

On the Basis of Article 55 paragraph 1 of the Law on Organization and Operations of Government Administration Bodies (Official Gazette of the Republic of Macedonia, no. 58/2000), and with reference to Article 18 paragraph 2, Article 21 paragraph 2 and Article 50 of the Law on Local Financing (Official Gazette of the RM nos. 61/2004, 96/2004 and 67/2007) and Articles 16, 17, 21, 22, 24, 25 and 26 of the Public Debt Law (Official Gazette of the Republic of Macedonia no. 62/2005), the Minister of Finance adopted the following

GUIDELINES

the manner and procedure for municipal borrowing and borrowing by public enterprises in the Republic of Macedonia

I. The Guidelines on the manner and procedure for municipal borrowing and borrowing by public enterprises in the Republic of Macedonia was drafted in accordance with the Public Debt Law (Official Gazette of the Republic of Macedonia no.62/2005) and the Law on Local Financing (Official Gazette of the Republic of Macedonia nos. 61/2004, 96/2004 and 67/2007).

For more precise categorisation the Guidelines distinguish three categories of public debt issuers:

1. Municipality;
2. Public enterprise established by a municipality; and
3. Public enterprise established by the state.

Pursuant to Article 18 paragraph 2 of the Law on Amendments and Modifications to the to the Law on Local Financing (Official Gazette of the Republic of Macedonia no. 67/2007), **municipalities and public enterprises established by a municipality** may borrow from the country and abroad only upon prior consent by the Government of the Republic of Macedonia, on the basis of an opinion by the Ministry of Finance. Any initiative, pursuant to the Public Debt Law (Official Gazette of the Republic of Macedonia no. 62/2005), on beginning negotiations for conclusion of loan agreement (with a bank or other financial institution) should be started upon prior consent by the Government of the Republic of Macedonia. This initiative should mandatorily contain positive opinion by the Ministry of Finance.

Public enterprises established by the municipality can borrow upon prior issued **guarantee** by the Municipal Council, for which the Council shall adopt a decision. Also in this case the provisions from the Public Debt Law apply, i.e. the beginning of negotiations for conclusion of loan agreement (with a bank or other financial institution) should be started upon prior consent by the Government of the Republic of Macedonia. This initiative should mandatorily contain positive opinion by the Ministry of Finance. For all issued guarantees, the Mayor is obliged to notify the Ministry of Finance, pursuant to Article 21 of the Law on Amendments and Modifications to the Law on Local Financing (Official Gazette of the Republic of Macedonia no.67/2007).

Pursuant to the Public Debt Law, **public enterprises established by the state** begin the borrowing procedure only upon prior consent by the Government of the Republic of Macedonia, which must contain a positive opinion by the Ministry of Finance.

Before any borrowing procedure, any of the aforementioned categories of public debt issuers are required to contact the financial institution so as to obtain draft terms and conditions for borrowing. The obtained draft terms and conditions are submitted to the Ministry of Finance along with the Request for obtaining an opinion for borrowing.

After the Government of the Republic of Macedonia, on the basis of the positive opinion from the Ministry of Finance issues a consent for borrowing, the public debt issuer is obliged to procure the financial service pursuant to the provision of the **Public Procurement Law** and the respective bylaws (**Rulebook on the detailed rules on estimate of the procurement value**, Official Gazette of the Republic of Macedonia no. 10/2007).

II. Borrowing procedure

II.1 Municipal borrowing procedure

Any municipality begins the borrowing procedure by submitting a **Request for an opinion on borrowing**. The form of the request for an opinion on borrowing is an integral part of these Guidelines. The Request for an opinion on borrowing should contain the stipulated data on borrowing. It should be submitted to the Ministry of Finance - Public Debt Management Department, Dame Gruev 14.

Required minimum stipulated data the municipality should submit to the Ministry of Finance for any new borrowing are the following:

1. Decision by the Municipal Council;

- 2. Objective of the borrowing (detailed project description, the economic, financial and municipal benefits from the project);**
- 3. Draft terms and conditions under which the municipality is to borrow (total borrowing amount, acceptable interest rate, repayment period, grace period, other crediting costs, monthly annuity etc.);**
- 4. Filled out borrowing forms, containing all data, for the current year and for two previous fiscal years, as well as the projections for the next three fiscal years. The form for the municipalities includes data on the projected and realized revenues and expenditures of the municipality. The form is attached to these Guidelines;**
- 5. Information on the sources of funds (to be indicated separately if these are funds from international financial institutions or domestic credits or securities);**
- 6. Positively evaluated financial statements continuously within the two latest fiscal years, meaning:**

- whether in the defined period there is a history of frozen accounts (report from the Treasury of the Ministry of Finance); and
- whether there are any arrears towards the creditors over 90 days from the day of falling due, with a notarised statement by the Mayor, bearing personal criminal liability.

