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Department:
Community Safety & Transport Management
North West Provincial Government
REPUBLIC OF SOUTH AFRICA

APPOINTMENT OF CONSULTANTS POLICY

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1 1. Introduction

In accordance with the Framework for Supply Chain Management (Section 76 (4) (c) of the PFMA) that was promulgated in Government Gazette Number 25767 on 5 December 2003 as Treasury Regulations, National Treasury is required to issue instructions to Accounting Officers in respect of the appointment of consultants.

Section 45(b) and (c) of the Public 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 unauthorised, irregular, fruitless and wasteful expenditure and any under-collection of revenue due.

2 2. Definition

For the purposes of this policy the following definitions apply:

- "Accounting Officer"** - *The Head of the Department*
- "Budget"** - *The appropriated funds for the Department in terms of the Appropriation Act.*
- "Chief financial Officer"** - *A person designated in terms of Chapter 2 of the Treasury Regulations*
- "Consultant"** - *An external person or organisation that provides a service to the department in those areas, where the department either lacks the required specialised skills or capacity.*
- "CSC"** - *Corporate Services Centre*
- "Department"** - *The North West Provincial Department*
- "Lack of capacity"** - *Insufficient physical resources within the Department.*
- *Relevant knowledge, expertise and experience that may not exist within the Department.*

3 3. OBJECTIVE

To appoint consultants that will assist the department to achieve its objectives where lack of skills, knowledge, or capacity is required.

4 4. SCOPE OF APPLICATION

This document informs departmental officials of the policy on the appointment of consultants

5 5. LEGISLATIVE FRAMEWORK

The Department 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 departmental boundaries and areas of influence:

- **Public Finance Management Act, 1999 (Act 1 of 1999)**
- **Treasury Regulations**
- **National Treasury guidelines and prescripts**
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6 APPOINTMENT OF CONSULTANTS

- 6.1.** Consultants should be appointed by means of competitive bidding processes whenever possible. All bids and contracts should be subject to the General Conditions of Contract issued by the National Treasury.
- 6.2** The procedures described for the acquisition of goods and services apply only when 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 manufacturing 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.
- 6.3** The term consultant includes, among others, consulting firms, engineering firms, construction managers, management firms, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-government organizations and individuals.
- 6.4** Accounting Officer may use these organizations as consultants to assist in a wide range of activities such as policy advice, accounting officers'/authority's reform management, engineering services, construction, supervision, financial services, procurement services, social and environmental studies and identification, preparation and implementation of projects to complement accounting officer's/authorities capabilities in these areas.
- 6.5** 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 reasonable expected either to train or to recruit people in the time available.
- 6.6** The work undertaken by a consultant will be regulated by a contract. The respective directorate will be responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standards.
- 6.7** In procuring consulting services, the department should satisfy itself that:
- the procedures used will result in the selection of consultants who have the necessary professional qualifications

- the selected consultant will carry out the assignment in accordance with the agreed schedule and
 - the scope of the services is consistent with the needs of the project.
- 6.8** All appointments of consultants in the Department shall be in writing recommended by the Departmental Bid Adjudication Committee and approved by the Accounting Officer.
- 6.9** Programme/Responsibility managers may recommend the appointment of consultants to render specific services, should they be of the opinion that the Department lacks the required skills or necessary capacity and those funds are available within their existing budgets.
- 6.10** The Programme Manager will be responsible to prepare the **"Terms of Reference"** and submission to the Departmental Adjudication Committee to recommend to the Accounting Officer for the advertisement to request proposals.
- 6.11** An Accounting Officer may appoint a person for a limited period to perform duties to a post on the fixed establishment, the person should as a general rule be appointed on contract in terms of section 8(c) (ii) of the Public Service Administration.
- 6.11** Should the department experience additional work demands which are not permanent and there are no suitable vacancies available, it may consider creating additions to the fixed establishment based on the specific nature of the activities to be undertaken as well as the level at which the activities are to be performed. This will include appointing persons on contract in terms of the Act. Under no circumstances should a person be appointed as a consultant merely to be granted higher remuneration packages than are prescribed by the Act.

7. 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.

8. 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 any affiliation, economic or otherwise, which may cause conflicts between the consultant's interests and those of government; and
- c) Ensuring the advice proposed or assignment executed, meeting the ethical principles of the consultancy professions.

