

SUBMISSION

TO: THE MEC FOR HOUSING, LOCAL GOVERNMENT & TRADITIONAL AFFAIRS

SUBJECT: GUIDELINE ON THE IMPLEMENTATION OF PROJECTS AND TERMS AND CONDITIONS FOR A TRIPARTITE AGREEMENT

1. Purpose

To seek the approval of the MEC for Housing for the Guideline on the implementation of projects and terms and conditions for a tripartite agreement.

2. Background

2.1 The Current Bilateral Agreement System

- The municipality appoints the IA.
- The IA/municipality appoint the professionals.
- Appointments take place prior to project budget approval.
- Adjudication of tenders are done by the municipality.
- Appointments of professionals are done from the municipal database or by inviting tenders.
- The project agreement is between the municipality and DoH.
- Monies are paid in tranches to the municipality to pay project managers and professionals after certification by the DoH.
- The municipality is responsible for the monitoring and management of the performance of IA's and professionals.
- The DoH monitors the project in terms of their development programme.

2.2 The New Tripartite Agreement System

- The municipality/project manager/coordinator together with the DoH will appoint professionals.
- The selection of project managers/professionals/emerging developers may take place but appointments will only take place after project budget approval by the MEC.
- Adjudication of tenders must be done by the municipality together with the DoH.
- Appointment of project managers/professionals/emerging developers must be done from the DoH database.
- The project agreement will be between the DoH, municipality and the project manager/ coordinator.
- Monies will be paid directly by the DoH to project managers/professionals for the value of work done after final approval.
- The DoH together with the municipality and in certain cases, the project manager/coordinator will monitor and manage the performance of professionals.

3. Guiding Principles

- 3.1 A tripartite agreement may be entered into at Stage 1 if preparation funding has been granted and a project manager/coordinator has been appointed, and at Stage 2 if any funding has been granted. At Stage 3, a tripartite agreement is compulsory.

3.2 The purpose of a tripartite agreement is to address the following factors:

- Define the roles & responsibilities of the Department of Housing (DoH), Municipalities and Project Manager/Coordinator: as listed in 5.1, 5.2 and 5.3 below. The defined roles and responsibilities will facilitate remedial measures against parties who do not comply with their obligations.
- Address the issue of strengthening the capacity of Municipalities: guidance, advice and transfer of skills will be provided by the Project Management Component where required in the implementation of projects.
- Alleviate the problem associated with blocked projects: the obligation of being part of the tripartite agreement will enforce the proper monitoring and management of the performance of those involved in the project process and ensure that activities are performed within the projected time frames.
- The effective use of funds to ensure value for money: no monies will be paid upfront to municipalities. All monies except preparation funding will be paid for the value of work done.
- The effective implementation of the Expanded Public Works Programme (EPWP) and the procurement principles of the Broad Based Black Economic Empowerment Act: the DoH will be involved in the adjudication of tenders and the appointment of project managers/coordinators/professionals and emerging developers. Professionals will be required at the preliminary planning and design stage to identify labour intensive methods to be implemented in terms of EPWP.
- Establishment of a database of project managers/coordinators, professionals and emerging developers: the use of the database maintained by the DoH will ensure that all appointments of project managers/coordinators/professionals/emerging developers will be in line with the Expanded Public Works Programme and the Broad Based Black Economic Empowerment Act.

3.3 These guidelines must be read with reference to the procedures from Stage 1 to Stage 3 as illustrated in the attached flow diagram.

4. Motivation

This document is drafted in view of there being an absence of a mechanism to address the factors mentioned in 3.2 above.

5. Steps for the Implementation of projects and terms and conditions for a tripartite agreement

- Step 1: MEC receives provincial subsidy allocation from National Housing Fund.
- Step 2: Municipality applies for reservation of subsidies in terms of their approved IDP's.
- Step 3: MEC reviews municipal applications for reservation of subsidies based on motivations, approved IDP's and the approved 5 year Housing Plan.
- Step 4: Municipalities make an open call for landowners to make land available for purchase and development.
- Step 5: Municipality evaluates and adjudicates land availability proposals in terms of land suitability, availability of bulk or link services, integration of land in terms of towns and cities and it fits with the Municipal Multi-year Housing Plan.

