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**YEREL YÖNETİM REFORMU
PROJESİ (YJR III)**
LOCAL ADMINISTRATION REFORM
PROJECT (LAR III)

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Component 1: Effective and High-Quality Municipal Services Delivery	
Component	Component 1: Effective and High-Quality Municipal Services Delivery
Activity	1.1.9. Recommendations for Development of the Legislation regarding Functioning of Subsidiaries Managed by Municipalities in line with the Experiences of the EU Member States**
Output	Implementation Guide for Municipal Enterprises in Turkey



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1.INTRODUCTION AND FRAMEWORK

Today, one of the most important challenges faced by the local administrations providing public services as a whole is to establish an organizational structure of subsidiary companies within the framework of the duties and responsibilities identified in the national legislation that produces sustainable and efficient services that meet the demands, needs and expectations of citizens.

This Guide is based on the legislation regarding local administrations, international good practices and pilot municipality activities carried out on site. This Guide is developed to provide adequate and transparent principles, philosophy and requirements for establishment, documentation, implementation, sustainability, and continual improvement of a subsidiary company management system.

The Guide also includes the mains fields of services provided to citizens and other stakeholders and the general management areas for provision of such services within the framework of the duties and responsibilities of municipal subsidiaries governed by the national legislation. The requirements set out in the guide are general and have been developed with the aim of being applicable to all subsidiary companies regardless of the size, organization and structure of the subsidiary company.

This Guide has been drawn-up within the scope of the Local Administrations Reform Phase III Project (LAR III). LAR III is a project implemented by the United Nations Development Programme (UNDP), and funded by the European Union, co-beneficiaries of which are the Ministry of Interior and the Ministry of Environment, Urbanization and Climate. The aim of this activity carried out within the scope of the project is to contribute of the development of a draft legislation for functioning of the municipal enterprises through works aiming at making the business processes municipal subsidiaries more transparent, strengthening their relations with the municipality on efficiency basis and making these relations more accountable and transparent.

This implementation guide for subsidiaries developed within the scope of the company includes the considerations for establishment and operation of municipal enterprises such as establishment of a company, organizational structure, human resources, business processes, financial management, relations with the municipality, activity reports and audits.

We hereby extend our gratitude to the pilot municipalities ***Eskişehir Metropolitan Municipality, Kütahya Municipality and İstanbul Esenler Municipality*** for their contribution to the development of this Guide.

2. IMPLEMENTATION GUIDE

2.1. The Legal Framework and Business Planning for Municipalities to Establish a Subsidiary Company

As per Article 127 of the Constitution, local administrations are “public legal entities whose principles of organization are specified by law to meet the local common needs of the people of the province, municipality or village, and whose decision-making bodies are, again as provided in the law, elected by voters.” In this context, the Municipal Law No. 5393 defines the municipality as a “public legal entity, whose decision-making bodies are elected by the voters, with administrative and financial autonomy established to meet the local common needs of the residents of the town”.

In line with the changing approaches in public administration, municipalities are allowed to fulfill their obligation of services in accordance with the services laws by themselves or through the companies to be established by them. These services which are of critical importance for the society include many services such as infrastructure works, transportation and traffic, neighborhood marketplace projects, car parking services, collection and treatment of inert waste, sports, culture, arts, and public health. One of the most important problems in modern public administration is failure to use the resources efficiently. Definition of indicators of efficiency is quite controversial in the discussions on how efficient public resources are used.

Local administrations intend to increase efficiency and diversity of resources through ensuring faster decision-making by means of subsidiaries. Local administrations establish and operate subsidiary companies to keep up with the rapidly changing demands of cities, to produce faster and higher quality services, to achieve employee satisfaction while ensuring speed and quality in the services, and to increase their profitability and productivity.

The articles of legislation related to establishment of companies by municipalities are given in the Annex. (Annex-1)

Establishment of Companies by Municipalities

Article 70 titled "Establishment of a Company" of the Municipality Law No. 5393 allows municipalities to establish companies with the provision of "A municipality may establish a company engaged in the duties and services of the municipality in accordance with the procedures specified in the relevant legislation".

