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MUNICIPAL NOTICE—ISAZISO SIKAMASIPALA

No. 62

3 June 2009

GUIDELINES

ON

ROLES AND RESPONSIBILITIES
OF MUNICIPAL POLITICAL
STRUCTURES, OFFICE-
BEARERS AND SENIOR
OFFICIALS

AND

THE MUNICIPAL DELEGATIONS
FRAMEWORK

JUNE 2008

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SECTION I.

GUIDELINE DOCUMENT

ON THE

ROLES AND RESPONSIBILITIES

OF

**MUNICIPAL POLITICAL STRUCTURES, OFFICE-
BEARERS**

AND

SENIOR OFFICIALS

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CHAPTER 1

INTERPRETATION AND BACKGROUND

I. DEFINITIONS

- (i) In this document, unless the context otherwise indicates -

"administration"	means the municipal manager and the other employees of the municipality;
"after consultation"	means with due regard for the views of any person with whom a delegated body is required to consult before he/she exercises delegated or sub-delegated power;
"Constitution"	means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
"Council"	means the municipal council of the municipality, its legal successors in title and as referred to in section 157(1) of the Constitution of South Africa;
"delegating authority"	in relation to a delegation of power by the council, means the council, and in relation to a sub-delegation of a power by a delegated body, means that delegated body;
"delegation"	in relation to a duty, includes an instruction to perform the duty, "delegate" has a corresponding meaning;
"delegated body"	in relation to the delegating of the power means the political structure, political office-bearer or employee to whom a power has been delegated in writing by the delegating authority;
"IDP"	means the Integrated Development Plan of the

Council;

"in consultation"	means with the concurrence of the person with whom a delegated body must consult before exercising delegated or sub-delegated power;
"MEC"	means the member of the Provincial Executive Council responsible for Local Government;
"MFMA"	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
"power"	includes a duty and function;
"political office-bearer"	in relation to a municipality, means the speaker, mayor, deputy mayor or a member of the executive committee of a municipality as referred to in the Structures Act;
"political responsibility"	means the obligation to develop strategies and policies and to ensure the implementation thereof;
"political structure"	in relation to the municipality, means the Council or any committee or other collective structure of the municipality elected, designated or appointed in terms of the Structures Act,
"portfolio chairperson"	means a member of the Executive Committee appointed by such committee as chairperson of a specific portfolio committee;
"MPRA"	means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
"Structures Act"	means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

“Systems Act”

means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

- (ii) In this document, unless the context otherwise indicates, words and expressions denoting-
- the singular includes the plural and vice versa;
 - a reference to a natural person includes a legal person and vice versa

II BACKGROUND

The Constitution of the Republic of South Africa states that the legislative and executive authority of the municipalities is vested in the municipal councils. A municipality has the functions and powers assigned to it in terms of sections 156 and 229 of the Constitution.

Section 53 of the Systems Act, states that a municipality must define specific roles and areas of responsibility for each political structure or political office bearer of the municipality and of the municipal manager. These respective roles and areas of responsibility may include the delegation of powers and duties.

- (i) Operational and administrative efficiency

Since the main objective for delegation of authority is to achieve maximum operational and administrative efficiency, to give effect to the roles, responsibilities and duties of political structures, political office bearers and the municipal manager, section 53(2)(a) requires that such roles and responsibilities must be clearly spelled out, in separate terms of reference, acknowledged and given effect in other written instruments of the municipality. This way there is no ambiguity and lines of accountability and reporting are clarified.

The added advantages are that everybody is involved, a sense of collective responsibility is promoted, decisions are taken at appropriate levels with least delays and lower level employees are empowered, developed and motivated.

CHAPTER TWO

GENERAL ROLES AND RESPONSIBILITIES

1. POWERS RESERVED FOR THE COUNCIL

1.1 General Powers

- 1.1.1 Approves by-laws;
- 1.1.2 Assigns the administration of by-laws to the Municipal Manager and the respective Heads of Department;
- 1.1.3 Determines overall strategic policy applicable to the municipality as a whole which gives macro direction to its executive and which guides the formulation of all other policies;
- 1.1.4 Approves the Integrated Development Plan;
- 1.1.5 Elects members of the Executive Committee, the Mayor, Deputy Mayor and Speaker;
- 1.1.6 Delegates appropriate decision making powers in terms of section 59(1)(a) of the Systems Act;
- 1.1.7 May remove the Speaker, Mayor and/or Deputy Mayor and one or more of the members of the Executive Committee from office in terms of applicable legislative prescripts;
- 1.1.8 Establishes committees in terms of section 79 and section 80 of the Structures Act;
- 1.1.9 Grants leave to Councillors from meetings of the council;
- 1.1.10 Approves Rules of Order of Council;
- 1.1.11 Determines political structures of council;
- 1.1.12 Bestows civic honours, and the naming of public places and municipal buildings after persons;
- 1.1.13 Establishes a performance management system and annually

appoints a Performance Management Audit Committee;

- 1.1.14 Establishes a multi-jurisdictional municipal service district;
- 1.1.15 Approves the movement of funds between main segments into which the budget of the municipality is divided for the different departments, by means of the adjustments budget, in terms of the requirements of the MFMA;
- 1.1.16 Receives, deliberates and decides on audit reports;
- 1.1.17 Appoints a municipal manager;
- 1.1.18 Appoints an acting municipal manager or acting Head of Department;
- 1.1.19 Appoints, after consultation with the municipal manager, managers or acting managers directly accountable to the municipal manager and determines their conditions of service;
- 1.1.20 Determines a policy framework for the staff establishment;
- 1.1.21 Disposes of immovable property in terms of section 14 and 111 of the MFMA;
- 1.1.22 Determines councillor remuneration within the applicable legislative framework;
- 1.1.23 Designates full-time councillor positions and authorises applications to the MEC for Local Government for determination of full time positions;
- 1.1.24 Appoints or nominates councillors and/or officials to attend international meetings/ conferences/ seminars, etc;
- 1.1.25 Appoints councillors to portfolio committees;
- 1.1.26 The council (if less than 15 councillors), or a committee of councillors not involved in the decision, appointed by council, (if more than 14 councillors), considers appeals from a person whose rights are affected by a decision of a political structure, political office bearer or a councillor, taken in terms of a power or duty delegated, provided that the decision reached by the

council or committee of councillors may not retract any rights that may have accrued as a result of the original decision.

1.2 Financial Powers

1.2.1 Approves council's annual budget and any amendment thereto;

1.2.2 Determines and imposes rates, levies, duties and tariffs;

1.2.3 Raises loans;

1.2.4 Adopts, maintains and implements a credit control and debt collection policy and a rates and tariff policy which complies with the Systems Act and the MPRA, which rates and tariff policy must be reviewed annually;

1.2.5 Considers and deals with the annual report of the municipality and adopts an oversight report containing the council comment on the annual report, including a statement whether the council-

- has approved the annual report with or without reservations;
- has rejected the annual report; or
- has referred the annual report back for revision of those components that can be revised.

2. THE SPEAKER

Role and Responsibilities

2.1 Statutory functions of the Speaker

2.1.1 Presides at meetings of the council and signs the minutes of the council meetings;

2.1.2 must ensure that council meets at least quarterly;

2.1.3 Co-ordinates the arrangements regarding dates and venues for the meetings.

2.1.4 Maintains order during meetings of the council and ensures that the meetings are conducted in compliance with the Council's

Rules of Order;

2.1.5 Performs all other duties assigned to him/her in the Council's Rules of Order of the Council;

2.1.6 Ensures compliance with the Code of Conduct for councillors;

2.1.7 Authorises any investigation or enquiry into suspected or alleged impropriety by councillors or any alleged breaches of the Code of Conduct for councillors;

2.1.8 Determines where and when council meets;

2.1.9 Convenes special meetings of council at his/her discretion or on request of the majority of councillors she/he must do so.

2.2 Line of Accountability and Reporting

The Speaker reports to, and is accountable to Council

3. THE MAYOR

Role and Responsibilities

3.1 Statutory Functions of the Mayor

3.1.1 Presides at meetings of the Executive Committee and signs the minutes of its meetings;

3.1.2 Delegates appropriate duties to the Deputy Mayor;

3.1.3 Decides when and where the Executive Committee will meet, but if a majority of the members request the mayor in writing to convene a meeting of the committee, the mayor must convene a meeting at a time set out in the request;

3.1.4 Receives input on Council's IDP from the Municipal Manager, tables this in the Executive Committee, conveys the recommendations of the Executive Committee to council for approval of an IDP;

3.1.5 Tables in the municipal council the annual report of the municipality;

- 3.1.6 Must ensure that the municipality addresses any issues raised by the auditor-General in an audit report;
- 3.1.7 Performs all duties and functions in terms of the MFMA including, but not limited to:-
 - (a) provide general political guidance over the fiscal and financial affairs of the municipality;
 - (b) oversee the exercise of responsibilities assigned in terms of the MFMA to the accounting officer and the chief financial officer; and
 - (c) within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality.
- 3.1.8 Performs the duties, including any ceremonial functions, and exercises the powers delegated to the mayor by the municipal council or the Executive Committee.
- 3.1.9 If the mayor is absent or not available, and the municipality does not have a deputy mayor or the deputy mayor is also not available, the mayor may designate a member of the Executive Committee in writing to act as a mayor.
- 3.1.10 Negotiates and signs the performance agreement of the municipal manager, and manages the compilation and evaluation thereof.
- 3.2 Other functions of the Mayor
 - 3.2.1 Functions as the political head of the municipality driving the council's policies and strategies;
 - 3.2.2 Interacts with the public;
 - 3.2.3 Receives and interviews representatives and delegations from public interest groups, and makes recommendations to the executive committee in this regard;

- 3.2.4 Represents the Council at meetings and functions;
- 3.2.5 Makes press statements on behalf of council;
- 3.2.6 Leads development and strategy processes;
- 3.2.7 Handles public relations and external communication functions in consultation with the municipal manager; and

3.3 Line of Accountability and Reporting

The mayor reports to, and is accountable to the executive committee and to council.

4. EXECUTIVE COMMITTEE

Roles and Responsibilities

4.1 Statutory Functions of the Executive Committee

4.1.1 Reviews the performance of the municipality in order to improve:

- (a) the economy, efficiency and effectiveness of the municipality;
- (b) the efficiency of credit control and revenue and debt collection services; and
- (c) the implementation of the municipality's by-laws;

4.1.2 Monitors the management of the municipality's administration in accordance with the policy directions of the municipal council (output monitoring);

4.1.3 Oversees the provision of services to communities in the municipality in a sustainable manner;

4.1.4 Annually reports on the involvement of communities and community organisations in the affairs of the municipality;

- 4.1.5 Considers recommendations on the alignment of the IDP and the budget received from the relevant councillors;
- 4.1.6 Ensures that regard is given to public views and reports on the effect of consultation on the decisions of the council;
- 4.1.7 Makes recommendations to council regarding:-
 - (a) the adoption of the estimates of revenue and expenditure, as well as capital budgets and the imposition of rates and other taxes, levies and duties;
 - (b) the passing of by-laws; and
 - (c) the raising of loans.
 - (d) approval or amendment of the IDP
 - (e) appointment and conditions of service of Municipal Manager and heads of departments
- 4.1.8 Deals with any other matters referred to it by the council and submits a recommendation thereon for consideration by the council;
- 4.1.9 Attends to and deals with all matters delegated to it by council in terms of the Systems Act;
- 4.1.10 Appoints a chairperson/s from the members of the Executive Committee, for any committee established by council in terms of section 80 of the Structures Act to assist the Executive Committee;
- 4.1.11 Delegates any powers and duties of the Executive Committee to any Section 80 committee;
- 4.1.12 Varies or revokes any decisions taken by a section 80 committee, subject to vested rights;
- 4.1.13 Develops strategies, programmes and services to address priority needs of the municipality through the IDP and estimates of revenue

and expenditure, taking into account any applicable national and provincial plans and submits a report to, and recommendations thereon, to the council;

- 4.1.14 Subject to applicable legislation, recommends or determines the best methods, including partnerships and other approaches to deliver services, programmes and projects to the maximum benefit of the community;
- 4.1.15 Identifies and develops criteria in terms of which progress in the implementation of services, programmes and objectives to address the priority needs of the municipality can be evaluated, which includes key performance indicators which are specific to the municipality and common to local government in general;
- 4.1.16 Manages the development of the performance management system, assigns responsibilities in this regard to the municipal manager and submits the proposed performance management system to council for consideration;
- 4.1.17 Monitors progress against the said key performance indicators;
- 4.1.18 Receives and considers reports from committees in accordance with the directives as stipulated by the Executive Committee;
- 4.1.19 Elects a chairperson to preside at meetings if both the mayor and deputy mayor are absent from a meeting in the event of there being a quorum present at such a meeting, if the Mayor failed to designate a member of exco in writing to act as Mayor;
- 4.1.20 Considers appeals from a person whose rights are affected by a decision of the municipal manager in terms of delegated powers, provided that the decision reached by this committee may not retract any rights that may have accrued as a result of the original decision.
- 4.1.21 Reports, in writing, to the municipal council on all decisions taken by Exco at the next ordinary council meeting;

4.2 Other functions of the Executive Committee

- 4.2.1 Recommends to council after consultation with the relevant Portfolio Committee, policies where council had reserved the power to make policies itself;
- 4.2.2 Recommends after consultation with the relevant Sect 79 Committee, rules of order of council meetings and approves rules of order for meetings of itself and any other committee;
- 4.2.3 Makes recommendations to council on proposed political structures of council;
- 4.2.4 Makes recommendations to council in respect of council's legislative powers;
- 4.2.5 Determines strategic approaches, guidelines and growth parameters for the draft budget including tariff structures;

4.3 Line of Accountability and Reporting

Executive Committee reports to, and is accountable to the council.

5. **PORTFOLIO COMMITTEES OF COUNCIL**

All Portfolio Committees report to the Executive Committee. The Executive Committee may either refer a matter back to the Portfolio Committee for further consideration, amend or adopt the recommendations if it has delegated authority to do so, or submit its (Executive committee) recommendations to council.

5.1 Portfolio Committees

The following are examples of portfolio committees that may be established singularly or combined in terms of s80 of the Structures Act:

Corporate Services

Planning and Development

Community Services

Finance

Technical Services

The following are examples of functions that can be grouped under the relevant portfolio committees:

<ul style="list-style-type: none"> • Administration • Secretariat • Legal • Council support • Policies and procedures • Facilities management • Capacity building and training • Human resources 	<ul style="list-style-type: none"> • Planning • Marketing • IDP • Information services • Environmental management • Land use management • Local economic development • Local tourism • Project management • Program management • Contracts management
<ul style="list-style-type: none"> • Passenger transport • Health • Protection services • Disaster management • Emergency services • Project management • Contracts management • Communications • Housing and land affairs • Ward committees • Pounds • Safety and security 	<ul style="list-style-type: none"> • Water • Electricity • Sanitation • Solid waste sites • Municipal roads • Municipal airports • Communication infrastructure, sport and culture • Public works • Business planning • Project management • Contracts management

<ul style="list-style-type: none"> • Cemeteries (Reservations) 	<ul style="list-style-type: none"> • Regulator and monitoring • Implementing agent • Housing (technical) • Nature conservation • Parks and recreation • Swimming pools • Fleet management
<ul style="list-style-type: none"> • Budget preparation and implementation • Revenue and expenditure management • Mid-year budget & performance assessment • Revenue generation • Debt collection, credit control and loans • Supply chain management/ procurement • Capital expenditure control • Investments • Asset and liability management • Internal audit and audit committees • Financial reporting and auditing 	

5.1.1 Responsibilities of Portfolio Committees

The responsibilities of the Portfolio Committees, in respect of their functional areas, are:

- (a) to develop and recommend strategy;
- (b) to develop and recommend by-laws;

- (c) to consider and make recommendations in respect of the draft budget and IDP;
- (d) to ensure public participation in the development of policy, legislation, IDP and budget;
- (e) to monitor the implementation of Council policies; and
- (f) to exercise oversight on all functional areas.

5.1.2 Functions

Formulates recommendations for consideration by the executive committee in relation to:

- (a) policy falling within the functional area of the portfolio after consultation with the relevant Head of Department;
- (b) annual business plans falling within the functional area of the portfolio;
- (c) the implementation of the business plans of the functional areas of the portfolio;
- (d) the review of financial performance against approved budgets relating to prior and current years including dealing with reports from the Auditor-General;
- (e) the draft budget in respect of the functional areas of the portfolio, including tariffs of charges after consultation with the relevant Head of Department;
- (f) reports and recommendations submitted in respect of the functional areas of the portfolio including comment arising from its oversight function;
- (g) compliance with the legislation, norms and standards in respect of the functional areas of the portfolio;
- (h) passing or amendments of by-laws pertaining to the function of the portfolio;

- (i) prioritising projects falling within the functional areas of the portfolio;

5.1.3 The committee may consult with the municipal manager and the relevant Head of Department on council's policies and programmes.

Line of Accountability and Reporting
Reports to the Executive Committee.

5.2 Special Purposes Committees of Council

Established in terms of section 79 of the Structures Act.

The following are examples of committees that may be established in terms of s79

- The Rules and Order committee;
- The disciplinary committee for councillors;
- Special advisory committees to promote industrial growth, tourism etc

5.3 STATUTORY COMMITTEES

Council must establish committees, singularly or combined where appropriate, and where required by legislation. An example of a combined committee could be Audit committee and the Performance Audit Committee. Examples of Statutory committees are:

5.3.1 Audit Committee (section 166 of MFMA)

a) Composition

- (i) The Audit Committee consists of not less than three (3) members, who must have knowledge and experience of accounting and auditing. No councillor may be a member of the Audit Committee;

- (ii) Immediately after the Council has elected and appointed the members of the Audit Committee, it must appoint one of them as the chairperson;
- (b) Functions and duties of the Audit Committee
- (i) The Audit Committee must, with regard to any audit performed by or on behalf of the Auditor-General, and in terms of the Audit Charter,
- (aa) together with the municipal manager, the external auditor and such other employees of the council as it may deem appropriate, assess the planning and scope of and approach to such audit;
- (bb) evaluate the findings of the external auditor especially:-
- significant transactions that do not fall within the normal activities of the municipality;
 - substantial deficiencies in internal control and the recommendations to improve them;
 - the reasonable reporting, presentation and publication of information in annual financial statements;
 - the relevance of the accounting policy followed in the compilation of annual financial statements;
 - compliance with Generally Accepted Municipal Accounting Practice (GAMAP);
 - compliance with the law;

- (cc) generally evaluate the report of the external auditor on the financial statements;
 - (dd) evaluate substantial unresolved accounting or auditing problems experienced during such audit;
 - (ee) evaluate the advice provided by the external auditor or any other person with regard to the objects of the Audit Committee; and
 - (ff) assess the co-ordination and co-operation between the external auditors and the internal auditor, if any.
- (ii) The Audit Committee must, with respect to internal auditing-
- (aa) provide for direct reporting to the council of the findings of the internal auditor, if any;
 - (bb) evaluate the efficiency and effectiveness of the internal audit function, if any;
 - (cc) assess matters of significant importance reported by the internal auditor, if any;
- (iii) The Audit Committee must, in respect of financial reporting-
- (aa) assess the effectiveness of policies for and procedures of financial reporting; and
- (iv) The Audit Committee must, with respect to internal control-
- (aa) review the effectiveness of the accounting and control system;

- (bb) assess any deficiency in the accounting and internal control system discovered in terms of paragraph 4.2.1(b)(i)(bb);
 - (cc) assess the measures implemented to address such deficiencies; and
 - (dd) assess and confirm the policies and procedures for identifying areas of risk and the measures implemented to ensure adequate control of and security at such areas.
- (v) The Audit Committee must-
 - (aa) consider and submit a report on matters referred to it by the Municipal Manager or the Council and
 - (bb) perform such functions as the Council may assign to it from time to time.
- (c) Powers of the Audit Committee
 - (i) The Audit Committee may, to the extent necessary for the efficient and effective performance of its function and achievement of its objectives:-
 - (aa) access and inspect any records, documents and information held otherwise by the municipality or an employee of the municipality;
 - (bb) access and inspect any premises on which or from where the activities of the municipality are performed;
 - (cc) conduct interviews with the Council or any committee thereof and summons any employee of the municipality to appear before it and interview him or her;

- (dd) investigate any matter, or cause any matter to be investigated by any employee of the municipality, after consultation with the Municipal Manager;
- (ee) ensure that effective accounting policies, systems and reporting are implemented and applied; and
- (ff) facilitate improvement of the standard of financial reporting.

Line of Accountability and Reporting

Reports to council via the Executive Committee.

5.3.2 Performance Audit Committee

(a) Composition

The Performance Audit Committee must be appointed in terms of section 14(2) (a) and (b) of the Local Government: Municipal Planning and Performance Management Regulations, 2001;

(b) Functions and duties of the Performance Audit Committee:

- (i) Review the quarterly reports submitted to it by the Internal Audit Unit;
- (ii) Review the PMS focussing on economy, efficiency, effectiveness and impact in so far as the Key Performance Indicators and performance targets as set by the municipality are concerned and make recommendations in this regard to the Council via the Executive Committee;

- (iii) At least twice during a financial year submit an audit report to the Municipal Council via the Executive Committee.
- (c) The Performance Audit Committee may
 - (i) communicate directly with the Council, Municipal Manager or the internal and external auditors of the municipality;
 - (ii) access any municipal records containing information that is needed to perform its duties or exercise its powers;
 - (iii) request any relevant person to attend any of its meetings, and if necessary, to provide information requested by the committee and investigate any matter it deems necessary for the performance of its duties and the exercise of its powers.

5.3.3 Appeals Committee (Section 62 of The Municipal Systems Act)

Considers appeals against the decision taken by a political structure or a political office bearer or councillor from a person whose rights are affected by a decision taken under delegated authority, provided that the decision by the appeals committee may not retract any rights that may have been accrued as a result of the original decision.

Other examples of statutory committees include:

5.3.4 The evaluation panels referred to in regulation 27(4)(d) and (e) of the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers.

Line of Accountability and Reporting

Reports to Council via the Executive Committee

6. MUNICIPAL MANAGER

Roles and Responsibilities

6.1 Powers and duties of the municipal manager

As head of the administration and accounting officer of the municipality, the following statutory powers and duties are assigned to the municipal manager in accordance with the provisions of the Structures Act and the Systems Act:

- 6.1.1 To form and develop an economical, effective, efficient, accountable and performance driven administration for the municipality;
- 6.1.2 To manage the municipality's administration in accordance with the provisions of the Systems Act and other legislation applicable to the municipality;
- 6.1.3 To administer the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006;
- 6.1.4 To implement the municipality's IDP, and to monitor the progress with the implementation of the plan;
- 6.1.5 To manage the provisions of services to communities, residents and ratepayers in a sustainable manner;
- 6.1.6 To control and manage the effective utilisation and training of staff;
- 6.1.7 To maintain discipline of staff;
- 6.1.8 To promote sound labour relations and compliance by the municipality of applicable labour legislation, conditions of service and collective agreements;
- 6.1.9 To advise the structures and functionaries of the municipality;
- 6.1.10 To manage the communication between the municipality's administration and its structures and functionaries;

- 6.1.11 To carry out the decisions of the structures and functionaries of the municipality;
- 6.1.12 To administer and implement the municipality's by-laws and policy;
- 6.1.13 To implement national and provincial legislation applicable to the municipality;
- 6.1.14 To facilitate participation by communities, residents, ratepayers and other stakeholders in the affairs of the municipality;
- 6.1.15 To approve the use of council's facilities by members of the council in accordance with policy;
- 6.1.16 To approve the staff establishment within a policy framework determined by the council;
- 6.1.17 To advise the executive committee, in accordance with the envisaged consultative process, on section 57 appointments;
- 6.1.18 To appoint staff below the level of section 57 Managers in accordance with the municipal recruitment policy;
- 6.1.19 To be responsible for all the income and expenditure of the municipality;
- 6.1.20 To be responsible for all assets and the discharge of all liabilities of the municipality;
- 6.1.21 To be responsible for proper and diligent compliance with the MFMA; and
- 6.1.22 Considers appeals from a person whose rights are affected by a decision taken under delegated authority, of a staff member other than the municipal manager, provided that the decision by the municipal manager may not retract any rights that may have been accrued as a result of the original decision.

6.2 Line of Accountability and Reporting

- Reports to, and is accountable to Council and the Executive Committee.

7. CHIEF FINANCIAL OFFICER

7.1 Role of the Chief Financial Officer

The Chief Financial Officer

- is administratively in charge of the budget and treasury office;
- must advise the accounting officer on the exercise of powers and duties assigned to the accounting officer in terms of the MFMA;
- must assist the accounting officer in the administration of the municipality's bank accounts and in preparation and implementation of the municipality's budget;
- must advise senior managers and other senior officials in the exercise of powers and duties assigned to them in terms of section 78 of the MFMA delegated to them in terms of section 79 of the MFMA; and
- must perform such budgeting, accounting, analysis, financial reporting, cash management, debt, management, supply chain management, financial management, review and other duties as may in terms of section 79 of the MFMA be delegated by the accounting officer to the chief financial officer.

7.2 Line of Accountability and Reporting

Reports to, and is accountable to the Accounting Officer/Municipal Manager.

