



**FINAL RETENTION POLICY 2026/27**

**MAKHUDUTHAMAGA**

**LOCAL**

**MUNICIPALITY**

**FINAL RETENTION POLICY**

**2026/27**



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## 1. DEFINITIONS

For the purpose of this policy, the following definitions apply:

**Council**

Means a Municipal Council established in terms of Section 18 of the Municipal Structures Act and referred to in Section 157(1) of the Constitution.

**CIDB**

The Construction Industry Development Board established by the Construction Industry Development Board Act 38 of 2000.



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### **Contract**

Means the written agreement entered into between the Municipality and the Contractor including all annexures, schedules and referenced documents.

### **Contractor**

The firm or individual appointed by the Municipality to execute construction work.

### **Defects**

Work or materials that do not conform to the contract specifications, designs or quality standards.

### **Defects Liability Period**

The period after completion of construction during which the contractor is responsible for correcting defects.

### **Municipality**

Means the Makhuduthamaga Local Municipality established in terms of Section 155 of the Constitution.

### **Retention**

Money withheld from progress payments to ensure the contractor fulfills contractual obligations and rectifies defects.

### **Retention Register**

The official municipal register recording retention funds held for construction projects.

### **Subcontractor**

A party appointed by the contractor to perform a portion of the construction work.

### **Dispute**

Any disagreement arising between the Municipality and the Contractor relating to retention or contractual obligations.

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## 2. INTRODUCTION

The Makhuduthamaga Local Municipality undertakes various capital infrastructure projects through construction contracts. In order to ensure that such projects are completed according to agreed specifications and quality standards, the Municipality retains a portion of the contractor's payments.



Retention serves as financial security to ensure that contractors complete works satisfactorily and rectify defects identified after project completion.

This policy provides a framework for the proper administration, monitoring and release of retention funds in construction projects undertaken by the Municipality.

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### 3. PURPOSE OF THE POLICY

The purpose of this policy is to ensure sound financial management, transparency and accountability in the administration of retention funds withheld from contractors involved in municipal construction projects.

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### 4. OBJECTIVES OF THE POLICY

The objectives of this policy are to:

- Provide a framework for managing retention monies withheld by the Municipality.
- Protect the Municipality from financial risks associated with defective construction work.
- Ensure contractors rectify defects during the defects liability period.
- Promote sound financial governance and accountability.
- Ensure compliance with applicable legislation and municipal financial management standards.

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### 5. SCOPE OF THE POLICY

This policy applies to all capital infrastructure projects undertaken by Makhuduthamaga Local Municipality where construction contracts require retention of funds.

It applies to:

- Contractors
- Project Managers



- Consulting Engineers
- Supply Chain Management Unit
- Finance Department

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## 6. LEGISLATIVE AND REGULATORY FRAMEWORK

This policy is guided by the following legislation and regulatory frameworks:

- Constitution of the Republic of South Africa, 1996
- Municipal Finance Management Act (MFMA), No. 56 of 2003
- Municipal Systems Act, No. 32 of 2000
- Construction Industry Development Board Act, No. 38 of 2000
- Municipal Supply Chain Management Regulations, 2005
- Preferential Procurement Policy Framework Act (PPPFA)
- Prescription Act No. 68 of 1969
- General Conditions of Contract for Construction Works

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## 7. POLICY PRINCIPLES

The following principles shall guide the administration of retention funds:

- Accountability and transparency
- Compliance with financial management legislation
- Fairness to contractors
- Protection of municipal financial interests
- Efficient contract management



## 8. RETENTION ON CONSTRUCTION CONTRACTS

Retention is a percentage deducted from certified payments due to the contractor during the construction phase of a project.

The purpose of retention is to:

- Ensure completion of work according to specifications
- Ensure defects are corrected
- Protect the Municipality against poor workmanship or incomplete work.

Retention provisions must be included in all relevant construction contracts.

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## 9. RETENTION PERCENTAGE

Retention shall normally be **5% to 10% of the value of work completed** as certified in interim payment certificates.

The total retention shall **not exceed 10% of the contract value**, unless otherwise approved by the Municipal Council.

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## 10. DEFECTS LIABILITY PERIOD

The Defects Liability Period begins when the Certificate of Practical Completion is issued.

