

METSIMAHOLO LOCAL MUNICIPALITY

Borrowings Policy



2021/2022

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DEFINITIONS

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) and / or other related legislation / regulations, has the same meaning as in that Act.

Accounting Officer: means the Municipal Manager of Metsimaholo Local Municipality;

Act: means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

CFO: means Chief Financial Officer an officer of the Municipality, to be administratively in charge of the financial affairs of the municipality;

MLM means Metsimaholo Local Municipality

Council means the Municipal Council of Metsimaholo Local Municipality as referred to in Section 18 of the Municipal Structures Act;

Creditor in relation to a municipality, means any person or service provider to whom money is owed by the Municipality;

Debt means –:

- a monetary liability of obligation created by a financing agreement, note, debenture, bond, overdraft or the issuance of municipal securities; or

Financial Statements: means statements consisting of at least – a balance sheet (statement of financial position); an income statement (statement of financial performance); a cash-flow statement; any other statements that may be prescribed; and any notes to these statements.

Financial year end: means a year (12 months) ending on the 30th June

Financing Agreement: means any long-term agreement, lease, installment purchase

contract or hire purchase agreement under which the Municipality undertakes to pay the capital cost of property, plant or equipment over a period of time;

Lender: in relation to a municipality means a person or service provider who provides finance to Metsimaholo Local Municipality

Long Term Debt: means debt which is repayable over a period exceeding 12 months;

Municipal debt instrument: means bond, debenture or other evidence of indebtedness issued by a municipality;

Security: means a lien, pledge, mortgage, cession or other form of collateral intended to secure the interest of a creditor;

Short Term Debt: means a debt which is repayable over a period not exceeding 12 months

PART 1: PURPOSE AND OBJECTIVES

The objectives of this policy are to:

- ensure compliance with the relevant legal and statutory requirements relating to Metsimaholo Local Municipality borrowing;
- record the circumstances under which the Metsimaholo Local Municipality may incur debt;
- describe the conditions that must be adhered to by the Accounting Officer or his / her delegatee when a loan application is submitted to Council for approval;
- ensure timeous reporting on the loans register as required by the Act and in accordance with Generally Recognised Accounting Practice

PART 2: POLICY PRINCIPLES

The Metsimaholo Local Municipality may only incur debt in terms of the Municipal Finance Management Act, Act No. 56 of 2003. The Municipality may incur two types of debt, namely short-term and long-term debt.

2.1 Short Term Debt

MLM may incur short-term debt which includes a Bank Overdraft facility only when necessary to bridge:

- (a) Shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistically anticipated income to be received within that financial year; or
- (b) Capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

Metsimaholo Local Municipality:

- (a) Must pay off short-term debt within a financial year; and
- (b) May not renew or refinance its short-term debt.

2.2 Long Term Debt

MLM may incur long-term debt for purposes of financing its long-term strategic objectives, as outlined in the Constitution of the Republic of South Africa, Act No. 108 of 1996, and Chapter 7 on Local Government, to:

- (a) Provide democratic and accountable government for local communities;
- (b) Ensure the provision of services to communities in a sustainable manner;
- (c) Promote social and economic development;
- (d) Promote a safe and healthy environment; and
- (e) Encourage the involvement of communities and community organizations in the matters of local government.

PART 3: CONDITIONS TO ACQUIRE MUNICIPAL DEBT

3.1 Statutory Conditions

MLM may incur debt, provided that:

- (a) The debt is denominated in local currency and is not indexed to, or affected by fluctuations in the value of the Rand to other currencies [Sect 47(a) of the Act];
- (b) The debt is approved by resolution of Council, signed by the Executive Mayor, and the Accounting Officer has signed the agreement or other document which creates or acknowledges the debt [Sect 46(2) of the Act];
- (c) The Accounting Officer has, at least 21 days prior to the meeting of the Council at which the resolution is to be considered, published a notice in a newspaper of general circulation:
 - (i) Stating particulars of the proposed debt including the amount of the loan, the purpose of the loan to be incurred and the particulars of any security to be provided [Sect 46(3)(a)(i) of the Act]; and
 - (ii) Inviting the public, the National Treasury and relevant Provincial Treasury to submit written comments or representations to the Council in respect of the proposed debt Sect 46(3)(a)(ii) of the Act].
- (d) The Accounting Officer has, prior to the adoption of the resolution, submitted an information statement to the Council setting out the purpose for which the debt is to be incurred, the anticipated total cost of credit over the repayment period, the essential repayment terms and particulars of any security to be provided [Sect 46(3)(b) of the Act];
- (e) The relevant resolution is adopted at a meeting of the Council which is open to the public; and
- (f) Where security is to be provided, the provisions of Part 6 below have been complied with [Sect 47) (b) of the Act].