SECTION II.
GUIDELINE DOCUMENT
ON THE
MUNICIPAL DELEGATION SYSTEM

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CHAPTER 1

INTERPRETATION AND BACKGROUND

I. DEFINITIONS

(i) In this document, unless the context otherwise indicates -

"administration"	means the municipal manager and the other employees of the municipality;
"after consultation"	means with due regard for the views of any person with whom a delegated body is required to consult before he/she exercises delegated or sub-delegated power;
"Constitution"	means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
"Council"	means the municipal council of the municipality, its legal successors in title and as referred to in section 157(1) of the Constitution of South Africa;
"delegating authority"	in relation to a delegation of power by the council, means the council, and in relation to a sub-delegation of a power by a delegated body, means that delegated body;
"delegation"	in relation to a duty, includes an instruction to perform the duty, "delegate" has a corresponding meaning;
"delegated body"	in relation to the delegating of the power means the political structure, political office-bearer or employee to whom a power has been delegated in writing by the delegating authority;
"IDP"	means the Integrated Development Plan of the Council;

"in consultation"	means with the concurrence of the person with whom a delegated body must consult before exercising delegated or sub-delegated power;
"MEC"	means the member of the Provincial Executive Council responsible for Local Government;
"MFMA"	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
"power"	includes a duty and function;
"political office-bearer"	in relation to a municipality, means the speaker, mayor, deputy mayor or a member of the executive committee of a municipality elected, in terms of a specific provision of the Structures Act;
"political responsibility"	means the obligation to develop strategies and policies and to ensure the implementation thereof;
"political structure"	in relation to the municipality, means the Council or any committee or other collective structure of the municipality elected, designated or appointed in terms of the Structures Act,
"portfolio chairperson"	means a member of the Executive Committee to whom the council assigned responsibility for a specific department in the municipality's administration;
"MPRA"	means the Local Government: Municipal Property Rates Act, 2004 (Act No. 6 of 2004);
"Structures Act"	means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
"Systems Act"	means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

(ii) In this document, unless the context otherwise indicates, words and expressions denoting-

- the singular includes the plural and vice versa;
- a reference to a natural person includes a legal person and vice versa.

II BACKGROUND

The Constitution of the Republic of South Africa states that the legislative and executive authority of the municipalities is vested in the municipal councils. A municipality has the functions and powers assigned to it in terms of sections 156 and 229 of the Constitution.

Section 59(1) of the Systems Act requires a municipal council to develop a system of delegation that will maximize administrative and operational efficiency and provide for adequate checks and balances, and, in accordance with that system, may-

- delegate appropriate powers to any of the municipality's other political structures, political office bearers, Councillors or staff members;
- instruct any such political structure, political office bearer, Councillor or staff member to perform any of the municipality's duties; and
- withdraw any delegation or instruction.

III. DELEGATION

In the Municipal Systems Act, "delegation" is defined in relation to a duty, as including an instruction to perform the duty. Delegate has a corresponding meaning.

Some of the basic principles of delegation are that -

- delegation can only be made to a lower hierarchical level; and
- the objective is to lighten the burden on top level management, and use available internal human resources efficiently.

Generally, in terms of section 59 of the Municipal Systems Act, delegations can be made to -

- any of the municipality's other political structures;
- political office bearers;
- councillors; and
- staff members.

Section 59(2)(d) of the Systems Act further provides that a delegation instruction to any of the above may include the power to sub-delegate a delegated power. It is important though to note that delegations are subject to reviews, limitations, conditions and directions that the council or delegating authority may impose. Under certain circumstances, the council or the delegating authority may decide to withdraw a delegation or instruction. These are control measures built into the system.

Section 59(2)(e) of the Systems Act provides that a delegation or an instruction in terms of 59(1) does not divest the council of the responsibility concerning the exercise of the power or the performance of the duty.

(i) Managing a system of delegations

Managing a system of delegations is an ongoing exercise. For instance, delegations must be reviewed-

- when a new council is elected;
- when there is an amendment to the council policies; and
- after a review of allocated powers and functions.

This is to ensure that at all times delegations are aligned to the policies, roles and responsibilities of the role players.

Upon close examination, the circumstances of every municipality will determine which matters should be delegated and under what conditions.

VI. OBJECTIVES OF DELEGATION

The objectives of delegation will be to-

- ensure maximum municipal administrative and operational efficiency without compromising accountability;
- provide for good governance and allow for adequate checks and balances;
- delegate decision-making to the most effective level within the administration;
- involve employees in management decisions as far as practicable;
- promote a sense of collective responsibility for performance;
- assign clear delegated duties for the management and co-ordination of administrative components, systems and mechanisms;
- define in precise terms the delegated duties of each political structure, political office-bearer and municipal manager ;
- determine the relationships amongst the political structures, political office-bearers and the administration, and the appropriate lines of accountability and reporting for each of them.

V. PRINCIPLES OF DELEGATION

A delegation must be in writing and is subject to any limitations, conditions and directions the municipal council may impose

A delegation must not be in conflict with the Constitution, Systems Act and Structures Act, or any other legislation;

All delegations must ensure that the council retains all legislative powers and those executive powers which cannot be lawfully delegated;

Policy formulation and determination process is as follows-

- Policy is determined by the body that has the authority to do so in terms of council's delegation systems;
- Any other structure legitimately established may initiate the generation of policy. The procedure to follow in determining the policy will depend on which body has the final authority to approve it;

The council as the legislative and executive authority may not exercise any power or perform any function beyond that conferred upon it by law;

All delegations are conditional upon compliance with legislation, council policies and procedures, standing rules of order, its IDP and budget;

Delegations must provide for good governance and allow for adequate checks and balances;

All delegations must enhance service delivery without sacrificing accountability;

Delegation does not oblige a delegatee to exercise his/her delegated power and allows for the decisions to be made at a higher level.

VI. CONDITIONS OF DELEGATION

All decision-making powers delegated by the council are subject to the following conditions:

- Delegated powers are conferred upon the Mayor, Speaker, Executive Committee, Councillors and posts in the organisations of the Council and not personally on incumbents;
- Delegations apply to persons in acting positions. Persons acting in these positions have the same delegated powers as those serving in a permanent capacity, provided that the competent authority has duly appointed such acting persons;

In executing any delegated power, the delegated body must comply with all relevant legislation, council policies and procedures, standing rules of order or any relevant agreements;

These delegations do not redefine council's powers and functions;

The policies, whether existing or future, will determine the parameters of any delegations and the delegating body is bound to comply therewith. It is the duty of the delegating authority and the council's legislative arm to ensure that clear and comprehensive policies are drafted;

In executing delegated powers, no expenditure may be incurred unless the delegated authority is satisfied that the council has budgeted for the expenditure and that funds are still available on the relevant budget votes;

Council may, at any time, subject to applicable law, order a delegatee not to exercise a delegated authority in a particular matter and council must then deal with such matter;

The delegatee and/or a delegator may determine whether a report is needed motivating the decision and whether the decision must be reduced to writing. If a report is required, then it must indicate that all legal and financial requirements have been met;

A delegation may set out special circumstances in which a delegated authority is prohibited from exercising his/her delegated power;

Any sub-delegation must be reduced to writing and recorded in the delegations register, which must be kept updated at all times by the municipal manager or person delegated to do so;

All decisions affecting the rights of others must be in writing and reasons must be recorded for such decisions;

The council or any other delegating authority, may at any time withdraw, qualify or amend a delegation;

Council must in accordance with the procedures of its rules of order review any decision taken under delegated powers if so requested in writing by at least a

quarter of the members of the council;

Provision must be made for separation between the evaluation and recommendation stage of the decision-making process and the actual decision itself. This must happen in all cases where the decision-making process is reasonably capable of being divided as set out above;

All delegated authorities must report delegated decisions at such intervals as the delegating authority may require. These reports are to enable the delegating authority to determine whether the policies regulating the power are adequate and/or whether the delegation is appropriate;

Appeals against any decisions taken in terms of any delegated authority, must be dealt with in terms of the Systems Act by an appropriate appeals authority;

Any delegating authority may require a selected sample of decisions taken by a delegatee to be audited by the internal audit unit.

VI. EXCLUSIONS AND RESTRICTIONS

A municipal council may not delegate all of its functions.

(i) Exclusions

Section 160(2) of the Constitution and other legislation prevents municipal councils from delegating certain functions. These include the following matters which may not be delegated and must be performed by the municipal councils –

- passing of by-laws;
- approving budgets;
- imposing rates and other taxes, levies and duties;
- raising of loans.

[Constitution of the Republic of South Africa, section 160(2)]

- approving or amending the integrated development plan;
- deciding to enter into a service delivery agreement (in terms of section 76(b) of the Systems Act);

- setting of tariffs.
[Systems Act, section 59(1)]
- appointment and conditions of service of the municipal manager and a head of department of the municipality
[Structures Act, Section 30(5)(c)]

(ii) Restricted delegations

Certain powers may in terms of section 60(1) and (2) of the Systems Act be delegated, but only to specified positions or committees. The following powers may, within a policy framework determined by the municipal council, be delegated to:

- an executive committee only, in respect of –
 - decisions to expropriate immovable property or rights in or to immovable property; and
 - after appointment, the determination or alteration of the remuneration, benefits or other conditions of service of the municipal manager or managers directly responsible to the municipal manager.
- the Municipal Manager in respect of -
 - decisions to make investments on behalf of the municipality within a policy framework determined by the Minister of Finance.

VII. RECORDING OF DELEGATIONS

In terms of section 59(1)(d) of the Systems Act, delegations must be in writing. However, no format is prescribed. Whilst these delegations may be recorded in different forms, the functions of the municipality are so diverse that it may be difficult to easily access or recall accurately all delegations made by the council.

(i) Master Delegations Register

Keeping a "Master Delegations Register" will eliminate the problem described above. The updating of the register must be delegated to a person who is closely involved with the functions of the municipal council and/ or executive committee

and will be alerted each time there is a new delegation or a review or an amendment to an existing delegation.

(ii) Format for the Master Delegations Register

Generally, there are two ways that the delegations can be organized in the register.

- Classification by function

In this method, all delegations made are inserted under the heading of the specific function, e.g., Finance, Human Resources or Information Technology.

If this method of classification is used, entries will consist of four columns, e.g.,

3. HUMAN RESOURCES MANAGEMENT			
Number	Description of delegation	Delegated Authority	Revision number
3.1	Approval of sick leave	Head of Department	Version 0

Whilst this method makes it easy to ascertain whether a specific function has been delegated, and if so to whom, the negative aspect is that not all delegations affect only one function and will, therefore, have to be listed under various categories.

- Classification by delegated authority

In this classification method, all new delegations are inserted under the relevant heading of the delegated authority and the numbering of other sections is left relatively unchanged. When this method is used, entries consist of three columns containing-

- the number of the delegation (numerical order)
- delegation written in full, including sub-delegation (if any);
- revision version number

3. Director: Corporate Services		
Number	Description of delegation	Revision Number
3.1	Authorises use of pool vehicle	Version 1.0

The negative aspect of this method is that in order to determine whether a specific delegation was made, one would have to search through the whole register of delegations, unless informed as to whom the delegation may have been made.

The benefit of this method is that one can determine at a glance which functions have been delegated to a specific person or committee just by finding the relevant heading of the delegated authority.

CHAPTER 2

GENERAL DELEGATIONS

1. THE SPEAKER

1.1 Delegated Powers

- 1.1.1 Like all other political office bearers, performs duties and exercises powers delegated to the Speaker in terms of section 59 of the Systems Act;
- 1.1.2 Performs other duties assigned to him/her in the Council's Rules of Order; and
- 1.1.3 Any other matter which the council may determine.

1.2 Line of Accountability and Reporting

The Speaker reports to Council.

2. THE MAYOR

2.1 Delegated Powers

- 2.1.1 When the Council goes into recess, he/she in consultation with the Municipal Manager takes decisions on behalf of the Executive Committee or Councillors which if not taken would in some manner prejudice the Council, in all such cases the mayor must report on such decisions to the next ordinary meeting of the executive committee;
- 2.1.2 Approves subsistence and travel claims of municipal manager/ acting municipal manager;
- 2.1.3 Approves the attendance of conferences by the municipal manager/ acting municipal manager;

- 2.1.4 Approves leave for the municipal manager/ acting municipal manager;
and
- 2.1.5 Any other matter which the council may determine.

2.2 Line of Accountability and Reporting

The Mayor reports to Executive Committee and to Council.

3. THE EXECUTIVE COMMITTEE

3.1 Powers delegated to the Executive Committee

3.1.1 General Powers

- (a) Designates Councillors, as determined by the MEC as full-time councillors;
- (b) Sets policy in respect of matters falling within the delegated powers of the Executive Committee or within the powers of the executive, below itself;
- (c) Comments on proposed legislation and government policies;
- (d) Appoints or nominates councillors to attend national and local meetings/ conferences/ seminars, etc;
- (e) Appoints or nominates councillors to represent council on outside bodies;
- (f) Co-ordinates the operations of the councillors;
- (g) Decides to institute or defend any action in the High Court, or court of equal or higher stature;
- (h) Decides to institute or defend arbitration proceedings in matters where it otherwise would have been dealt with the High Court or court of equal or higher stature;

- (i) Grants leave of absence to members from meetings of the Executive Committee;
- (j) Decisions to expropriate immovable property or rights in or to immovable property within a prescribed policy framework.

3.1.2 Financial Matters.

- (a) Determines the amount of loss of damage suffered by council where the municipal manager or any other manager reporting directly to the municipal manager or other staff member has been responsible for such loss or damage, and recovers the loss or damage from them;
- (b) Takes any appropriate action with regard to any loss of or shortage in funds or property belonging to or controlled by the council involving alleged fraud, theft or negligence on the part of all staff, members of council or any other structure of council;
- (c) Approves the virement of funds of any capital amount provided that such virements are taken up in the adjustment estimates;
- (d) Resolves any other matter not specifically reserved by council or specifically delegated to another structure or individual.

3.2 Line of Accountability and Reporting

Executive Committee reports to the council.

4. MUNICIPAL MANAGER

4.1 Powers delegated to the municipal manager;

- 4.1.2 To approve, in consultation with the relevant Heads of Department, the sale by public competition of movable assets in terms of the Supply Chain Management Policy as approved by the council;

- 4.1.3 To sign any documents which are necessary to give effect to any resolutions of the council or resolution by any committee of the council acting in terms of a delegated power;
- 4.1.4 To obtain legal opinion or to take any necessary steps to defend actions, claims or proceedings instituted against the Council, provided that High Court actions shall first be approved by the Executive Committee;
- 4.1.5 To obtain services of an attorney or advocate for any official purpose;
- 4.1.6 After consultation with the Chief Financial Officer, to incur expenses to appoint investigators to obtain evidence in cases of alleged irregularities or misconduct;
- 4.1.7 After consultation with the Chief Financial Officer to apply contractual penalty clauses in the event of late delivery of goods or services to the Council;
- 4.1.8 To approve of leave applications by Heads of Department;
- 4.1.9 To approve of the secondment of staff from one department to another;
- 4.1.10 To approve of the payment of travelling and subsistence claims in respect of Councillors and Heads of Department;
- 4.1.11 To approve, in consultation with the relevant Head of Department, of applications by employees for study loans in terms of the Council Study Assistance Scheme in terms of approved policy;
- 4.1.12 To decide on the replacement, at the council's expense, of an official's tools or equipment which are damaged or broken while used in the service of the council in cases where an official is expected to provide her or his own tools or equipment;
- 4.1.13 To allocate official cellular phones or the payments of cellular phone allowances to officials within a policy approved by council;
- 4.1.14 Provided that necessary funds are available, to approve the attendance by officials of meetings, workshops, seminars, conferences, congresses and similar events and visits which are in the interest of the council and

which are to be conducted within the Republic of South Africa;

- 4.1.15 To decide about the refunding of tender deposits in respect of those tenders where the council has no contractual obligation to refund deposits;
- 4.1.16 To decide on the use of coat of arms, flag and banner of the municipality for commemorative and other purposes;
- 4.1.17 To decide whether costs incurred by the Disaster Management organisation for the provision of assistance, must be recovered by council;
- 4.1.18 To decide whether food must be supplied to workers of Disaster Management organisations during the provision of assistance, and to approve a maximum contribution of R-----;
- 4.1.19 To grant permission to persons and bodies to examine the records of the central registry of the council for research purposes or in terms of The Promotion of Access to Information Act and the Promotion of Access to Information Manual as adopted by Council;
- 4.1.20 To turn down any applications for donations, which cannot be considered in terms of council policy;
- 4.1.21 To grant special leave to employees who are sportsmen and women, coaches and referees/umpires, for the purpose of participation in sports events and tournaments at provincial and national level.
- 4.1.22 The approval of *ex-gratia* payments to sportspersons in terms of policy to employees who represent the R.S.A. at national level;
- 4.1.23 The granting of permission for the free use of council's premises for departmental functions and other municipal-orientated activities/events.
- 4.1.24 After consultation with the Heads of Department concerned:-
 - (a) to create and fill temporary posts in the event of urgent or emergency situations on condition that budgetary provisions have been made;
 - (b) to transfer and promote officials from one department to

another, excluding Heads of Department, in terms of the municipality's recruitment and placement policy;

- (c) to appoint persons in acting capacities and to approve of payment of acting allowances;
- (d) to approve the allocation of travel allowances of staff at approved rates;
- (e) to approve that staff may perform external paid private work.

4.1.25 The authority to expend money in terms of the monetary limits as specified in terms of approved municipal delegations of authority and co-sign all cheques with Chief Financial Officer and any other authorised senior financial official;

4.1.26 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council;

4.1.27 The authority to sub-delegate to municipal officials.

4.2 Line of Accountability and Reporting

- Reports to Council and the Executive Committee;
- Reports to the relevant MEC;
- Reports to the Auditor-General.

5. CHIEF FINANCIAL OFFICER

5.1 Powers and duties delegated to the Chief Financial Officer

- 5.1.1 The authority to collect moneys owed to the council in terms of a contract, legislation, court orders, decisions of the council or any other legal basis.
- 5.1.2 The authority to commence with legal process on behalf of council in respect of the recovering of any money owed to the council for whatever reason and in any court, which has jurisdiction, with the inclusion of the signing of all necessary documents. This includes the power to instruct the council's attorney and advocate when necessary, to act on behalf of council in such cases;
- 5.1.3 The claiming from and making of payments to professional persons or firms;
- 5.1.4 The authority to release funds in respect of capital and operational expenditure items in terms of the approved capital and operational budget;
- 5.1.5 The authority to deduct money, subject to the basic conditions of employment Act and any other relevant legislation, from remuneration which an official or a councillor owes to the Council.
- 5.1.6 The authority to make a ruling in respect of the commencement with a legal process for claiming of damages to council property caused by third party, and for expenses in respect of injuries sustained by an official while on duty, which the council must incur in terms of the Workmen's Compensation Act (Act No. 130 of 1993) and leave agreement, in the event that another party causes the accident or incident;
- 5.1.7 The authority to perform the functions and exercise the powers that

vest in the council in terms of the provisions of:-

- (a) the financial regulations;
- (b) the regulations regarding housing subsidy to employees.

- 5.1.8 To deal with all matters relating to insurance of council assets;
- 5.1.9 To sign such documents as may be necessary when claiming funds obtained from any government department;
- 5.1.10 To invest monies to the best advantage subject to council's Cash and Investment Policy and applicable legislation, and to report in terms of section 71 of the MFMA;
- 5.1.11 To enter into agreement on behalf of council for the payment of arrears by debtors;
- 5.1.12 To refund/pay furniture removal costs of new staff appointees in terms of the relevant policy of the council;
- 5.1.13 To authorise the payment of I.O.D. pay in respect of employees injured on duty;
- 5.1.14 To obtain, in consultation with the municipal manager, bank overdrafts or to take up loans on short-term commitments when these are required and report to council;
- 5.1.15 To implement and enforce council's policy in respect of credit control and debt collection;
- 5.1.16 The authority to obtain an interim property valuation from the Council's appraisers as and when the need arises, in respect of any property within the municipal area;
- 5.1.17 The issuing of a clearance certificate, which certifies that the rates, fees, amounts and interest in respect of a certain property in the municipal area, have been paid to the council as required by the applicable legislation;

5.1.18 The authority to sign the following documents:

- (a) Share certificates in respect of approved loans;
- (b) All documents concerning the collection of money owed to the Council, in either the Magistrates or the High Court;
- (c) Debt certificates

5.1.19 The authority to expend money in terms of the monetary limits as specified in terms of approved municipal delegations of authority.

5.2 Statutory powers, functions and duties delegated in terms of the MFMA

5.2.1 in respect of

- all income and expenditure of the municipality;
- all assets and the discharge of all liabilities of the municipality; and
- proper and diligent compliance with MFMA.

5.2.2 Ensuring that the municipality has and maintains-

- effective, efficient and transparent systems of financial and risk management and internal control;
- a system of internal audit;
- an appropriate procurement and provisioning system which is fair, equitable, transparent, competitive and cost-effective;
- a system for properly evaluating and prioritising all major capital projects prior to a final decision on the project;

5.2.3 Keeping full and proper records of the financial affairs of the municipality in accordance with any prescribed norms and standards;

5.2.4 The effective, efficient, economical and transparent use of the resources of the municipality.

5.2.5 Taking effective and appropriate steps to:

- collect all money due to the municipality;

- prevent unauthorised expenditure;
 - prevent losses resulting from possible criminal conduct; and
 - manage available working capital efficiently and economically.
- 5.2.6 Without delay report all losses as a result of suspected criminal conduct to the South African Police Service;
- 5.2.7 The management, including the safeguarding and the maintenance of the assets, and managing the liabilities, of the municipality;
- 5.2.8 Compliance by the municipality with any tax, levy, duty, pension and audit commitments as may be required by legislation;
- 5.2.9 Setting all contractual obligations of, and pay all money owing by the municipality within the prescribed or agreed period;
- 5.2.10 On discovery of any unauthorised expenditure, must immediately report, in writing, particulars of the expenditure to the mayor, the members of the Executive Council of the Province responsible for finance and for local government and the Auditor-General;
- 5.2.11 Administer the budget and treasury office, as well as the Supply Chain Management Unit, and advise the municipal manager and other officials on financial matters;
- 5.2.12 Set out the annual budget in a schedule that shows revenue by source and expenditure by vote, and comply with any other guidelines issued by National Treasury from time to time;
- 5.2.13 Ensure that the remuneration of political office bearers is in accordance with legislation;
- 5.2.14 Report to council on all expenditure on staff salaries, wages, allowances and benefits;
- 5.2.15 Where appropriations for capital projects span more than one (1) year, ensure that shifting of funds between years is in accordance with section 31 of the MFMA;

- 5.2.16 Open and maintain at least one bank account in the name of the municipality, and advise National Treasury and Auditor General in writing of details thereof;
- 5.2.17 Notify National Treasury of occasions when the bank account/s of the municipality show an overdraft position;
- 5.2.18 Table in council a consolidated report of withdrawals each quarter, and submit a copy of the consolidated report to the Provincial Treasury and Auditor-General;
- 5.2.19 To ensure that the requirements for the raising of short and long term debt complies with section 45 and section 46 of the MFMA;
- 5.2.20 To report monthly, quarterly and mid-year on the Council's budget performance in terms of Chapters 7, 8 and 12 of the MFMA;
- 5.2.21 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.

5.3 Line of Accountability and Reporting

Reports to the municipal manager.

6. HEAD OF DEPARTMENT: CORPORATE SERVICES

6.1 Powers delegated to the Head of Department: Corporate Services

6.1.1 The authority to sign the following documents:

- (a) A declaration by the seller for the payment of transfer duties in connection with property transactions excluding declarations concerning buildings which were erected with funds obtained from any state department;

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- (b) Lease contracts in respect of the leasing of council property as well as property leased by the council, excluding documents concerning the leasing of buildings erected with funds received from national or provincial government;
- (c) Contracts for the maintenance of lifts in municipal buildings as well as maintenance contracts in respect of council equipment which are under the control of the administrative manager;
- (d) Contracts concerning the installation of telephones for official purposes or concerning applications made by persons occupying council premises;
- (e) All documents which are necessary for the registration of erven or other immovable property alienated by the council, excluding documents for the registration of erven or other immovable property alienated by the council on which buildings are erected with funds received from national or provincial government;
- (f) All documents which may be necessary for the registration of immovable property in the council's name irrespective of the way in which the council acquired such immovable property;
- (g) Contracts which may be necessary for the alienation of any rights in immovable property owned by the council;
- (h) All documentation necessary for compliance with the provisions of the relevant Expropriation Act, 1975 (Act 63 of 1975);
- (i) All documents which may be necessary for the registration of servitudes or notarial contracts to which the council is a party;
- (j) Contracts regarding branch-railway lines and third party rights;
- (k) Any other documents for which authority has been delegated by the Executive Committee or by the municipal manager;

6.1.2 In consultation with the Head of Department: Technical Services to waive Council's rights in respect of servitudes;

6.1.3 The authority to decide on the form of transport that should be used by officials of whom it is required to attend meetings, workshops, seminars, conferences, congresses and similar events and special visits in the interest of the Council, and which are to be conducted within the boundaries of the Republic of South Africa.

6.1.4 As Human Resources Manager-

6.1.5 The administration of the council's obligation in respect of;

- the Employment Equity Act;
- the Skills Development Act;
- the Labour Relations Act and; and
- the Basic Conditions of Employment Act

- (a) In the case of a new appointment, if such an appointee has been obliged to change his or her place of residence as a result of the appointment, to grant permission in terms of the council's Employment Policy for the payment of removal costs in respect of the appointee's movable property: Provided that sufficient proof of such costs that had been incurred, is furnished;
- (b) In consultation with the departmental head concerned, to decide about confirming the appointment of an employee that was appointed on probation, on a permanent basis or to extend the probation period in the light of the performance and competence of the appointee, subject to the provisions of the labour legislation;
- (c) In consultation with the departmental head concerned, to dismiss with proper notice, any temporary employee, whether in a permanent or temporary post, if his or her services are no longer required, subject to the provisions of the labour legislation;
- (d) In consultation with the departmental head concerned, to decide about the acceptance or not of a notice of termination of service received from an employee on a shorter period than the period set

in the conditions of service of the employee;

- (e) In consultation with the departmental head concerned, provided that the granting of permission does not adversely affect the employee's work performance, to grant permission to an employee who applies to pursue other paid employment;
- (f) The authority to approve payment of an acting allowance to an employee in terms of his or her conditions of service, on receipt of a certificate issued by the departmental head concerned, certifying that the employee did in fact fully act in the post concerned;
- (g) In consultation with the departmental head concerned the authority to extend the validity of non-accumulative leave of an employee, subject to collective agreement on conditions of service;
- (j) In consultation with the departmental head concerned the annual adjustment of the schedule of uniforms and protective clothing;

6.1.6 In consultation with the municipal manager, to authorise consultants that were appointed by the council to appoint site staff to supervise contract works.

