

Municipal Systems Act, 2000 (Act No. 32 of 2000)

Chapter 8: Municipal Services

Part 2: Provision of services

78. Criteria and process for deciding on mechanisms to provide municipal services

- 1) When a municipality has in terms of section 77 to decide on a mechanism to provide a municipal service in the municipality or a part of the municipality, or to review any existing mechanism-
 - a) it must first assess-
 - i) the direct and indirect costs and benefits associated with the project if the service is provided by the municipality through an internal mechanism, including the expected effect on the environment and on human health, well-being and safety;
 - ii) the municipality's capacity and potential future capacity to furnish the skills, expertise and resources necessary for the provision of the service through an internal mechanism mentioned in section 76(a);
 - iii) the extent to which the re-organisation of its administration and the development of the human resource capacity within that administration, as provided for in sections 51 and 68, respectively, could be utilised to provide a service through an internal mechanism mentioned in section 76(a);
 - iv) the likely impact on development, job creation and employment patterns in the municipality; and
 - v) the views of organised labour; and
 - b) it may take into account any developing trends in the sustainable provision of municipal services generally.
- 2) After having applied subsection (1), a municipality may-
 - a) decide on an appropriate internal mechanism to provide the service; or
 - b) before it takes a decision on an appropriate mechanism, explore the possibility of providing the service through an external mechanism mentioned in section 76(b).
- 3) If a municipality decides in terms of subsection (2)(b) to explore the possibility of providing the service through an external mechanism it must-
 - a) give notice to the local community of its intention to explore the provision of the service through an external mechanism; and
 - b) assess the different service delivery options in terms of section 76(b), taking into account-
 - i) the direct and indirect costs and benefits associated with the project, including the expected effect of any service delivery mechanism on the environment and on human health, well-being and safety;
 - ii) the capacity and potential future capacity of prospective service providers to furnish the skills, expertise and resources necessary for the provision of the service;
 - iii) the views of the local community;
 - iv) the likely impact on development and employment patterns in the municipality; and
 - v) the views of organised labour.
- 4) After having applied subsection (3), a municipality must decide on an appropriate internal or external mechanism, taking into account the requirements of section 73(2) in achieving the best outcome.
- 5) When applying this section a municipality must comply with-
 - a) any applicable legislation relating to the appointment of a service provider other than the municipality; and
 - b) any additional requirements that may be prescribed by regulation.