3.2 Administrative Conditions

To obtain Council's approval for a bank overdraft or short-term debt the Accounting Officer or the delegated official must submit:

- (a) A cash-flow statement indicating the anticipated shortfalls and anticipated further income streams that will repay the short-term debt;
- (b) Monthly cash flow reports indicating progress towards the repayment of the bank overdraft or short-term loan.

To obtain Council's approval for long-term debt the Accounting Officer or the delegated officer must submit:

- (a) The Bid Committee's recommendation after having obtained and evaluated quotations from at least three financial institutions stating the loan period (repayment period), comparable interest rates and administrative costs;
- (b) An operating budget reflecting the effect of the anticipated depreciation of the envisaged asset to be financed and / or capital costs on service charges; and
- (c) Statements from the financial institutions that the proposed instruments are in line with national legislation.

PART 4: RAISING OF DEBT

The Municipal Manager is responsible for the raising of debt, but may delegate this function to the Chief Financial Officer, who shall then manage this responsibility in consultation with the Municipal Manager. All debt shall be raised in strict compliance with the requirements of the Municipal Finance Management Act, 2003, and only with the prior approval of the Council.

Long-term debt shall be raised only when it is unavoidable to do so in terms of cash requirements, whether for the capital or operating budgets or to settle any other

obligations, and provided the need for such long-term debt, both as to extent and duration, is clearly indicated in the cash flow estimates prepared by the Chief Financial Officer.

Long-term debt shall be raised only to anticipate a certain long-term debt agreement or a certain inflow of operating revenues.

PART 5: SECURITY

- (a) MLM may, by a resolution of the Council, authorize security to be provided for any of its debt obligations;
- (b) Without contravening the above point, the Municipality when incurring debt, may:
 - (i) Undertake to maintain revenues or specific charges, fees, tariffs or funds at a particular level or at a level sufficient to meet its obligations arising from that debt;
 - (ii) Undertake to make provision in its budget for the payment of those obligations, including capital and interest;
 - (iii) Undertake to deposit funds with the lender or a third party as security for the debt;
 - (iv) Agree to specific payment mechanisms or procedures to ensure exclusive or dedicated payment to lenders, including payments into special purpose funds / accounts or other payment mechanisms / procedures;
 - (v) Undertake to have disputes resolved through mediation, arbitration or other dispute resolution mechanisms;
 - (vi) Agree to restrictions on debt which the Municipality may want to incur in future until the secured debt is settled or the secured obligations are met, and
 - (vii) Agree to such other arrangements as the Municipality may consider necessary and prudent.

- (c) A Council resolution authorizing the giving of security as referred to in 5.(a):
 - (i) Must determine whether the asset or right with respect to which the security is given, is necessary for providing a minimum essential municipal service; and
 - (ii) If so, must indicate the manner in which the availability of the asset or right for the provision of that service will be protected.
- (d) If the resolution has determined that the asset or right is necessary for providing a minimum essential service, the lender to whom the municipal security is given, may not, in the event of a default by the Municipality, deal with the asset or right in the manner that would preclude or impede the continuation of the minimum essential municipal service.
- (e) A determination in terms of 5(c) that an asset or right is not necessary for providing a minimum essential municipal service is binding on the Municipality until the secured debt has been paid in full.

PART 6: APPROVAL OF DEBT

Once Council has approved the loan, the Accounting Officer has to enter into an agreement with the recommended financial institution on behalf of Council. The Chief Financial Officer must ensure that the terms and conditions are as originally agreed before the Council is committed;

All MLM loan commitments must be recorded in a Loans Register reflecting as a minimum the:

- (i) Loan number;
- (ii) Type of loan;
- (iii) Financial institution;
- (iv) Date issued;

- (v) Purpose of loan;
- (vi) Loan period;
- (vii) Interest rate;
- (viii) Installments (capital and interest);
- (ix) Due dates (quarterly / half-yearly / yearly);
- (x) Security (if any);
- (xi) Final redemption date;
- (xii) Opening balance at the beginning of the financial year;
- (xiii) Amounts received during the financial year;
- (xiv) Capital amounts redeemed during the financial year; and
- (xv) Closing balance at the end of the financial year.

Sufficient provision must be made in the budget for:

- Depreciation of the assets linked to the loan
- Interest cost
- Capital repayments

PART 7: INTERNAL CONTROLS OVER BORROWINGS

7.1 Draw-down claims on loans

Regular claims must be prepared, signed and submitted for processing to the financing institution providing the loan facility.

The following supporting documents must be attached to each draw-down claim:

- (a) A statement, signed by an authorized representative of the Municipality;

- (b) Signed copy of Application for Loan draw-down, signed by an authorized representative of the Municipality; and
- (c) Expenditure summary listing the expenditure being claimed.

