

FEZILE DABI DISTRICT MUNICIPALITY

DONATIONS POLICY

March 2010

DEFINITIONS

“Act” means the Local Government: Municipal Finance Management Act (no. 56 of 2003).

“CFO” Chief Financial Officer

“Constitution” Constitution of Republic of South Africa, 1996

“Council” means elected council of the Fezile Dabi District Municipality.

“Councillor” means an elected member of the council.

“Donation” in the context of this policy, it means monetary consideration, goods, services, immovable property, or any other item of value.

“FDDM” Fezile Dabi District Municipality

“MFMA” Local Government: Municipal Finance Management Act 2003, Act No. 56 of 2003

“Official” means any person in the employment of the Fezile Dabi District Municipality.

“Structures Act” means Local Government: Municipal Structures Act 1998, Act No. 117 of 1998

“System Act” means Local Government: Municipal Systems Act 2000, Act No. 32 of 2000

OBJECTIVE OF DONATIONS POLICY

1. To provide a framework within which the municipality can grant donations.
2. To promote and maintain an effective system of granting donations in an ethical, compliant and consistent manner with relevant legislations and other approved council policies.

POLICY STATEMENT

3. There are occasions when the Council receives requests from various members of the community, organizations for donations. As with all other expenses, the council or the accounting officer must exercise prudent business

judgment in considering proposed expenditure in relation to the granting of donations, based on the specific request, allowability and the availability of funds.

BACKGROUND

4. The Council has an obligation to comply with its internal and external audits, financial management reporting and to be accountable to the community for its expenditure on donations.
5. This policy framework is not intended to be exhaustive in coverage, but aim to identify principles and provide guidelines when the council decides to grant donations.

LEGISLATIVE FRAMEWORK

6. this policy, in its entirety, shall be read in conjunction with the following legislation and policies
7. The Constitution; according to which-
 - a. A municipality's functions are entrenched in section 156 and 219;
 - b. Section 156 provides for a municipality's legislative and executive functions, whilst section 219 relates to a municipality's fiscal powers.
 - c. A municipality can only act within its constitutional powers and functions. In other words, in achieving its objects as set out in section 152 of the Constitution, the municipality does not have a free will to do, but is limited by its powers and functions.
 - d. A municipality must strive to achieve the *objects* through the exercise of its constitutional powers and functions.
 - e. a municipality may also perform other functions on behalf of another organ of state by means of agency or delegation as set out in section 238 of the Constitution.
8. The Structures Act, whereby-
 - a. In terms of section 83(3), "a district municipality must seek to achieve the integrated, sustainable and equitable social and economic development of its area as a whole..."
 - b. In terms of section 84(1), A district municipality has the following functions and powers:
 - (a) Integrated development planning for the district municipality as a whole, including a framework for integrated development plans of all municipalities in the area of the district municipality.

- (b) Potable water supply systems.
- (c) Bulk supply of electricity, which includes for the purposes of such supply, the transmission, distribution and, where applicable, the generation of electricity.
- (d) Domestic waste-water and sewage disposal systems.
- (e) Solid waste disposal sites, in so far as it relates to—
 - (i) the determination of a waste disposal strategy;
 - (ii) the regulation of waste disposal;
 - (iii) the establishment, operation and control of waste disposal sites, bulk waste transfer facilities and waste disposal facilities for more than one local municipality in the district.
- (f) Municipal roads which form an integral part of a road transport system for the area of the district municipality as a whole.
- (g) Regulation of passenger transport services.
- (h) Municipal airports serving the area of the district municipality as a whole.
- (i) Municipal health services.
- (j) Fire fighting services serving the area of the district municipality as a whole, which includes—
 - (i) planning, co-ordination and regulation of fire services;
 - (ii) specialised fire fighting services such as mountain, veld and chemical fire services;
 - (iii) co-ordination of the standardisation of infrastructure, vehicles, equipment and procedures;
- (iv) training of fire officers.
- (k) The establishment conduct and control of fresh produce markets and abattoirs serving the area of a major proportion of the municipalities in the district.
- (l) The establishment conduct and control of cemeteries and crematoria serving the area of a major proportion of municipalities in the district.
- (m) Promotion of local tourism for the area of the district municipality.