Article 26 titled "Establishment of a Company" of the Metropolitan Municipality Law No. 5216 states that "A metropolitan municipality may establish a company engaged in the services within its own duties and services in accordance with the procedures specified in the relevant legislation. The secretary general and the managing personnel of the municipality and its affiliated organizations may take part in the management and audit boards of such companies. A metropolitan municipality may operate the excavation sites, public transport services, social facilities, corner shops, parking lots and tea houses under its initiative or owned by it; or it may assign operation of such workplaces to the companies in which more than 50% of shares are owned by the municipality or its affiliated organizations as well as to the companies in which more than 50% of shares are owned by such companies, without being subject to the provisions of 8/9/1983 dated State Tenders Law no. 2886. However, assignment of such workplaces to third parties is subject to the provisions of Law no 2886."

On the other hand, subparagraph (i) of the paragraph one of Article 18 titled "duties and powers of municipal council" of Law no 5393 enables municipalities to establish budgetary enterprises

with the provision "To decide to establish or exit partnerships subject to Turkish Commercial Law no. 6762, to increase capital, and to establish real estate investment partnership".

Paragraph four of Article 26 of Privatization Procedures Law No. 4046 states that *"Establishment of commercial organizations to be engaged in commercial activities and subscription to and participation in the capitals of the existing or future companies by municipalities and other local administrations as well as the associations established by them are subject to the permission of the President."*

Article 70 of Law No 5393 as well as Article 26 of Law No 5216 provide for establishment of companies by municipalities within their powers and duties. Therefore, the fields of activities of the companies to be established must be limited to the duties and powers of municipalities. Duties and fields of responsibility of municipality include the following:

Zoning and urbanization services:

- Zoning services,
- Land and residence services,

Transportation Services:

- Transportation, urban infrastructure services,
- Public transport services,
- City traffic services,
- Bus terminal, marina and port services, fair/expo services,

Environment and health care services:

- Environment and environmental health services,
- Cleaning and inert waste services,
- Forestation, parks, and green areas,
- Public health services,

Firefighting and municipal enforcement services:

- Municipal enforcement services,
- Firefighting, emergency, rescue, and ambulance services,

Culture, Arts and Youth Services:

- Culture and arts, tourism, and promotion services,
- Youth and sports services,

Social Services:

- Wedding services,
- Vocational and skill training services,
- Burial and cemetery activities,
- Slaughterhouse services,

Other Services:

- Water and sewerage services,

- Geographical and urban information systems services,
- Economic activities and trade development services,
- Wholesale and retail marketplace services,
- Other services provided for in laws.

Municipalities can establish companies engaged in the services specified above. The stages of obtaining permission for the companies to be established by municipalities within this framework are regulated by 21.04.2008 dated Notice No 2008/31 in force published by the abolished Directorate General of Local Administrations under the Ministry of Interior, and the documents to be submitted to the Ministry of Environment, Urbanization and Climate Change in applications for permission from the President are as follows:

- The decision of the municipal council to establish, take over or determine the amount of capital subscription,
- Justification report, purpose, and field of activity of the company to be established,
- In case of partnership to an existing company, balance sheet of such company,
- Published or draft Articles of Association of the company to be established, taken over or subscribed,
- Feasibility survey of the company to be established,
- General balance sheet of the applicant administration as of the date of application,
- Balance sheet of the company in case of a no-charge transfer,
- A copy of the distribution license granted by the Energy Market Regulatory Authority (EPDK) in case of applications as per Law no. 4646.

Municipalities may own companies by the following methods:

- By establishing a new company,
 - By subscribing to the capital (partnership) of an existing company,
 - Through establishment of a company by an existing municipal company (through indirect capital ownership),
 - Within the scope of the Decree No. 696,
 - By donation,
 - within the framework of the Natural Gas Market Law No. 4646.
- Direct Establishment of Companies by Municipalities

Municipalities are given the authority to establish companies by Law No. 5393 and Law No. 5216. It is concluded by interpretation of the Law No 5393 along with the Law No. 5216 and Law No. 4046 that any company to be established should be an equity company. Commercial corporations are defined in the Turkish Commercial Law No. 6102 as collective, commandite, incorporated, limited and cooperative companies; collective and commandite companies as person companies, whereas incorporated, limited and commandite limited by shares as equity companies. Thereby, municipalities may be partners to cooperatives in addition to the equity companies to be established by municipalities.