7. Notification from the Mayor of the municipality to the Ministry of Finance in case of financial instability pursuant to the parameters set in Article 39 of the Law on Amendments and Modifications to the Law on Local Financing.

8. Notification from the Mayor of the municipality to the Ministry of Finance that the Request for borrowing is in line with the strategic priorities of the Government of the Republic of Macedonia.

9. Additionally stipulated elements by the Ministry of Finance in direct correspondence with the applicant;

The decision of the Municipal Council for launching a procedure on new borrowing should mandatorily contain the following:

- type and objective of the borrowing;
- maximum principal amount;
- maximum interest and other costs;
- terms and conditions of payment; and
- manner of payment and detailed description of the collateral.

II.2 Borrowing procedure for public enterprises established by a municipality

Any public enterprise established by a municipality begins the borrowing procedure by submitting a **Request for an opinion on borrowing**. The form of the request for an opinion on borrowing is an integral part of these Guidelines. The Request for an opinion on borrowing should contain the stipulated data on borrowing. It should be submitted to the Ministry of Finance – Public Debt Management Department, Dame Gruev 14.

Required minimum stipulated data the public enterprises established by a municipality should submit to the Ministry of Finance for any new borrowing are the following:

- 1. - Decision by the Management Board; and
- Decision by the Municipal Council;**
- 2. Objective of the borrowing (detailed project description, the economic, financial and municipal benefits from the project);**
- 3. Draft terms and conditions under which the public enterprise established by a municipality is to borrow (total borrowing amount, acceptable interest rate, repayment period, grace period, other crediting costs, monthly annuity etc.);**

4. Filled out borrowing forms, containing all data, for the current year and for two previous fiscal years, as well as the projections for the next three fiscal years. The form for the public enterprises comprises balance sheet and income statement of the enterprise. The form is attached to these Guidelines;

5. Information on the sources of funds (to be indicated separately if these are funds from international financial institutions or domestic credits or securities);

6. Positively evaluated financial statements continuously within the two latest fiscal years, meaning:

- whether in the defined period there is a history of frozen accounts (report from the Treasury of the Ministry of Finance); and
- whether there are any arrears towards the creditors over 90 days from the day of falling due, with a notarised statement by the manager of the public enterprise established by a municipality, bearing personal criminal liability.

7. Notification from the Mayor of the municipality to the Ministry of Finance in case of financial instability pursuant to the parameters set in Article 39 of the Law on Amendments and Modifications to the Law on Local Financing.

8. Notification from the Mayor of the municipality to the Ministry of Finance that the Request for borrowing is in line with the strategic priorities of the Government of the Republic of Macedonia.

9. Notification by the Municipal Council that public debate was held on which the project and the financing, as well as notification on the approved guarantee from the Municipal Council.

10. Additionally stipulated elements by the Ministry of Finance in direct correspondence with the applicant;

The decision of the Management Board and the Municipal Council for launching a procedure on new borrowing should mandatorily contain the following:

- type and objective of the borrowing;
- maximum principal amount;
- maximum interest and other costs;
- terms and conditions of payment; and
- manner of payment and detailed description of the collateral.

II.3 Borrowing procedure for public enterprises established by the state

Any public enterprise established by the state begins the borrowing procedure by submitting a **Request for an opinion on borrowing**. The form of the request for an opinion on borrowing is an integral part of these Guidelines. The Request for an opinion on borrowing should contain the stipulated data on borrowing. It should be submitted to the Ministry of Finance – Public Debt Management Department, Dame Gruev 14.

Required minimum stipulated data the public enterprises should submit to the Ministry of Finance for any new borrowing are the following:

- 1. Decision by the Management Board;**
- 2. Objective of the borrowing (detailed project description, the economic, financial and municipal benefits from the project);**
- 3. Draft terms and conditions under which the public enterprise is to borrow (total borrowing amount, acceptable interest rate, repayment period, grace period, other crediting costs, monthly annuity etc.);**
- 4. Filled out borrowing forms, containing all data, for the current year and for two previous fiscal years, as well as the projections for the next three fiscal years. The form for the public enterprises comprises balance sheet and income statement of the enterprise. The form is attached to these Guidelines;**
- 5. Information on the sources of funds (to be indicated separately if these are funds from international financial institutions or domestic credits or securities);**
- 6. Positively evaluated financial statements continuously within the two latest fiscal years, meaning:**
 - **whether in the defined period there is a history of frozen accounts (report from the Treasury of the Ministry of Finance); and**
 - **whether there are any arrears towards the creditors over 90 days from the day of falling due, with a notarised statement by the manager, bearing personal criminal liability;**
- 7. Notification from the manager to the Ministry of Finance that the Request for borrowing is in line with the strategic priorities of the Government of the Republic of Macedonia.**
- 8. Additionally stipulated elements by the Ministry of Finance in direct correspondence with the applicant;**

The decision of the Management Board for launching a procedure on new borrowing should mandatorily contain the following:

- type and objective of the borrowing;
- maximum principal amount;
- maximum interest and other costs;
- terms and conditions of payment; and
- manner of payment and detailed description of the collateral.