- Step 6: Municipality secures agreement with land owners of selected land and concludes a land acquisition agreement for each land portion that has been selected.
- Step 7: Municipality/Project Manager and DoH compile the pre-feasibility report for conditional approval. This report is submitted to the MEC via the HAC for approval. Tripartite Agreement is entered into if the municipality lacks the capacity and appoints a project manager/coordinator to conduct prefeasibility investigations.
- Step 8: First Tripartite Agreement signed by DoH, Municipality and Project Manager.
- Step 9: Municipality submits application to NHBRC for in-principle enrolment.
- Step 10: Municipality/project manager compiles a pre-feasibility report after the necessary investigations have been conducted.
- Step 11: Submitted by the municipality via DoH for final approval based on the relevant reports.
- Step 12: Compilation of contract agreement by DoH and Tripartite Agreement if required.
- Step 13: Tripartite Agreement signed by DoH, Municipality and Project Manager.
- Step 14: Implementation of the project.
- Step 15: Project is closed out.

5.1 Roles and Responsibilities: Stage 1 (Steps 1 – 8)

5.1.1 Role of the Municipality:

- Applies for reservation of subsidie s in terms of the approved IDP's.
- Puts out a call for land availability proposals.
- Adjudication of proposals in relation to IDP's and selection of priority land.
- Secure the land acquisition agreement.
- Payment of Project manager/coordinator.
- Prepare project description for conditional approval.
- Manage the project manager/coordinator and other professionals.
- Jointly with the DoH, select and appoint professionals required.

5.1.2 Role of the DoH:

- Provide funding.
- Provide guidance and advice on project description and pre-feasibility report for conditional approval.
- Prepare project description for conditional approval.
- Manage the project manager/coordinator and other professionals.
- Jointly with the municipality, select and appoint professionals required.

5.1.3 Role of Project Manager/Coordinator

- Prepare project description where municipality lacks capacity & provide guidance and advice on pre-feasibility report for conditional approval.
- Manage professionals appointed.

5.1.4 Tripartite Responsibility (DoH, Municipality & Project Manager/Coordinator)

- All performance to be managed by all 3 role-players.

5.1.5 Procedures for Stage 1 (Steps 1 – 8 on Flow Diagram):

- Where the Municipality lacks the necessary capacity, a Project Manager/Coordinator who has the necessary skills to package a project must be appointed in terms of procurement principles.
- The DoH will provide the necessary guidance and assistance up to the conditional approval stage.
- Preparation funding will be released to the Municipality to conduct the necessary activities associated with Stage 1. The Preparation Funding Agreement must be a performance-based contract.
- In the event that the Municipality needs the appointment of a professional for stage 1, 2 and 3, they must use the DoH database of professionals/project manager/coordinator's/emerging developers to invite tenders. Selection of the professionals/project manager/coordinator's/emerging developers may take place by the Municipality and DoH but appointment should not take place until the budget of the project is approved.
- A project description including the risk assessment, broad project conceptualisation (stages, phases, level of services, EPWP), anticipated number of subsidies, financial plan, implementation strategy, appointment of a Project Manager/Coordinator and/or professionals and project packaging programme should be compiled.
- The DoH must be part of the adjudication process for the selection of a Project Manager/Coordinator's and/or professionals.

5.2 Roles and Responsibilities: Stage 2 (Steps 9-11)

5.2.1 Role of the Municipality:

- Registration with the NHBRC.
- Preparation of feasibility report.
- Payment of Project manager/coordinator.
- Procurement of professionals.
- Manage and monitor the appointed project manager/coordinator and professionals.

5.2.2 Role of the DoH

- Provide funding.
- Procurement of professionals.
- Manage and monitor the appointed project manager/coordinator and professionals.