- Partnership of Municipalities in Established Companies

Municipal councils are given the power to decide to establish or exit partnerships subject to Turkish Commercial Law by subparagraph (i) of the paragraph one of Article 18 titled "duties and

powers of municipal council" of Law no 5393. With this authority, municipalities may enter into partnerships with established companies.

- Acquisition of a company through accepting donations to the municipality

Law No. 5393 authorizes both the mayor and the municipal council to accept donations to the municipality. Subparagraph (i) of Article 15 of the Law No. 5393 (powers and privileges of the municipal council) grants the municipal council the authority to borrow money and accept donations for the municipality. The municipal council is given the duty "to accept conditional donations" by subparagraph (g) of Article 18 governing the duties and powers of the municipal council. The mayor is given the duty and power "to accept unconditional donations" in subparagraph (I) of Article 38 (Duties and powers of the mayor) of the same law.

In case of acquisition of a company by a municipality free of charge; a decision of the municipal council is required in case of conditional acquisition, and decision of the mayor is obligatory in case of an unconditional acquisition. Acquisition of a company free of charge (grant) by municipalities is possible either through direct acquisition of a company free of charge or becoming a partner of a company through acquisition of shares of such company free of charge.

- Establishment of companies by municipal companies

The companies owned fully or partly by municipalities may establish their own company or become partners of established companies. Although the procedure for permission for establishment of a company or entering partnership of an established company by such companies is identified by the Notice, the Supreme Court canceled this and concluded that there is no need for companies to obtain permission for establishing companies. Accordingly, municipal companies shall establish a new company or become partners of established companies in accordance with the provisions of Law No 6102 without necessity to obtain a permit.

- Establishment of Companies by Decree No. 696

By Article 127 of 20/11/2017 dated Decree No. 696:

"Those who are employed by contractors under service provision contracts based on employment of personnel in accordance with 4/1/2002 dated Public Tenders Law No. 4734 at public institutions and organizations specified in provisional Article 23 and 24 of 27/6/1989 dated Decree No. 375 have been assigned to the permanent worker status or to the worker status at local administration companies".

Additional Article 20 of the Decree No 375 states that *"Provincial special administrations, municipalities and their affiliated organizations and the associations of local administrations constituted by them may assign the services that involve employing personnel to one of the companies in which more than half of the capital is owned by such administrations and from which such administrations currently procure services, or to a company to be established **exclusively** for this purpose in case there is not any company meeting these criteria without being subject to the limitations specified in subparagraph (e) of Article 62 and the limit specified in Article 22 of 4/1/2002 dated Public Tenders Law No. 4734"*, and the local administrations which had not a company meeting the requirements established companies exclusively for the purposes of employing personnel.

Then, the Principles and Procedures for Assignment of Services based on Personnel Employment by Provincial Special Administrations, Municipalities and Their Affiliated Organizations and Local Administration Associations Constituted by Them have been published to set out the requirements for human resources of the companies, assignment of services, auditing and other considerations following the authority granted by the Decree.

On the other hand, it was observed during the pilot implementation visits that although the municipalities that had already had companies in the period when the Decree No. 696 was just released continued to procure services from the existing companies, they established new companies with the intention of establishing a company exclusively for this purpose.