7.2 Repayments made on loans

Loans are paid at the end of each period i.e. monthly / quarterly / half-yearly or yearly. Payments are made in terms of the amortization schedules or notices from the financing institution for the respective loans due for repayments

The following supporting documents must be attached to each loan repayment:

- (a) Signed copy of payment requisition; and
- (b) Copy of amortization schedule or notice from financing institution detailing the capital and interest amounts due and payable.

7.3 Reconciliations between General Ledger / Loans Register and Financing Institutions

The following reconciliations are performed between the Loans Register, Statements / Amortization schedules of financing institutions and the

General Ledger and are examined by a senior official under the direction of the Chief Financial Officer:

- Loans Register to General Ledger periodically in tandem with terms of the loan i.e. monthly / quarterly / half-yearly / yearly;
- Capital redemptions per the General Ledger to the redemptions schedule on a monthly basis;
- Interest paid per the General Ledger to the interest schedules on a monthly basis.

7.4 Documentation kept on record

The following loan documentation, at a minimum, must be kept safely at all times:

- (a) Loan agreements;
- (b) Any applicable security agreements;
- (c) Annual loans register;
- (d) Signed copies of monthly reconciliations;
- (e) Copies of all repayments made;
- (f) Copies of amortization schedules;
- (g) Copies of quarterly National Treasury returns.

PART 8: IMPLICATIONS FOR THE ACCOUNTING OFFICER

The Accounting Officer must ensure that the Municipality is financially viable and will be able to access the capital market. A report in this regard must be submitted to Council after the completion of the financial statements at the end of every financial year.

PART 9: REPORTING

Regular reporting mechanisms shall be put in place in order to assess the overall standing of the Municipality's borrowings and to ensure that the current borrowings comply with policy objectives, guidelines, applicable legislation and regulations.

As a minimum, the following reports shall be prepared:

9.1 For Internal Treasury management

- (a) A monthly schedule of loans detailing each loan; and
- (b) A monthly reconciliation of all interest / capital repaid and capital received.

9.2 For the Executive Mayor and Council

A monthly report, within 10 working days of each month, on the borrowing portfolio to the Executive Mayor and thereafter to the Finance Portfolio Committee for information, detailing:

- Date issued;
- Interest rate;
- Loan number;
- Reference number;
- Redemption date;
- Institution funding source;
- Opening balance at the beginning of the financial year;
- Amounts received during the financial year;
- Capital amounts redeemed during the financial year; and
- Closing balance at the end of the financial year.

9.3 For External parties

1. A schedule of the MLM's borrowings must be published as part of the annual financial statements;
2. Any information to be submitted to the financing institutions and or security providers / guarantors as and when required

Part 10: REVIEW AND APPROVAL

The policy shall be reviewed annually

Any changes to this policy must be adopted by Council and be consistent with the Act and any National Treasury regulations.

ANNEXURE A: PARAPHRASE OF REQUIREMENTS OF MUNICIPAL FINANCE MANAGEMENT ACT, ACT NO 56 OF 2003.

Section 45: Short-Term Debt

The municipality may incur short-term debt only in accordance with and subject to the provisions of the present Act, and only when necessary to bridge shortfalls within a financial year during which the debt is incurred, in expectation of specific and realistic income to be received within that financial year; or to bridge capital needs within a financial year, to be repaid from specific funds to be received from enforceable allocations or long-term debt commitments.

The Council may approve a short-term debt transaction individually, or may approve an agreement with a lender for a short-term credit facility to be accessed as and when required, including a line of credit or bank overdraft facility, provided that the credit limit must be specified in the resolution of the Council; the terms of the agreement, including the credit limit, may be changed only by a resolution of the Council; and if the Council approves a credit facility limited to emergency use, the Accounting Officer must notify the Council in writing as soon as practicable of the amount, duration and cost of any debt incurred in terms of such a credit facility, as well as the options available for repaying such debt.

The municipality must pay off short-term debt within the financial year in which it was incurred, and may not renew or refinance short-term debt, whether its own debt or that of any municipal entity, where such renewal or refinancing will have the effect of extending the short-term debt into a new financial year.

Section 46: Long-Term Debt

A municipality may incur long-term debt only in accordance with and subject to any applicable provisions of the present Act, and only for the purpose of capital expenditure on property, plant or equipment to be used for the purpose of achieving the objects of

local government as set out in Section 152 of the Constitution; or refinancing existing long-term debt subject to the requirements of Section 46(5).

Section 47: Conditions applying to both Short-Term and Long Term Debt

The municipality may incur debt only if the debt is denominated in rand and is not indexed to, or affected by fluctuations in the value of the rand against any foreign currency.