5.2.3 Role of the Project Manager/Coordinator

- Manage professionals.
- Compile feasibility report where municipality lacks capacity.

5.2.4 Tripartite Responsibility (DoH, Municipality & Project Manager/Coordinator)

- All performance to be managed by all 3 role-players.

5.2.5 Procedures for Stage 2 (Steps 9 – 11 on Flow Diagram):

- All procurement of professionals must be done from the DoH database which will be in compliance with principles of the Broad Based Black Economic Empowerment Act. The professionals at this stage should identify labour intensive methods to be implemented in terms of EPWP.
- A tripartite agreement will be entered into if funding is required for further investigations to be conducted by professionals as a result of the findings of the pre-feasibility report.

- The DoH and the Municipality will jointly manage and monitor the performance of the appointed professionals. The agreement will be a performance-based contract.
- All funding at this stage will be paid to the Municipality. Release of monies to the service provider will be done on the value of work done after certification by the municipality and DoH.

5.3 Roles and Responsibilities: Stage 3 (Steps 12 – 15):

5.3.1 Role of the Municipality:

- Engineering Design
- Completion certificates
- Town planning
- Building Plans
- Allocations & Beneficiary waiting lists
- Social Compact
- Appointment of professionals.
- Monitor and manage the professionals and Project Manager/Coordinator's performance.
- Manage funds.

5.3.2 Role of the DoH:

- Provide funding (funding paid directly to the project manager and other professionals on value of work completed).
- Appointment of professionals.
- Monitor and manage the professionals and Project Manager/Coordinator's performance.
- Manage funds.

5.3.3 Role of Project Manager/Coordinator:

- Ensure project is compliant with the development programme in terms of time frames.
- Manage the implementation of the project in terms of the relevant contracting strategy.

5.3.4 Tripartite Responsibility (DoH, Municipality & Project Manager/Coordinator):

- All performance to be managed by all 3 role-players.

5.3.5 Procedures for Stage 3 (Steps 12 – 15 on Flow Diagram):

- After final approval, the DoH, municipality and project manager/coordinator will enter into a tripartite agreement.
- Funds will be paid to the professionals directly by the DoH based on the value of work completed

6. All Contract Strategies

When the Municipality invites tenders for the appointment of professionals, the tender documents must be presented to the DoH to prove that it is compliant with the principles of EPWP prior to publication of the tender.

7. Accredited Municipalities

These guidelines will not be applicable to municipalities that have been granted accreditation.

8. Subsidy Mechanisms

These guidelines will be applicable to the PLS and Rural Subsidy mechanisms and will be phased in over a period of time for use by all subsidy mechanisms.

10. Legal Implications

Some municipalities have already appointed project manager/coordinator's who have undertaken work at risk. These project managers/coordinators may have grounds for legal action against municipalities with the implementation of these guidelines.

11. Financial Implications

These guidelines will ensure better control and accountability for the funding provided by the Department to Municipalities for housing projects. Funding for the advertisement to establish a database of professionals/project manager/coordinator's/emerging developers is available in the following budget:

Fund: Voted

Objective: Policy

Responsibility: Dir: Research, Policy & Planning

12. Recommendation that:

- 12.1 The guidelines as stated in paragraph 5 above be approved.
- 12.2 Accredited municipalities will be exempt from these guidelines.

Submitted

MR D.B. DUNSTAN
CHIEF DIRECTOR:
STRATEGIC HOUSING SUPPORT

DATE

RECOMMENDED/NOT RECOMMENDED/RECOMMENDED AS AMENDED

MR C. E. M. NTSELE
HEAD OF DEPARTMENT

DATE

APPROVED/NOT APPROVED/APPROVED AS AMENDED

MR M. MABUYAKHULU
MEC FOR HOUSING,
LOCAL GOVERNMENT & TRADITIONAL AFFAIRS

DATE

PS: An action plan for the implementation of the tripartite agreement is attached as annexure A.