- Partnership in Natural Gas Distribution Companies under Law No. 4646

Subparagraph (g) of Article 4 of the Natural Gas Market Law No. 4646 states that: *"Distribution of natural gas within city: Distribution services of natural gas within city including the ownership of the local natural gas distribution network is granted for the period of the license term to be granted to the company awarded the tender to be issued by the Agency by considering the development level of the city, consumption capacity and number of users, etc."*

The city distribution company that obtained distribution license from the Agency must invite the municipality or municipal company to be partner of the distribution company by **ten percent of the shares without obligation to invest capital**. The ratio of this capital may be increased maximum by ten percent provided that it is paid. However, such increase is only possible for those who are not in debt to the Treasury and not requesting additional credits or after settlement of all credit debts with the treasury, and provided that Treasury-guaranteed credit is not provided for this purpose.

Municipalities may be partners to the natural gas distribution companies to be established within their borders as per the statement "In the event that the municipality or municipal company does not acquire shares at all or acquires an amount of shares that is not enough to be given a seat in the board of directors the Agency may require the distribution company to make the arrangements so as to give the municipality the right to representation in management and audit boards of the company" in accordance with Article 275 of the Turkish Commercial Law No. 6762.

- Establishment of Budgetary Enterprises

Municipalities are given the authority to establish companies engaged in their fields of duties and services by Article 70 of the Municipal Law No. 5393. In addition, Article 71 of the Law allows municipalities to conduct their services with special income and expenses by establishing enterprises within their budgets. The authority to decide for establishment of budgetary enterprises is given to the Municipal Council by Article 18 titled "Duties of the Municipal Council" of the Municipal Law No 5393 stating that *"to enter into partnerships subject to the Turkish Commercial Law through budgetary enterprises, or to exit such partnerships"*.

The Legal Procedure for Establishment of Companies by Municipalities

There are a series of procedures to be followed prior to establishment of Municipal Commercial Enterprises (MCE) to be established in accordance with the Turkish Commercial Law. Apart from this, municipalities can follow different methods in the establishment of MCEs. Unlike other companies, the subject of activities performed by MCEs is not freely determined.

As per Municipal Law No. 5393 and Metropolitan Municipalities Law No. 5216 the establishment of a company requires a decision by the municipal council. Article 26 of the Law on Privatization Practices, as it stood after the constitutional amendment, still requires municipalities to obtain permission from the President to establish partnerships.

- Municipality Council Decision

Subparagraph (i) of Article 18 of the Municipal Law No. 5393 titled "Duties and Powers of the Municipal Council" authorizes the municipal council to decide on the establishment of companies. The article text is as follows:

"To decide on establishing budgetary enterprises and partnerships subject to the Turkish Commercial Code No. 6762 or to decide on separating these partnerships, capital increase, and establishment of real estate investment partnerships. "

- Permission of the President

Establishment of commercial organizations to be engaged in commercial activities and subscription to and participation in the capitals of the existing or future companies by municipalities and metropolitan municipalities as well as the associations established by them are subject to the permission of the President (the term "Council of Ministers" was replaced by "the President" with article 85 of 02/07/2018 dated Decree No 703) as per paragraph four of Article 26 of Privatization Procedures Law No. 4046 states that The permission of the President is granted through the Ministry of Environment, Urbanization and Climate Change.

A circular was published by the Ministry of Interior General Directorate of Local Administrations on 11.01.2018 to be distributed to provincial governorships, and in this circular, it was stated that permission must be obtained for the company to be established in accordance with the Privatization Law No. 4046. The circular dated 21.04.2008 and numbered 11273 of the Ministry of Interior also includes the documents required for joint stock and limited companies to be established.

The documents required for the requests to be made for obtaining permission from the Presidency for the establishment of a municipal subsidiary company are listed below:

- Council Decision (if the company is established and capital contribution is made, the council decision stating the purpose and fields of activity, the company title and the amount of capital contribution in shares and amounts),
-
- Draft Articles of Association of the Company (for companies to be established, taken over or contributed capital),
- Balance sheet (The balance sheet of this company if an existing company is to be taken over or if it is to be acquired as a partner or if there is a free transfer)
- Feasibility survey of the company to be established,
- General Trial Balance (General trial balance of the requesting administration as of the date of application)
- EMRA License (Distribution license of the company if it will be a partner in distribution companies in accordance with the natural gas market law numbered 4646)

Sample for the establishment of municipal companies, the Assembly-Board of Directors Resolution is attached (Annex-2)<https://marmara.gov.tr/UserFiles/Attachments/2018/01/17/98ace3ce-7a6f-4610-a236-c87b59b1988e.docx>

Business Planning and Feasibility in the Establishment of Municipal Companies

As with other companies, the following steps should be taken into account in the establishment of municipal companies within the scope of a business plan.