6.1.7 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council;

- 6.1.8 In consultation with the municipal manager to administer the Municipal Performance Regulations for Municipal Managers and Managers directly accountable to Municipal Managers, 2006.

6.2 Line of accountability and reporting

Reports to the municipal manager.

7. HEAD OF DEPARTMENT: TECHNICAL SERVICES

7.1 Powers delegated to the Head of Department: Technical Services

- 7.1.1 In consultation with the municipal manager, to approve the services of a consultant, in terms of the supply chain management policy, with regard to any of the matters under his or her control, where the consultant's fees and expenses do not exceed a prescribed amount set by council per project or occasion.

7.1.2 The authority to sign the following documents:

- (a) Contracts concluded by the council for building and civil works;
- (b) Contracts concluded by the council with consultants in respect of projects executed by her/his department;
- (c) All documents and contracts in respect of applications for exploitation authority (mining licences) to excavate gravel and stone within the municipal area, in terms of the provisions of the relevant minerals legislation
- (d) Purchasing and leasing contracts in respect of buildings which were built with state funds or other housing leased by the council.

- 7.1.3 The authority to grant permission for the repair of the water meters of other municipalities on the following conditions-

- that these damaged water meters are delivered to council's plumber workshop for repair, and fetched after the repair work has been completed;
 - that the water meters are of a type which parts are available;
 - that the municipality concerned pays for the actual labour costs and parts plus a stipulated levy with a minimum of a specified number water meters per order; and
 - that the other municipality provides an official order to the council on each occasion.
- 7.1.4 The authority to approve the appointment of consultants by private township developers;
- 7.1.5 The authority to permit private persons or organisations to perform work on Council property : Provided that-
- this does not prejudice the council's interests; and
 - the council is indemnified in writing against any damages and claims which may arise or result from such activities;
- 7.1.6 The authority to adjust the tariffs contained in the contracts concluded with consultants from time to time, in accordance with the applicable tariffs as published in the *Government Gazette* in terms of the legislation concerned;
- 7.1.7 In consultation with the Chief Financial Officer, the authority to enforce the penalty clauses contained in council's contracts for the late delivery of goods and services;
- 7.1.8 The authority to approve or reject all building plans and to decide on building line concessions, lateral and rear spaces as set out in the Town Planning Scheme;
- 7.1.9 The authority to consider and finalise all applications for permanent advertisements in accordance with the provisions of the regulation for the display of advertisements jointly with the Planning Committee;

- 7.1.10 The authority to perform the functions and exercise the powers vested in the council in terms of the provisions of-
- the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998, (Act 19 of 1998);
 - the lease contracts for municipal housing;
 - the National Building Regulations and Building Standards Act (Act No. 103 of 1997); and
 - the provisions of regulations in respect of the numbering and renumbering of buildings and places, and the assignment of names to and the display thereof on flats;
- 7.1.11 To approve or reject requests for the use of servitude areas created for municipal purposes, for building purposes or for the erection of other structures: Provided that such use of the servitude area does not prejudice the purpose for which the servitude was registered;
- 7.1.12 The authority to grant permission for a deviation or relaxation in terms of the National Building Regulations and Building Standards Act, (Act No. 103 of 1997) except for a regulation concerning the strength and stability of buildings;
- 7.1.13 The authority to relax height restrictions of buildings to a maximum of 10 (ten) metres, where relevant;
- 7.1.14 In consultation with the Chief Financial Officer, the authority to enforce the penalty clauses contained in council's contracts for the late delivery of goods and services;
- 7.1.15 To make recommendations to the relevant government departments concerned in respect of the approval of or rejection of applications to demolish or reconstruct houses;
- 7.1.16 The authority to grant the necessary sanction, until a professional surveyor is appointed, to give out cadastral work on a portion basis to surveying firms, subject thereto that the fees concerned shall be as

stipulated in the statutory prescribed scales, and provided that no single appointment exceeds a prescribed amount;

- 7.1.17 When applications are made to relax street building lines in respect of single residential stands within the area the authority to finalise such applications administratively provided that the mentioned building lines are relaxed to a prescribed maximum, in which case this is adequately provided for by the scheme;
- 7.1.18 The authority to consider applications for home industries and house cafes in terms of the Town Planning Scheme. In cases, which he/she considers, the application to be of a controversial nature or that might have a significant impact on the surrounding community, or must, in the case of objections being lodged by surrounding property owners, refer it to the Council for a decision;
- 7.1.19 The issuing of a certificate, in compliance with the requirements of the Provincial Township Board, that an applicant who has applied for township establishment, has in fact provided services to the satisfaction of the Council;
- 7.1.20 The issuing of building clause and waiver certificates as well as certificates for the raising of property title conditions to comply with the provisions of Council's Town Planning Scheme; and
- 7.1.21 The authority to erect traffic signs, road marking and to effect traffic measurements.

7.2 Electrical Services

- 7.2.1 The authority to extend the electricity supply network of the Council, to make connections thereto in terms of the electricity supply regulations and to authorise repayments in connection therewith;
- 7.2.2 In consultation with the municipal manager, the authority to approve the services of a consultant, in terms of the supply chain management policy, with regard to any of the matters under his or her control, where the consultant's fees and expenses do not

exceed a prescribed amount per project or occasion;

7.2.3 The authority, if appointed, as mine manager, to make the necessary appointments in terms of the provisions of the Mining and Industry Act, as well as the provisions of the Explosive Materials Act (Act No. 27 of 1956);

7.2.4 The authority to grant permission to consumers to resell electricity on conditions as contained in the electricity supply regulations;

7.2.5 The authority to sign the following documents-

- (a) Contracts concluded by the council for electrical and electro-technical works;
- (b) Contracts concluded by the council with consulting engineers for mechanical, electrical and electro-technical works;

7.2.6 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of-

- the electricity supply regulations;
- the Electricity Act; and
- the Occupational Health and Safety Act, 1993, as supplier of electricity within the municipal area.

7.2.7 In consultation with the Municipal Manager, the provision of technical assistance and training to other municipalities, private persons and organisations that are deemed necessary and essential, without prejudice to the training of the Council's own personnel;

7.2.8 The authority to sanction a relaxation in respect of any structural changes to buildings in terms of the provisions of the regulations governing creches and creches-cum-nursery schools: Provided that the provisions of the National Building Regulations are not contravened;

7.2.9 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration

of which has been assigned to the incumbent by the municipal council.

7.3 Line of accountability and reporting

Reports to the municipal manager.

8. HEAD OF DEPARTMENT: COMMUNITY SERVICES

8.1 Powers delegated to the Head of Department: Community Services

8.1.1 The authority to perform the functions and exercise the powers that vest in the Council in terms of, for example, the provisions of-

- the regulations regarding cleanliness of plots;
- the regulations regarding creches-cum-nursery schools;
- the regulations regarding milk and dairies;
- the regulations regarding public health and sanitation;
- the regulations regarding sale of meat;
- the regulations relating to undertakings that sell food to the public;
- regulations relating to cemeteries, crematoria and exhumations;
- the Health Act (Act No. 61 of 2003);
- the Library by-laws; and
- the by-laws for the Control of Street Trading and Collections;

8.1.2 The authority to issue all statutory notices for the elimination of nuisances;

8.1.3 The authority to grant permission for and to make all arrangements with regard to funerals of paupers who die within the municipal area;

8.1.4 The authority to consider applications for the licensing of businesses in accordance with the provisions of the Business Act (Act No. 71 of 1991);

8.1.5 The authority to liaise with the District Municipality to decide whether the fire brigade may be used for fire fighting purposes outside the boundaries of the municipal area;

8.1.6 The authority to perform all the functions related to the social aspects

of housing delivery in terms of housing development, discount benefit scheme and rental stock;

- 8.1.7 The authority to perform all the functions related to sport and recreation;
- 8.1.8 The authority to perform all the functions related to youth and gender development;
- 8.1.9 The authority to perform all the functions related to the AIDS desk.

8.2 Protection Services

- 8.2.1 The authority to remove metered parking bays in urgent cases;
- 8.2.2 The authority to consider and finalise applications for temporary advertisements and posters, the placing of banners and posters in respect of functions and other events, as well as other ways of advertisement, amongst other things, by using balloons, in accordance with the provisions of the regulations for the display of advertisements;
- 8.2.3 The authority to grant permission for the use of loudspeakers in the streets to advertise functions and events, which may take place in terms of council policy;
- 8.2.4 The authority to act on a complaint received from a member of the public or a police officer about an alleged irregularity in respect of fund raising, to request any person who is raising funds to produce the concession or special concession in terms of which the raising of funds is taking place in compliance with the provisions of relevant legislation;
- 8.2.5 The authority to recover payments for removal and storage costs in respect of motor vehicles impounded by the Department;
- 8.2.6 The authority to decide on the placement of legal, exclusive parking bays;
- 8.2.7 The authority to grant permission for parades, athletic and other events to be conducted in streets within the municipal area, as well as for the

temporary closing of a street;

8.2.8 The authority to act as responsible officer in terms of the provisions of the Regulation of Gatherings Act, 1993 (Act 205 of 1993);

8.2.9 The authority to perform the functions and exercise the powers that vest in the Council in respect of the use or discharge of fireworks, firearms or similar devices as contained in the provisions of the Explosives Act, 1956 (Act 27 of 1956) and the provisions of the noise control regulations, promulgated in terms of the Environment Conservation Act, 1998 (Act 107 of 1998);

8.2.10 The authority to perform the functions and exercise the powers that vest in the Council in terms of the provisions of:

- the regulations regarding display of advertisements;
- the regulations regarding petroleum liquid and other substances; and
- the regulations regarding traffic.

8.2.11 The authority to allocate or re-allocate dates for street collections for which formal applications have been received;

8.2.12 The authority to perform selective traffic law enforcement programmes;

8.2.13 The authority to carry out complete investigations on all traffic matters that require investigation and taking the required legal action where necessary;

8.2.14 The authority to co-ordinate joint law enforcement operations with other law enforcement agencies;

8.2.15 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.

8.3 Line of accountability and reporting
Reports to the Municipal Manager.

9. HEAD OF DEPARTMENT: PLANNING AND DEVELOPMENT SERVICES

9.1 Powers delegated to the Head of Department: Planning and Development Services:

- 9.1.1 The authority to grant approval for the erection of a second residential unit on a stand or premises in terms of the Town Planning Schemes and other relevant legislation;
- 9.1.2 The authority to issue certificates of condonation in terms of the provisions of the Sectional Titles Act, 2003 (Act 29 of 2003);
- 9.1.3 The authority to approve applications for the consolidation and subdivision of land which does not belong to the municipality and, where necessary, the setting of building-clause conditions to be registered against the titles of the stands concerned, as well as the determination of servitudes for the protection of services and their application in cases in which subdivisions are made;
- 9.1.4 The authority to take the necessary steps to secure a suitable court order which obliges the owner or occupier of land or premises to meet the requirements of the Town Planning Scheme in the event that owners or occupiers of land or premises fail to meet the requirements of the said Town Planning Scheme;
- 9.1.5 The authority to approve rezoning applications in respect of land within the applicable legal prescripts;
- 9.1.6 The authority to make recommendations and commentary in respect of applications for the cancellation, suspension or amendment of the conditions which are restrictive, to bring the title deed of a premises into line with the Town Planning Scheme, except in cases in which a reversionary clause in favour of the Council exists in the title deed;
- 9.1.7 The issuing of a certificate, in compliance with the requirements of the Provincial Township Board, that an applicant who has applied for

township establishment, has in fact provided services to the satisfaction of the council;

- 9.1.8 The issuing of building clause and waiver certificates as well as certificates for the raising of property title conditions to bring it in line with the provisions of council's Town Planning Scheme;
- 9.1.9 The authority to consider applications for special consent use in terms of the Town Planning Scheme. In cases, which he/she considers, the application to be of a controversial nature or that might have a significant impact on the surrounding community, or must, in the case of objections being lodged by surrounding property owners, refer it to the Council for a decision;
- 9.1.10 To manage the Land Use Management System;
- 9.1.11 The authority to perform the local economic development function, including industrial development;
- 9.1.12 The authority to perform the tourism function in liaison with the relevant Provincial Department and District Municipality.
- 9.1.13 Support the Municipal Manager in the preparation of the Municipal Integrated Development Plan.
- 9.1.14 The authority to appoint officials of his or her department as health and safety representatives for his or her department in terms of the provisions of the relevant Occupational Health and Safety Act, (Act No. 85 of 1993);
- 9.1.15 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.

9.2 Line of accountability and reporting

Reports to the Municipal Manager.

10. HEADS OF DEPARTMENT: OTHER DEPARTMENTS**10.1 Powers delegated to all Heads of Department**

- 10.1.1 To grant or defer leave, to grant sick leave, to approve of leave being carried over to the next cycle, all in respect of all employees in the department and within the limitations as set out in Council's leave conditions;
- 10.1.2 To authorise, in consultation with the municipal manager, expenditure, ex- budget to a maximum of as per the amount as determined in item 18 hereof;
- 10.1.3 To engage and dismiss casual labour in consultation with the Municipal Manager;
- 10.1.4 To call for bids/quotations in terms of the supply chain management policy;
- 10.1.5 To advertise staff vacancies after approval from the Municipal Manager;
- 10.1.6 In the case of a new appointment, after approval from the Municipal Manager if such an appointee has been obliged to change his or her place of residence as a result of the appointment, to grant permission in terms of the council's policy for the payment of removal costs in respect of the appointee's movable property; provided that sufficient proof of such costs that had been incurred, is furnished;
- 10.1.7 In consultation with the municipal manager, to decide about confirming the appointment of an employee that was appointed on probation period in the light of the performance and competence of the appointee, subject to the provisions of the labour legislation;
- 10.1.8 In consultation with the municipal manager and provided that the granting of permission does not adversely affect the employee's work performance, to grant permission to an employee who applies to pursue other employment;

- 10.1.9 To approve, after consultation with the municipal manager and Chief Financial Officer, virement of funds;
- 10.1.10 To appoint temporary staff within his/her department in consultation with the municipal manager subject to budgetary provision;
- 10.1.11 The authority to expend money in terms of the monetary limits as specified in terms supply chain management policy;
- 10.1.12 The authority to perform the functions and exercise the powers that vest in the council in terms of the provisions of any by-laws the administration of which has been assigned to the incumbent by the municipal council.

- 10.2 Line of accountability and reporting
Reports to the Municipal Manager.

11. PROCUREMENT DELEGATIONS

See annexure "A"

(Provincial Treasury will issue a further guideline document in due course outlining the terms of reference for the Delegations document)

12. MUNICIPAL FINANCIAL POWERS, DUTIES, RESPONSIBILITIES AND DELEGATIONS

It is suggested that municipalities peruse the **IMFO** document on the MFMA for further consideration of financial delegations.

ANNEXURE A**PROCUREMENT DELEGATIONS**

The procurement delegations contained herein serve as a guideline to assist municipalities and municipal entities in customizing an efficient and effective delegation framework for bid committees and municipal officials, with due consideration given to predetermined financial threshold values.

1. Legislative Cross Reference

In terms of sections 79 and 106 of the MFMA, the roles and responsibilities of accounting officers with respect to delegations, are clearly outlined.

2 Procurement Delegations Framework

The following is an extract from the Municipal Supply Chain Management Regulations (Government Gazette No. 27636/2005, Notice 868 of 2005 dated 30 May 2005) pertaining to procurement delegations and which should be adopted by all municipalities.

2.1 Sub-Delegations**Regulation 5:**

“(1) An accounting officer may in terms of Section 79 of the Act, sub-delegate any supply chain management powers and duties, including those sub-delegated to the accounting officer in terms of regulation 4(1), but any such sub-delegation must be consistent with sub-regulation (2) and regulation 4.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be sub-

delegated by an accounting officer;

- (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –*
 - (i) the chief financial officer;*
 - (ii) a senior manager;*
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member;**or*
- (c) not exceeding R2 million (VAT Included) may be sub-delegated but only to –*
 - (i) the chief financial officer;*
 - (ii) a senior manager;*
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or*
 - (iv) a bid adjudication committee.*

(3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with sub-regulation (2) must within five days of the end of each month submit to the official referred to in subsection (4) a written report containing particulars of each final award made by such official or committee during that month, including-

- (a) the amount of the award;*
- (b) the name of the person to whom the award was made; and*
- (c) the reason why that award was made to that person.*

(4) A written report referred to in sub-regulation (3) must be submitted-

- (a) to the accounting officer, in the case of an award by –*
 - i. the chief financial officer;*
 - ii. a senior manager;*
 - iii. a bid adjudication committee of which the chief financial officer or a senior manager is a member; or*
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by-*
 - i. a manager referred to in sub-regulation(2)(c) (iii); or*

- ii. *a bid adjudication committee of which the chief financial officer or a senior manager is not a member.*

- (5) *Sub-regulations (3) and (4) do not apply to procurements out of petty cash.*
- (6) *This regulation may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in regulation 26.*
- (7) *No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant."*

2.2 Range of Procurement Processes

Regulation 12

"(1) A supply chain management policy must, subject to regulation 11(2) provide for the procurement of goods and services by way of -

- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);*
- (b) written or verbal quotations for procurement of a transaction value over R2 000 up to R10 000(VAT included);*
- (c) formal written price quotations for procurement of a transaction value over R10 000 up to R200 000 (VAT included); and*
- (d) a competitive bidding process for –*
 - i. procurement above a transaction value of R200 000 (VAT included), and*
 - ii. the procurement of long term (period) contracts.*

- (2) A supply chain management policy may allow the accounting officer:*
 - (a) to lower, but not to increase, the different threshold values specified in sub-regulation (1); or*

- (b) *to direct that-*
 - (i) *written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;*
 - (ii) *formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or*
 - (iii) *a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.*

(3) *A supply chain management policy must state:*

- (a) *that goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy; and*
- (b) *that when determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction"*

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SALGA KZN

Umkhanyakude District Municipality

Ilembe District Municipality

uMlalazi Municipality

Greater Kokstad Municipality

Impendle Municipality

KwaDukuza Municipality

uMhlathuze Municipality

No. 62

3 kuNhlanguana 2009

**IMIKHOMBANDLELA
YAMAQHAZA KANYE
NEMISEBENZI YEZINHLAKA
ZEZOMBUSAZWE ZOMASIPALA,
YEZIPHATHIMANDLA KANYE
NEYEZIKHULU EZIPHEZULU**

KANYE

**NOHLAKA LOKUDLULISWA
KWAMANDLA KOMASIPALA**

NHLANGULANA 2008

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ISIGABA I.

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IZIPHATHIMANDLA KANYE NEZIKHULU
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ISAPHLUKO 1

UKUHUNYUSHA KANYE NOMLANDO

I. IZINCAZELO

- (i) Kulo mbhalo, ngaphandle uma ingqikithi isho okwehlukile –

“amandla” kusho kusho isibopho kanye nomsebenzi;

“emva kokubonisana” kusho ukulalela ngokufanele imibono yanoma yimuphi umuntu umgwamanda odluliselwe amandla okumele ubonisane naye ngaphambi kokusebenzisa amandla odluliselwe wona noma eliwanikezwe wonikezwe wona;

“ezokuphatha” kusho imenenja kamasipala kanye nabanye abasebenzi bakamasipala;

“iLungu loMkhandlu Ophezulu” kusho ilungu loMkhandlu oPhezulu wesiFundazwe elibhekele oHulumeni baseKhaya;

“isibopho sezombusazwe” kusho isibopho sokwakha amasu kanye nezinqubomgomo kanye nokuqiniseka ukuthi kuyaqaliswa ukusebenza;

“isiphathimandla esidlulisa amandla” mayelana nokunikezelwa kwamandla wumkhandlu, kusho lowo mkhandlu, kanti uma amandla amandla edluliselwa ngonikezwe wona, kusuke kushiwo lowo owadlulisile;

“isiphathimandla sezombusazwe” mayelana nomasipala, kusho usomlomo, usodolobha, isekela likasodolobha noma ilungu lekomidi eliphezulu kumasipala njengoba kubekiwe eMthethweni Wezinhlaka Zomasipala;

“ngokubonisana” kusho ukuvumelana nomuntu okumele umgwamanda odluliselwe amandla ubonisane naye ngaphambi kokusebenzisa lawo mandla olunikzwe wona noma oluwadluliselwe onikezwe wona;

“uhlaka lwezombusazwe” mayelana nomasipala, kusho uMkhandlu noma naliphi ikomidi noma olunye uhlaka oludidiyelwe lukamasipala olukhethiwe, oluqokiwe noma olujutshiwe ngokulandela uMthetho Wezinhlaka Zomasipala;

“uhlelo oludidiyelwe lwentuthuko (i-IDP)” kusho uhlelo oludidiyelwe lwentuthuko lomkhandlu;

“ukudluliswa kwamandla” mayelana nomsebenzi, kubandakanya umyalelo wokwenza lowo msebenzi, “ukunikezela kunencazelo efuze leyo;

“umgwamanda odluliselwe amandla” mayelana nokudluliswa kwamandla kusho uhlaka lwezombusazwe, isiphathimandla sezombusazwe noma umsebenzi onikezwe amandla ngokubhaliwe yisiphathimandla esidlulisa amandla;

“uMkhandlu” kusho umkhandlu kamasipala, ongene esikhundleni sawo ngokusemthethweni nanjengoba kubekiwe esigabeni 157(1) soMthethosisekelo waseNingizimu Afrika;

“uMthetho we-MPRA” kusho uMthetho wamaReyithi oMhlaba kaMasipala woHulumeni baseKhaya, 2004 (uMthetho No. 6 ka 2004);

“uMthetho weziNhlaka” kusho uMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

“uMthetho weziNhlelo” kusho uMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka-2000);

“uMthetho wokuPhathwa kweziMali zoMasipala (MPRA)” kusho uMthetho wokuPhathwa kweziMali zoMasipala woHulumeni baseKhaya, 2003 (uMthetho No. 56 ka 2003);

“uMthethosisekelo” kusho uMthethosisekelo yeRiphabhuliki yaseNingizimu Afrika, 1996 (uMthetho 108 ka 1996);

“usihlalo wekomidi” kusho ilungu leKomidi eliPhezulu eliqokwe yilelo komidi njengosihlalo wekomidi elibhekele umnyango othile.

(ii) Kulo mbhalo, ngaphandle uma ingqikithi isho okwehlukile, amagama kanye nezincazelelo achaza -

- ubunye afaka nobuningi, ngokunjalo nalawo akhomba ubuningi afaka nobunye;
- umuntu phaqa kufaka phakathi umuntu osemthethweni, kanti lapho kukhulunywa khona ngomuntu osemthethweni kufaka phakathi umuntu phaqa.

UMLANDO

UMthethosisekelo weRiphabhuliki yaseNingizimu Afrika uyasho ukuthi amandla omthetho nokuphatha omasipala asemikhandlwini yomasipala. Umasipala unemisebenzi kanye namandla onikezwe wona ngokwezigaba 156 kanye no 229 zoMthethosisekelo.

Isigaba 53 soMthetho Wezinhlelo sibeka ukuthi umasipala kumele achaze amaqhaza athile kanye nezinto okumele zenziwe wuhlaka ngalunye lwezombusazwe noma isiphathimandla sikamasipala kanye nemenenja kamasipala. La maqhaza kanye nezinto okumele zenziwe kungabandakanya ukudluliswa kwamandla kanye nemisebenzi.

(i) Ikhono lokusebenza nokuphatha

Njengoba inhlosongqangi yokudluliswa kwamandla okuphatha kungukuthola ukuzuza impumelelo eseqophelweni eliphezulu yezokuphatha nokusebenza, ukufezekisa amaqhaza, izibopho kanye nemisebenzi yezinhlaka zezombusazwe, iziphathimandla zezombusazwe kanye nemenenja kamasipala, isigaba 53(2)(a) sidinga ukuba lawo maqhaza kanye nezibopho kucaciswe kahle, ngokulandela amaphuzu ehlukene okuzosetshenzelwa phezu kwawo, kwemukelwe futhi kufezekiswe ngezinye izindlela ezibhaliwe zikamasipala. Ngaleyo ndlela akubi khona ungabazane kanti nemigudu yokubika iyacaciseka.

Obunye ubuhle ukuthi wonke umuntu uyabandakanyeka, umuzwa wokubambisana uyakhuthazeka, izinqumo zithathwa emazingeni afanele kube kuncane kakhulu ukubambezeleka, kanti nabasebenzi abasemazingeni aphansi bayathuthukiseka, bakhule futhi bakhuthazeke.

