Contracts having future budgetary implications

33. (1) A municipality may enter into a contract which will impose financial obligations on the municipality beyond a financial year, but if the contract will impose financial obligations on the municipality beyond the three years covered in the annual budget for that financial year, it may do so only if—

(a) the municipal manager, at least 60 days before the meeting of the municipal council at which the contract is to be approved—

(i) has, in accordance with section 21A of the Municipal Systems Act—

(aa) made public the draft contract and an information statement summarising the municipality's obligations in terms of the proposed contract; and

(bb) invited the local community and other interested persons to submit to the municipality comments or representations in respect of the proposed contract; and

(ii) has solicited the views and recommendations of—

(aa) the National Treasury and the relevant provincial treasury;

(bb) the national department responsible for local government; and

(cc) if the contract involves the provision of water, sanitation, electricity, or any other service as may be prescribed, the responsible national department;

(b) the municipal council has taken into account—

(i) the municipality's projected financial obligations in terms of the proposed contract for each financial year covered by the contract;

(ii) the impact of those financial obligations on the municipality's future municipal tariffs and revenue;

(iii) any comments or representations on the proposed contract received from the local community and other interested persons; and

(iv) any written views and recommendations on the proposed contract by the National Treasury, the relevant provincial treasury, the national department responsible for local government and any national department referred to in paragraph (a)(ii)(cc); and

(c) the municipal council has adopted a resolution in which—

(i) it determines that the municipality will secure a significant capital investment or will derive a significant financial economic or financial benefit from the contract;

(ii) it approves the entire contract exactly as it is to be executed; and

(iii) it authorises the municipal manager to sign the contract on behalf of the municipality.

(2) The process set out in subsection (1) does not apply to—

(a) contracts for long-term debt regulated in terms of section 46(3);

(b) employment contracts; or

(c) contracts—

(i) for categories of goods as may be prescribed; or

(ii) in terms of which the financial obligation on the municipality is below—

(aa) a prescribed value; or

(bb) a prescribed percentage of the municipality's approved budget for the year in which the contract is concluded.

(3) (a) All contracts referred to in subsection (1) and all other contracts that impose a financial obligation on a municipality—

(i) must be made available in their entirety to the municipal council; and

(ii) may not be withheld from public scrutiny except as provided for in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

(b) Paragraph (a)(i) does not apply to contracts in respect of which the financial obligation on the municipality is below a prescribed value.

(4) This section may not be read as exempting the municipality from the provisions of Chapter 11 to the extent that those provisions are applicable in a particular case.