That to guide the implementation of the municipality's annual budget, the Council of the EMM **APPROVES** the policies as set out in the following Annexures of this document:

- Annexure D1** Medium-term Budget Policy Statement (reviewed)
- Annexure D2** Pricing Policy Statement (reviewed)
- Annexure D3** Property Rates Policy (remains unchanged)
- Annexure D4** Provision of Free Basic Electricity Policy (remains unchanged)
- Annexure D5** Waste Management Services Tariff Policy (reviewed)
- Annexure D6** Consumer Deposit Policy (reviewed)
- Annexure D7** Indigent Policy (remains unchanged)
- Annexure D8** Credit Control & Debt Collection Policy (reviewed)
- Annexure D9** Provision for Doubtful Debtors and Debtors Write Off (reviewed)
- Annexure D10** Budget Implementation and Monitoring Policy (remains unchanged)
- Annexure D11** **Municipal Entity Financial Support Policy (reviewed)**
- Annexure D12** Accounting Policy (reviewed)
- Annexure D13** Funding and Reserve Policy (remains unchanged)
- Annexure D14** Borrowing Policy (remains unchanged)
- Annexure D15** Cash Management Policy (remains unchanged)
- Annexure D16** Policy on electricity metering for residential and small business customers in the EMM (reviewed)
- Annexure D17** Policy for the Vending of Pre-paid Electricity (reviewed)
- Annexure D18** Policy for Correction of Meter Reading and Billing Data (remains unchanged)
- Annexure D19** Electricity Tariff policy (reviewed)
- Annexure D20** Virement Policy (remains unchanged)
- Annexure D21** Consumer Agreement Policy (reviewed)
- Annexure D22** Renewable Energy Revenue Loss Mitigation Policy (new)

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MUNICIPAL ENTITIES FINANCIAL SUPPORT POLICY

1. APPLICATION AND SCOPE

The Borrowing Policy is applicable to the Ekurhuleni Metropolitan Municipality as well as to all of the municipal entities of the Metro, being:

- Brakpan Bus Company SOC Ltd (**BBC**)
- East Rand Water Care Company NPC (**ERWAT**); and
- Ekurhuleni Development Company SOC Ltd (**EDC**), including Pharoe Park SOC Ltd, Germiston Phase Two SOC Ltd and Lethabong Housing Institute NPC.

The policy *as amended* will be effective as from 1 July 2013.

2. OBJECTIVES OF POLICY

To regulate the financial support provided by the Ekurhuleni Metropolitan Municipality to its Municipal Entities to ensure optimum use is made of financial support.

Specific objectives:

- To regulate the financial support given to municipal entities;
- To ensure compliance with the Municipal Finance Management Act; and
- To provide for roll over of grants provided to entities if unspent at the end of the financial year.

3. INTRODUCTION

Regular requests are received for financial and other support from the municipal entities. It is not a sound principle to evaluate requests for financial support on an ad hoc basis only, but it is preferable to have a framework within which requests will be considered.

Options include, but are not limited to:

- Bulk contributions received from developers used to fund additional capacity requirements.
- Negotiation of consolidated borrowings for EMM and entities at more beneficial rates than what entities can obtain loan funding.
- Direct transfers to subsidize operating expenditure of municipal entities.
- Nominal lease agreements for use of EMM assets.
- Entities that are not financially viable be incorporated into EMM administration.

4. LEGISLATIVE FRAMEWORK

Chapter 10 of the MFMA provides the legislative framework for municipal entities.