- Investment (Project) Idea

- Feasibility Works (Project Preparation)
- Feasibility Report (Completed Feasibility Study)
- Assessment and Investment Decision
- Final Project and Project Implementation (Investment)
- Operation Phase

The main purpose of the feasibility work

- To make a final decision on the establishment of the business.
- Determining the scale and location of the business.
- To present the financial portrait (fiscal burden) of the investment and to decide on the scale of internal and external financing required.

The main steps of the feasibility works can be summarized as follows:

1. Economic Study

- Market research and demand forecasting
- Determination of potential operating capacity
- Site selection for both office and manufacturing center

2. Technical Study

- Technical description of the project, ground study of the land where the plant is to be built, raw material and auxiliary material studies, laboratory tests.
- Selection of production method and technology; rationale for selection, how it is achieved, alternatives and costs; Types, qualities and utilization possibilities of waste products, by-products and residues to be produced

3. Financial (Fiscal) Study

- Determination of the total amount to be financed (the total amount to be spent for both fixed assets and working capital).
- Making income and expenditure projections of the company to be established as a result of the project.
- Identification of internal and external resources that can be used to finance the project

4. Legal and Judicial Study

- Assessment of the project and the business to be established afterwards in terms of legal legislation. Identification of future legal risks.

2.2. Management of Municipal Companies

The bodies of the companies established or partnered by municipalities consist of the General Assembly, Board of Directors, General Manager, and auditors. Since these companies operate on a capital basis, shareholders participate in the management of the companies in proportion to their shares.

These companies are mainly established as joint stock or limited companies. Joint stock companies and limited companies are capital companies. In equity companies, shareholders are liable to the company only for the capital they have committed. The establishment, basic characteristics and functioning of these companies are regulated under the Turkish Commercial Code No. 6102.

Joint Stock Company

A joint stock company is a company whose shareholders' liability is limited to the capital they contributed, whose capital is fixed and divided into shares, and which is liable for its debts only with its assets. Pursuant to Article 329 of the Turkish Commercial Code, shareholders are liable to the company only for the capital shares they have committed. Joint stock companies may be established for any economic purpose and subject. The establishment of some joint stock companies and amendments to their articles of association is subject to the permission of the Ministry of Trade.

The minimum capital amount of joint stock companies is 50,000 Turkish Liras. At least one quarter of the capital committed in cash must be paid before the registration and the remaining amount must be paid within 24 months following the registration of the company.

The bodies of joint stock companies are the General Assembly, the Board of Directors, and the Auditor.

- General Assembly

In principle, it is the body that represents all shareholders and is exclusively authorized to take certain important decisions regarding the company (e.g., amendment of the articles of association, the election of the board of directors, the election of the auditor, dissolution of the company, etc.). The general assembly is composed of all stock owners/ shareholders. According to Article 407 of the TCC,

- *Shareholders exercise their rights regarding company affairs at the general assembly. Legal exceptions are reserved.*
- *Managing members and at least one member of the board of directors must be present at the general assembly meeting. Other members of the board of directors may attend the general assembly meeting. The auditor shall be present at the general assembly. Members and auditors may express their opinions.*
- *A representative of the Ministry of Trade shall also be present at the general assembly meetings of companies.*

The powers of the general assembly are listed as follows in the TCC (Article 408 of the TCC)

- *The General Assembly shall adopt resolutions in cases expressly stipulated in the law and the articles of association.*
- *Without prejudice to the non-transferable duties and powers stipulated in various provisions, the following duties and powers of the General Assembly shall not be transferable:*