During this period:

- The contractor remains responsible for rectifying any defects identified in the completed works.
- The contractor must comply with instructions from the project engineer or consultant.



The standard defects liability period shall be **12 months** unless otherwise specified in the contract.

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## **11. PAYMENT AND RELEASE OF RETENTION MONEY**

The release of retention funds shall take place in two phases:

### **Phase 1: Practical Completion**

Upon practical completion of the project:

- The consultant issues a **Practical Completion Certificate**.
- A snag list is prepared for outstanding works.

Once the contractor addresses all items on the snag list, **50% of the retention money may be released**.

### **Phase 2: Final Completion**

After the defects liability period expires:

- A final inspection of the project is conducted by the consultant and project manager.
- If no defects are identified, a **Final Completion Certificate** is issued.

The contractor may then claim the **remaining 50% of the retention money**.

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## **12. RETENTION REGISTER**

The Municipality shall maintain a **Retention Register** to record all retention monies.

The register shall include:

- Project name
- Contractor name



- Contract amount
- Retention percentage
- Amount retained
- Date of practical completion
- Defects liability expiry date
- Amount released
- Balance outstanding

The register must be updated regularly and monitored by the Finance Department.

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## 13. FINANCIAL MANAGEMENT AND CONTROL OF RETENTION FUNDS

Retention funds shall be recorded in the municipal financial management system and reconciled regularly.

The Chief Financial Officer shall ensure:

- Accurate recording of retention funds
- Proper reconciliation of the retention register
- Compliance with the MFMA and financial reporting standards.

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## 14. ROLES AND RESPONSIBILITIES

### **Municipal Council**

The Municipal Council shall approve this policy and provide oversight over its implementation.

### **Municipal Manager**

The Municipal Manager shall ensure effective implementation of the policy.

### **Chief Financial Officer**

The CFO shall:



- Maintain financial records relating to retention
- Ensure proper accounting of retention funds
- Monitor the retention register.

### Supply Chain Management Unit

The SCM Unit shall ensure retention clauses are included in all relevant construction contracts.

### Project Manager / Consulting Engineer

The Project Manager shall:

- Monitor project completion
- Certify practical completion
- Confirm correction of defects.

### Contractor

The contractor shall:

- Rectify defects identified during the defects liability period
- Submit claims for retention release.

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## 15. UNCLAIMED RETENTION

It is the responsibility of the contractor to submit a claim for retention once the defects liability period has lapsed.

Where retention monies remain unclaimed for **more than three (3) years after the defects liability period**, the funds may be written off in accordance with the **Prescription Act No. 68 of 1969**.

Any write-off shall be subject to approval by the Municipal Council.

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## **16. DISPUTE RESOLUTION**

Disputes relating to retention shall be resolved in accordance with the dispute resolution provisions contained in the standard construction contracts.

Where disputes arise, the following process may be followed:

1. Project Manager / Engineer mediation
2. Municipal Manager intervention
3. Arbitration
4. Court of law where necessary.

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## **17. RISK MANAGEMENT**

Retention funds act as a financial safeguard to mitigate risks associated with:

- Poor workmanship
- Contractor non-performance
- Incomplete construction works.

The Municipality shall monitor projects to ensure these risks are minimized.

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## **18. MONITORING AND COMPLIANCE**

Compliance with this policy shall be monitored by:

- The Finance Department
  - Supply Chain Management Unit
  - Project Management Unit.
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## **19. INTERNAL AUDIT AND OVERSIGHT**

The Internal Audit Unit shall periodically review compliance with this policy.

Findings shall be reported to:

- The Audit Committee
- Municipal Public Accounts Committee (MPAC)
- Municipal Council.

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## **20. POLICY REVIEW**

This policy shall be reviewed periodically or when required to ensure alignment with legislative changes and municipal operational requirements.

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## **21. APPROVAL AND IMPLEMENTATION**

This policy shall become effective upon approval by the Municipal Council of Makhuduthamaga Local Municipality.

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## **22. EFFECTIVE DATE**

The policy shall take effect from the date approved by Council.

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## **23. COUNCIL RESOLUTION**

<b>Position</b>	<b>Name</b>	<b>Signature</b>	<b>Date</b>
Chairperson of Council			
Municipal Manager			

**Council Resolution Number:** \_\_\_\_\_