

THABO MOFUTSANYANA DISTRICT MUNICIPALITY

CREDIT CONTROL POLICY

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Introduction

The current financial dispensation within the Local Government / Municipal Sector in South Africa has placed great emphasis on the Financial Management of the Municipality in compliance with the following legislation:

- ◆ The Municipal Finance and Management Act
- ◆ The Local Government: Municipal Systems Act
 - Section 96: Debt collection responsibility of municipalities

A municipality --

- a) Must collect all money that is due and payable to it, subject to this Act and any other applicable legislation; and
- b) For this purpose, must adopt, maintain and implement a credit control and debt collection policy, which is consistent with its rates and tariff policies and complies with provisions of this Act.

1. Definitions.

"Acknowledgement of debt" A term used to describe a document from which a Debtor's acknowledgment of a claim or undertaking to pay a debt can be inferred.

"Bad Debt" Money owed to a person or Municipality by a Customer/Debtor that it is unable to collect from the Debtor.

"Cash Flow" The level of money required by a Municipality to meet the costs of its normal trading/operating activity.

"Customer Voluntary Arrangement -CVA" A voluntary agreement for a Customer is a procedure whereby a plan of recognition or composition in satisfaction of debts, is put forward to Creditors and shareholders. There is limited involvement by the Court and the scheme is under the control of a supervisor.

"Collection Commission" When, by judgment agreement, a debt is payable in instalments, there is a fee that an attorney or registered third party debt collector may charge more than the maximum recoverable fee stipulated by law being presently 10% of the instalment up to the maximum of R250.00 (plus VAT) per instalment.

"Contract" An agreement entered into by parties who intend to bind themselves thereby. There must be consensus between the parties as to the material terms of the contract.

"Credit" Is the means by which an individual or business may, in agreement with a credit grantor, obtain goods or services for immediate use and pay for such goods or service at an agreed future date.

"Creditor" The person or Municipality that provides goods, services, or finance to a Customer/Debtor on the promise of repayment of the cash value to the Creditor within the stated credit period and subject to the credit Terms. A Creditor is a person/entity to whom money is due and owing by a Debtor.

"Credit approval" A term used when an applicant is successfully awarded credit.

"Credit Bureau" A Body providing credit information.

"Credit controller" A person who is responsible for the operational implementation of the Credit Management and Credit Risk Management Policies in order to minimize the Business Credit Risk and to maximize the recovery of credit sales revenue as well as money owed to the Municipality by its Debtors.

"Criminal Action" A legal proceeding where the State prosecutes an individual for an act or omission, which is punishable by law.

"Debt" The value of goods, services or capital (including interest) that is owed by a Debtor to the Creditor.

"Debtor" A Customer who purchases goods, services or capital from a service provider on credit and therefore owes money to the service provider who becomes the Creditor.

"Garnishee" A person (or Municipality) that you claim owes the Debtor money. You can often get the Court to order the garnishee to pay you instead of the Debtor.

"Insolvency" Insolvency refers to a state of financial affairs whereby the liabilities of an individual or a business exceed their assets, rendering the individual or business unable to meet their financial obligations. It is important to note that insolvency is a state of affairs and not a legal condition, as is the case with sequestration or liquidation.

"Letter of Demand" An initial document indicating the Plaintiff's claim and consequences if the Defendant does not comply with his request.

"Liability" A legal obligation or duty, an amount owed.

"Municipal Systems Act" Refer to the Municipal Systems Act no of 2000.

"Public Finance and Management Act" refer to the Public Finance and Management Act no of 2000.

"Municipal Structures Act" Refer to the Local Government: Municipal structure Act no 117 of 1998.

Category C Municipality"

"Jurisdiction" The area in which the Municipality has the power/ability to enforce the Regional Services Councils Act.

"Regional Establishment Levy" Means, in relation to any person carrying on or deemed to be carrying on an enterprise within the region, a levy calculated and payable in relation to such enterprise in the manner determined by the Minister of Finance under section 12(1)(b), at a rate from time to time determined by council establish for region with the concurrence of the said Minister and which the said Minister shall publish by notice in the Government Gazette: Provided that different rates may be so determined in respect of different categories of enterprise.

"Regional Services Levy" Means a levy calculated: (a) on remuneration as defined in paragraph 1 of the Fourth Schedule to the Income Tax Act no 58 of 1982, but including the amounts referred to in paragraphs (i), (iv) and (vi) of that definition and excluding, in the case of any farm labourer whose cash remuneration is payable at a rate not exceeding the rate contemplated in the said paragraph (i), any amount contemplated in paragraph (i) of the definition of 'gross income' in section 1 of that Act, paid or payable by an employer to the employees employed or deemed to be employed by him within the region in question; and (b) in the case of a person (other than a company) carrying on or deemed to be carrying on an enterprise in the region for his sole account or in partnership with one or more other persons, on his drawings in relation to such a enterprise; at a rate from time to time determined by a council with concurrence of the Minister of Finance and which the said Minister shall publish by notice in the Government Gazette: Provided that different rates may be so determined in respect of different categories of employees.

"Regional Services Council Act" The Regional Services Council s Act no 109 of 1985.

2. Background, objects and application of this policy.

2.1. Background

Thabo Mofutsanyana District Municipality was established in terms of notice (12) of the Municipal Structures Act no. 117 of 1998 and is categorised as a Category C Municipality. The council's area of jurisdiction includes the municipal boundaries of the following six municipalities: Matjhabeng, Masilonyana, Tokologo, Tswelopele and Nala.

The main source of revenue of a Category C Municipality (District Municipality) is regional establishment and regional services levies, which are determined in terms of the Regional Service Councils Act no. 109 of 1985. These levies are payable by enterprises operating within Council's area of jurisdiction as prescribed in terms of the Regional Service Councils Act.