- *Amendment of the articles of association.*
- *Election of the members of the Board of Directors, determination of their terms, remuneration, attendance fees, bonuses and premiums, decision on their release and dismissal.*
- *Election and dismissal of the auditor, except for the exceptions stipulated in the Law.*
- *To adopt resolutions on the financial statements, the annual report of the board of directors, disposal of the annual profit, the determination of dividends and gain margins, and the utilization of the reserve fund, including its contribution to the capital or the profit to be distributed.*
- *Dissolution of the company, except for the exceptions stipulated by law.*
- *Wholesale of a significant amount of company assets.*

General Assemblies are held in ordinary and extraordinary meetings. The ordinary meeting shall be held within three months from the end of each activity period. In these meetings, discussions are held, and decisions are taken on the election of bodies, financial statements, the annual report of the board of directors, the utilization method of profit, the determination of the rates of dividends, and gain margins to be distributed, the discharge of the members of the board of directors and other issues related to the activity period and deemed necessary.

- Board of Directors

It is possible for the Board of Directors, which is basically the body charged with the management and representation of the company, to consist of a single member. The joint stock company is managed and represented by the board of directors. The board of directors is the legal representative and acts as the owner of the company. A joint stock company shall have a board of directors consisting of one or more persons appointed by the articles of association or elected by the general assembly.

The members of the Board of Directors must be fully competent. Reasons that terminate membership also prevent election (TCC 359). The members of the Board of Directors are elected for a maximum term of three years. Unless otherwise provided in the articles of association, the same person may be re-elected (TCC 362).

Pursuant to Article 359 of the Turkish Commercial Code, the members of the Board of Directors may be appointed in the Articles of Association of the Company or elected by the General Assembly. The members of the board of directors may be paid attendance fees, salaries, bonuses, premiums, and shares from the annual profit, provided that the amount is determined by the articles of association or a resolution of the general assembly (TCC 394).

- Auditor

The auditor shall be elected by the general assembly of the company. The auditor audits the financial statements of companies and the activities of the board of directors. The audit report issued by the auditor is submitted to the General Assembly.

- General Manager and Other Managers

The TCC does not recognize managers as a legal body in joint stock companies. However, in practice, companies are managed by managers with the duties and responsibilities assigned by the board of directors. These are referred to as general managers and managers.

The election of the general manager or managers may be carried out by the general assembly or the board of directors. To be able to appoint a general manager or a manager, these must be included in the article of association. Action may be taken on based on these provisions. The term of office of the managers may be specified in the articles of association or determined by the board of directors.

Limited Company

A limited company is a company whose capital is fixed and divided into shares, and which is liable for its debts only with its assets.

A limited liability company is established by one or more natural or legal persons under a trade name, its share capital is fixed and consists of the total of the shares of the share capital. The partners are not liable for the debts of the company but are only obliged to pay their committed capital shares and fulfill the additional payment and ancillary performance obligations stipulated in the articles of association. A limited company may be established for any economic purpose and subject not prohibited by law. (TCC 573)

The share capital of a limited company is at least 10.000 Turkish Liras. It is possible to pay the entire capital brought in cash within 24 months after the registration of the company. The payment schedule may be regulated in the articles of association or may be determined by the managers.

The bodies of limited companies are the General Assembly, the Board of Directors, and the Auditor.

- General Assembly

In principle, it is the body that represents all shareholders and is exclusively authorized to take certain important decisions regarding the company (e.g., amendment of the articles of association, the election of the managers, the election of the auditor, dissolution of the company, etc.).

The non-transferable powers of the general assembly in limited companies are as follows (TCC 616):

- *Amendment of the articles of association.*
- *Appointment and dismissal of managers.*
- *Appointment and dismissal of independent auditors.*
- *Approval of the year-end financial statements and annual report.*
- *Approval of the year-end financial statements and annual report, decision on dividends, determination of gain margins.*
- *Determination of remuneration and discharge of managers.*
- *Approval of transfers of principal capital shares.*
- *Requesting the court to remove a partner from the company.*
- *Authorizing the manager to acquire the company's own shares or approving such an acquisition.*
- *Dissolution of the company.*

- *Deciding on matters that the general assembly is authorized by law or the articles of association or that are submitted to the general assembly by the managers.*

- **Board of Managers**

The management and representation of companies are regulated by the articles of association. The management and representation of the company may be assigned to one or more partners or to all partners or to third parties, but at least one partner must have the right to manage and represent the company. It is basically the body charged with the management and representation of the company. It is possible for the company to have only one manager. At least one of the managers must be a partner of the company. There is no requirement for managers to be Turkish citizens and residents of Turkey.