ISAHLUKO SESIBILI

AMAQHAZA KANYE NEMISEBENZI OKUJWAYELEKILE

1. AMANDLA ABEKELWE UMKHANDLU

1.1 Amandla ajwayekile

- 1.1.1 Uphasisa imithetho yedolobha;
- 1.1.2 Wedlulisela amandla okwengamela imithetho yedolobha kwiMenenja Yedolobha kanye neziNhloko zeMinyango ezehlukene;
- 1.1.3 Unquma inqubomgomo yamasu jikelele ahambisana nalowo masipala wonkana okunikeza umhlahlandlela osezingeni eliphezulu ekomidini lawo eliphezulu okuyilona elihlahla indlela yokwakhiwa kwezinye izinqubomgomo;
- 1.1.4 Uphasisa uhlelo oludidiyelwe lwentuthuko (i-IDP);
- 1.1.5 Ukhetha amalungu eKomidi eliPhezulu, uSodolobha, iSekela likaSodolobha kanye noSomlomo;
- 1.1.6 Udlulisa amandla afanele okuthatha izinqumo ngokwesigaba 59(1)(a) soMthetho weziNhlelo zoMasipala;
- 1.1.7 Ungasusa esikhundleni uSomlomo, uSodolobha, kanye/ noma iSekela likaSodolobha kanye nelilodwa noma ngaphezulu lamalungu eKomidi eliPhezulu ngokulandela imithetho efanele;
- 1.1.8 Usungula amakomidi ngokwesigaba 79 kanye nesigaba 80 soMthetho weziNhlaka zoMasipala;
- 1.1.9 Unikeza amakhansela ikhefu lokungayithameli imihlangano yomkhandlu;
- 1.1.10 Uphasisa iMithetho eyeNgamele uMkhandlu;
- 1.1.11 Unquma izinhloko zomkhandlu zezombusazwe;
- 1.1.12 Unika inhlonipho emphakathini, nokuqanjwa kwamagama ezindawo zomphakathi kanye nezakhiwo zomkhandlu ngabantu abathize;
- 1.1.13 Usungula uhlelo lokulawula ukusebenza kanti futhi kanye ngonyaka uqoka iKomidi eleNgamele ukuCwanningwa kokuSebenza;

- 1.1.14 Usungula isizinda ezinikezela ngezinsiza zikamasipala ezindaweni ezahlukene ezengamelwe yiwo;
- 1.1.15 Uphasisa ukwabiwa kwezimali ngokwezigaba ezimqoka isabelomali sikamasipala esihlukaniseke ngazo sihlukaniselwa iminyango eyahlukene, ngokuchibiyela isabelomali sokubuyekeza, ngokulandela izimfuneko zoMthetho wokuPhathwa kweziMali zoMasipala;
- 1.1.16 Wemukela, udingide bese unquma ngemibiko yocwaningo;
- 1.1.17 Uqoka imenenja kamasipala;
- 1.1.18 Uqoka ibamba lemenenja kamasipala noma ibamba leNhloko yoMnyango;
- 1.1.19 Uqoka, emva kokubonisana nemenenja kamasipala, izimenenja noma amabamba ezimenenja ezibika ngqo kwimenenja kamasipala futhi unquma imibandela yazo yokusebenza;
- 1.1.20 Unquma uhlaka lwenqubomgomo emayelana nabasebenzi bomkhandlu;
- 1.1.21 Uchitha impahla engasuki ngokwesigaba 14 nesigaba 111 zoMthetho Wwukuphathwa Kwezimali Zomasipala;
- 1.1.22 Unquma inkokhelo yamakhansela ngokuhambisana nohlaka lomthetho ofanele;
- 1.1.23 Unquma ngezikhundla zamakhansela asebenza ngokugcwele futhi ugunyaza izicelo ezibhekiswe kwiLungu Lomkhandlu oPhezulu (uNgqongqoshe Wesifundazwe elibhekele oHulumeni baseKhaya ukuba anqume ngezikhundla zamakhansela asebenza ngokugcwele;
- 1.1.24 Uqoka noma uphakamisa amakhansela kanye/noma abasebenzi ukuba bathamele imihlangano noma izingqungquthela noma imihlangano, njll, yokucobelelana kwamazwe omhlaba;
- 1.1.25 Uqokela amakhansela emakomidini eminyango;
- Umkhandidu (uma unamakhansela angaphansi kwe-15), noma ikomidi lamakhansela lingabandakanyeki esinqumweni, liqokwe wumkhandlu, (uma kunamakhansela angaphezu kwe-14), udingida izikhalazo zomuntu omalungelo akhe ahlukunyezwe yisinqumo sohlaka lwezombusazwe, isiphathimandla sezombusazwe noma ikhansela, esithathwe ngokusebenzisa amandla noma umsebenzi esinikezwe wona, kuncike ekutheni lesi sinqumo

esithathwe wumkhandlu noma ikomidi lamakhansela angeke sawahoxisa amalungelo atholakale ngenxa yesinqumo esingumsuka.

1.2 Amandla ezezimali

1.2.1 Uphasisa isabelozimali sonyaka somkhandlu kanye nanoma yisiphi isichibiyelo sawo;

1.2.2 Unquma bese ukhokhisa amareyithi, izintela zabahlali kanye nentela yezimpahla;

1.2.3 Ukhuphula izimalimboleko;

1.2.4 Uphasisa, ugcine bese uqalisa ukusebenza kwenqubomgomo yokulawulwa kanye nokuqoqwa kwezikweletu, kanye nenqubomgomo yentela yezimpahla kanye namareyithi okuhambisana noMthetho weziNhlelo zoMasipala kanye noMthetho wamaReyithi, okuyimigomo okumele ibuyekezwe kanye ngonyaka;

1.2.5 Udingida bese ubuka umbiko wonyaka kamasipala bese uphasisa umbiko wokuqapha oqukethe umbono womkhandlu ngombiko wonyaka, kubandakanya nesitatimende esiveza ukuthi –

- Kungabe umkhandlu uwuphasisile yini umbiko wonyaka ngemibandela noma cha;
- Kungabe umkhandlu uwuchithile yini umbiko wonyaka; noma
- Kungabe umkhandlu uwubuyisele emuva ukuba kuyobuyekezwa lezo zingxenyana ezingabuyekezwa.

2. USOMLOMO

Iqhaza kanye nemisebenzi kaSomlomo

2.1 Imisebenzi kaSomlomo esemthethweni

2.1.1 Wengamela imihlangano yomkhandlu futhi usayina amaminithi emihlangano yomkhandlu;

2.1.2 Kumele aqinisekise ukuthi umkhandlu uyahlangana okungenani kanye emva kwezinyanga ezintathu;

2.1.3 Wenza amalungiselelo amayelana nezinsuku kanye nezindawo okuzobanjelwa khona imihlangano;

- 2.1.4 Wenza ukuba kuhanjiswe ngokohlelo yonke imihlangano yomkhandlu futhi uqinisekisa ukuthi imihlangano ibanjwa ngokuhambisana neMithetho yeNqubo yomKhandlu;
- 2.1.5 Wenza yonke eminye imisebenzi abekelwe yona yiMithetho yeNqubo yoMkhandlu;
- 2.1.6 Uqinisekisa ukulandelwa kweNqubo yokuziPhatha ngamakhansela;
- 2.1.7 Ugunyaza nanoma yiluphi uphenyo mayelana namakhansela asoleka ngokungaziphathi kahle noma asoleka ngokwephula iNqubo yokuziPhatha yamaKhansela;
- 2.1.8 Unquma ukuthi umkhandlu uzohlanganela kuphi futhi nini;
- 2.1.9 Ubiza imihlangano yomkhandlu ephuthumayo ngokubona kwakhe noma ngokwesicelo seningi lamakhansela kumele enze njalo.
- 2.2 Umgudu Wokubika
USomlomo ubika, futhi ubophezeleke ukuba abike eMkhandlwini.

3. USODOLOBHA

IQhaza nemiSebenzi kaSodolobha

- 3.1 ImiSebenzi kaSodolobha eseMthethweni
 - 3.1.1 Wengamela imihlangano yeKomidi eliPhezulu futhi usayina amaminithi emihlangano yalo;
 - 3.1.2 Unikezela imisebenzi efanele kwiSekela Sodolobha;
 - 3.1.3 Uyanquma ukuthi iKomidi eliPhezulu lizohlanganela kuphi nini, kodwa uma iningi lamalungu ecela uSodolobha ngokubhaliwe ukuba abize umhlangano wekomidi, usodolobha kumele abize umhlangano ngesikhathi esibekwe esicelweni;
 - 3.1.4 Wemukela umbono wohlelo oludidiyelwe lwentuthuko yomkhandlu kwimenenja kamasipala, awethule eKomidini eliPhezulu, edlulise izincomo zeKomidi eliPhezulu eMkhandlwini ukuba uphasise uhlelo oludidiyelwe lwentuthuko;
 - 3.1.5 Wethula ezithebeni zomkhandlu umbiko wonyaka kamasipala;
 - 3.1.6 Kumele aqiniseke ukuthi umasipala uyazilungisa naziphi izinto eziphakanyiswe uMcwaningimabhuku-Jikelele embikweni wocwaningo;

- 3.1.7 Wenza yonke imisebenzi ngokoMthetho wokuPhathwa kweziMali zoMasipala kubandakanya, kodwa kungacini lapho –
- (a) unikeza ubuholi kwezombusazwe jikelele ezindabeni ezithinta izimali kanye nesabelozimali zikamasipala;
 - (b) wengamela ukusetshenziswa kwezibopho ezinikezelwe ngokoMthetho wokuPhathwa kweziMali zoMasipala yisikhulu esiphezulu kanye nesikhulu esengamele ezezimali; futhi
 - (c) zingakapheli izinsuku ezingama-30 zokuphela kwekota yonyaka, ethumele umbiko emkhandlwini ngokuqaliswa kokusebenza kwesabelozimali kanye nesimo sezimali zikamasipala.
- 3.1.8 Wenza imisebenzi ebandakanya imisebenzi yokumela umkhandlu, kanye nokusebenzisa amandla awanikezwe wumkhandlu kamasipala noma iKomidi eliPhezulu.
- 3.1.9 Uma usodolobha engekho noma engezile emkhandlwini, futhi umasipala ungenalo isekela likasodolobha noma nasekela likasodolobha nalo lingekho, usodolobha angaqoka ilungu leKomidi eliPhezulu ngokubhaliwe ukuba libambe njengosodolobha.
- 3.1.10 Uxoxisana futhi asayine isivumelwano sokusebenza semenenja yedolobha, futhi wengamela ukwakhiwa kanye nokuhlaziywa kwaleso sivumelwano.
- 3.2 Eminye imisebenzi kaSodolobha
- 3.2.1 Usebenza njengenhloko yezombusazwe kamasipala eshayela izinqubomgomo kanye namasu omkhandlu;
 - 3.2.2 Uxoxisana nomphakathi;
 - 3.2.3 Wemukela futhi abonisane namathimba amele izinhlangano zomphakathi, futhi enze izincomo ekomidini eliphezulu ngalokhu;
 - 3.2.4 Umela uMkhandlu emihlanganweni nasemicimbini;
 - 3.2.5 Ukhipha izitatimende kwabezindaba egameni lomkhandlu;
 - 3.2.6 Uholo izinhlelo zentuthuko namasu;
 - 3.2.7 Ubhekene nemisebenzi ephathelene nokuxhumana nomphakathi ngokubonisana nemenenja kamasipala;
- 3.3 Umgudu Wokubika

Usodolobha ubika futhi ubophezeleke ukuba abike ekomidini eliphezulu kanye nomkhandlu.

4. IKOMIDI ELIPHEZULU

Amaqhaza nemisebenzi kwekomidi eliphezulu

4.1 Imisebenzi esemthethweni yeKomidi eliPhezulu

4.1.1 Libuyekeza ukusebenza kukamasipala ukuze lenze ngcono:

- (a) umnotho, amakhono kanye nempumelelo kukamasipala;
- (b) impumelelo yemisebenzi yokulawulwa kwezikweletu kanye nokuqoqwa kwemali kanye nezikweletu; kanye
- (c) ukuqalisa ukusebenza kwemithetho yedolobha;

4.1.2 Liqapha ukuphathwa kukamasipala ngokulandela imiyalelo yenqubomgomo yomkhandlu kamasipala (ukuqapha umkhiqizo);

4.1.3 Lengamela ukuhlinzekwa kwezinsiza emiphakathini eyakhele umasipala ngendlela esimeme;

4.1.4 Libika kanye ngonyaka ngokubandakanyeka kwemiphakathi kanye nezinhlangano zomphakathi ezindabeni ezithinta umasipala;

4.1.5 Lidingida izincomo ngokuhleleka kohlelo oludidiyelwe lwentuthuko ukuze luhambisane nesabelozimali esitholakele emakhanseleni afanele;

4.1.6 Liqinisekisa ukuthi imibono yomphakathi iyalalelwa bese libika ngemiphumela yokubonisana ngezinqumo zomkhandlu;

4.1.7 Lenza izincomo emkhandlwini mayelana –

- (a) nokwemukelwa kwezilinganiso zemali engenayo kanye nesetshenziswayo, ngokunjalo nezabelomali zempahla enkulu kanye nokukhokhiswa kwamareyithi kanye nezinye izintela, izintela zabahlali kanye nezezimpahla;
- (b) nokuphasisa imithetho yedolobha;
- (c) nokwenyusa izimalimboleko;
- (d) nokuphasisa noma ukuchibiyela uhlelo lwentuthuko oludidiyelwe
- (e) nokuqokwa kanye nezimo zokusebenza kwemenenja kamasipala kanye nezinhloko zeminyango.

- 4.1.8 Libhekana nanoma yiziphi ezinye izindaba ezidluliselwe kulo wumkhandlu bese lethula isincomo ngazo ukuba sidingidwe wumkhandlu;
- 4.1.9 Libhekana liphinde lidingide zonke izinto elijutshwe ukuba lizibheke wumkhandlu ngokulandela uMthetho weziNhlelo zoMasipala;
- 4.1.10 Liqoka usihlalo noma osihlalo kumalungu eKomidi eliPhezulu, banoma yiliphi ikomidi elisungulwe wumkhandlu ngokwesigaba 80 soMthetho weziNhlaka zoMasipala ukuze lelekelele iKomidi eliPhezulu;
- 4.1.11 Linikezela noma yimaphi amandla kanye nemisebenzi yeKomidi eliPhezulu kunoma yiliphi ikomidi elisungulwe ngokwesigaba 80;
- 4.1.12 Liguqula noma lichitha naziphi izinqumo ezithathwe ikomidi elisungulwe ngokwesigaba 80, kuncike emalungelweni elinawo;
- 4.1.13 Lakha amasu, izinhlelo kanye nezinsiza zokubhekana nezidingo eziseqhulwini zikamasipala ngokusebenzisa uhlelo oludidiyelwe lwentuthuko kanye nezilinganiso zemali eqoqwayo kanye nesetshenziswayo, kubhekwe noma yiziphi izinhlelo zesifundazwe kanye nezikazwelonke bese lethula umbiko kanye nezincomo ngakho, emkhandlwini;
- 4.1.14 Kuncike emthethweni ofanele, lincoma noma linqume izindlela ezingcono, kubandakanya ukubambisana kanye nezinye izindlela zokuletha izinsiza, izinhlelo kanye nemiklamo ukuze kuzuze bonke abantu emphakathini;
- 4.1.15 Lihlonza futhi lakhe izindlela okuzohlolwa ngazo inqubelela phambili ekuqalisweni ukusebenza kwezinsiza, izinhlelo kanye nezinhloso okuhloswe ngazo ukubhekana nezidingongqangi zikamasipala, okubandakanya izinkomba zokusebenza ezimqoka ezihambelana ngqo nalowo masipala futhi ezisetshenziswayo ezingeni lohulumeni basekhaya jikelele;
- 4.1.16 Lengamela ukwakhiwa kohlelo lokulawula ukusebenza, linikezela imisebenzi ngalolu hlelo kwimenenja kamasipala bese lethula lolo hlelo oluhlongozwayo emkhandlwini ukuze uludingide;
- 4.1.17 Liqapha inqubekela phambi kusetshenziswa izinkomba zokusebenza ezimqoka okukhulunywe ngazo;

- 4.1.18 Lemukela bese lidingida imibiko yamakomidi ngokulandela imiyalelo njengoba ibekwe yiKomidi eliPhezulu;
- 4.1.19 Likhetha usihlalo ozophatha imihlangano uma bobabili usodolobha nesekele lakhe bengekho emhlanganweni esimweni lapho kunesibalo esifanele kulowo mhlango, uma usodolobha ehlulekile ukuqoka ilungu lekomidi eliphezulu ngokubhaliwe ukuba libambe njengosodolobha;
- 4.1.20 Lidingida izikhalazo zomuntu omalungelo akhe ahlukunyezwe yisinqumo semenenja kamasipala ngokwamandla adluliselwe, kuye ngokuthi leso sinqumo esithathwe yileli komidi angeke sihoxise nanoma yimaphi amalungelo okungenzeka ukuba atholakale ngenxa yesinqumo esingumsuka;
- 4.1.21 Libika, ngokubhaliwe, emkhandlwini kamasipala ngazo zonke izinqumo ezithathwe yiKomidi eliPhezulu emhlanganweni olandelayo owejwayelekile womkhandlu.
- 4.2 Eminyane imisebenzi yeKomidi eliPhezulu
- 4.2.1 Lincoma emkhandlwini emva kokubonisana neKomidi loMkhandlu elifanele, ngezinqubomgomo lapho umkhandlu uwagodlile amandla okuzenzela inqubomgomo ngokwawo;
- 4.2.2 Lincoma emva kokubonisana nekomidi elifanele elisungulwe ngokwesiGaba 79, imithetho yenqubo yemihlangano yomkhandlu bese liphasisa imithetho yenqubo yemihlangano yalo kanye neyamanye amakomidi;
- 4.2.3 Lenza izincomo emkhandlwini ngezinhloko zezombusazwe eziphakanyiswayo emkhandlwini;
- 4.2.4 Lenza izincomo emkhandlwini mayelana namandla omkhandlu okushaya umthetho;
- 4.2.5 Lenza izincomo emkhandlwini mayelana nezindlela zamasu, imikhombandlela kanye nemikhawulo yokukhuliswa kwesabelozimali esiwuhlaka kubandakanya uhlaka lwezintela zempahla;
- 4.3 Umgudu Wokubika
- IKomidi eliPhezulu libika futhi libophezeleke ukuba libike emkhandlwini.

5. AMAKOMIDI EMISEBENZI YOMKHANDLU

Wonke amakomidi emisebenzi omkhandlu abika eKomidini eliPhezulu. IKomidi eliPhezulu lingabuyisela udaba eKomidini loMnyango ukuba liphinde liludingide, liluchibiyele noma lemukele izincomo uma linikezwe amandla okwenza njalo, noma lethulele umkhandlu izincomo zeKomidi eliPhezulu.

5.1 Amakomidi emisebenzi yomkhandlu

Lokhu okulandelayo izibonelo zamakomidi emisebenzi yomkhandlu angasungulwa ngalinye noma ngokuhlanganyela ngokulandela isigaba 80 soMthetho weziNhlaka zoMasipala:

Ikomidi lemiSebenzi eDidiyelwe

Ikomidi lokuHlela neNtuthuko

Ikomidi lemiSebenzi yoMphakathi

Ikomidi leziMali

Ikomidi leNgqalasizinda

Lokhu okulandelayo yizibonelo zemisebenzi engaqoqelwa ndawonye ngaphansi kwamakomidi emisebenzi yomasipala efanele:

<ul style="list-style-type: none"> • Ezokuphatha • Uphiko lonobhala • Ezomthetho • Ukweseka umkhandlu • Izinqubomgomo nezinqubo • Ukwenganyelwa kwezakhiwo • Ukuqeqesha nokuthuthukiswa kwamakhono • Ezabasebenzi 	<ul style="list-style-type: none"> • Ukuhlela • Ukukhangisa • Uhlelo lwe-IDP • Imisebenzi yokwazisa • Ukwenganyelwa kwemvelo • Ukwenganyelwa kokusebenza komhlaba • Ukuthuthukiswa komnotho wendawo • Ezokuvakasha zendawo • Ukusingathwa kwemiklamo • Ukusingathwa kwezinhlelo • Ukusingathwa kwezinkontileka
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<ul style="list-style-type: none"> • Ezokuthutha umphakathi • Ezempilo • Imisebenzi yezokuvikela • Ukulawulwa kwezinhlekelele • Imisebenzi yezimo eziphuthumayo • Ukusingathwa kwemiklamo • Ukusingathwa kwezinkontileka • Ezokuxhumana • Ezezindlu nomhlaba • Amakomdi ezigceme • Izikidi • Ezokuphepha nokuvikeleka 	<ul style="list-style-type: none"> • Ezamanzi • Ezikagesi • Ezenhlanzeko (izindlu zangasese) • Izindawo zokulahla udoti oqinile • Imigwaqo kamasipala • Ingqalasizinda yezokuxhumana, ezemidlalo kanye namasiko • Ezemisebenzi yomphakathi • Ukusingathwa kwamaphrojekthi • Ukusingathwa kwezinkontileka •
<ul style="list-style-type: none"> • Amathuna (ukuwabekisa) 	<ul style="list-style-type: none"> • Umlawuli nokuqapha • Umuntu oqalisa ukusebenza • Ezezindlu (ubuchwepheshe) • Ukongiwa kwemvelo • Amapaki nokungcebeleka • Amadamu okubhukuda • Ukusingathwa kwezimoto zomkhandlu
<ul style="list-style-type: none"> • Ukwakhiwa kanye nokuqaliswa ukusebenza kwesabelozimali • Ukwenganyelwa kwemali engenayo nephumayo • Ukuhlolwa kokusebenza kanye nesabelomali phakathi nonyaka wezimali • Ukungenisa imali • Ukuqoqwa nokulawulwa kwezikweletu kanye nezimalimboleko • Ezokuthenga • Ukulawulwa kokusetshenziswa 	<ul style="list-style-type: none"> •

kwemali ebekelwe izinto ezinkulu <ul style="list-style-type: none"> • Izimali ezitshaliwe • Ukulawulwa kwezimpahla kanye noshodi • Ezocwaningo langaphakathi kanye namakomidi ocwaningo • Ukubika kanye nokucwaningwa kwezimali 	
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5.1.1 Izipho Zamakomidi emisebenzi yomkhandlu

Izipho yamakomidi emisebenzi yomkhandlu, ngokwemikhakha yawo zokusebenza, yilezi:

- ukwakha kanye nokuncoma ngesu;
- ukwakha kanye nokuncoma ngemithetho yedolobha;
- ukudinga enze izincomo mayelana nesabelomali esiwuhlaka kanye nohlelo lwe-IDP;
- ukuqinisekisa ukubamba iqhaza komphakathi ekwakhiweni kwenqubomgomo, uhlelo lwe-IDP kanye nesabelozimali;
- ukuqapha ukuqaliswa ukusebenza kwezinqubomgomo zomkhandlu; kanye
- nokuqapha zonke izingxenyana zokusebenza.

5.1.2 Imisebenzi

Ukwenza izincomo ukuba zidingidwe yikomidi eliphezulu mayelana:

- nenqubomgomo engena ngaphansi kwendawo yalo yokusebenza emva kokubonisana nenhloko yomnyango ofanele;
- nezinhlelo zokusebenza zonyaka ezingena ngaphansi kwendawo yokusebenza yalelo komidi;
- nokuqaliswa ukusebenza kwezinhlelo zokusebenza zezindawo ezingaphansi kwalelo komidi;
- nokubuyekiswa kokusebenza kwezimali kuqhathaniswa nezabelozimali eziphasisiwe okuqondene nonyaka owedlule

noma ophezulu kubandakanya ukubuka imibiko yoMcowaningimabhuku Jikelele;

- (e) nesabelomali esiwuhlaka esiqondene nezindawo zokusebenza ezingaphansi kwalelo komidi, kubandakanya izintela zempahla, emva kokubonisana neNhloko yoMnyango ofanele;
- (f) nemibiko kanye nezincomo okwethuliwe maqondana nezindawo zokusebenza ezingaphansi kwalelo komidi, kubandakanya ukuphawula okusukela emsebenzini walo wokuqapha ukusebenza;
- (g) nokulandela imithetho, izinkambiso kanye namaqophelo okuqondene nezindawo zokusebenza ezingaphansi kwalelo komidi;
- (h) nokuphasiswa noma ukuchitshiyelwa kwemithetho yedolobha ephathelene nokusebenza kwalelo komidi;
- (i) nokubeka eqhulwini imiklamo engena ngaphansi kwezindawo zokusebenza zalelo komidi;

5.1.3 Ikomidi lingabonisa nomenenja kamasipala kanye nenhloko yomnyango efanele ngezinqubomgomo kanye nezinhlelo zomkhandlu.

Umgudu Wokubika

Libika eKomidini eliPhezulu.

5.2 Amakomidi abhekele izimo ezikhethekile

Asungulwa ngokwesigaba 79 soMthetho weziNhlaka zoMasipala.

Lokhu okulandelayo yizibonelo zamakomidi angasungulwa ngokwesigaba 79

- Ikomidi leMithetho kanye neNqubo;
- Ikomidi lokuQondisa iziGwegwe lamakhansela;
- Amakomidi akhethekile okweluleka ukuze kukhuthazwe ukukhula komnotho, ezokuvakasha, njll.