The following sections of the Municipal Finance Management Act (MFMA) are specifically quoted to emphasise the nature of the relationship between the EMM and the Municipal Entities:

Section 87 - Budgets

- (1) *The board of directors of a municipal entity must for each financial year submit a proposed budget for the entity to its parent municipality not later than 150 days before the start of the entity's financial year or earlier if requested by the parent municipality.*
- (4) *The board of directors of a municipal entity must approve the budget of the municipal entity not later than 30 days before the start of the financial year, taking into account any hearings or recommendations of the council of the parent municipality.*
- (5) *The budget of a municipal entity must-*
 - (a) *be balanced;*
 - (c) *be within any limits determined by the entity's parent municipality, including any limits on tariffs, revenue, expenditure and borrowing;*
 - (d) *include a multi-year business plan for the entity that-*
 - (iv) *reflect actual and potential liabilities and commitments, including particulars of any proposed borrowing of money during the period to which the plan relates; and*
- (7) *Any projected allocation to a municipal entity from its parent municipality must be provided for in the annual budget of the parent municipality, and to the extent not so provided, the entity's budget must be adjusted.*

Section 89 - Remuneration packages

The parent municipality of a municipal entity must—

- (a) *determine the upper limits of the salary, allowances and other benefits of the chief executive officer and senior managers of the entity; and*
- (b) *monitor and ensure that the municipal entity reports to the council on all expenditure incurred by that municipal entity on directors and staff remuneration matters, and in a manner that discloses such expenditure per type of expenditure namely:*

Section 90 - Disposal of capital assets

- (1) *A municipal entity may not transfer ownership as a result of a sale or other transaction or otherwise dispose of a capital asset needed to provide the minimum level of basic municipal services.*
- (2) *A municipal entity may transfer ownership or otherwise dispose of a capital asset other than an asset contemplated in subsection (1), but only after the council of its parent municipality, in a meeting open to the public—*

- (a) *has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and*
 - (b) *has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.*
- (3) *A decision by a municipal council that a specific capital asset is not needed to provide the minimum level of basic municipal services may not be reversed by the municipality or municipal entity after that asset has been sold, transferred or otherwise disposed of.*
- (4) *A municipal council may delegate to the accounting officer of a municipal entity its power to make the determinations referred to in subsection (2) (a) and (b) in respect of movable capital assets of the entity below a value determined by the council.*
- (5) *Any transfer of ownership of a capital asset in terms of subsection (2) or (4) must be fair, equitable, transparent and competitive and consistent with the supply chain management policy which the municipal entity must have and maintain in terms of section 111.*
- (6) *This section does not apply to the transfer of a capital asset to a municipality or another municipal entity or to a national or provincial organ of state in circumstances and in respect of categories of assets approved by the National Treasury provided that such transfers are in accordance with a prescribed framework.*

Section 94 - Fiduciary duties of accounting officers

- (1) *The accounting officer of a municipal entity must-*
- (a) *exercise utmost care to ensure reasonable protection of the assets and records of the entity;*
 - (b) *seek, within the sphere of influence of that accounting officer, to prevent any prejudice to the financial interests of the parent municipality or the municipal entity.*

Section 101 - Impending under collection, shortfalls, overspending, overdrafts, and non-payment

- (1) *The accounting officer of a municipal entity must report, in writing, to the board of directors of the entity, at its next meeting, and to the accounting officer of the entity's parent municipality any financial problems of the entity, including- (b) any steps taken to rectify such financial problems.*

Section 108 - Borrowing of money

- (1) *A municipal entity may borrow money, but only in accordance with-*
- (a) *the entity's multi-year business plan referred to in section 87(5) (d); and*
 - (b) *the provisions of Chapter 6 to the extent that those provisions can be applied by a municipal entity.*

Section 109 - Financial problems in municipal entities

If a municipal entity experiences serious or persistent financial problems and the board of directors of the entity fails to act effectively, the parent municipality must either-

- (a) take appropriate steps in terms of its rights and powers over that entity, including its rights and powers in terms of any relevant service delivery or other agreement;*
- (b) impose a financial recovery plan, which must meet the same criteria set out in section 142 for a municipal financial recovery plan; or*
- (c) liquidate and disestablish the entity.*

5. FINANCIAL SUPPORT

The following support will be provided to the Municipal Entities in line with the provisions of the MFMA:

Brakpan Bus Company SOC Ltd (BBC)

