

Annexure A – Part 1

Local Government Municipal Systems Act, (MSA), 2000

Section 38

Establishment of Performance Management System

A municipality must:

- (a) Establish a performance engagement system that: is-
 - (i) commensurate with its resources;
 - (ii) Best suited to its circumstances
 - (iii) in line with the priorities, objectives, indicators and targets contained in its integrated development plan
- (b) Promote a culture of performance management among its political structures, Political office bearers and councilors and its administration: and
- (c) Administer its affairs in an economical, effective, efficient and accountable manner.

Not only does the Act prescribe that a performance management system must be implemented, it also prescribes in the act on how the performance management system must be developed. For the purpose of completeness this section is also quoted hereunder.

MSA Sec 39

Development of performance management system

The executive committee or executive mayor of the municipality or, if the municipality does not have an executive committee or an executive mayor, a committee of councilors appointed by the municipal council must

- (a) Manage the development of a performance management system;
- (b) Assign responsibility in this regard to the e municipal manager and;
- (c) Submit he proposed system to the municipal council for adoption

Sec 40 and 41 to 46 of the Municipal Systems Act. Outlines the details of monitoring and review of the performance management system and the core components that must be included in the Performance management system, the components are:

MSA Sec 40

Monitoring and review of performance management system.

A Municipality must establish mechanisms to monitor and review its Performance management system.

MSA Sec 41

Core Components

1. A municipality must in terms if its performance management system and accordance with and regulations and guidelines that may be prescribed-

- (a) Set appropriate key performance indicators which are to be used as a yard stick for measuring performance, including outcomes and impact with regard to the municipality's development priorities and objectives set out in its integrated development plan
 - (b) Set measurable performance targets in respect of each of those development priorities and objectives
 - (c) With regard to each of those development priorities and objectives and against the key performance indicators and targets set in terms of paragraph (a) and (b)-
 - (i) Monitor Performance; and
 - (ii) Measure and review performance at least once a year;
 - (d) Take steps to improve performance with regard to those development priorities and objectives where performance targets were not met.
 - (e) Establish a process of regular reporting to-
 - (i) the council, other political structures, political office bearers and staff of the municipality; and
 - (ii) the public and appropriate organs of the state.
2. The system applied by a municipality in compliance with subsection (10 (c) must be advised to in such a way that it may serve as an early warning indicator of under performance.

The Legislation in regard to performance management is made even more onerous in that in terms of:

MSA Sec 42.

Community Involvement

A municipality, through appropriate mechanisms, processes and procedures established in terms of chapter 4, must involve the local community in the development, implementation and review of the municipality's performance, management system and in particular allow the community to participate in the setting of appropriate key performance indicators and performance targets for the municipality.

MSA Sec 43

General Key Performance indicators

1. The Minister, after consultation with the MECs for local government and Organised local government representing local government nationally. May-
 - (a) By regulation prescribed general key performance indicators that are appropriate and that can be applied to local government generally and
 - (b) When necessary, review and adjust those general key performance indicators.

2. Key Performance Indicators set by a municipality must include any general Key Performance indicators prescribed in terms of subsection (1). To the extent that these indicators are applicable to the municipality concerned.

MSA Sec 44

Notification of Key Performance Indicators and Performance Targets

A Municipality, in a manner determined by its council, must, make known both internally and to the general public the key performance indicators and performance targets set by it for the purposes of its performance management system.

MSA Sec 45

Audit of Performance Measurements

The results of performance measurements in terms of section 4 (1) (c) must be audited-

- (a) as part of the municipality's internal auditing process: and
- (b) annually by the Auditor-General

MSA Sec 46

Annual Reports

1. A municipality must prepare for each financial year an annual report consisting of :-
 - (a) a performance report reflecting –
 - (i) the municipality's and any service provider's performance during that financial year, also in comparison with targets of and with performance in the previous financial year.
 - (ii) the development and service delivery priorities and the performance targets set by the Municipality for the following financial year; and
 - (iii) Measures that were or are to be taken to improve performance
 - (b) an audit on financial statements and the report on audit on the audit performed in terms of sec 45(b) and
 - (c) any other reporting requirements in terms of other applicable legislation.
2. Any Municipality must table its annual report within one month of receiving the audit report in sec (1) (c)