5.3 AMAKOMIDI ASUNGULWA NGOKOMTHETHO

Umkhandlu kumele usukungule amakomidi, ngalinye noma ahlanganiswe lapho kunesidingo khona, nalapho kudingeka khona ngokusho komthetho. Isibonelo sekomidi elihlanganisiwe kungaba yiKomidi loCwaningo kanye

neKomidi lokuSebenza. Izibonelo zamakomidi asungulwa ngokomthetho yilezi:

5.3.1 Ikomidi locwaningo (isigaba 166 soMthetho Wokuphathwa Kwezimali Zomasipala)

(a) Ukubumbeka

- (i) IKomidi loCwaningo lakhiwe amalungu angekho ngaphansi kwamathathu, okumele abe nolwazi kanye nesipiliyoni sokubala nokucwaninga. Akukho khansela elingaba yilungu leKomidi loCwaningo.
- (ii) Ngokushesha emva kokuba umkhandlu sewukhethe waqoka amalungu eKomidi loCwaningo, kumele ukhethe oyedwa wabo njengosihlalo;

(b) Imisebenzi yeKomidi loCwaningo

- (i) IKomidi loCwaningo kumele, mayelana nanoma yiluphi ucwaningo olwenziwa egameni loMcwaningimabhuku Jikelele noma nguye uqobo, kanye nokulandela umqulu wocwaningo:

- (aa) ngokusebenzisana nemenenja kamasipala, umcwaningi wangaphandle kanye nalabo basebenzi bomkhandlu elingababona befanele, lihlole ukuhleleka, ububanzi kanye nendlela okuzokwenziwa ngalo lolo cwanningo;
- (bb) lihlole imiphumela yomcwaningi wangaphandle ikakhulukazi:

- Izivumelwano ezibalulekile ezingangeni ngaphansi kwemisebenzi ejwayelekile kamasipala;
- Ukuntenga okubonakalayo kokulawulwa kwezimali kwangaphakathi kanye nezincomo zokukwenza ngcono;
- Ukubika, ukwethulwa kanye nokushicilelwa okunobulungiswa kolwazi ezitatimendeni zezimali zonyaka;

- Ukufaneleka kwenqubomgomo yokubophezela ukuphendula elandeliwe ekwakhiweni kwezitatimende zezimali zonyaka;
 - Ukulandela indlela yokuBophezela ngokuPhendula eyeMukelekile ngokweJwayelekile koMasipala (i-GAMAP);
 - Ukulandela umthetho;
- (cc) lihlole wonkana umbiko womcwaningi wangaphandle ngezitatimende zezimali;
- (dd) lihlole izinkinga ezinkulu zocwaningo ezingaxazululwanga okwahlangabezwana nazo ngenkathi kwenziwa lolo cwaningo;
- (ee) lihlole izeluleko ezinikezwe wumcwaningimabhuku wangaphandle noma yimuphi omunye umuntu mayelana nezinhloso zekomidi locwaningo; futhi
- (ff) lihlole ukuxhumana kanye nokubambisana phakathi kwabacwaningi bangaphandle kanye nomcwaningi wangaphakathi, uma kukhona.
- (ii) IKomidi loCwaningo kumele, maqondana nocwaningo lwangaphakathi –
- (aa) libike ngqo emkhandlwini ngemiphumela yomcwaningimabhuku wangaphakathi, uma ikhona;
- (bb) lihlole ikhono kanye nokuphumelela komsebenzi wocwaningo lwangaphakathi, uma kukhona;
- (cc) lihlole izinto ezibalulekile nezisemqoka ezibikwe wumcwaningimabhuku wangaphakathi, uma zikhona;
- (iii) Ikomidi locwaningo kumele, mayelana nokubika ngezimali –
- (aa) lihlole ukuphumelela kwezinqubomgomo kanye nezinqubo zokubika ngezimali; futhi
- (iv) IKomidi loCwaningo kumele, mayelana nokulawulwa kwezimali kwangaphakathi –

- (aa) libuyekeze ukuphumelela kohlelo lokubophezela kanye nokulawula ukuba kuphendulwe ngezimali;
 - (bb) lihlole nakuphi ukuntenga kohlelo lokubika nokulawulwa kwezimali lwangaphakathi okuthokale ngokwendima 4.2.1(b)(i)(bb);
 - (cc) lihlole izindlela eziqalisiwe ukubhekana nalokho kuntenga; futhi
 - (dd) lihlole liphinde liqinisekise izinqubomgomo kanye nezinqubo zokuhlonza izindawana eziyingcuphe kanye nezindlela ezibekiwe ukuqinisekisa ukuthi kuba nolawulo olwenele kanye nokuvikeleka kwalezo zingxenyana.
- (v) IKomidi loCwaningo kumele –
 - (aa) lidingide futhi lethule umbiko ngezindaba ezidluliselwe kulo yimenenja kamasipala noma wumkhandlu, futhi
 - (bb) lenze imisebenzi eliyinikezwa wumkhandlu ukuba liyenze izikhathi ngezikhathi.
- (c) Amandla eKomidi loCwaningo:
 - (i) IKomidi loCwaningo, ngendlela efanele ukuze lenze imisebenzi yalo ngempumelelo futhi lifeze izinjongo zalo kumele -
 - (aa) lithole futhi ihlole noma yimaphi amarekhodi, imibhalo kanye nolwazi olusezandleni zikamasipala noma umsebenzi kamasipala;
 - (bb) lithole futhi lihlole noma yiziphi izakhiwo lapho kwenzelwe khona imisebenzi kamasipala;
 - (cc) likhulumisane nomkhandlu noma naliphi ikomidi lomkhandlu bese licela namuphi umsebenzi kamasipala ukuba avele ngaphambi kwalo ukuze aphonswe imibuzo;
 - (dd) liphenye naluphi udaba, noma lenze ukuba kuphenywe naluphi udaba yinoma yimuphi

- umsebenzi kamasipala, emva kokubonisana nemenenja kamasipala;
- (ee) liqiniseke ukuthi izinqubomgomo, izinhlelo kanye nokubika okuyimpumelelo kuyaqaliswa ukusebenza futhi kuyasetshenziswa; futhi
- (ff) likhuthaze ukwenziwa ngcono kwamazinga okubika ngezimali.

Umgudu Wokubika

Libika emkhandlwini lidlule eKomidini eliPhezulu.

5.3.2 IKomidi lokuCwaninga uKwenziwa komSebenzi

- (a) Ukubumbeka
- IKomidi lokuCwaninga uKwenziwa Komsebenzi kumele liqokwe ngokwesigaba 14(2)(a) kanye no (b) zeMithethonqubo yokuPhathwa kokuHlelwa nokuSebenza koMasipala yoHulumeni Basekhaya:, ka 2001;
- (b) Imisebenzi nezibopho kweKomidi lokuCwaninga uKwenziwa komSebenzi:
- (i) libuyekeza imibiko yamakota eyethulwe kulo wuPhiko loCwaningo lwangaPhakathi;
- (ii) libuyekeza uhlelo lokusingatha ukwenziwa komsebenzi libhekise emnothweni, amakhono, impumelelo kanye nomthelela ezinkombeni zokwenziwa komsebenzi ezimqoka kanye namaqophelo okwenza umsebenzi abekiwe njengoba ebekwe ngumasipala, bese lenza izincomo ngalokhu emkhandlwini lidlule eKomidini eliPhezulu;
- (iii) Okungenani kabili ngonyaka wezimali lethula umbiko wocwaningo emkhandlwini kamasipala lidlula eKomidini eliPhezulu.
- (c) IKomidi lokuCwaninga uKwenziwa komSebenzi:

- (i) lingaxhumana ngqo noMkhandlu, iMenenja kaMasipala noma abacwaningi bangaphakathi nabangaphandle bamasipala;
- (ii) lingathola noma yimaphi amarekhodi kamasipala aqukethe ulwazi oludingekayo ukuze lenze imisebenzi yalo;
- (iii) lingacela namuphi umuntu ukuba ethamele imihlangano yalo, futhi uma kunesidingo, lihlinzeke ulwazi olucelwe yikomidi futhi liphenye naluphi udaba elilubona lunesidingo ekwenzeni umsebenzi lisebenzise namandla alo.

5.3.3 Ikomidi lokudlulisa izikhalazo (isigaba 62 soMthetho weziNhlelo zoMasipala)

Libheka izikhalazo ezidlulisiwe ngesinqumo esithathwe wuhlaka lwezombusazwe noma isiphathimandla sezombusazwe noma ikhansela ezivela kumuntu omalungelo akhe ahlukunyezwe yileso sinqumo esithathwe ngaphansi kwegunya elinikeziwe, kweyame ekutheni isinqumo sekomidi lokudlulisa izikhalazo angeke samphuca namaphi amalungelo atholakele ngenxa yesinqumo esingumsuka.

Ezinye izibonelo zamakomidi asungulwe ngokulandisa komthetho zibandakanya:

5.3.4 Amaphaneli (ithimba) okubuyekeza okukhulunywa ngawo kumthethonqubo 27(4)(d) kanye no (e) weMithethonqubo ebhekele ukwenziwa kwemisebenzi yomasipala yizimenenja zomasipala zibika abika ngqo komenenja bomasipala.

Umgudu Wokubika

Abika eMkhandlwini edlula eKomidini eliPhezulu.

6. IMENENJA KAMASIPALA

Amaqhaza Nemisebenzi

6.1 Amandla kanye nemisebenzi kwemenenja kamasipala

Njengenhloko yezokuphatha nesikhulu esiphezulu sikamasipala, lamandla kanye nezibopho okulandelayo asemthethweni anikezwe imenenja kamasipala ngokulandela izihlinzeko uMthetho weziNhlaka zoMasipala kanye noMthetho weziNhlelo zoMasipala:

- 6.1.1 Ukusungula kanye nokwakha uphiko lwezokuphatha olongayo, olunempumelelo, olunamakhono, oluzibophezele ekuphenduleni nokuphokophela ukwenza umsebenzi;
- 6.1.2 Ukusingatha uphiko lukamasipala lwezokuphatha ngokulandela izihlinzeko zoMthetho weziNhlelo zoMasipala kanye neminye imithetho efanele kamasipala;
- 6.1.3 Ukwengamela iMithethonqubo yokuSebenza kukaMasipala yezimenenja zomasipala kanye nezimenenja ezibika abika ngqo kwizimenenja zomasipala, ka-2006;
- 6.1.4 Ukuqalisa ukusebenza uhlelo lwe-IDP lukamasipala, kanye nokuqapha inqubekela phambili ekuqalisweni kwalo ukusebenza;
- 6.1.5 Ukwengamela ukuhlinzekwa kwezinsiza emiphakathini, kubahlali kanye nabakhokhi bamareyithi ngendlela esimeme;
- 6.1.6 Ukulawula kanye nokwengamela ukusetshenziswa ngempumelelo kanye nokuqeqeshwa kwabasebenzi;
- 6.1.7 Ukugcina ukuziphatha kubasebenzi;
- 6.1.8 Ukukhuthaza ubudlelwano phakathi kwabasebenzi nomqashi kanye nokulandela kukamasipala imithetho efanele yezabasebenzi, izimo zokusebenza kanye nezivumelwano;
- 6.1.9 Ukweluleka izinhloko kanye neziphathimandla zikamasipala;
- 6.1.10 Ukwengamela ukuxhumana phakathi kophiko lwezokuphatha lukamasipala kanye nezinhloko neziphathimandla zawo;
- 6.1.11 Ukuqalisa ukusebenza izinqumo zezinhloko kanye neziphathimandla zikamasipala;
- 6.1.12 Ukusingatha kanye nokuqalisa ukusebenza imithetho yedolobha kanye nenqubomgomo;
- 6.1.13 Ukuqalisa ukusebenza imithetho kazwelonke neyesifundazwe ehambisana nalowo masipala;

- 6.1.14 Ukukhuthaza ukubamba iqhaza kwemiphakathi, abahlali, abakhokhi bamareyithi kanye nabanye ababambiqhaza ezindabeni ezithinta umasipala;
- 6.1.15 Ukugunyazisa ukusetshenziswa kwezakhiwo zikamasipala ngamalungu omkhandlu ngokulandela inqubomgomo;
- 6.1.16 Ukuphasisa uhlaka lwabasebenzi ngaphansi kohlaka lwenqubomgomo olunqunywe wumkhandlu;
- 6.1.17 Ukweluleka ikomidi eliphezulu, ngokulandela uhlelo lokubonisana olubekiwe, ngabantu abaqokwe ngokwesigaba 57;
- 6.1.18 Ukuqoka abasebenzi abasezingeni elingaphansi kwabaphathi abaqokwe ngokwesigaba 57 ngokulandela inqubomgomo yokuqasha kamasipala;
- 6.1.19 Ukwengamela yonke imali engenayo nephumayo kumasipala;
- 6.1.20 Ukwengamela zonke izimpahla kanye nokukhokha zonke izikweletu zikamasipala;
- 6.1.21 Ukwengamela ukulandelwa okufanle nokunokuzimisela koMthetho wokuPhathwa kweziMali zoMasipala; kanye
- 6.1.22 Nokucubungula izikhalazo ezidluliswe ngumuntu omalungelo akhe ahlukunyezwe yisinqumo esithathwe ngaphansi kwegunya elinikeziwe, somsebenzi okungeve kuyimenenja kamasipala, kuye ngokuthi leso sinqumo sikamenenja kamasipala angeke sibuyisele emuva namaphi amalungelo atholakele emva kwesinqumo esingumsuka.

6.2 Umgudu Wokubika

Imenenja kamasipala ibika futhi ibophezeleke ukuba iphendule emkhandlwini kanye nasekomidini eliphezulu.

7. ISIKHULU ESIPHEZULU SEZIMALI

7.1 Iqhaza lesikhulu esiphezulu sezimali

Isikhulu esiphezulu sezimali

- Ngokwezokuphatha sengamele isabelozimali kanye nehhovisi lomgcinimafa;

- Kumele seluleke isikhulu esiphezulu ngokusebenzisa amandla kanye nesibopho okunikezwe isikhulu esiphezulu ngokoMthetho wokuPhathwa kweziMali zoMasipala;
- Kumele sisize isikhulu esiphezulu ekusingathweni kwama-akhawunti asebhange kamasipala kanye nasekwakheni nasekuqaliseni isabelozimali sikamasipala;
- Kumele seluleke abaphathi abaphezulu kanye nezinye izikhulu eziphezulu mayelana nokusebenzisa amandla kanye nezibopho ezinikezwe wona ngokwesigaba 78 soMthetho wokuPhathwa kweziMali zoMasipala abadluliselwe wona ngokwesigaba 79 soMthetho wokuPhathwa kweziMali zoMasipala;
- Kumele senze imisebenzi efana nesabelozimali, ukubala, ukuhlaziya, ukubika ngezimali, ukusingatha imali engukheshi, ukwengamela izikweletu, ukuhweba (ukuthenga), ukuphathwa kwezimali, ukubuyekeza kanye neminye imisebenzi ngokwesigaba 79 soMthetho wokuPhathwa kweziMali zoMasipala edluliselwe esikhulwini esiphezulu sezimali yisikhulu esiphezulu sikamasipala.

7.2 Umgudu wokubika

Sibika futhi sibophezeleke ukuba siphendule esiKhulwini eziphezulu samaBhuku/ imenenja kamasipala.

ISIGABA II.

**UMBHALO OWUMHLAHLANDLELA WOHELO
LOKUDLULISELWA**

KWAMANDLA KOMASIPALA

OKUQUKETHWE

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ISAPHLUKO 1

UKUHUNYUSHWA NOMLANDO

I. IZINCAZELO

- (i) Kulo mbhalo, ngaphandle uma ingqikithi isho okwehlukile –
“**amandla**” kusho kusho isibopho kanye nomsebenzi;

“**emva kokubonisana**” kusho ukulalela ngokufanele imibono yanoma yimuphi umuntu umgwamanda odluliselwe amandla okumele ubonisane naye ngaphambi kokusebenzisa amandla elinikezwe wona noma eliwanikezwe wonikezwe wona;

“**ezokuphatha**” kusho imenenja kamasipala kanye nabanye abasebenzi bakamasipala;

“**iLungu loMkhandlu oPhethe**” kusho ilungu loMkhandlu oPhethe wesiFundazwe elibhekele oHulumeni baseKhaya;

“**isibopho sezombusazwe**” kusho isibopho sokwakha amasu kanye nezinqubomgomo kanye nokuqiniseka ukuthi kuyaqaliswa ukusebenza;

“**isiphathimandla esidlulisa amandla**” mayelana nokudluliswa kwamandla wumkhandlu, kusho lowo mkhandlu, kanti uma amandla edluliselwa ngonikezwe wona, kusuke kushiwo lowo owadlulisile;

“**isiphathimandla sezombusazwe**” mayelana nomasipala, kusho usomlomo, usodolobha, isekela likasodolobha noma ilungu lekomidi eliphezulu kumasipala njengoba kubekiwe eMthethweni weziNhlaka zoMasipala;

“ngokubonisana” kusho ukuvumelana nomuntu okumele umgwamanda odluliselwe amandla okumele ubonise naye ngaphambi kokusebenzisa lawo mandla odluliselwe wona noma owadluliselwe ngonikezwe wona;

“uhlaka lwezomusazwe” mayelana nomasipala, kusho uMkhandlu noma naliphi ikomidi noma olunye uhlaka oludidiyelwe lukamasipala olukhethiwe, oluqokiwe noma olujutshiwe ngokulandela uMthetho weziNhlaka zoMasipala;

“uhlelo oludidiyelwe lwentuthuko (i-IDP)” kusho uhlelo oludidiyelwe lwentuthuko lomkhandlu;

“ukunikezelwa kwamandla” mayelana nomsebenzi, kubandakanya umyalelo wokwenza lowo msebenzi, “ukunikezela” kunencazelo efuze leyo;

“umgwamanda odluliselwe amandla” mayelana nokunikelwa kwamandla kusho uhlaka lwezombusazwe, isiphathimandla sezombusazwe noma umsebenzi onikezwe amandla ngokubhaliwe yisiphathimandla esidlulisa amandla;

“uMkhandlu” kusho umkhandlu kamasipala, ongene esikhundleni sawo ngokusemthethweni nanjengoba kubekiwe esigabeni 157(1) soMthethosisekelo waseNingizimu Afrika;

“uMthetho we-MPRA” kusho uMthetho wamaReyithi oMhlaba kaMasipala woHulumeni baseKhaya, 2004 (uMthetho No. 6 ka 2004);

“uMthetho weziNhlaka” kusho uMthetho weziNhlaka zoMasipala woHulumeni baseKhaya, 1998 (uMthetho No. 117 ka 1998);

“uMthetho weziNhlelo” kusho uMthetho weziNhlelo zoMasipala woHulumeni baseKhaya, 2000 (uMthetho No. 32 ka-2000);

“uMthetho wokuPhathwa kweziMali zoMasipala (MPRA)” kusho uMthetho wokuPhathwa kweziMali zoMasipala woHulumeni baseKhaya, 2003 (uMthetho No. 56 ka 2003);

“uMthethosisekelo” kusho uMthethosisekelo yeRiphabhuliki yaseNingizimu Afrika, 1996 (uMthetho 108 ka 1996);

“usihlalo wekomidi” kusho ilungu leKomidi eliPhezulu eliqokwe yilelo komidi njengosihlalo wekomidi elibhekele umnyango othile;

(ii) Kulo mbhalo, ngaphandle uma ingqikithi isho okwehlukile, amagama kanye nezincazelo asho -

- ubunye afaka nobuningi, ngokunjalo nalawo akhomba ubuningi afaka nobunye;
- umuntu phaqa kufaka phakathi umuntu osemthethweni, kanti lapho kukhulunywa khona ngomuntu osemthethweni kufaka phakathi umuntu phaqa;

II. UMLANDO

UMthethosisekelo waseNingizimu Afrika uyasho ukuthi amandla okuphatha nawomthetho omasipala atshalwe emikhandlwini yomasipala. Umasipala unemisebenzi kanye namandla onikezwe wona ngokwesigaba 156 kanye nesigaba 229 zoMthethosisekelo.

Isigaba 59(1) soMthetho weziNhlelo zoMasipala udinga ukuba umkhandlu kamasipala wakhe uhlelo lokudluliswa kwamandla oluzokwenza ngcono indlela yokusebenza nokuphatha futhi uhlinzeke izindlela zokugwema nokuvala izikhala lapho zingavuleka khona, ngokulandela lolo hlelo –

- ungadlulisela amandla kunoma yiluphi uhloko lwezombusazwe, isiphathimandla sezombusazwe, amakhansela noma abasebenzi bakamasipala;

- ungayalela lolo hlaka lwezombusazwe, lesi siphathimandla sezombusazwe, lelo khansela noma lowo msebenzi ukuba enze noma yimiphi imisebenzi kamasipala; futhi
- ingakuhoxisa nakuphi ukudluliswa kwamandla noma umyalelo.

III. UKUDLULISWA KWAMANDLA

EMthethweni weziNhlelo zoMasipala, “ukudluliswa kwamandla” kuchazwe kwabhekiswa emsebenzini, okufaka phakathi umyalelo wokwenza lowo msebenzi. Igama elithi “dlulisa amandla” laba nencazelo efuze leyo.

Eminye yemigomo yokudluliswa kwamandla yile elandelayo:

- Amandla angadluliselwa kuphela ezingeni eliphansi lezokuphatha; futhi
- Inhloso ukwehlisa umthwalo osemahlombe abaphathi abaphezulu, kanye nokusebenzisa abasebenzi abakhona ngaphakathi ngokugculisayo.

Ngokwejwayelekile, ngokwesigaba 59 soMthetho Wezinhlelo Zomasipala, amandla angadluliselwa –

- Kunoma yiluphi olunye uhlaka lwezombusazwe;
- Kwiziphathimandla zezombusazwe;
- Emakhanseleni; kanye
- Nakubasebenzi.

Isigaba 59(2)(d) soMthetho weziNhlelo zoMasipala siphinde sihlincekele ukuthi umyalelo wokudluliswa kwamandla koyedwa walaba abangenhla ungabandakanya amandla ongawadlulisela kongaphansi amandla owadluliselwe ngongaphezu kwakho. Kubalulekile kodwa-ke ukuqaphela ukuthi amandla adluliselwe ancike ekubuyekizweni, emikhawulweni, emibandeleni kanye nasemiyalelweni umkhandlu noma isiphathimandla esiwadlulisile esingayibeka. Ngaphansi kwezimo ezithile, umkhandlu noma isiphathimandla esidlulisa amandla singanquma ukuwahoxisa lawo mandla noma lowo myalelo. Lezi izindlela ezakhiwe wumkhandlu ezakhelwe kulolu hlelo.

Isigaba 59(2)(e) soMthetho weziNhlelo zoMasipala sihlinzekela ukuba amandla noma umyalelo okunikezelwe ngokwesigaba 59(1) akuwethuli umkhandlu umthwalo omayelana nokusetshenziswa kwamandla noma wokwenziwa kwalowo msebenzi.

(i) Ukusingatha uhlelo lokudluliselwa kwamandla

Ukusingatha uhlelo lokudluliselwa kwamandla wumsebenzi oqhubekayo.

Isibonelo, ukudluliswa kwamandla kumele kubuyekizwe –

- uma kukhethwa umkhandlu omusha;
- uma kunesichibiyelo kwizinqubomgomo zomkhandlu; kanye
- nasemva kokubuyekizwa kwemisebenzi kanye namandla okwabiwe.

Lokhu ukuqiniseka ukuthi ngazo zonke izikhathi amandla adlulisiwe ayahambisana nezinqubomgomo, amaqhaza kanye nezibopho zababambiqhaza.

Ekuhlolisisweni kahle, izimo zikamasipala nomasipala ziyokhomba ukuthi iziphi izinto okumele zidluliswe futhi ngaphansi kwamiphi imibandela.

VI. IZINHLOSO ZOKUDLULISWA KWAMANDLA

Izinhlalo zokudlulisa amandla kuyoba –

- ukuqiniseka ukusebenza kanye nokuphathwa kukamasipala ngempumelelo ngale kokudlulisa isibopho sokubika;
- ukuhlinzeka uholo oluhle kanye nokuvumela ukuthi kuvalwe imisansa lapho ingavuleka khona;
- ukudlulisa ukuthathwa kwezinqumo ezingeni elingasebenza ngenkulu impumelelo ophikweni lwezokuphatha;
- ukubandakanya abasebenzi ezinqumweni zabaphathi ngokusemandleni;
- ukukhuthaza umoya wokusebenza ngokubambisana;
- ukunikezela imisebenzi ecacile ukuze kuphathwe futhi kwenganyelwe uphiko lwezokuphatha, izinhlelo kanye nezindlela zokusebenza;

- ukuchaza kahle kamhlophe imibandela yemisebenzi edluliselwa kulolo nalolo hlaka lwezombusazwe, isiphathimandla sezombusazwe kanye nemenenja kamasipala;
- ukunquma ubudlelwano phakathi kwezinhlaka zezombusazwe, iziphathimandla zezombusazwe kanye nophiko lwezokuphatha, kanye nemigudu efanele yokubika kwalolo nalolo hlaka.

V. IMIGOMO YOKUDLULISWA KWAMANDLA

Ukudluliswa kwamandla kumele kubhalwe phansi futhi kuncike emikhawulweni, emibandeleni kanye nasemiyalelweni umkhandlu kamasipala ongakubeka.

Ukudluliswa kwamandla akumele kushayisane noMthethosisekelo, uMthetho weziNhlelo zoMasipala kanye noMthetho weziNhlaka zoMasipala, noma namuphi omunye umthetho;

Konke ukudluliswa kwamandla kumele kuqinisekise ukuthi umkhandlu uyawagcina wonke amandla okushaya umthetho kanye nalawo mandla okuphatha angeke adluliselwa kolunye uhlaka ngokomthetho.

Ukwakhiwa kwenqubomgomo kanye nohlelo lokunquma kumi kanje:

- Inqubomgomo inqunywa wumgwamanda onegunya lokwenza njalo ngokulandela izinhlelo zokudluliswa kwamandla kamasipala.
- Noma yiluphi olunye uhlaka olusungulwe ngokusemthethweni lungaqalisa ukwakhiwa kwenqubomgomo. Inqubo elandelwayo ekunqumeni inqubomgomo iyoncika ekutheni yimuphi umgwamanda onegunya elingujuqu lokuyiphasisa;

Umkhandlu njengesikhungo esishaya umthetho futhi esinamandla okuphatha angeke wawasebenzisa namaphi amandla awo noma wenze umsebenzi owedlule esinikezwe wona wumthetho.