- (n) Municipal public works relating to any of the above functions or any other functions assigned to the district municipality.
 - (o) The receipt, allocation and, if applicable, the distribution of grants made to the district municipality.
 - (p) The imposition and collection of taxes, levies and duties as related to the above functions or as may be assigned to the district municipality in terms of national legislation.
- c. In terms of Section 89, in district management areas, the district municipality has all the municipal functions and powers.
9. Systems Act, whereby-
- a. A municipality has all the functions and powers conferred by or assigned to it in terms of the Constitution, and must exercise them subject to Chapter 5¹ of the Municipal Structures Act.
10. MFMA, in which;
- a. In terms of section 15, a municipality may, except where otherwise provided in the Act (MFMA), incur expenditure only in terms of the approved budget; and within the limits of the amounts appropriated for the different votes in an approved budget.
 - b. In terms of Section 65 (1), the accounting officer is responsible for the management of expenditure of the municipality;
 - c. In terms of Section 65(2), the accounting officer must take all reasonable steps to ensure that the municipality has and maintains an effective system of expenditure control, including procedures for the approval, authorisation, withdrawal and payment of funds; and
 - d. In terms of section 67, the transfer of funds to organisations and bodies outside any sphere of government otherwise than in compliance with a commercial or other business transactions, may only happen in terms of this section.

PROCEDURAL PROVISIONS WHEN MAKING DONATIONS

11. Requests for donations will be done in a prescribed format approved by council. All requests for donation shall be directed to the accounting officer and / or the Executive mayor of the municipality.

¹ It relates to the division of power between local and district municipalities

12. As a minimum, all requests for donations should provide for the following information of the group / organisation requesting donation:
- a. Identity of the organisation or institution, i.e Legitimate registration documents
 - b. Identity the executive members of the organisation
 - c. Physical address
 - d. The main purpose
 - e. Intended use of the donation
 - f. The value of the donation
13. The municipality may lawfully make donations to, organization and institutions, provided-
- a) that the request is received in an format and manner as may be prescribed;
 - b) that the donation is approved by the Accounting Officer and / or the Executive Mayor;
 - c) that the granting of donation is done taking into account the provisions of section 15 of MFMA;
 - d) that the donation is in relation to any of the local government functions and powers listed in Parts B of Schedules 4 and 5 of the Constitution, section 83(3) and 84(1) of the Systems Act (***refer to paragraph 5 above***), or any other matter assigned to it by the national or provincial governments;
 - e) that the donation can rationally be aligned to the effective performance of any of those functions and powers;
 - f) that section 67 of the MFMA is complied with to the extent practically applicable; and
 - g) that the organisation or institution receiving the donation is willing to sign a donation agreement with the municipality where applicable.
14. Requests for donations may be received from various, organizations and institutions. It is the prerogative of the municipality to grant or deny a donation.

CLASSIFICATION OF ORGANISATIONS AND BODIES

15. For the purpose of this policy framework, the following organizations and bodies will be classified as follows, and are eligible to request donations:
- a) Institutions of learning
 - b) Special institutions e.g the DPOSA (Disabled People of South Africa)
 - c) Religious institutions

- d) Co-operatives
- e) Social clubs
- f) Community –based organizations
- g) Section 21 companies (not for gain companies)
- h) Sporting clubs
- i) Cultural organizations
- j) Human Rights organizations

LIMITATIONS AND PROHIBITIONS

16. No donation may be granted to an organisation or institution without explicit approval by the Accounting Officer and / or the Executive Mayor.
17. No donations or grants may be made to any organization or institution where such organization or institution has its permanent physical address or the head office outside Fezile Dabi District Municipality area of jurisdiction.
18. No members of the council, or official of the municipality, severally or collectively, may solicit, receive or expect to receive any favour in return from an organisation or institution granted donation by the council.
19. The donation of immovable property must be done in accordance with section 14 of the MFMA.
20. No donations or grants may benefit any member of council, or an official of the municipality, unless council has approved such donation fully aware of this fact.
21. The granting of a donation to individuals is not allowed.
22. The granting of donations to organizations/groups is limited to one per financial year
23. No donations may be granted to organizations or institutions whose primary objectives and their business activities are linked to a motive of making profit.
24. The accounting officer and/or the Executive Mayor may only approve donations up to a maximum of R 50 000.
25. Any donation exceeding an amount of R 50 000 shall be approved by the Council.

26. No donation may be granted to a political party, or any other structure or body that is affiliated to a particular political party.

CONSEQUANCES OF NON-COMPLIANCE

27. Any donation granted contrary to the provisions of this policy; constitute unauthorized, irregular or fruitless and wasteful expenditure; and
28. The provisions of section 32 of the MFMA shall apply.

REPORTING

29. The council may require that an organization or institution granted a donation, must report to the accounting officer of the municipality on the actual expenditure against the donation on a monthly basis or on request;
30. Failure to report to the accounting officer as requested shall automatically disqualify the organization or institution for further donation and section 67(2)(a)and(b) shall apply; and
31. Where appropriate, to comply with financial management and auditing requirements as may be stipulated.
32. A list of donations granted, with particulars of the organizations/groups must be submitted to Council bi-annually for noting.