The revenue sources of a District Municipality and that of a Local Municipality differs substantially and therefore the contents of the credit control and debt collection policy for a District Municipality will not address the following:

- Credit assessment – including consumer deposits
- Termination of services or the restriction of the provision of services
- Provision for indigent debtors

2.2. Object

The main object of this policy is to ensure effective and efficient debt collection by the Thabo Mofutsanyana District Municipality as prescribed in the Systems Act, namely to collect all money that is due and payable to Thabo Mofutsanyana District Municipality, subject to the Systems Act and any other applicable legislation; and for this purpose, adopt, maintain and implement this credit control and debt collection policy.

This policy will result in:

- Transparency, accountability and sound manageability of revenue collection, credit control and debt collection by Thabo Mofutsanyana District Municipality
- Improving cash flows.
- A guideline to officials, handling credit control and debt collection.

2.3. Application of this policy

The application of this policy is to serve as a credit control and debt collection policy. It is not intended to replace or interpret any legislation and/ or regulations, in the event of any inconsistencies with other legislation and/or regulation this policy will not apply in that particular instance.

3. Credit control and debt collection policy.

The Thabo Mofutsanyana District Municipality debtors can mainly be divided in three categories, namely Regional Services Council debtors, sundry debtors and grants from national and provincial government. The need to distinguish between the three categories arises from the differentiating procedures to collect debt of the above debtors respectively.

3.1. Regional Services Council Levy Debtors

Credit control and Debt collection procedures

A registration form (RSC1), must be completed by all levy payers who is liable to pay levies to the Thabo Mofutsanyana District Municipality in terms the Regional Services Councils Act.

The collection procedure is based on a distinction between current debtors and arrear debtors.

An assessment form (RSC4) is sent to all registered levy payers for the assessment period, which can be either monthly, six monthly or annually respectively. The assessment must be completed, returned and paid on or before the 20th of the month following the assessment period. A respite period of 5 days after the due date is allowed.

Current Debtors are all those debtors, who declare and pay their levies within this period.

If a debtor fails to submit the RSC4 and settle the account within this period it becomes a *arrears debtor* and the Finance Manager must:

- o Send a letter of request for payment to the debtor, if there is a deviation in the amount declared on the RSC4 and the payment received.
 - o Send a final notice to the debtor to serve as a letter of demand for payment, if debtor fails to pay on or before the due date. The debtor has 7 days to react on this letter of demand.
 - o Issue a summons, if the debtor fails to pay within the due date of the letter of demand and obtain a judgment from the court.
 - o Hand the debtor's account over to council's legal representatives for collection if the debtor still fails to pay.

- Send a notice of estimated levies (RSC6), with an estimated assessment amount, to the debtor, if no RSC4 or payment is received. The RSC6 forms are sent out every second month, namely February, April, June, August, October and December. The RSC6 has a 30-day due day period. A respite period of 5 days after the due day is allowed. If the RSC6 is received within this period, the estimated assessment will lapse, on receipt of the levy payer's actual figures.
 - Debit the levy payers account with the estimated assessment amount, if the debtor fails to submit the RSC6 within the due date.
 - Send a final notice to the debtor to serve as a letter of demand for payment. The debtor has 7 days to react on this letter of demand. If the response on the letter of demand is received within this period, the estimated assessment will lapse on receipt of the levy payers actual figures, a administration fee of R50.00 per assessment period are payable with the actual amount.
 - Issue a summons, if the debtor fails to pay within the due date of the letter of demand and obtain a judgment from the court.
 - Hand the debtor's account over to council's legal representatives for collection if the debtor still fails to pay.

A debt collection firm is also appointed by council, to trace and collect arrear debtor accounts (which are overdue for more than 90 days) on its behalf.

3.2. Sundry Debtors

Sundry debtors are all debtors that are not classified under the other two category debtors. In most of the applicable cases a written agreement will serve as the recognition of the debt by the debtor. In the event of the non-existence of a written agreement, an agreement and acknowledge of debt (specimen copy attached as annexure A) must be completed by the debtor.

A monthly statement is sent out to the sundry debtor which is payable by the due date. A respite period of 5 days after the due date is allowed.

If the sundry debtor fails to pay within this period it becomes a *arrears* debtor and the Finance Manager must:

- Sent a final notice to the debtor to serve as a letter of demand for payment. The debtor has 7 days to react on this letter of demand.
- Issue a summons, if the debtor fails to pay within the due date of the letter of demand and obtain a judgment from the court.
- Hand the debtor's account over to council's legal representatives for collection if the debtor still fails to pay.

3.3. Grants from National and Provincial Government

As soon as amounts are identified, as a grant to Thabo Mofutsanyana District Municipality, a budget income and expenditure vote is created with the due amount. These votes are monitored and in the event of payments not received when due the Finance Manager must:

- Send a reminder letter to National/Provincial Government.
- Send a final notice to the debtor to serve as a letter of demand for payment. The debtor has 7 days to react on this letter of demand.
- Issue a summons, if the debtor fails to pay within the due date of the letter of demand and obtain a judgment from the court.
- Hand the debtor's account over to council's legal representatives for collection if the debtor still fails to pay.

4. Interest on arrears.

Interest at a rate determined by Council from time to time in terms of relevant legislation will be charged on all arrear debtors accounts.

5. Procedures to ensure compliance with 'General Accepted Municipal Accounting Practices' (GAMAP).

The accounting of debtors should be in compliance with GAMAP. Provision for bad debts is made at a reasonable percentage of the average outstanding debtors per year.