Konke ukudluliswa kwamandla kuncike ekulandeleni imithetho, izinqubomgomo zomkhandlu kanye nezinqubo, imithetho yenqubo emile, uhlelo lwawo lwe-IDP kanye nesabelomali.

Ukudluliswa kwamandla kumele kuqhubele phambili ukwethulwa kwezidigo ngale kokudlulisa ingcabha yokubophezeleka ekuphenduleni.

Ukudluliswa kwamandla akumphoqi lowo onikezwe wona ukuba awasebenzise lawo mandla, kanti kuvumela ukuba isinqumo sithathwe ezingeni eliphezulu kunelakhe.

VI. IMIBANDELA YOKUDLULISWA KWAMANDLA

Wonke amandla okuthatha izinqumo adluliswe wumkhandlu ancike kule mibandela elandelayo:

- Amandla adlulisiwe anikezwa uSodolobha, uSomlomo, iKomidi eliPhezulu, amakhansela kanye nemimsebenzi esezinhlenganweni, hhayi umuntu owenza lowo msebenzi ngqo;
- Ukudluliswa kwamandla kusebenza kubantu abasezikhundleni zamabamba. Abantu ababambe kulezi zikhundla banamandla afanayo njengalabo abasebenza ngokugcwele, kuye ngokuthi isiphathimandla esinamandla sibaqokele kulezo zikhundla zamabamba;
- Ekusebenziseni namaphi amandla adlulisiwe, umgwamanda odluliselwe kumele ulandele yonke imithetho efanele, izinqubomgomo kanye nezinqubo komkhandlu, imithetho emile yenqubo noma yiziphi izivumelwano ezifanele;
- La mandla adlulisiwe awachazi kabusha amandla kanye nemisebenzi komkhandlu.
- Izinqubomgomo, kungaba ezikhona noma ezisazosungulwa, ziyonquma imikhawulo yanoma yikuphi ukudluliswa kwamandla kanti umgwamanda owedlulisayo ubophezelwe yiwo. Kungumthwalo wesiphathimandla esidlusayo kanye nophiko lomkhandlu olushaya umthetho ukuqiniseka ukuthi kwakhiwa izinqubomgomo ezicacile nezibanzi.
- Ekusebenziseni amandla adlulisiwe, akukho mali engasetshenziwa ngaphandle uma isiphathimandla esidluliselwe seneliseka ukuthi umkhandlu ukufakiwe

kwisabelomali ukuthi kusetshenziswe, nokuthi izimali zisekhona kumavoti esabelomali afanele.

- Umkhandlu, nangasiphi isikhathi, kuncike emthethweni ofanele, ungayalela odluliselwe amandla ukuba angalisebenzisi lelo gunya alinikeziwe ngendlela ethile kanti futhi umkhandlu kumele ube sewubhekana nalolo daba.
- Odluliselwe amandla kanye/ noma odlulisele amandla banganquma ukuthi kungabe umbiko uyadingeka yini usho izizathu ngesinqumo nokuthi lesi sinqumo kumele yini sibhalwe phansi. Uma kudingeka umbiko, kumele uveze ukuthi zonke izimfuneko zomthetho nezezimali zilandelwe.
- Ukudluliswa kwamandla kungabeka izimo ezikhethekile lapho isiphathimandla esidluliselwe amandla esingavumelekile ukuba sisebenzise lawo mandla aso.
- Ukudluliselwa kwamandla ngodluliselwe kumele kubhalwe phansi futhi kuqoshwe ohleni lwamandla adluliselwe, okumele ihlezi ishintshwa ngazo zonke izikhathi ngumenenja kamasipala noma umuntu ogunyazwe ukuba enze njalo.
- Zonke izinqumo ezihlukumeza amalungelo abanye abantu kumele zibhalwe phansi kanti izizathu zalezo zinqumo kumele ziqoshwe.
- Umkhandlu noma esinye isiphathimandla esidlulisa amandla, noma yingasiphi isikhathi, singahoxisa, sifake imibandela noma sichibiyele amandla adlulisiwe.
- Umkhandlu kumele, ngokulandela izinkambiso zemithetho yawo yenqubo ubuyekeze noma yisiphi isinqumo esithathwe ngaphansi kwamandla adlulisiwe uma ucelwa ukuba wenze njalo ngokubhaliwe okungenani yikota yamalungu omkhandlu.
- Kumele kuhlinzekelwe ukwehlukanisa phakathi kwesigaba sokuhlola nezincwadi sohlelo lokuthathwa kwezinqumo kanye nesinqumo uqobo lwaso. Lokhu kumele kwenzeke kuzo zonke izimo lapho uhlelo lokuthathwa kwesinqumo lungakwazi ukuthi lwehlukaniseke njengoba kubekiwe ngenhla.
- Zonke iziphathimandla ezidluliselwe amandla kumele zibike izinqumo ngamandla ezinikwe wona ngezikhawu eziyodingwa yisiphathimandla esidluliselayo. Le mibiko kumele yenze ukuba isiphathimandla esidlulisayo sikwazi ukunquma ukuthi kungabe izinqubomgomo ezilawula lawo mandla zenele kanye nokuthi kungabe lawo mandla afanelekile yini.

- Ukudluliswa kwezikhalazo nganoma yiziphi izinqumo ezithathwe ngokwanoma yiliphi igunya elidlulisiwe kumele zibhekwe ngokulandela uMthetho weziNhlelo zoMasipala yisiphathimandla esibhekele izikhalazo esifanele.
- Isiphathimandla esidlulisa amandla singadinga ibinzana lezinqumo ezikhethiwe ezithathwe ngumuntu onikezwe igunya ukuba zicwaningwe wuphiko locwaningo lwangaphakathi.

VII. OKUNGANGENI KANYE NOKUNQATSHELWA

Umkhandlu kamasipala angeke wayidlulisa yonke imisebenzi yawo.

(i) Okungangeni

Isigaba 160(2) soMthethosisekelo kanye neminye imithetho kuvimbela imikhandlu kamasipala ukuba yedlulise eminye imisebenzi. Lena ibandakanya lezi zinto ezilandelayo ezingeke zadluliselwa futhi kumele zenziwe yimikhandlu yomasipala –

- Ukumiswa kwemithetho yedolobha;
- Ukuphasiswa kwesabelozimali;
- Ukukhokhisa amareyithi kanye nezinye izintela, izintela zabahlali kanye nentela yempahla;
- Ukukhuphula imalimboleko;
- [UMthethosisekelo waseNingizimu Afrika, isigaba 160(2)]
- Ukuphasisa noma ukuchibiyela uhlelo lwe-IDP;
- Ukunquma ukungena esivumelwaneni sokwethula kwezidingo (ngokwesigaba 76(b) soMthetho weziNhlelo);
- Ukunqunywa kwamanani;

[Isigaba 59(1) soMthetho weziNhlelo]

- Ukuqokwa kanye nezimo zokusebenza kwemenenja kamasipala kanye nenhloko yomnyango kamasipala.

[isigaba 30(5)(c) soMthetho weziNhlaka]

(ii) Ukudluliswa kwamandla okunezithibelo

Amanye amandla, ngokwesigaba 60(1) kanye no (2) soMthetho weziNhlelo angadluliswa, kodwa kuphela ezikhundleni kanye nasekomidini elithile. La mandla alandelayo, ngaphansi kohlaka lwenqubomgomo enqunywe wumkhandlu kamasipala, angadluliselwa –

- ekomidini eliphezulu kuphela, mayelana –
 - nezinqumo zokudla impahla engasuki noma amalungelo empahleni engasuki;
 - emva kokuqokwa, ukunqunywa noma ukuguqulwa kwenkokhelo kanye nezibonelelo noma izimo zokusebenza kwemenenja kamasipala noma ezinye izimenenja ezibika ngqo kwimenenja kamasipala.
- kwiMenenja kamasipala mayelana–
 - Nezinqumo zokutshala izimali egameni likamasipala ngaphansi kohlaka lwenqubomgomo enqunywe nguNgqongqoshe wezeziMali.

VIII. UKUQOSHWA KWAMANDLA ADLULISIWE

Ngokwesigaba 59(1)(d) soMthetho Wezinhlelo Zomasipala, amandla adlulisiwe kumele abhalwe phansi. Kodwa ayibekiwe indlela yokwenza. Nakuba la mandla engaqoshwa ngezindlela ezahlukene, imisebenzi kamasipala ihlukene ngendlela yokuthi kungaba nzima ukufinyelela kalula noma ukukhumbula amandla adlulisiwe wumkhandlu njengoba enjalo.

(i) Uhla oludidiyele lwamandla adlulisiwe

Ukugcina “uhla oludidiyele lwamandla adlulisiwe” kuyoxazulula izinkinga ezibaliwe ngenhla. Ukuvuselelwa kohlu kumele kudluliselwe kumuntu osondelene nemisebenzi yomkhandlu kamasipala kanye/ noma ikomidi eliphezulu. Futhi oyohlezi eqwashile njalo uma kunamandla amasha adluliswayo noma kubuyekezwa noma kuchitshiyelwa amandla avele esedlulisiwe.

(ii) Indlela okuzobhalwa ngayo uhla oludidiyele lwamandla adluliselwe

Ngokujwayelekile, zimbili izindlela amandla adlulisiwe angahleleka ngayo ohleni.

- Ukuhlukanisa ngokwemisebenzi

Kule ndlela, wonke amandla adlulisiwe afakwa ngaphansi kwesihloko somsebenzi othile, isibonelo, Ezezimali, Ezabasebenzi noma Ezobuchwepheshe.

Uma le ndlela yokwehlukanisa isetshenziswa, uhla luzoba namakhalamu amane, isibonelo:

Inombolo	Ukugunyazwa kwekhefu lokugula	Inhloko Yomnyango	Nombolo
3.1	Ukugunyazwa kwekhefu lokugula	Inhloko Yomnyango	Nombolo 0

Nakuba le ndlela yenza kube lula ukuthola ukuthi umsebenzi othile udluliseliwe yini, nokuthi uma kunjalo, udluliselwe kubani, umthelela omubana ukuthi akuwona wonke amandla adlulisiwe athinta umsebenzi owodwa, ngakho-ke, kumele afakwe ohleni ngaphansi kwemikhakha eyahlukene.

- Ukwehlukanisa ngokwesiphathimandla esidluliselwe

Kule ndlela yokwehlukanisa, wonke amandla adlulisiwe amasha afakwa ngaphansi kwesihloko esifanele sesiphathimandla esidluliselwe kanti nenombolo yezinye izigaba isala ingaguqukile. Uma le ndlela isetshenziswa, izinto ezifakiwe zinamakhalamu amathathu aqukethe –

- Inombolo yamandla adlulisiwe (ngokulandelana kwezinombolo)

- Ukubhalwa ngokugcwele kwamandla adlulisiwe, kubandakanya amandla aphinde adluliselwa ezingeni elingaphansi kwelodluliselwe (uma ekhona);
- Inombolo yokubuyezekwa;

3. UMqondisi Wemisebenzi Ebnikele Abasebenzi			
Inombolo	Ukuhluwa kwamandla adlulisiwe	Ielphathimandla Eelnikeziwe	Inombolo Yokubuyezeka
3.1	Ugunyaza ukusetshenziswa kwezimoto zomkhandlu	Inhloko Yomnyango	Nombolo 1.0

Ingxenyana embi ngale ndlela ukuthi ukuze uthole ukuthi amandla athile edluliswa yini, umuntu kuyodingeka ukuba abheke kulo lonke uhla lwamandla adlulisiwe, ngaphandle uma etshelwa ukuthi kungenzeka ukuthi lawo mandla anikezelwa bani.

Ubuhle bale ndlela ukuthi umuntu uthole ngokuphonsa iso ukuthi yimiphi imisebenzi esidluliselwe kumuntu noma ikomidi elithile ngokuthola nje isihloko esifanele segunya elidluliselwe.

ISAPHLUKO 2

UKUDLULISWA KWAMANDLA OKUJWAYELEKILE

1. USOMLOMO

1.1 Amandla adlulisiwe

1.1.1 Njengazo zonke iziphathimandla zezombusazwe, usomlomo wenza imisebenzi futhi usebenzisa amandla adluliselwe kusomlomo ngokwesigaba 59 soMthetho weziNhlelo zoMasipala.

1.1.2 Wenza eminye imisebenzi ayinikezwe ngokwemithetho yenqubo yomkhandlu; kanye

1.1.3 Nanoma yiluphi olunye udaba umkhandlu ongalunquma.

1.2 Umgudu wokubika

Usomlomo ubika eMkhandlwini.

2. USODOLOBHA

2.1 Amandla adlulisiwe

2.1.1 Uma umkhandlu uya ekhefini, usodolobha, ngokubonisana nemenenja kamasipala uthatha izinqumo egameni leKomidi eliPhezulu noma amakhansela okuthi uma singathathwanga ngandlela thize kuthunaze umkhandlu, kuzo zonke izimo ezifuze lezo usodolobha kumele abike ngalezo zinqumo emhlanganweni olandelayo wekomidi eliphezulu;

2.1.2 Ungunyaza amafomu ezibonelelo zezinto zokuhamba nokuziphilisa zemenenja kamasipala noma ibamba lemenenja kamasipala;

2.1.3 Ungunyaza ukuhanjelwa kwezingqungquthela yimenenja kamasipala noma ibamba lemenenja kamasipala;

2.1.4 Ungunyaza ikhefu lemenenja kamasipala noma ibamba lemenenja kamasipala;

2.1.5 Nanoma yiluphi udaba umkhandlu ongalunquma.

2.2 Umgudu wokubika

USodolobha ubika eKomidini eliPhezulu kanye nasemkhandlwini.

3. IKOMIDI ELIPHEZULU

3.1 Amandla adluliselwe ekomidini eliphezulu

3.1.1 Amandla jikelele

- (a) Lijuba amakhansela ukuba asebenze ngokugcwele, njengoba kunqume uNgqongqoshe;
- (b) Linquma inqubomgomo mayelana nezindaba ezingena ngaphansi kwamandla adluliselwe eKomidini eliPhezulu noma ngaphansi kwamandla esigungu esiphezulu, ezingeni elingaphansi kwalo;
- (c) Liphawula ngemithetho ehlongozwayo kanye nezinqubomgomo;
- (d) Liqoka noma liphakamise amakhansela ukuba ahambele imihlangano noma izingqungquthela zikazwelonke noma eziseduze;
- (e) Liqoka noma liphakamise amakhansela ukuba amele umkhandlu emigwamandeni engaphandle;
- (f) Lengamele ukusebenza kwamakhansela;
- (g) Linquma ukuthatha izinyathelo noma ukuvikela nasiphi isinyathelo senkantolo ephakeme, noma inkantolo elingana nephezulu noma enamandla angaphezulu;
- (h) Linquma ukuthatha izinyathelo noma ukuvikela izinhlelo zokulamula ezindabeni lapho ezazingadingidwa yinkantolo ephakeme noma inkantolo elingana nephezulu noma enamandla angaphezulu;
- (i) Ligunyaza ikhefu kumalungu ekubeni angayihambeli imihlangano yekomidi eliphezulu;
- (j) Izinqumo zokudla impahla engasuki noma amalungelo empahla engasuki ngaphansi kohlaka lwenqubomgomo olubekiwe.

3.1.2 Ezezimali

- (a) Linquma inani lomonakalo odaleke emkhandlwini lapho imenenja kamasipala noma nayiphi enye imenenja ebika ngqo kumenenja kamasipala noma omunye umsebenzi kade eyimbangela yalowo monakalo, bese libuyisa lowo monakalo kubona;

- (b) Uthatha izinyathelo ezifanele mayelana nanoma yikuphi ukulahlekelwa noma ukushoda kwezimali noma impahla ekungekamasipala noma elawulwa yiwo okubandakanya izinsolo zokukhwabanisa, ukweba noma ubudedengu ohlangothini lwabo bonke abasebenzi, amalungu omkhandlu noma naluphi olunye uhlaka lomkhandlu;
- (c) Liphasisa ukususwa kwezimali ukusuka esambeni esikhulu kuncike ekutheni lokho kususwa kwezimali kwenziwa ezilinganisweni zokubuyekwezwa kwesabelomali;
- (d) Isombulula naluphi udaba olungagodliwe ngempela wumkhandlu noma olungadlulisiwe ngempela kolunye uhlaka noma umuntu.

3.2 Umgudu wokubika

Ikomidi liphezulu libika emkhandlwini.

4. IMENENJA KAMASIPALA

4.1 Amandla adluliselwe kwimenenja kamasipala:

- 4.1.1 Ukuphasisa, ngokubonisana nezinhloko zomnyango ezifanele, ukudayiswa endalini kwezimpahla ezisukayo ngokwenqubomgomo yezokuthenga njengoba iphasiswe wumkhandlu;
- 4.1.2 Ukusayina namiphi imibhalo efanele ukuze kufezekiswe nanoma yiziphi izinqumo zomkhandlu noma isinqumo sanoma yiliphi ikomidi lomkhandlu elisebenza ngokulandela amandla eliwanikeziwe;
- 4.1.3 Ukuthola izeluleko zezomthetho noma ukuthatha izinyathelo ezifanele ukuvikela izinyathelo, izicelo zokukhokhelwa amademeshe noma izinyathelo ezithathelwe uMkhandlu, kuncike ekutheni izinyathelo zenkantolo ephezulu kuyomele ziqale ziphasiswe yikomidi eliphezulu;
- 4.1.4 Ukuthola usizo lommeli noma ummeli wasemajajini nganoma yisiphi isizathu esisemthethweni;
- 4.1.5 Emva kokubonisana nesikhulu esiphezulu sezimali, ukudala izindleko zokuqasha abaphenyi ukuze kutholakale ubufakazi emacaleni ezinsolo zokungaziphathi noma ukukhwabanisa;
- 4.1.6 Emva kokubonisana nesikhulu esiphezulu sezimali, ukuhlawulisa ezimweni lapho izimpahla zilethwa emva kwesikhathi emkhandlwini;
- 4.1.7 Ukuphasisa izicelo zekhefu zezinhloko zomnyango;

- 4.1.8 Ukuphasisa ukudluliselwa okwesikhashana kwabasebenzi ukusuka komunye umnyango beya komunye;
- 4.1.9 Ukuphasisa ukukhokhelwa kwezicelo zezibonelelo zokuhamba nokuziphilisa mayelana namakhansela kanye nezinhloko zeminyango;
- 4.1.10 Ukuphasisa, ngokubonisana nenhloko yomnyango ofanele, izicelo zabasebenzi zemalimboleko yokufunda ngokulandela uhlelo lomkhandlu losizo ngokufunda ngokulandela inqubomgomo ophasisiwe;
- 4.1.11 Ukunquma ukushintshwa ngezindleko zikamasipala kwezinto zokusebenza zomsebenzi ezilimale noma eziphuke ngenkathi isetshenziselwa umsebenzi womkhandlu ezimweni lapho umsebenzi elindeleke ukuzihlinzeka ngawakhe amathuluzi noma izinto zokusebenza;
- 4.1.12 Ukunikezelwa komakhalekhukhwini noma ukukhokhelwa kwezibonelelo zomakhalekhukhwini kubasebenzi ngaphansi kwenqubomgomo ephasiswe wumkhandlu;
- 4.1.13 Kuye ngokuba khona kwezimali ezenele, ukuphasisa ukuhambela kwabasebenzi imihlangano, imihlangano yokucobelelana, izingqungquthela, izinkongolo kanye neminye imicimbi efuze leyo ezozuzisa umkhandlu futhi ezobanjelwa ngaphakathi eNingizimu Afrika;
- 4.1.14 Ukunquma ngokubuyiselwa kwamadiphozi amabhidi mayelana nalawo mabhidi lapho umkhandlu ungenasibopho sokubuyisa amadiphozi;
- 4.1.15 Ukunquma ngokusetshenziswa kwezimpawu, ifulegi kanye noqwembe olunemibala yomkhandlu ngenhloso yokwenza imigubho noma ezinye izinhloso;
- 4.1.16 Ukunquma ukuthi izindleko ezidalwe yinhlangano yokwenganyelwa kwezinhlekelele ihlinzeka usizo, kumele yini zibuyiswe wumkhandlu;
- 4.1.17 Ukunquma ukuthi ukudla kumele yini kuhlinzekwe abasebenzi bezinhlangano zokwengamela izinhlekelele ngesikhathi sokuhlinzeka usizo, kanye nokuphasisa umnikelo ongadluli kuma-R-----;
- 4.1.18 Ukunikeza igunya abantu kanye nezinhlangano ukuba bahlole amarekhodi amasu awumgogodla womkhandlu ngezinhloso zokwenza ucwaningo noma ngokusebenzisa uMthetho wokuKhuthaza

ukuFinyelela oLwazini kanye noMqulu wokuKhuthaza ukuFinyelela oLwazini njengoba wemukelwe ngumasipala;

4.1.19 Ukwenqabela naziphi izicelo zeminikelo, ezingeke zacutshungulwa ngokwenqubomgomo yomkhandlu;

4.1.20 Ukunikeza ikhefu eliyisipesheli kubasebenzi abangadlali, abaqeqeshi kanye nonompempe, ngenhloso yokubamba iqhaza kwezemidlalo ezingeni likazwelonke nelesifundazwe;

4.1.21 Ukuphasiswa kokukhokhelwa ngesiye kwabadlali ngokwenqubomgomo ebhekele abasebenzi abamela iNingizimu Afrika ezingeni likazwelonke;

4.1.22 Ukunikeza igunya lokusetshenziswa mahhala kwezakhiwo zomkhandlu uma kunemicimbi kanye nemisebenzi kamasipala;

4.1.23 Emva kokubonisana nezinhloko zomnyango ezithintekayo:

- (a) ukudala kanye nokugcwalisa izikhala zomsebenzi zesikhashana esimweni esiphuthumayo noma ezimweni ezibucayi kuye ngokuthi kuhlinzekelwe lokho kwisabelomali;
- (b) ukudlulisa kanye nokukhuphula abasebenzi ukusuka komunye umnyango beya komunye, kodwa hhayi izinhloko zeminyango, ngokulandela inqubomgomo kamasipala yokuqasha kanye nokubeka abasebenzi ezikhundleni;
- (c) Ukuqoka abantu ezikhundleni zamabamba kanye nokuphasisa ukukhokhwa kwezibonelelo zokuba yibamba;
- (d) ukuphasisa ukwabiwa kwezibonelelo zokuhamba kubasebenzi ngamanani aphasisiwe;
- (e) ukuphasisa ukuba abasebenzi bangenza umsebenzi wangasese okhokhelayo.

4.1.24 Igunya lokusebenzisa imali ngokulandela imikhawulo yezimali njengoba ibekiwe emibhalweni yokudlulisa amandla kamasipala ephasisiwe kanye nokusayina wonke amasheke kunye nesikhulu esiphezulu sezimali kanye nanoma yisiphi esinye isikhulu esigunyaziwe.

4.1.25 Igunya lokwenza misebenzi kanye nokusebenzisa amandla okungawomkhandlu ngokwezihlinzeko zanoma yimiphi imithetho yedolobha, ukusingathwa kwayo okunikezwe lowo msebenzi wumkhandlu kamasipala;

4.1.26 Igunya lokudlulisa amandla odluliselwe wona kubasebenzi bamasipala.

4.2 Umgudu wokubika

- Ubika emkhandlwini nasekomidini eliphezulu;
- Ubika kuNgqongqoshe ofanele;
- Ubika kuMcwaningi-mabhuku-Jikelele

5. ISIKHULU ESIPHEZULU SEZIMALI

5.1 Amandla kanye nemisebenzi yesikhulu esiphezulu sezimali:

- 5.1.1 Igunya lokuqoqa izimali ezikweletwa umkhandlu ngokwenkontileka, imithetho, imiyalelo yenkantolo, izinqumo zomkhandlu noma nasiphi esinye isizathu somthetho.
- 5.1.2 Igunya lokuthatha izinyathelo zomthetho egameni lomkhandlu mayelana nokubuyiswa kwanoma yiyiphi imali ekweletwa umkhandlu nganoma yisiphi isizathu futhi nakunoma yiyiphi inkantolo, enegunya, kubandakanya ukusayinwa kwayo yonke imibhalo efanele. Lokhu kuhlenganisa amandla okuyalela abameli bomkhandlu kanye nommeli wasemajajini uma kunesidingo, ukuba amele umkhandlu emacaleni alolu hlobo;
- 5.1.3 Ukufaka izicelo zenkokhelo kanye nokukhokhela abantu abangongoti noma izinkampani;
- 5.1.4 Igunya lokukhipha izimali maqondana nemali yokusebenza kanye nezinto ezinkulu ngokulandela isabelomali sokusebenza esiphasisiwe;
- 5.1.5 Igunya lokubamba imali, kuncike eMthethweni Wezimo zokuSebenza eziyisiSekelo kanye neminye imithetho efanele, emholweni womsebenzi noma ikhansela elikweleta umkhandlu;
- 5.1.6 Igunya lokuthatha isinqumo mayelana nokuthatha izinyathelo zomthetho zokukhokhwa kwamademeshe empahleni yomkhandlu okudalwe uhlangothi lwesithathu, kanye nezindleko maqondana nokulimala okwadaleka kumsebenzi ngenkathi esebenza, umkhandlu okumele uzithwale ngokoMthetho wokuNxephezela abaSebenzi, 1993 (uMthetho No. 130 ka 1993) kanye nesivumelwano sekhefu, esimweni lapho kungolunye uhlangothi oludale ingozi noma isehlakalo;

- 5.1.7 Igunya lokwenza imisebenzi kanye nokusebenzisa amandla okungawomkhandlu ngokwezihlinzeko –
- (a) zemithethonqubo yezimali;
 - (b) ngokwemithethonqubo ephathelene noxhaso lwezindlu kubasebenzi.
- 5.1.8 Ukubhekana nazo zonke izinto ezithinta umshwalense wezimpahla zomkhandlu;
- 5.1.9 Ukusayina imibhalo engaba nesidingo uma kufunwa izimali ezitholakale kunoma yimuphi umnyango wesifundazwe;
- 5.1.10 Ukutshala izimali ngendlela ezozuzisa kuncike kwiNqubomgomo yomkhandlu yokutshala izimali nemali engukheshi kanye nomthetho osetshenziswayo, futhi kubikwe ngokwesigaba 71 se-MFMA;
- 5.1.11 Ukungenela isivumelwano egameni lomkhandlu ukuze kukhokhwe izimali ezisilele emuva ekukhokheni ngabakweleta umkhandlu;
- 5.1.12 Ukubuyisela noma ukukhokhela izindleko zokuthutha ifenisha yabasebenzi abasha ngokulandela inqubomgomo yomkhandlu efanele;
- 5.1.13 Ukugunyaza ukukhokhwa kwenkokhelo ye-IOD esimweni lapho umsebenzi elimala esemsebenzini;
- 5.1.14 Ukuthola, ngokubonisana nemeneja kamasipala, imali yebhange esetshenziswayo eyevile emalini ekhona noma ukuthola imalimboleko ngokwezivumelwano zesikhashana lapho zidingeka bese zibikwa emkhandlwini;
- 5.1.15 Ukuqala ukusebenzisa inqubomgomo yomkhandlu maqondana nokuphathwa kwezikweletu kanye nokuqoqwa kwezikweletu;
- 5.1.16 Igunya lokuthi kutholwe inani elilinganisiwe lesikhashana elilinganiselwe isakhiwo ngabashayi bentengo boMkhandlu uma kunesidingo, maqondana nanoma yisiphi isakhiwo esisendaweni kamasipala;
- 5.1.17 Ukukhishwa kwezitifiketi zentela, eziqinisekisa ukuthi amareyithi, izimali ezikhokhwayo, amanani kanye nentela emaqondana nesakhiwo esithize esisendaweni kamasipala, kukhokhelwe umkhandlu njengoba kudingekile emthethweni osetshenziswayo;
- 5.1.18 Igunya lokusayina imiqulu elandelayo:
- (a) Izitifiketi zamashezi esimweni lapho kugunyazwe imalimboleko;

- (b) Yonke imiqulu ephathelene nokuqoqwa kwemali ekweletwayo yoMkhandlu, eNkantolo yeMantshi noma eNkantolo ePhakeme;
- (c) Izitifiketi zezikweletu.

