

2020/2021

KGATELOPELE LOCAL MUNICIPALITY DONATION POLICY



KGATELOPELE LOCAL MUNICIPALITY

1. Background

In terms of the MFMA, Section 65(2)(a), the municipality must maintain an effective system of expenditure control, including procedures for the approval, authorization, withdrawal and payment of funds. In line with the above, a Donation Policy has been drawn up to spell out the procedures and control measures which need to be enforced.

2. Definitions

In this policy,

“chief financial officer” means a person designated in terms of section 80 (2) (a) of the MFMA.

“mayor”, means the councilor elected as the executive mayor of the municipality in terms of section 55 of the Municipal Structures Act;

“municipal council” or **“council”** means the council of a municipality referred to in section 18 of the Municipal Structures Act;

“municipal manager” means a person appointed in terms of section 82 (1) (a) or (b) of the Municipal Structures Act.

“NGO” means a non-for-profit agency not affiliated with any government or private sector entity, devoted to managing resources and implementing projects with the goal of addressing social problems.

“policy” means a definite course or method of action to guide and determine present and future decisions.

“registered association” In this sectiona.

"association" means a formal grouping or body to which two or more such groupings are affiliated, which is formed not for gain and having the main object of promoting the group interests of its members, and which intends to apply its income in promoting such interests;

"registered" means conditionally or fully registered;

“welfare organizations” means any public benefit organization which is exempt from income tax in terms of section 10(1)(c) (N) of the Income Tax Act, if it carries on or intends to carry on any welfare activity determined by the Minister for purposes of this Act, relating to those activities that fall under the headings –

- a) welfare and humanitarian;
- b) health care;
- c) land and housing;
- d) education and development; or
- e) conservation, environment and animal welfare.

3. Discussion

Donations refer usually to financial contribution which does not need to be repaid and which incurs no formal obligation. It is a once-off grant to add value to the objectives of the group / organization and serves to enhance the image of Kgatelopele Local Municipality as a caring corporate citizen in the local communities. A donation is usually for relief or charitable purposes, promoting Kgatelopele Local Municipality's image and creating goodwill in the public eye. No return on the donation expenditure is expected. The policy will enable Council and the Municipal Manager, as accounting officer to allocate Donations to various groups within the community.

4. Objectives of The Donations Policy

This policy aims to provide a framework to receive and give donations to institutions, non-governmental organizations (NGO's), community-based organizations (CBO's), Non-Profit Organizations (NPO's) and other bodies as envisaged by Section 12 and 67 of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003). Donations refer usually to financial contribution which does not need to be repaid and which incurs no formal obligation. It is a once-off grant to add value to the objectives of the group / organization and serves to enhance the image of Kgatelopele Local Municipality as a caring corporate citizen in the local communities. A donation is usually for relief or charitable purposes, promoting Kgatelopele Local Municipality's image and creating goodwill in the public eye. No return on the donation expenditure is expected.

The purpose of this policy is to complement the goals, objectives, programmes and actions of the Kgatelopele Local Municipality in order to create a sustainable, credible and caring region by empowering and building communities and enhancing growth and sharing through partnerships.

5. Scope

The policy applies to donations received to and made by the Municipality. It applies to financial contributions as well as goods and services if appropriate including assets of Council that the Council may no longer have a use for.

6. Legislative Framework

All transfers of funds in terms of this policy shall be read in conjunction with relevant legislation, and comply with the following:

- Constitution of South Africa, Act No 108 of 1996
- Municipal Finance Management Act (MFMA), Act No 56 of 2003
- Municipal Systems Act, Act No 32 of 2000
- Municipal Systems Amendment Act, Act No 44 of 2003
- Municipal Structures Act, Act No 117 of 1998
- Municipal Structures Amendment Act, Act No 33 of 2000
- Division of Revenue Acts
- Disaster Management Act, Act No 57 of 2002
- Income Tax Act, Act No58 of 1962
- Prevention and Combating of the Corrupt Activities Act, Act No 12 of 2004
- Municipal Supply Chain Management Regulations

