



**Department Local
Government and Housing**
Local Government Branch
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TO: All Executive Mayors, Mayors/Speakers
in the Free State Province
and SALGA Free State

LOCAL GOVERNMENT CIRCULAR: 1 OF 2007

REGULATORY SERVICES: MUNICIPAL MANAGER AND HOD CONTRACT OF EMPLOYMENT

1. It came to my notice that some municipalities are experiencing difficulties with the interpretation of section 57 of the Systems Act, 2000 and the new Local Government: Municipal Performance Regulations For Municipal Managers And Managers Directly Accountable To Municipal Managers, 2006, Regulation R.805 dated 1 August 2006.
2. In terms of section 57(6)(a) of the Local Government Systems Act, 2000 the employment contract for a municipal manager must be for a fixed term of employment, not exceeding a period ending two years after the election of the next council. In terms of subsection (c) the contract must also stipulate the terms of renewal of the employment contract by agreement between the two parties. (Council and municipal manager)
3. If the employment contract of the municipal manager does not contain the prescribed terms of renewal, the contract will terminate on the day mentioned in the contract. It cannot be renewed.
4. If the employment contract however contains terms of renewal, I am of the opinion that it may be possible (depending on the nature of the terms) for the council to renew the contract before the election of the new council for a period **not exceeding two years** into the term of the new council.
5. Any renewal extending beyond the period of two years after the election of the new council will however be null and void as the contract in terms of this section cannot extend beyond the period of two years as stipulated

6. Section 57(6) of the Act will only be applicable to heads of department directly accountable to the municipal manager if the council applied section 57(7) of the Act. In such a case the contract will expire on the date of termination thereof. The same two year rule applicable to municipal managers is applicable in this case.
7. After the termination of such a contract, a vacancy occurs. The mayor or council may not renew the contract of the incumbent or make a new appointment of the same person without first advertising the post and completing the process to fill a vacancy.
8. If the contract of a head of department however does not stipulate a date of termination, the employment contract may be indefinite.
9. In terms of regulation 4(5) of The Local Government: Municipal Performance Regulations, a copy of the signed employment contract as well as the signed performance agreement of each Municipal Manager and Head of Department concluded in terms of these Regulations, must be submitted to the MEC responsible for local government in the relevant province as well as the national minister responsible for local government within fourteen (14) days after concluding the employment contract and performance agreement.
10. Copies of annual performance agreements concluded between the council and the Municipal Manager as well as Heads of Department must kindly within 14 days after conclusion thereof be submitted to my office for record purposes. Annual performance agreements should be finalised within 14 days from the 1st of July each year to comply with the Schedule for performance reviews as prescribed in regulation 28 of these Regulations.

With kind regards

KF Ralikontsane
HOD: Department Local Government and
Housing

Date: 11 January 2007

Circular 5 of 2006 dealt with the Adoption And Publication Of Standard Rules And Orders and was sent to Municipal Managers in the Free State and SALGA Free State.