5.1.19 Igunya lokukhipha imali ngokuhambisana nemikhawulo yezimali ebekiwe emaqondana nohlelo olugunyazwe ngumasipala lokunikezelwa kwegunya komunye umuntu.

5.2 Amandla omthetho, imisebenzi kanye nezibophezelo ezabiwe ngokoMthetho wokuPhathwa kweziMali zoMasipala (MFMA)

5.2.1 Maqondana

- nazo zonke izimali ezingenayo kanye nemali esetshenziswe ngumasipala;
- nayo yonke impahla kanye nokukhishwa kwamacala ezimali zikamasipala; futhi
- nokuhambisana noMthetho wokuPhathwa kweziMali zikaMasipala ngendlela efanele.

5.2.2 Ukuqinisekisa ukuthi umasipala ugcina –

- izinhlelo ezisebenzayo, ezifanele futhi ezibeka obala izinhlelo zezimali kanye nokuphathwa kwezimpahla zangaphakathi kumasipala;
- uhlelo lokucwaningwa kwamabhungu angaphakathi kumasipala;
- uhlelo olufanele lokugcina kanye nokuhlinzekela ngemisebenzi olufanelekile, olulingene, olubeka konke obala, olusebenza kahle futhi olubiza ngendlela efanele;
- uhlelo lokuhlolwa kwesakhiwo kanye nokubeka phambili yonke imiklamo yemali ngaphambi kokuthatha isinqumo sokugcina esimaqondana nomklamo.

5.2.3 Ukugcina ngokugcwele nangendlela efanele yonke iminingwane eqondene nezimali zikamasipala ngokuhambisana nanoma yimiphi imigomo kanye nemibandela ebekiwe;

- 5.2.4 Ukusetshenziswa ngendlela esebenza kahle, efanele, eyongayo kanye nebeka obala konke ukusetshenziswa kwezinsiza zikamasipala.
- 5.2.5 Ukuthatha izinyathelo ezisebenza kahle futhi nezifanele:
- zokuqoqa yonke imali ekhokhelwa umasipala;
 - zokugwema ukusetshenziswa kwezimali okungagunyaziwe;
 - zokuphathwa kwemali ekhona ngendlela efanele futhi neyongayo.
- 5.2.6 Ukubikela abemiSebenzi yamaPhoyisa eNingizimu Afrika ngaphandle kokuchitha isikhathi, konke okulahleke ngenxa yezinsolo zobugebengu;
- 5.2.7 Ukuphathwa, kubandakanya nokugadwa kanye nokugcinwa kwezimpahla, kanye nokuphathwa kwezimpahla zikamasipala;
- 5.2.8 Ukuhambisana kukamasipala nezibophezelo zentela, zezimali ezikhokhelwa abasebenzi, zemisebenzi, zempesheni kanye nezokucwaningwa kwamabhuku ngokudingekile emthethweni;
- 5.2.9 Ukuhlelwa kwezivumelwano zezibophezelo zokukhokhwa kwayo yonke imali ekweletwa ngumasipala esikhathini okuvunyelwane ngaso;
- 5.2.10 Lapho kutholakala ukuthi kusetshenziswe imali engagunyaziwe, kumele ngokushesha, kubhalwe phansi, imininingwane yokusetshenziswa kwemali, kubikelwe usodolobha, amalungu oMkhandlu oPhethe esiFundazweni abhekele izimali kanye nohulumeni basekhaya kanye noMcwaningimabhuku oMkhulu;
- 5.2.11 Ukuphathwa kwesabelomali kanye nehhovisi lomgcinimafa, kanye noPhiko lwezokuThenga, futhi nokwaluleka imeneja kamasipala kanye nezinye iziphathimandla maqondana nezindaba zezimali;
- 5.2.12 Ukubeka isabelomali sonyaka ohlelweni olukhombisa imali etholwayo ngohlelo olwakhiwe ngumasipala kanye nemali yoMnyango, kanye nokuhambisana nanoma yimiphi imigomo ekhishwe uMnyango woMgcinimafa KaZwelonke izikhathi nezikhathi;
- 5.2.13 Ukuqinisekisa ukuthi amaholo eziphathimandla zombusazwe ahambisana nomthetho;
- 5.2.14 Ukubikela umkhandlu ngakho konke ukusetshenziswa kwezimali zamaholo zabasebenzi, izinkokhelo, kanye nezinzuzo;

- 5.2.15 Lapho ukwabiwa kwezimali zemiklamo ku'ba ngaphezulu konyaka owodwa, kuqinisekiswa ukuthi ukuweliswa kwezimali ziya komunye unyaka kuhambisana nesigaba 31 se-MFMA;
- 5.2.16 Kuvulwe futhi kugcinwe okungenani ibhuku lasebhange elilodwa elisegameni likamasipala, futhi kwaziswa ngokubhalela uMnyango woMgcinimafa Kazwelonke nanye noMcwaningimabhuku oMkhulu, ngemininingwane.
- 5.2.17 Ukwazisa uMnyango woMgcinimafa Kazwelonke lapho ibhuku lasebhange likamasipala likhombisa ukuthi ukusetshenziswa kwemali sekweqile emalini ekhona;
- 5.2.18 Ukwethulela umkhandlu umbiko ogcwele ngokukhishwa kwezimali ebhange ikwata ngayinye, futhi kunikezwe uMnyango woMgcinimafa Kazwelonke kanye noMgcinimabhuku oMkhulu, ikhophi yombiko ogcwele;
- 5.2.19 Ukuqinisekisa ukuthi izidingo zokwenza izikweletu zesikhashana nezesikhathi eside zihambisana nesigaba 45 kanye nesigaba 46 se-MFMA;
- 5.2.20 Ukubika nyangazonke, ngamakwa kanye nangohhafu wonyaka ngokusebenza kwesabelomali soMkhandlu ngokweZahluko 7, 8 kanye no-12 ze-MFMA;
- 5.2.21 Ukugunyazwa kokwenza imisebenzi kanye nokusetshenziswa kwamandla anikezwe umkhandlu ngokwezihlinzeko zanoma yimiphi imithetho yedolobha ngokuphatha okuthweswe isiphathimandla wumkhandlu kamasipala.

5.3 Umgudu Wokubika

Ibikela imeneja kamasipala.

6. INHLOKO YOMNYANGO: UPHIKO OLUBHEKELE ABASEBENZI

6.1 Amandla adluliselwe kwiNhloko yoMnyango: uPhiko oluBhekele abaSebenzi

6.1.1 Igunya lokusayina imiqulu elandelayo:

- (a) Isimemezelo somthengisi sokukhokhelwa kwemisebenzi yokudluliswa kwesakhiwo maqondana nezimali zesakhiwo esingabandakanyi isimemezelo esiphathelene nezakhiwo ezakhiwe ngezimali ezitholakale kunoma yimuphi umnyango kahulumeni;
- (b) Isivumelwano sokuqasha esimaqondana nokuqashwa kwesakhiwo somkhandlu kanjalo nesakhiwo esiqashwe wumkhandlu, okungabandakanyi imiqulu iphathelene nokuqashwa kwezakhiwo ezakhiwe ngezimali ezitholakale kuhulumeni kazwelonke kanye nowesifundazwe;
- (c) Izivumelwano zokugcinwa kwamakheshi ezakhiweni zikamasipala kanjalo nezivumelwano zokugcina impahla ezimaqondana nezimpahla zomkhandlu eziphethwe ngumphathi ophethe;
- (d) Izivumelwano eziqondene nokufakwa kwezingcingo ngezinhlalo zokwenza umsebenzi noma eziphathelene nezicelo ezenziwe ngumuntu osebenzisa izindawo zomkhandlu;
- (e) Yonke imiqulu edingeka ukuthi ibhaliselwe iziza noma ezinye izakhiwo ezingasetshenziswa wumkhandlu, ngaphandle kwemiqulu yokubhaliswa kweziza noma kwezakhiwo ezingasetshenziswa wumkhandlu lapho kunezakhiwo ezakhiwe ngezimali ezitholakale kuhulumeni kazwelonke kanye nowesifundazwe;
- (f) Yonke imiqulu ezodingeka ngesikhathi sokubhaliswa kwezakhiwo egameni lomkhandlu ngaphandle kokubheka indlela yomkhandlu yokuthola leso sakhiwo;
- (g) Izivumelwano ezingadingeka ukwahlukaniswa kwanoma yimaphi amalungelo ezakhiwo zomkhandlu;
- (h) Yonke imiqulu engadingeka ngokuhambisana nezihlinzeko ezifanele zoMthetho wokuThathwa koMhlaba, 1975 (uMthetho 63 ka 1975);
- (i) Yonke imiqulu engadingekela ukubhaliswa kwezivumelwano zokusetshenziswa komhlaba noma zokulungiswa kwezivumelwano lapho kubandakanya umkhandlu;

- (j) Izivumelwano eziphathelene nolayini bakaloliwe noma namalungelo omuntu wesithathu;
- (k) Noma yimiphi eminye imiqulu lapho kugunyazwe amandla yiKomidi eliPhethe noma yimeneja kamasipala;

6.1.2 Ngokubonisana neNhloko yoMnyango: yoPhiko lweziNgqalasizinda kuvezwe amalungelo oMkhandlu maqondana nokusetshenziswa komkhandlu;

6.1.3 Igunya lokuthatha isinqumo ngohlobo lokuthutha okumele lusethenziswe yiziphathimandla ezidinga ukuthamela imihlangano, imihlangano yokucobelelana ngolwazi, amasemina, izinkomfa, ukhukhulelangoqo neminye imicimbi ephathelene nalokhu kanye nokuthatha uhambo olubalulekile ngezinhloso ezihambisana noMkhandlu, futhi oluhanjelwa ngaphakathi eNingizimu Afrika.

6.1.4 NjengoMphathi wemiSebenzi yabaSebenzi –

6.1.5 Ukuphathwa kwezibophezelo zomkhandlu eziphathelene –

- noMthetho wokuLingana kwabaSebenzi;
- uMthetho wokuThuthukiswa kwamaKhono;
- uMthetho oPhathelene nemiSebenzi; kanye
- Nemibandela eNqala yoMthetho wabaSebenzi

(a) Lapho kunomuntu omusha oqokiwe, uma lowo oqokiwe ebophezeleke ukuthi ashintshe indawo yakhe yokuhlala ngenxa yokugqoka kwakhe, athole imvume ngokweNqubomgomo Yomsebenzi yomkhandlu ukuze kukhokhelwe izindleko zokushintsha indawo yokuhlala: Kuncike ekutheni kuvezwa ubufakazi bezindleko ezakhekile.

(b) Ngokubonisana nenhloko yomnyango efanele, kunqunywe ngokuqinisekiswa kokuqoka komsebenzi obeqokwe ngokuthi abekelwe isikhathi sokwenza umsebenzi ngaphambi kukuba aqokwe ngokugcwele, ngokuqoka kwakhe ngokugcwele noma ngokwandiswa kwesikhathi sokusebenza ngaphambi kokuqoka ngokugcwele ngesizathu sokusebenza kwakhe noma

sokwandisa amakhono okusebenza komqokwa ngokuhambisana nezihlinzeko zomthetho wezemisebenzi;

- (c) Ngokubonisana nenhloko yomnyango efanele, kuqedwe ngokunikeza isaziso esifanele, noma yimuphi umsebenzi wetoho, noma ngabe osebenza ngokugcwele noma oyitoho, uma ukusebenza kwakhe kungasadingekile, ngokuhambisana nezihlinzeko zomthetho wezemisebenzi;
- (d) Ngokubonisana nenhloko yomnyango ofanele, kuthathwe isinqumo ngokuvunywa noma ngokunqatshwa kwesaziso sokuphela komsebenzi esivela kumqashwa ngesikhathi esifishane kunalesi esibekwe emibandeleni yokusebenza komqashwa;
- (e) Ngokubonisana nenhloko yomnyango efanele, kuncike ekutheni ukunikezelwa kwemvume akuphazamisi ukusebenza komqashwa, kunikezwe imvume kumqashwa ofake isicelo sokwenza omunye umsebenzi okhokhelwayo;
- (f) Igunya lokugunyaza inkokhelo yokuba yibamba yomqashwa ngokwemibandela yakhe yokusebenza, ngokuthola isitifiketi esikhishwe yinhloko yomnyango ofanele, esifakazela ukuthi umqashwa ube yibamba lesikhundla okukhulunywa ngaso;
- (g) Ngokubonisana nenhloko yomnyango efanele kugunyazwe ukwandiswa kwesikhathi sekhefu (*non-accumulative leave*) somqashwa, kuncike esivumelwaneni semibandela yokwenza umsebenzi;
- (h) Ngokubonisana nenhloko yomnyango efanele, ukulungiswa kohlelo lwemifaniswano yonyaka kanye nezingubo zokuvikela;

6.1.6 Ngokubonisana nemeneja kamasipala, kugunyazwe ochwepheshe bangaphandle kwamasisipala abaqokwe wumkhandlu ukuthi baqoke abasebenzi bendawo ukuthi bahlole imisebenzi yenkontileka.

6.1.7 Igunya lokwenza imisebenzi kanye nokusetshenziswa kwamandla anikezwe umkhandlu ngokwezihlinzeko zanoma yimiphi imithetho yedolobha, ukusingathwa kwayo okunikezwe lowo umsebenzi wumkhandlu kamasipala.

6.1.8 Ngokubonisana nemeneja kamasipala ukuthi iphathe Imithethonqubo Yokusebenza Kukamasipala yimeneja kamasipala kanye nabaphathi ababika kimeneja kamasipala, 2006.

6.2 Imigudu wokubika.

Ibikela imeneja kamasipala.

7. INHLOKO YOMNYANGO: YOPHIKO LWEMISEBENZI YOBUCHWEPHESHE

7.1 Amandla anikezelwe iNhloko Yomnyango: YoPhiko Lwemisebenzi yobuChwepheshe

7.1.1 Ngokubonisana nemeneja kamasipala, ukuthi ivumele imisebenzi

yochwepheshe bangaphandle kwamasipala, ngokwenqubomgomo wokuphathwa kwezimpahla, maqondana nanoma yiziphi izindaba eziphethwe yiyo, lapho izimali zochwepheshe wangaphandle kwamasipala kanye nezindleko zingeqile enanini elinqunyiwe elibekwe wumkhandlu libekelwa iphrojekthi ngayinye.

7.1.2 Igunya lokusayina imiqulu elandelayo:

- (a) Izinkontileka eziphothulwe wumkhandlu zezakhiwo kanye nemisebenzi yokwakha;
- (b) Izinkontileka eziphothulwe wumkhandlu maqondana nemiklamo ekhishwe wumnyango;
- (c) Yonke imiqulu kanye nezivumelwano eziqondene nezicelo zokuthola igunya (amalayisensi ezimayini) ukuze kumbiwe amatshe endaweni kamasipala, ngokuhambisana nezihlinzeko zomthetho wokumbiwa kwamatshe;
- (d) Izivumelwano zokuthenga noma zokuqashisa eziqondene nezakhiwo ezazakhiwe ngezimali zikahulumeni noma zezinye izindlu eziqashwe wumkhandlu.

7.1.3 Igunya lokuthola imvume yokukhandwa kwamamitha amanzi akwabanye omasipala ngaphansi kwale mibandela yokuthi –

- amamitha amanzi alimele athuthelwa endaweni yomkhandi okhethwe wumkhandlu ukuze akhandwe, bese elandwa emva kokuqedwa kokukhandwa;
- amamitha amanzi awuhlobo olunengxenye ezitholakalayo;
- umasipala oqondene nalokhu ukhokhela izindleko zokukhanda kanye nezimpahla zokukhanda kanye nemali yelevi ehambisana nenombolo ebhalwe emitheni lamanzi; futhi
- Nokuthi omunye umasipala uhlinzekela nge-oda lesiphathimandla emkhandlwini nge-oda ngalinye.

7.1.4 Igunya lokuvumela ukuqokwa kochwepheshe wangaphandle kukamasipala ngabathuthukisi bamadolobha abazimele;

7.1.5 Igunya lokuvumela abantu abazimele noma izinhlangano ukuthi zenze umsebenzi endaweni yoMkhandlu: Kuncine ekutheni –

- Lokhu akukhubazi izinhloso zomkhandlu; futhi
- Umkhandlu ubuyisela ngokuthi ubhale phansi wonke umonakalo kanye nezicelo ezakheke ngenxa yokwenziwa komsebenzi;

7.1.6 Igunya lokulungisa izintela ezitholakala esivumelwaneni esenziwe nabasebenzi bangaphandle kukamasipala izikhathi nezikhathi, ngokuhambisana nezintela ezishicilelwe kwiGazethi kaHulumeni ngokuhambisana nomthetho oqondene nalokhu;

7.1.7 Ngokubonisana neSikhulu esiPhezulu seziMali, kugunyazwe ukugcizelelwa kokusetshenziswa kwezigaba zenhlawulo eziqukethwe esivumelwaneni somkhandlu uma kulethwe izimpahla kanye nezinsiza sekudlule isikhathi esinqunyiwe;

7.1.8 Igunya lokuvumela noma lokwenqaba wonke amapulani ezakhiwo kanye nokunquma ngomgcele wesakhiwo, izikhala ezilingene njengoba kubekiwe eSikimini sokuHlelwa kweDolobha;

7.1.9 Igunya lokubhekela kanye nokuphothula zonke izicelo ezifakiwe ukuthi zikhangiswe ngokuhambisana nezihlinzeko ezilawula ukukhangiswa ngokuhlanganyela neKomidi lokuHlela;

7.1.10 Igunya lokwenza imisebenzi kanye nokusetshenziswa kwamandla anikezwe umkhandlu ngokwezihlinzeko –

- zoMthetho wokuGwenywa kokuSuswa eNdaweni ngokungemthetho kanye nokuHlala eMhlabeni ngokungemthetho, 1998 (uMthetho 19 ka 1998);
- Izivumelwano zokuqashwa kwezindlu zikamasipala;
- zoMthetho kaZwelonke wokuLawulwa kweZakhiwo kanye namaZinga ezaKhiwo (uMthetho No. 103 ka 1997); kanye
- nezihlinzeko zomthethonqubo oqondene nokunikezwa kwezinombolo izakhiwo kanye nezindawo, kanye nokunikezelwa kwamagama ezindaweni zokuhlala;

7.1.11 Ukuvunywa noma ukunqaba izicelo zokusetshenziswa kwezindawo zomhlaba ezakhiwele izinhloso zikamasipala, ngezinhloso zokwakha noma zokwakhiwa kwezinye izakhiwo: Kuncike ekutheni lokho kusetshenziswa komhlaba noma kwendawo akukhubazi izinhloso ezazibhaliselwe lowo mhlaba;

7.1.12 Igunya lokuthola imvume yokugudluka noma yokwelula ngokoMthetho KaZwelonke Wokulawulwa Kwezakhiwo kanye Namazinga Ezakhiwo (uMthetho No. 103 ka 1997) ngaphandle komthethonqubo ophethelene nokwelulwa kanye nokugcinwa kwezakhiwo;

7.1.13 Igunya lokwelula imithetho yobude bezakhiwo ukuthi zingeqi ngaphezulu kwamamitha ayi-10, lapho kunesidingo;

7.1.14 Ngokubonisana neSikhulu Esiphezulu Sezimali, igunya lokusebenzisa izigaba zenhlawulo equkethwe ezivumelwaneni zomkhandlu lapho izimpahla kanye nezinsiza zilethwe sekudlule isikhathi esinqunyiwe;

7.1.15 Ukwenza izincomo eminyangweni kahulumeni efanele maqondana nokuvunywa noma nokunqatshwa kwezicelo zokubhidliza noma zokwakha kabusha izindlu;

7.1.16 Igunya lokuvumela izimvume ezidingekile, kuze kube kuqashwa uchwepheshe womklami, ukuthi anikezele ngomsebenzi ngezingxenye eziklanyiwe, kuncike ekutheni izimali ezifanele kumele zitholakale ngokomthetho obekiwe, futhi kuncike ekutheni akukho ukuqokwa okuzoba ngaphezulu kwenani elinqunyiwe;

- 7.1.17 Lapho kufakwe izicelo zokuthi kunwetshwe umgwaqo wezakhiwo maqondana nalapho kwakhiwe khona isakhiwo endaweni, igunya lokuphuthula lezo zicelo ngendlela yokuphatha kuncike ekutheni imingcele yesakhiwo esibaluliwe iyanetshwa ibe ngangesikali esibekiwe, uma lokhu kuhlinzekelwe ngendlela efanele yesikimu;
- 7.1.18 Igunya lokubhekela izicelo ezifakiwe zezimboni zezimpahla zezindlu kanye nezindlu zezindawo zokudla ngokweSikimu sokuHlelwa kweDolobha. Uma kwenzeka kubonakala ukuthi isicelo leso singase sibe nomthelela endaweni yomphakathi, kumele, uma isicelo siphikiswa ngabanini bezakhiwo endaweni, izidlulisele kuMkhandlu ukuze uthathe isinqumo;
- 7.1.19 Ukukhishwa kwezitifiketi, ngokuhambisana nezindingo zeBhodi Yamalokishi Esifundazwe, lowo muntu ofake isicelo sokusungulwa kwelokishi, osuke ehlinzeke ngemisebenzi ngendlela egculisa uMkhandlu;
- 7.1.20 Ukukhishwa kwezigama zezakhiwo kanye nokukhishwa kwezitifiketi kanjalo nezokukhishwa kwezimibandela yamatayitela ezakhiwo ukuze kuhanjiswa nezihlinzeko zesiKimu sokuHlelwa kweDolobha; futhi
- 7.1.21 Igunya lokwakha izimpawu zomgwaqo, ukubhalwa kwemigwaqo kanye nokusetshenziswa kwemithetho yomgwaqo.

7.2 Imisebenzi ephathelene nogesi

- 7.2.1 Igunya lokwandisa ukuphakelwa kukagesi endaweni yomkhandlu, ukuxhunywa kukagesi ngokwemithethonqubo yokuphakelwa kukagesi kanye nokugunyazwa ukukhokhelwa kokuxhunywa kukagesi;
- 7.2.2 Ngokubonisana nemeneja kamasipala, igunya lokuvumela imisebenzi yomuntu ongaphandle kukamasipala, ngokomthethonqubo wokuphathwa kokuhlinzekelwa kwemisebenzi, emaqondana nanoma yiluphi udaba aluphethe, lapho izimali zomsebenzi ongaphandle kukamasipala kanye nezindleko zakhe zingeqi ngaphezu kwenani elinqunyiwe lokwenza umsebenzi;
- 7.2.3 Igunya, uma kuqashwe umphathi wezimayini, lokuqasha okudingekile ngokwezihlinzeko zoMthetho wezeziMboni kanye nokuMbiwaphansi, futhi nezihlinzeko zoMthetho weZiqhumane (uMthetho No. 27 ka1956);

7.2.4 Igunya lokunikeza imvume kubasebenzisi bakagesi ukuthi badayise ugesi ngaphansi kwemibandela equkethwe kwimithethonqubo yokuphakelwa kukagesi;

7.2.5 Igunya kokusayina imiqulu elandelayo –

(a) Izinkontileka eziphothulwe wumkhandlu zemisebenzi kagesi;

(b) Izinkontileka eziphothulwe ngumkhandu kanye nonjiniyela bagesi ababonisayo bomakhenikha, kanye nemisebenzi kagesi;

7.2.6 Igunya lokwenza umsebenzi kanye nokusebenzisa amandla anikezwe umkhandlu ngokwezihlinzeko –

- zomthethonqubo wokuphakelwa kukagesi;
- zoMthetho kaGes; kanye
- noMthetho wezeMpilo kanye nokuPhepha eMsebenzini, 1993, njengophakela ugesi endaweni kamasipala.