- Use of council-owned buses as per the conditions contained in the Lease Agreement. The further recapitalisation of the bus fleet will be subject to the availability of funds in the capital budget of the Ekurhuleni Metropolitan Municipality.
- Use of council owned facilities as per the conditions contained in the Lease Agreement.
- Administrative support in relation to financial management (on request) at no cost to the BBC with the express provision that the accountability remains with the accounting officer of the entity.
- Direct financial support to be considered on a year-to-year basis by Council, subject to availability of finance and/or budget provision at the EMM.
- Guarantee of borrowings of entity subject to financial viability of proposed borrowings.
- Any other support will be provided in terms of the service level agreement, but subject to the availability of resources in the Ekurhuleni Metropolitan Municipality.

Ekurhuleni Development Company SOC Ltd (EDC)

- Administrative support in relation to financial management (on request) at no cost to the EDC with the express provision that the accountability remains with the accounting officer of the entity.
- Direct financial support to be considered on a year-to-year basis by Council, subject to availability of finance and/or budget provision at the EMM.
- Guarantee of borrowings of entity subject to financial viability of proposed borrowings.
- Any other support will be provided in terms of the service level agreement, but subject to the availability of resources in the Ekurhuleni Metropolitan Municipality.

East Rand Water Care Company NPC (ERWAT)

- ERWAT, as service provider to the Ekurhuleni Metropolitan Municipal Municipality, should set cost reflective tariffs which must include both operational and capital cost related to the rendering of the service. To this end, the EMM commits to approve cost reflective tariffs in the MTIEF period.
- USDG grants will be made available from the EMM USDG allocation to ensure that bulk sewer infrastructure is available to service the EMM community.

- Bulk contributions received from developers used to fund additional capacity requirements.
- Guarantee of borrowings of entity subject to financial viability of proposed borrowings.
- Direct financial support to be considered on a year-to-year basis by Council, subject to availability of finance and/or budget provision at the EMM.
- Any other support will be provided in terms of the service level agreement, but subject to the availability of resources in the Ekurhuleni Metropolitan Municipality.

Negotiation of consolidated loans for EMM and entities at more beneficial rates than what entities can obtain loan funding. Any loans in this regard will be subject to Council approval.

Direct loan funding from the EMM to the entities are not disallowed by the MFMA, but it is deemed to be impractical and is not recommended for the current medium term period.

Actual expenditure incurred against grants received by municipal entities must be reported to the parent municipality on a quarterly basis. The entity must apply for the roll-over of the unspent portion at the end of the financial year. The EMM Council will consider the merit of the roll over request and approve if sufficient prove of commitments against the grant can be provided. If the grant has not been committed at the end of the financial year, the amount will be surrendered back to the parent municipality.

6. MONITORING OF PERFORMANCE

Performance of municipal entities as required by Section 87 of the Municipal Systems Act will be managed as follows:

- Municipal entities to submit three years annual and one-year quarterly performance targets to the EMM as part of the annual budgeting process.
- These targets must be included in both the business plans and SDBIPs of the municipal entities.
- These targets will annually be approved by the EMM as part of the budget process. These targets will constitute the performance level agreement between the EMM and the entities for the year.
- Quarterly reports providing actual performance against the targets must be submitted to the EMM Council.
- Actual performance for the year will be included in the consolidated EMM annual report.

7. SERVICE LEVEL AGREEMENTS

Service level agreements shall be entered into between the EMM and the municipal entities in line with good governance principles.

8. DIVIDEND PREFERENCE

The municipal entities of the EMM are not for profit organisations and no dividends are declared. The EMM contributes financially to the entities and any surpluses generated by the entities should be retained by the entity to reduce future year financial dependency on the Metro.

9. CONCLUSION

Municipal entities have been established to further the service delivery aims of the Ekurhuleni Metropolitan Municipality. The relationship between the EMM and the entities should therefore positively contribute towards the joint service delivery aim.