Municipality Systems Act Section 47:

1. The MEC for local Government must annually compile and submit to the provincial Legislature and the Minister and a consolidated report on performance of municipalities in the province.
2. The report must-
 - (a) identify municipalities that underperformed during the year
 - (b) propose remedial action to be taken; and

The MEC for Local government must submit a copy of the report to the national council of the provinces. The Regulations and the MFMA provides for the

establishment of an internal audit function. Internal Auditing must include assessment

Local Government; Municipal Planning and Performance Management Regulations, 2001

Regulation 14 (1) (a) (b) (c)

- (a) A municipality must develop and implement mechanisms, systems and processes for auditing the result of performance, measurements as part of its internal auditing processes.
- (b) Any Audit in terms of paragraph (a) must include assessment of the following:
 - (i) The functionality of the municipality's performance management system.
 - (ii) Whether the performance management system complies with the MSA
 - (iii) The extent to which the municipality's performance measurements are reliable in measuring performance of the municipality
- (c) Municipality's internal Auditors must:
 - (i) On a continuous basis, audit the performance measurements of the municipality.
 - (ii) Submit quarterly reports on their audits to the municipal manager and the performance audit committee.

Municipal Finance Management Act, 2003

SOURCE	DETAILS
MFMA S17	<p>Contents of annual budgets and supporting documents</p> <p>When an annual budget is tabled in terms of section 16(2), it must be accompanied by the following documents:</p> <p>(3)(b) Measurable performance objectives for revenue for each source and for each vote in the budget, taking into account the municipality's integrated development plan</p>
MFMA S53	<p>Budget processes and related matters</p> <p>The mayor of the municipality must take reasonable steps to ensure:</p> <p>(1)(c)(iii) that the annual performance agreements as required in terms of section 57 (1) (b) of the Municipal Systems Act for the municipal manager and all senior managers -</p> <ul style="list-style-type: none"> (aa) comply with this Act in order to promote sound financial management (bb) are linked to the measurable performance objectives approved with the budget and to the service delivery and budget implementation plan (cc) are concluded in accordance with section 57(2) of the Municipal Systems Act <p>The mayor must ensure:</p> <p>(3)(a) that the revenue and expenditure projections for each month and the service delivery targets and performance indicators for each quarter, as set out in the delivery and budget implementation plan, are made public no later than 14 days after the approval of the municipality's service delivery and budget implementation plan.</p> <p>(3)(b) that the performance agreements of the municipal manager, senior managers and any other categories of officials as may be prescribed, are made public no later than 14 days after the approval of the municipality's service delivery and budget implementation plan. Copies of such performance agreements must be submitted to the council and the MEC for local government in the province.</p>
MFMA S69	<p>Budget implementation</p> <p>The accounting officer must no later than 14 days after the approval of an annual budget submit to the mayor-</p> <p>(3)(b) Draft of the annual performance agreements as required in terms of section 57 (1)(b) of the Municipal Systems Act for the municipal manager and all senior managers</p>