The Request for an opinion on borrowing referred to in items II.1, II.2. and II.3. should be filled out with all previously indicated data. If any data is missing, the Request for an opinion on borrowing shall not be taken into consideration and the applicant shall be informed thereof.

When preparing the opinion, the Ministry of Finance shall take into account the following:

- Whether all documents required have been provided
- Whether the municipality faces financial instability
- Whether the borrowing/issuance of guarantees is in accordance with the Law on Local Financing
- The level of operating and capital revenues
- Whether a public debate on the project and the financing has been held
- Trends in revenues and expenditures
- History and status of frozen accounts
- The level of public debt and the general government debt, as well as the implementation of the Public Debt Strategy
- Other indicators and parameters set by the Ministry of Finance

Also, when preparing the opinion, the Ministry of Finance shall take into account the strategic priorities of the Government of the Republic of Macedonia, published in the Official Gazette. The 2008 strategic priorities of the Government of the Republic of Macedonia are attached to these Guidelines.

After considering the elements contained in the request, the Ministry of Finance will prepare an opinion, positive or negative, depending on the elements of the request and the borrowing terms and conditions stipulated in the Public Debt Law and the Law on Local Financing. The opinion of the Ministry of Finance shall be forwarded to the Government of the Republic of Macedonia, which shall make a decision on issuance or non-issuance of a borrowing consent. The borrowing procedure should be started as soon as possible taking into account all the aforementioned procedures for the request, as well as the time required for signing a borrowing agreement.

After the obtained conclusion from the Decision of the Government of the Republic of Macedonia, the Ministry of Finance notifies the municipality (the public enterprise). The municipality (the public enterprise), after obtaining the positive reply to the borrowing request, can launch the borrowing procedure, but only in the same conditions of approval as for the request by the Government of the Republic of Macedonia. Otherwise, any borrowing procedure under conditions other than those approved by the Government would be considered illegal and would be stopped by the Ministry of Finance.

Pursuant to Article (8 paragraph (3) of the Public Debt Law (Official Gazette of the Republic of Macedonia no.62/2005), the debt of the municipalities and of the city of Skopje, of the public enterprises and companies being fully or predominantly owned by the state shall be included in the calculation of public debt, but it shall not constitute a liability of the Budget of the Republic of Macedonia, except in cases when, pursuant to the law, a sovereign guarantee has been issued.

If the municipality or the public enterprise decides to **obtain a loan secured with the sovereign guarantee** it should note this in its Request to the Government of the Republic of Macedonia, upon prior approval by the Ministry of Finance. In this case, the Government of the Republic of Macedonia can guarantee for liabilities upon long-term loans of public enterprises, municipalities, including the municipal public services, only if the liability has

been assumed under a law on issuance of a sovereign guarantee. The Minister of Finance signs the agreement on issuance of a sovereign guarantee on behalf of the Republic of Macedonia.

Pursuant to the Public Debt Law, a priority in the issuance of sovereign guarantee shall be given to the projects that meet the following:

- are part of the strategic priorities of the Republic of Macedonia,
- generate revenues and are creditworthy; and/or
- have project implementation units having institutional capacity to realize the project or teams assigned therefor.

Incompliance to the provisions of the Law on Local Financing and the Public Debt Law, contained in the Guidelines on the manner and procedure for municipal borrowing and borrowing by public enterprises established by municipalities is subject to SANCTIONS FOR AN OFFENCE, included in Section X of the Law on Local Financing and Section VIII of Public Debt Law.

Reporting obligations

The municipality and the public enterprises, after signing the agreement on borrowing from the respective financial institution, should submit it to the Ministry of Finance.

The municipality and the public enterprises are obliged, at any moment, to respond to the request from the Ministry of Finance on whether they use the approved resources for the borrowing purpose, as well as to submit on monthly basis the form *M1-Monthly statement on the changes in the conditions of any borrowing of public debt issuers* to the Ministry of Finance – Public Debt management Department, pursuant to the Guidelines on the type and the contents of the monthly information on the changes in the conditions of any borrowing of public debt issuers (Official Gazette of the Republic of Macedonia no.30/2006).

Within 15 days after the quarter expires, the municipalities are obliged to submit to the Ministry of Finance – Budget and Fund Department quarterly information on the changes of the conditions in any new borrowing and the guarantee that occurred in the previous quarter.

No. _____

Skopje

MINISTER,
Trajko Slaveski PhD