7. Procedure for Council to Receive a Donation

- a. Any member of the public or organization may donate money to the Council / Fund for the purpose of a relief, charitable trust or other fund.
- b. The Kgatelopele Local Municipality may actively canvass for donations for the purpose of a relief, charitable, trust or other fund.
- c. If a donor specifies conditions in respect of any donation, the donated amount may only be utilised in terms of those conditions.
- d. The Municipal Manager or Council may refuse any donation where the conditions attached to the donations are unacceptable to the Municipal Manager or Council, For example:
 - a) Where the conditions attached are against Council policies;
 - b) Where the conditions attached are of such a nature, given the municipality's capacity constraints, skills and resources, the municipality will be unable to deliver on the proposed time-frames.
- e. A budget vote must be created for making donations and the receiving of monies for the purpose of a relief, charitable, trust or other fund.
- f. This budget vote may not be overspent and the Chief Financial Officer shall provide a monthly report to Council on the state of the vote, as part of the statutory financial reporting requirements.

8. Procedure for Council to Make a Donation

- a. The following bodies are eligible to receive donations:

- a) Any municipal association approved by the local government Minister;
- b) Any registered association or welfare organization;
- c) Any fund, NGO, institution, organization, banking institution, club or society which has a presence in the district and has been established for the benefit and in the interest of the blind, deaf, dumb, disabled, aged, destitute, sick, orphaned, alcoholic, infirm, or other mentally or physically unfit persons; and
- b. Any NGO, institution, organization, banking institution, club or society in the district which *inter alia* :
 - a) promotes public health, including the nursing of the sick;
 - b) promotes education, science, technology or literature;
 - c) promotes sports and recreation;
 - d) promotes arts and culture, including music, opera, film and drama;
 - e) controls or maintains a museum, zoological garden, botanical garden, public library or art gallery;
 - f) acts in the interest of the youth or promotes child care; and
 - g) promotes the safety and protection of the public.
- c. Donations can also be granted in respect of national, provincial or local public causes such as disasters.
- d. The attached Schedule provides a guide as to the kind of activities that can be eligible for donations.
- e. Any NGO, institution, organization, banking institution, club or society who is eligible to receive a donation, must:
- f. Operate as a separate legal entity and be recognised as such by South African legislation;
- g. Be governed by their constitution;
- h. Have regular meetings with their membership;
- i. Subscribe to sound accounting practices; and
- j. Must comply where applicable legislation including where appropriate Registrar of Close Corporations, CIPRO, South African Revenue Services (SARS), Unemployment Insurance Fund (UIF) and Vat Act.
- k. No donations can be made to:
 - a) Any political or ratepayer's organization;
 - b) Bodies in cases where a member of Council or an official of Kgatelopele Local Municipality receives any financial or other gain;
 - c) Individuals;
 - d) Where a project or organization is already receiving funds from Council in terms of Council's functions;
 - e) Where an organization receives sufficient funds from other sources to sustain its activities or the project applied to;
 - f) Where expenses have already been incurred; and
 - g) Projects outside the boundaries of Sedibeng except in situations of disaster relief.
- l. Despite the above, Council may set aside a specific amount from which the Municipal Manager, after consultation with the Mayor, may, at his/her

discretion, make donations to support individual deserving and/or meritorious cases.

7. Application Process for Donations

7.1. Applicants for a donation shall be in writing and be on the letterhead of the organization, institution or body.

7.2. Applications for a donation must include the following information:

- a) The applicant's legal name and a brief description of the applicant's business;
- b) If the applicant is a non-profit organization, the registration number;
- c) Date of establishment;
- d) Contact details including a contact name, street address, telephone number and if available fax and e-mail address;
- e) References independent of the head of the applicant and its executive or leading members;
- f) A summary of past achievements;
- g) Other sources of funding; and
- h) A declaration by the head of the applicant that it implements effective, efficient and transparent financial management and internal control mechanisms to guard against fraud, theft and financial mismanagement.