7.2.7 Ngokubonisana nemeneja kamasipala, kuhlinzekelwe ngosizo

lwezingqalasizinda kanye nokuqeqeshwa kwabanye omasipala, abantu abazimele kanye nezinhlango okubonakala kunesidingo ukuthi kwenziwe, ngaphandle kokukhubaza ukuqeqeshwa kwamalungu oMkhandlu;

7.2.8 Igunya lokwenza ukunwetshwa kunoma yisiphi isakhiwo ngokwezihlinzeko zomthethonqubo olawula izinkulisa kanye nezikole ezinezinkulisa: Kuncike ekutheni ukuhlinzekelwa Kwemithethonqubo Yezakhiwo Zikazwelonke akuphikiswa;

7.2.9 Igunya lokwenza imisebenzi kanye nokusebenzisa amandla anikezwe umkhandlu ngokwezihlinzeko zemithetho yedolobha, ukuphathwa okunikezelwe kumsebenzi wumkhandlu kamasipala.

7.3 Imigudu yokubika.

Ibikela imeneja kamasipala.

8. INHLOKO YOMNYANGO: YOPHIKO LWEMISEBENZI YOMPHAKATHI

8.1 Amandla anikezelwe iNhloko Yomnyango YoPhiko Lwemisebenzi Yomphakathi

8.1.1 Igunya lokwenza imisebenzi kanye nokusebenzisa amandla anikezwe umkhandlu ngokwezihlinzeko, isibonelo -

- Imthethonqubo ephathelene nokuhlanzeka kweziza;
- Imithethonqubo ephathelene nezinkulisa kanye nezikole ezibheke izingane;
- Imithethonqubo ephathelene nobisi kanye nokukhiqizwa kobisi;
- Imithethonqubo ephathelene nempilo yomphakathi kanye nezindawo zokuhamba indle;
- Imithethonqubo ephathelene nokudayiswa kwenyama;
- Imithethonqubo ephathelene nokudayiswa kokudla emphakathini;
- Imithethonqubo ephathelene nezindawo zamathuna, izindawo zokulothisa kanye nokumbiwa kwezidumbu;
- noMthetho wezeMpilo (uMthetho No. 61 ka 2003);
- Imithetho yedolobha yeziGcinalulwazi; kanye
- nemithetho yeDolobha yokuPhathwa kokuHwebela eMgwaqeni kanye nokuQoqwa;

8.1.2 Igunya lokukhishwa zonke izaziso zomthetho zokuqedwa kwenkathazo;

8.1.3 Igunya lokunikeza imvume yokwenza zonke izinhlelo eziqondene nokungcwatshwa komfokazana oshonse endaweni kamasipala;

8.1.4 Igunya lokubhekela izicelo ezifakiwe zokuthola amalayisensi ebhizinisi ngokuhambisana nezihlinzeko zoMthetho Wamabhizinisi (uMthetho No. 71 ka 1991);

8.1.5 Igunya lokuxoxisana noMasipala wesiFunda ukuthi unqume ngokuthi abezokucishwa kwemililo bangasetshenziselwa ukulwa nemililo ngaphandle kwemingcele yendawo kamasipala;

8.1.6 Igunya lokwenza yonke imisebenzi ephathelene nemithelele yenhlalo yokulethwa kwezindlu ngokwentuthuko yezindlu, isikimu sokuthola isephulelo kanye nempahla eqashisiwe;

- 8.1.7 Igunya lokwenza yonke imisebenzi ephathelene nezemidlalo kanye nokungcebeleka;
- 8.1.8 Igunya lokwenza yonke imisebenzi ephathelene nentuthuko yentsha kanye neyobulili;
- 8.1.9 Igunya lokwenza yonke imisebenzi ephathelene nabosizo lweNgculazi.

8.2 Imisebenzi yokuphepha

- 8.2.1 Igunya lokususa amamitha ezindaweni zokupaka ezimweni eziphuthumayo;
- 8.2.2 Igunya lokubhekela kanye nokuphothula izicelo ezifakiwe zokukhangisa kwesikhashana kanye namaphosta, ukubekwa kwamabhena kanye namaphosta amaqondana nemicimbi kanye neminye imicimbi, kanjalo futhi nezinye izindlela zokukhangisa, kwezinye izinto, ngokusebenzisa amabhelunda, ngokuhambisana nezihlinzeko zomthethonqubo wokukhangiswa kwezikhangisi;
- 8.2.3 Igunya lokunikeza imvume yokusetshenziswa kwemibhobho emigwaqeni ngenhloso yokukhangisa imicimbi, ezokwenzeka ngokwenqubomgomo yomkhandlu;
- 8.2.4 Igunya lokubhekana nesikhalazo esivela kwilungu lomphakathi noma ephoyiseni maqondana nokungasetshenziswa kahle kwezimali ezitholakele, ngokucela noma yimuphi umuntu othola uxhaso lwemali ukuthi aveze imvume noma imvume eyisipesheli ephathelene nokuthola uxhaso lwemali ngokuhambisana nezihlinzeko zomthetho ofanele;
- 8.2.5 Igunya lokuthola inkokhelo yokusuksa noma yokugcina impahla maqondana nezimoto ezithathwe wumnyango;
- 8.2.6 Igunya lokunquma ngokubekwa ngokomthetho, izindawo zokupaka;
- 8.2.7 Igunya lonikeza imvume yokuhamba, yokugijima kanye neminye imicimbi ezobanjelwa emigwaqeni esendaweni kamasipala, kanye neyokuvalwa kwemigwaqo okwesikhashana;

- 8.2.8 Igunya lokusebenza njengesiphathimandal esiphethe ngokwezihlinzeko zoMthetho Wokulawulwa Kwemicimbi, 1993 (uMthetho No. 205 ka 1993)
- 8.2.9 Igunya lokwenza imisebenzi kanye nokusetshenziswa kamandla anikezwe uMkhandlu maqondana nokusetshenziswa kweziqhumane, izibhamu noma okuthi akufane nalokhu njengoba kuqukethwe ezinhlinzekweni zoMthetho weziQhumane, 1956 (uMthetho No. 27 ka 1956) kanye nezihlinzeko zomthethonqubo olawula umsindo, oshicilelwe ngokoMthetho wokoNgiwa kweMvelo, 1998 (uMthetho No. 107 ka 1998);
- 8.2.10 Igunya lokwenza umsebenzi kanye nokusetshenziswa kamandla anikezwe uMkhandlu ngokwezihlinzeko:
- Zomthethonqubo ophathelene nokukhangiswa kwezikhangiso;
 - Zomthethonqubo ophathelene nophethilomu kanye nolunye uketshezi;
 - Zomthethonqubo ophathelene nokuhamba kwezimoto.
- 8.2.11 Igunya lokubeka noma lokubeka kabusha izinsuku zokuqoqa emgwaqeni lapho kutholakale izicelo ezisemthethweni;
- 8.2.12 Igunya lokusebenzisa izinhlelo zokusetshenziswa kwemithetho yohamba kwezimoto;
- 8.2.13 Igunya lokwenza uphenyo olupathelene nokuhamba kwezimoto emgwaqeni oludinga uphenyo kanye nokuthathwa kwezinyathelo lapho kunesidingo;
- 8.2.14 Igunya lokuhlanganisa ukusetshenziswa komthetho kanye neminye imisebenzi ephathelene nomthetho;
- 8.2.15 Igunya lokwenza imisebenzi noma ukusebenzisa amandla anikezwe uMkhandlu ngokwezihlinzeko zemithetho yedolobha, ngokuphathwa okunikezwe umsebenzi wumkhandlu kamasipala.

8.3 Imigudu youbika

Ibikela imeneja kamasipala.

9. INHLOKO YOMNYANGO: YOPHIKO LWEMISEBENZI YOKUHLELA KANYE NENTUTHUKO KAMASIPALA

9.1 Amandla adluliselwe iNhloko yoMnyango: yoPhiko lwemiSebenzi yokuHlela kanye neNtuthuko kaMasipala

9.1.1 Igunya lokunikeza imvume yokwakhiwa kwendawo yesibili yokuhlala endaweni eyodwa ngokweSikimu Sokuhlelwa Kwedolobha kanye neminye imithetho ephathelene nalokhu;

9.1.2 Igunya lokukhipha izitifiketi zokuyekela ngokwezihlinzeko zoMthetho we-*Sectional Titles Act*, 2003 (uMthetho No. 29 ka 2003);

9.1.3 Igunya lokuvuma izicelo ezifakiwe zokuhlanganiswa kanye nokuhlukaniswa komhlaba ongekho ngaphansi kukamasipala futhi lapho kunesidingo, ukuhlelwa kwemibandela yesigaba sezakhiwo okumele zibhaliselwe maqondana namatayitela ezakhiwo okuqondenwe nazo, kanjalo futhi nokunqunywa kwezimvume zokusebenzisa umhlaba ukuze zivikeleke ekulethweni kwemisebenzi kanye nokufakwa kwezicelo esimweni lapho kuhlukaniswe umhlaba;

9.1.4 Igunya lokuthatha izinyathelo ezidingekile zokuthola umyalelo wasenkantolo obophezela ukuthi umnini noma umsebenzisi womhlaba noma wezakhiwo ukuthi ahlangabezane nezidingo zeSikimu Sokuhlelwa Kwamadolobha esimweni lapho abanini bomhlaba noma bezakhiwo behluleka ukuhlangabezana nezidingo zeSikimu Sokuhlelwa Kwamadolobha ezibaluliwe;

9.1.5 Igunya lokuvumela izicelo zokuklama kabusha imingcele yedolobha maqondana nomhlaba ngokusebenzisa umthetho osetshenziswayo obekiwe;

9.1.6 Igunya lokwenza izincomo kanye nokuphawula okumaqondana nezicelo ezifakiwe ukuthi ziqedwe, zimiswe noma ukuchitshiyelwa kwemibandela ebeka imithetho, ukulethwa kwamatayitela ezakhiwo ngokuhambisana nesikimu sokuhlelwa Kwamadolobha, ngaphandle kwezimo lapho kunesigaba esiguqulayo ngokuhambisana noMkhandlu sikhona etayiteleni;

- 9.1.7 Ukukhishwa kwezitifiketi, ngokuhambisana nezidingo zeBhodi yaMadolobha esiFundazwe, sokuthi umfakisicelo ofake isicelo sokusungulwa kwedolobha, esehlinzekele ngemisebenzi egculisa umkhandlu;
- 9.1.8 Ukukhishwa kwesigaba sezakhiwo kanye nezitifiketi zabasulile kanjalo nezitifiketi zokwenziwa kwemibandela yetayitela lezakhiwo ukuze sihambisane nemibandela yomkhandlu wesikimu sokuhlelwa Kwamadolobha;
- 9.1.9 Igunya lokubhekela izicelo ezifakiwe ukuze zivunyelwe ukuthi zisetshenziswe ngokuhambisana neSikimu Sokuhlelwa Kwamadolobha. Ezimweni lapho, ngokubona kwayo, isicelo esifakiwe singaba nomthelela othize emphakathini wendawo, noma esimweni lapho isicelo siphikiswa ngabanini bezakhiwo zendawo, kumele isidlulisele eMkhandlwini ukuze uthathe isinqumo;
- 9.1.10 Ukuphatha uHlelo lokuSetshenziswa koMhlaba;
- 9.1.11 Igunya lokwenza imisebenzi yokuthuthukiswa komnotho wendawo, kumbandakanya nokuthuthukiswa kwezimboni;
- 9.1.12 Igunya lokwenza imisebenzi yezokuvakasha ngokuxoxisana noMnyango Wesifundazwe ofanele kanye noMasipala Wesifunda ofanele;
- 9.1.13 Isekele imeneja kamasipala ekuhlelweni koHlelo oluDidiyele lweNtuthuko lukaMasipala;
- 9.1.14 Igunya lokuqoka iziphathimandla emnyangweni wayo njengabamele abezempilo kanye nezokuphepha bomnyango wayo ngokwezihlinzeko zoMthetho weZempilo Nokuphepha eMsebenzini (uMthetho No. 85 ka-1993);
- 9.1.15 Igunya lokwenza imisebenzi kanye nokusebenzisa amandla anikezwe umkhandlu ngokwezihlinzeko zanoma yimiphi imithetho yedolobha okuphatha okunikezwe umsebenzi wumkhandlu kamasipala.

9.2 Imigudu yokubika.

Ibikela imeneja kamasipala.

10. IZINHLOKO ZEMINYE IMINYANGO

10.1 Amandla adluliselwe zonke iziNhloko zeMinyango

- 10.1.1 Ukunikeza noma ukudlulisela kwesinye isikhathi ikhefu, ukuvumela ikhefu lokugula, ukuvumela ukuthi ikhefu liwelele komunye unyaka, konke lokhu ngokubhekela abasebenzi bomnyango futhi ngokuhambisana nezimiso ezibekwe kwimibandela yekhefu yoMkhandlu;
- 10.1.2 Ukugunyaza, ngokubonisana nemeneja kamasipala, ngokusetshenziswa kwemali, ukuhlahwa kwemali okulingene nenani elikhona ngokuhambisana nohlamvu 18 obekiwe;
- 10.1.3 Ukuzibandakanya kanye nokuqeda ukusebenza okungena ngezikhathi ezithile ngokubonisana nemeneja kamasipala;
- 10.1.4 Ukumema izicelo zamabhidi ngokuhambisana nenqubomgomo Yokuphathwa Kokuthenga;
- 10.1.5 Ukukhangisa ngezikhala zemisebenzi yabasebenzi emva kokuvunyelwa yimeneja kamasipala;
- 10.1.6 Esimweni lapho kuqokwe umuntu omusha, emva kokuvunyelwa yimeneja kamasipala uma lokho kuqokwa kubophezela ukuthi lowo oqokiwe ashintshe indawo yakhe yokuhlala ngenxa yokuqokwa emsebenzini, ukunikeza imvume ngokwenqubomgomo yomkhandlu yokukhokhela izindleko zokuthutha maqondana nokuthuthwa kwezimpahla zomqokwa, inqobo uma kuvezwe obufakazi obuphathekayo bezindleko ezakhekile;
- 10.1.7 Ekubonisaneni nemeneja kamasipala, zinqume ngesiqinisekiso sokuqokwa komqashwa oqokelwe ngesimiso sokunikezwa isikhathi sokusebenza ngaphambi kokuthi aqokwe ngokugcwele ngokubheka indlela asebenza ngayo kanye nekhono lokusebenza komuntu oqokiwe, kweyame ezinhlinzekweni zomthetho wezokusebenza;
- 10.1.8 Ngokubonisana nemeneja kamasipala futhi kuncike ekutheni ukunikeza imvume akuphazamisi ukusebenza komsebenzi, ukunikeza imvume kumsebenzi ofake isicelo sokwenza omunye umsebenzi;

10.1.9 Ukuvumela, emva kokubonisana nemeneja kamasipala kanye neSikhulu esiPhezulu seziMali, ukudluliselwa;

10.1.10 Ukuqokwa kwabasebenzi okwesikhashana emnyangweni ngokubonisana nemeneja kamasipala kuncike kwisabelomali esabiwe;

10.1.11 Igunya lokusebenzisa imali ngokwezimiso zezimali ezibekwe kwinqubomgomo yophathwa kokuthenga;

10.1.12 Igunya lokwenza imisebenzi kanye nokusebenzisa amandla anikezwe umkhandlu ngokwezihlinzeko zanoma yimiphi imithetho yedolobha, ukusingathwa kwayo okunikezwe lowo msebenzi wumkhandlu kamasipala.

10.2 Imigudu Yokubika.

Zibikela imeneja kamasipala.

1. UKUDLULISA AMANDLA OKUTHENGA

Bheka isithasiselo "A"

(Umnyango wesiFundazwe wMgcinimafa uzokhipha usomqulu ongumkhombandlela ngokuhamba kwesikhathi okhombisa imigomo yokusebenza yomqulu wokudluliswa kwamandla)

12. AMANDLA KAMASIPALA EZIMALI, EMISEBENZI, IZIBOPHEZELO KANYE NOKUDLULISWA KWAMANDLA

Kunconywe ukuthi omasipala basebenzise usomqulu we-**IMFO** otholakala kwi-MFMA ukuze kubhekelwe ukudluliswa kwamandla ezimali.

ISITHASISELO A**UKUDLULISA AMANDLA OKUTHENGA**

Ukudlulisa amandla okuthenga okuqukethwe lapha kusebenza njengomkhomandlela wokulekelela omasipala kanye nezimpahla zikamasipala ekusebenziseni uhlaka olufanele futhi olusebenzayo emakomidini okukhishwa kwamabhidi knaye nakwiziphathimandla zikamasipala, ngokubhekela imigomo enqunyiwe yokusetshenziswa kwezimali.

1. Ukuqhathanisa imithetho

Ngokwezigaba 79 kanye no-106 zoMthetho wokuPhathwa kweziMali zoMasipala, imisebenzi kanye nezibophezelo zeziphathimandla ezigcina amabhuku ezimali maqondana nokwabiwa kwamandla, ibekwe ngokusobala.

2 Uhlaka lokudluliswa kwamandla okuthenga

Okulandelayo kuthathwe Kwimithethonqubo Kamasipala Yokuphathwa kwezezokuthenga (iGazethi kaHulumeni No. 27636/2005, Isaziso 868 sika-2005 sangomhla zingama-30 kuNhlaba 2005) maqondana nokudluliswa kwamandla okuthenga futhi okumele isetshenziswe yibo bonke omasipala.

2.1 Ukudlulisa amandla owadluliselwe**Umthethonqubo 5:**

“(1) Isiphathimandla esigcina amabhuku ezimali kumele ngokweSigaba 79 soMthetho, sidlulisele amandla esiwadluliselwe maqondana namandla kanye nemisebenzi yokuphathwa kwezokuthenga, kumbandakanya nalawo mandla adluliselwe iziphathimandla ezizibophezele ukuphendula ngokomthethonqubo 4(1), kodwa lokho kudluliswa kwamandla anikezelwe kumele kuhambisana nomtheshwana (2) kanye nomthethonqubo 4.

- (2) *Amandla okukhipha umklomelo wokugcina –*
- (a) *Inani elingaphezulu kwezigidi eziyishumi zamarandi (R10 million) (kumbandakanya nentela yentengo) angeke labelwa amandla yisiphathimandla esizibophezele ukuphendula;;*
- (b) *inani elingaphezulu kwezigidi ezimbili zamarandi (R2 million) kumbandakanya nentela yentengo), kodwa elingevile ezigidini eziyishumi zamarandi (R10 million) (kumbandakanya nentela yentengo), lingabelwa amandla kodwa kuphela –*
- (i) kwisikhulu esiphezulu sezimali;*
- (ii) umphathi omkhulu;*
- (iii) yikomidi lokukhishwa kwemisebenzi yamabhidi lapho isikhulu esiphezulu sezimali noma umphathi omkhulu oyilungu lekomidi;*
- noma;*
- (c) *kungeqi enanini eliyizigidi ezimbili zamarandi (R2 million) (kumbandakanya nentela yentengo) angadluliselwa amandla abikwe kodwa kuphela –*
- (i) kwisikhulu esiphezulu sezimali;*
- (ii) umphathi omkhulu;*
- (iii) umphathi obophezeleke ukubika kwisikhulu esiphezulu sezimali noma umphathi omkhulu; noma*
- (iv) yikomidi elikhipha imisebenzi yamabhidi.*
- (3) *Isiphathimandla noma ikomidi elikhipha imisebenzi yamabhidi lapho amandla okuklomelisa kokugcina edluliselwe ngokuhambisana nomtheshwana (2) kumele ezinsukwini ezinhlanu zokuphela kwenyanga ngayinye kunikezwe isiphathimandla okukhulunywe ngaso emtheshwaneni (4), umbiko oqukethe imininingwane yokuklomelisa ngakunye okwenziwe yisiphathimandla noma yikomidi ngaleyo nyanga, kumbandakanya -*
- (a) *inani eliklonyelisiwe;*
- (b) *igama lomuntu oklonyelisiwe; kanye*

- (c) *nesizathu esibalula izizathu zokuklonyeliswa kwalowo muntu.*
- (4) *Umbiko obhaliwe okukhulunywe ngawo emtheshwaneni (3) kumele unikezwe*
- (a) *isikhulu esizibophezele ukuphendula, lapho kukhishwe umklomelo –*
- i. yisikhulu esiphezulu sezimali;*
 - ii. umphathi omkhulu;*
 - iii. yikomidi elikhipha umsebenzi wamabhidi lapho isikhulu esiphezulu sezimali noma umphathi omkhulu eyilungu lekomidi; noma*
- (b) *isikhulu esiphezulu sezimali noma umphathi omkhulu obhekele ukukhishwa kwebhidi okuqondanwe nayo, lapho kukhishwe umklomelo*
-
- i. ngumphathi okukhulunywe ngaye emtheshwaneni(2)(c)(iii); noma*
 - ii. yikomidi lokukhishwa kwemisebenzi yamabhidi lapho isikhulu esiphezulu sezimali noma umphathi omkhulu engesilo ilungu lekomidi.*
- (5) *Imitheshwana (3) kanye no – (4) ayisebenzi ekuthengisweni kwempahla okwenziwe ngemali encane yezindleko ezithile.*
- (6) *Lo mthethonqubo angeke wathathwa njengovumela isiphathimandla esadluliselwe amandla okwenza imiklomelo yokugcina; ukuthi senze umklomelo wokugcina ngenqubo yokuncintisana yokukhishwa kwemisebenzi yebhidi ngaphandle kokukwenza ngaphandle kwenqubo yekomidi ehlinzekwe kumthethonqubo 26.*
- (7) *Akukho ukuthathwa kwezinqumo ngokwanoma yimaphi amandla kanye nemisebenzi yokuphathwa kwezokuthenga okungabelwa amandla kumaluleki noma kumsebenzi wangaphandle kukamasipala.”*

2.2 Uhlobo lwezinqubo zokuthenga

Umthethonqubo 12

“(1) Inqubomgomo yokuphathwa kwezokuthenga kumele, yeyame kumthethonqubo 11(2) ohlinzekela ngokuthengwa kwezimpahla kanye nemisebenzi ngendlela –

- (a) yokuthenga ngemali encane, efike enanini elingangezinkulungwane ezimbili (R2000) (kumbandakanya nentela yentengo);
- (b) yokubhala noma yokuthumela ikotishini yokuthenga efike enanini elingaphezulu kwezinkulungwane ezimbili zamarandi (R2 000) kuya kwizinkulungwane eziyishumi zamarandi (R10 000) (kumbandakanya nentela yentengo); kanye
- (c) nemali ebiziwe ebhalwe phansi ngokusemthethweni yokuthenga okungaphezulu kwenani eliyizinkulungwane eziyishumi zamarandi (R10 000) kuya kwizinkulungwane eziyingamakhulu amabili (R200 000) (kumbandakanya nentela yentengo); futhi
- (d) nenqubo yokuncintisana ngomsebenzi webhidi –
 - i. yokuthenga okungaphezulu kwenani eliyizinkulungwane ezingamakhulu amabili (R200 000) (kumbandakanya nentela yentengo), kanye
 - ii. nokuthenga kwezivumelwano zesikhathi eside.

(2) Inqubomgomo yokuphathwa kwezokuthenga ingavumela isiphathimandla esizibophezele ukuphendula:

- (a) ukuthi sehlise, kodwa singenyusi, umehluko wezimali ezibekwe kumtheshwana (1); noma
- (b) siyalele ukuthi –
 - (i) inani elibiziwe elibhalwe phansi noma elishiwo litholakale nganoma yikuphi ukuthenga ngenani lokuthenga elingaphansi kwezinkulungwane ezimbili zamarandi (R2 000);
 - (ii) inani elibiziwe elibhalwe phansi ngokusemthethweni litholakale nganoma yikuphi ukuthenga okuthize ngenani elingaphansi kwezinkulungwane eziyishumi zamarandi (R10 000); noma
 - (iii) inqubo yokuncintisana ngomsebenzi webhidi ilandelelwe nganoma yikuphi ukuthenga okuthize ngenani elingaphansi

kwezinkulungwane ezingamakhulu amabili zamarandi (R200 000).

- (3) *Inqubomgomo yokuphathwa kwezokuthenga kumele ibeke ukuthi –*
- (a) *lezo zimpahla noma imisebenzi angeke ngenhloso yahlukaniswa izingxenye ngenani eliphansi ngenhloso yokugwema ukuhambisana nezidingo zenqubomgomo; futhi*
 - (b) *uma kunqunywa inani lokuthenga, izidingo zezimpahla noma zemisebenzi ezinezingxenye ezahlukeni kumele ngokushesha zithathwe futhi zidingidwe njengezithengwa ndawonye.*

UKUBONGA

1. Umasipala waseMngeni
2. Umasipala waseMhlathuze
3. ILGM
4. DBSA
5. UMnyango kaMgcinimafa waKwaZulu-Natali
6. Ithimba lokuBonisana Phakathi koMasipala besiFundazwe

SALGA

Umasipala wesiFunda saseMkhanyakude

Umasipala wesiFunda Ilembu

Umasipala waseMlalazi

Umasipala wase-Greater Kokstad

Umasipala waseMpendle

Umasipala waKwaDukuza

Umasipala waseMhlathuze