<p>MFMA S72</p> <p>(1)(a)</p> <p>(1)(b)</p>	<p>Mid-year budget and performance assessment</p> <p>The accounting officer of a municipality must by 25 January of each year-</p> <p>Assess the performance of the municipality during the first half of the financial year, taking into account-</p> <ul style="list-style-type: none"> (ii) the municipality’s service delivery performance during the first half of the financial year, and the service delivery targets and performance indicators set in the service delivery and budget implementation plan (iv) the performance of every municipal entity under the sole or shared control of the municipality, taking into account reports in terms of section 88 from any such entities <p>submit a report on such assessment to</p> <ul style="list-style-type: none"> (i) the mayor of the municipality (ii) the National Treasury (iii) the relevant provincial treasury.
<p>MFMA S75</p> <p>(1)(d)</p>	<p>Information to be placed on websites of municipalities</p> <p>The accounting officer of a municipality must place on the website referred to in section 21A of the Municipal Systems Act the following documents:</p> <p>All performance agreements required in terms of section 57(1)(b) of the Municipal Systems Act</p>
<p>MFMA S87</p> <p>(5)(d)</p>	<p>Budgets</p> <p>The budget of the municipal entity must-</p> <p>Include a multi-year business plan for the entity that-</p> <ul style="list-style-type: none"> (i) sets key financial and non-financial performance objectives and measurement criteria as agreed with the parent municipality
<p>MFMA S88</p> <p>(1)(a)</p> <p>(1)(b)</p>	<p>Mid-year budget and performance assessment</p> <p>The accounting officer of a municipality entity must by 20 January of each year –</p> <p>Assess the performance of the entity during the first half of the financial year</p> <p>Submit a report on such assessment to</p> <ul style="list-style-type: none"> (i) the board of directors of the entity; and (ii) the parent municipality of the entity.
<p>MFMA S116</p> <p>(2)(b)</p> <p>(2)(d)</p>	<p>Contracts and contract management</p> <p>The accounting officer of a municipality or municipal entity must</p> <p>Monitor on a monthly basis the performance of the contractor under the contract or agreement</p> <p>Regularly report to the council of the municipality or the board of directors of the entity, as may be appropriate, on the management of the contract or agreement and the performance of the contractor.</p>

<p>MFMA S121</p> <p>(3)(c)</p> <p>(3)(f)</p> <p>(4)(d)</p>	<p>Preparation and adoption of annual reports</p> <p>The annual report of a municipality must include-</p> <p>The annual performance report of the municipality prepared by the municipality in terms of section 46 of the Municipal Systems Act</p> <p>An assessment by the municipality’s accounting officer of the municipality’s performance against the measurable performance objectives referred to in section 17 (3)(b) for revenue collection from each revenue source and for each vote in the municipality’s approved budget for the relevant financial year</p> <p>An assessment by the entity’s accounting officer of the entity’s performance against any measurable performance objectives set in terms of the service delivery agreement or other agreement between the entity and its parent municipality.</p>
<p>MFMA S122</p> <p>(1)(a)</p>	<p>Preparation of financial statements</p> <p>Every municipality and every municipal entity must for each financial year prepare annual financial statements which –</p> <p>Fairly presents the state of affairs of the municipality or entity, its performance against its budget, its management of revenue, expenditure, assets and liabilities, its business activities, its financial results, and its financial position as at the end of the financial year</p>

Part 3

The Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)

According to Chapter 3 of this Act, Municipal Councils must strive within its capacity to achieve the objectives set out in section 152 of the Constitution. In this regard, Municipal Councils must annually review-

- The needs of the community;
- Its priorities to meet those needs;
- Its processes for involving the community;
- Its organisational and delivery mechanisms for meeting the needs of the community; and
- Its overall performance in achieving the objectives referred to in subsection 1 of section 19 of the Municipal Councils.

Municipal Councils must further develop mechanisms to consult the community and community organisations in performing its functions and exercising its powers.

The Constitution of RSA, 1996 (Act 108 of 1996)

The constitution (1996), section 152, dealing with the objectives of local government paves the way for performance management with the requirements for an “accountable government”

152 (1) The object of local Government are :

- (a) to provide democratic and accountable government for local communities
- (b) to ensure the provision of services to communities in a suitable manner;
- (c) to promote social and economic development;
- (d) to promote a safe and healthy environment and;
- (e) to encourage the involvement of communities and community organisations in the matter of local government.

(2) A municipality must strive, within its financial and administrative capacity, to achieve the set out in subsection (1)

The democratic values and principles in terms of section 195 (1) are also linked with the concept of Performance management, with reference to the principles of interalia, the promotion of efficient, economic and effective use of resources, accountable public administration, to be transparent by providing information to be responsive to the needs of the community and to facilitate a culture of public service and accountability amongst staff.