7.3. If funding is required for a specific project, a brief description of the project must be included which should include information on inter alia:

- a) Aims, objectives and anticipated outcomes of the project;
- b) Duration of the project;
- c) Project activities;
- d) Detailed budget; and
- e) Other sources of funding if applicable.

7.4. Applicants must provide supporting documentation which may include:

- a) Most recently audited financial statements;
- b) Most recent annual report;
- c) Details of the applicant's members; and
- d) Founding documents such as Constitution or Certificates of Incorporation.

7.5. To facilitate the application process, the Council may produce an application form which can be used by applicants.

7.6. The Council may place advertisements in local newspapers indicating that relevant bodies may apply for grants etc.

8. Approval Process for Donations

8.1. The Municipal Manager may establish a Donations Committee to assist him/her.

- a) The Donations Committee (if so established) shall consist of:
 - Chief Financial Officer, who shall chair the Committee

- Director responsible for Community Services
- Official from the Office of the Mayor.

8.2. The Donations Committee (if so established) may recommend to the Municipal Manager for approval.

8.3 The Municipal Manager will consult the Mayor before granting final approval.

8.4. The Donations Committee shall be convened when necessary.

8.5. Any dispute arising from approvals in terms of this process shall be referred to Council for decision making.

9. Administration of Approved Applications

9.1. Before any funds are transferred to a successful applicant, agreement must be concluded by the Municipal Manager with the beneficiary to protect then interest of the Municipality.

9.2. The agreement, which shall be simple, shall set out at least:

- (a) The amount that the applicant will received, including in tranches if relevant;
- (b) The conditions which may apply to the grant or donation;
- (c) Reporting requirements

9.3. The head of the successful applicant must acknowledge in writing to the Municipal Manager that the money was received in its bank account and that the amount is/will be utilised to the benefit and in accordance with the role of the organization or body in society and as specified in the request for funding.

9.4. If the conditions stipulated in the above mentioned agreement were not met, the Municipal Manager can terminate further tranches and refuse to give donations to the organization in future.

9.5. If allegations are made of fraud in respect of a donation made, the Municipal Manager must refer the matter to the SAPS and other relevant bodies.

10. Conditions and Prohibitions of Donations

10.1. Grants or donations will be valid for a year and organizations requiring further financial assistance, will have to re-apply. Council reserves the right not to fund an applicant two years in succession.

10.2. While a successful applicant is only entitled to one allocation per financial year, but disbursements can be made more often.

10.3. Successful applicants must have a bank account into which grants or donation can be deposited.

10.4. Funding may not be paid directly to an individual or individual bank account.

10.5. The funding may not be used for expenses that have already been incurred.

10.6. Subsequent requests from applications to cover overspending will not be considered.

10.7. A donation from the fund shall not result in repeat commitments nor may any

expectation be created that funding will automatically be made available for future events.

10.8. Donations may not be used in conjunction with other Council funding.

11. Monitoring and Reporting

11.1. The Municipality shall monitor the agreements entered into bodies by receiving reports and doing site visits and inspections to ensure that this policy and the agreement are being complied with.

11.2. The Municipality shall be entitled, from time-to-time, to verify and inspect the existence and activities of the funded body or project including by physically visiting the premises of the body or project.

11.3. The body shall report as set out in the above mentioned agreement regarding the activities for which funds were requested.

11.4. The Executive Mayor must report to Council on a quarterly basis in respect of the status of the donations including amounts withdrawn, and the names of the beneficiaries.

12. Review of The Policy

The Donation Policy shall be reviewed at the discretion of the Accounting Officer due to changing circumstances as a result of the legislation or otherwise.

13. Commencement

This Policy takes effect on the date on which it is adopted by the Council of Kgatelopele Local Municipality.