9. SELECTION METHODS FOR THE APPOINTMENT OF CONSULTANTS

The following should be taken into consideration during the selection process:

- the need for high quality services

- the need for economy and efficiency
- the need to give qualified consultants an opportunity to complete in providing the services and
- the importance of transparency in the selection process
- Quality and cost based selection
- Selection under a fixed budget.

The method of selection is determined by the scope of the assignment, the quality of the service, the complexity of the assignment and whether assignments are of a standard or routine nature.

10. EMPLOYMENT CONTRACT OR AGREEMENT

- a) All appointments shall be by means of a written contract or agreement, between the Department and the consultant concerned;
- b) The Accounting Officer shall sign as the duly appointed representative of the Department;
- 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; and
 - IV. Delivery has been satisfactory and in accordance with the terms of reference.

11. 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.

12. SPECIAL CONDITIONS OF CONTRACT

The directorate may include the following on special condition of contract:

"A service provider shall not recruit or attempt to recruit an employee of the department for purpose of preparation of the bid or for the duration of the execution of contract or any part thereof.

13. CONFLICT OF INTEREST

A firm, which has been engaged by the department to provide goods or services for a project and any of its affiliates, shall not be allowed to provide 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 for the same project.

14. CONSULTANCY REDUCTION PLAN

14.1 The directorate shall consider the appointment of consultants only when the necessary skills and/or resources to perform a project/ duty/study are not available and the department cannot be reasonably expected either to train or recruit people in the time available.

14.2 If the assignment includes an important component for training or transfer of knowledge and skills, that must form part of the Terms of Reference and should indicate the objectives, nature, scope and goals of the training programme, including details of trainers and trainees, skills to be transferred, time frames and monitoring and evaluation arrangements. The cost for the training programme shall be included in the consultants contract and in the budget for the assignment.

15. PREPARATION OF THE TERMS OF REFERENCE

15.1 The responsible directorate should prepare the Terms of Reference. The scope of the services described should be compatible with the available budget. The Terms of Reference should define clearly the task directive (methodology), objectives, goals and scope of the assignment and provide background information, including a list of existing relevant studies and basic data, to facilitate the consultants' preparation of their bids.

15.2 Times frames linked to various tasks should be specified, as well the frequency of monitoring actions. The respective responsibilities of the directorate should be clearly defined. The evaluation criteria, their respective weights, the minimum qualifying score for functionality and values that will be applied for evaluation should be clearly indicated.

15.3 The evaluation criteria should include at least the following:

- Consultant's experience relevant to assignment
- The qualifying of the methodology
- The qualifications of key personnel; and
- The transfer of knowledge (where applicable)

15.4 In more complicated projects, provision may also be made for pre-bid briefing session or presentations by bidders as part of the evaluation process.

15.5 If transfer of knowledge or training is an objective, it should be specifically outlined along with details of number of staff to be trained, etc to enable consultants to estimate the required resources. The Terms of Reference should list the services and surveys necessary to carry out the assignment and the expected outputs (for example reports, data, surveys etc).

16. REMUNERATION OF CONSULTANTS

The remuneration of a consultant appointed on contract shall be:

- a) Where the consultant belongs to a professional body, the rate of remuneration 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.

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 17. MANAGEMENT REPORTING

6.2 17.1 Annual Reporting

Remuneration paid to consultants during the financial year shall be disclosed as a note to the Annual Financial Statement.

6.3 17.2 Quarterly Reporting

The Chief Financial Officer shall submit, in writing, a report to the Accounting Officer on the amount paid to consultants.

The policy will be reviewed annually whenever is necessary.


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MR S. MADUMA

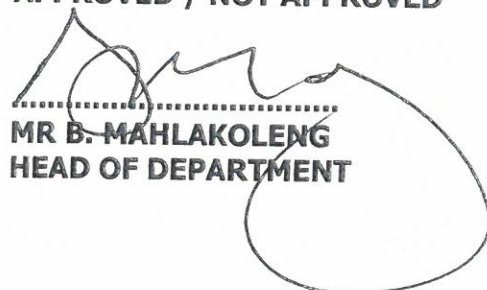
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