If a company has more than one manager, one of the managers shall be appointed as the Chairman of the Board of Managers by the General Assembly.

 **Auditor**

The auditor shall be elected by the general assembly of the company. The auditor audits the financial statements of companies and the activities of managers. The audit report issued by the auditor is submitted to the General Assembly.

Cooperative

Cooperatives are partnerships with variable membership and variable capital established by real and legal persons for the purpose of providing and protecting certain economic interests of the members and especially the needs of their profession or livelihood through mutual assistance, solidarity and guarantee with their labor and monetary contributions.

Provided that there is a provision in the articles of association, it may be agreed that the members shall be second degree unlimitedly liable to the creditors of the cooperative or shall be limitedly liable up to a certain amount more than the capital share they have committed.

The general assembly of the cooperative may be attended by all members, except those who have not become members three months prior to the general assembly.

The board of directors shall consist of at least three persons, real or legal persons, who are Turkish citizens and meet the other conditions required by the Law. Board members may be elected for a maximum of four years. They may be re-elected unless otherwise provided in the Articles of Association.

The general assembly shall elect one or more auditors as the supervisory body of the cooperative for at least one year. Auditors must meet the conditions to be a member of the board of directors.

2.3. Human Resources Management of Municipal Companies

While municipal companies employ employees in accordance with the principles of the Turkish Commercial Code, companies established by Decree Law No. 696, in accordance with Article 126 of Decree Law No. 696, Additional Article 20 added to Decree Law No. 375 dated 27.06. Article 20 added to Decree Law No. 375 dated 27.06.1989 by Article 126 of Decree Law No. 696 and Article 28 of the Communiqué on the Procedures and Principles for the Implementation of Decree Law No. 696, To ensure that the personnel employed by the method of service procurement based on personnel employment within the scope of the provisions of subparagraph (e) of the first paragraph of Article 62 of the Public Procurement Law No. 4734 and Article 78 of the General Communiqué on Public Procurement in municipalities and local administration unions and municipal affiliated organizations of which they are members can be employed in the status of employee and / or to carry out services based on personnel employment in the status of employee in this context.

Human Resources Management of Municipal Companies

Municipal companies should establish the necessary organizational structure, document it and maintain its continuity by taking harmonization obligations into consideration for human resources management. Municipal companies should identify and appoint the staff with the required skills and competence for the effective and efficient working of the system and the completion and control of the processes.

In this scope, certain principles regarding the management of human resources are stated below:

- Responsibilities of the Employees

Those working on behalf of Municipal Companies are liable to work under the framework of institutional values. Municipal Companies should encourage the adoption of institutional values by their employees and make sure they are working on this topic.

- Rights of Employees

Municipal Companies should pay respect to the right of employees. This requires the consideration of topics such as employment and employment relations, working and social protection conditions, social dialogue, human development, and training in the workspace under work applications of Municipal Companies.

- Skill / Competence Management

Municipal Companies should identify and improve the skills of those who are working on their behalf. They should create, apply, and maintain the continuity of a skill management model. They should make plans for the institutionalization of personal skills.

Municipal Companies should identify, evaluate, improve, and maintain the continuity of the competence of the related personnel to actively carry out processes. Documented information regarding the competence should be preserved. Competence is having the appropriate education, training, and experience for that job. When evaluating the competence, merit rating as well as evaluation of human behaviors should be conducted.

- Performance Evaluation

Municipal Companies should set individual goals based on strategic goals, process goals, and work plans, conduct performance evaluations according to these, and document them.

- Career Management

Municipal Companies should make apply and document career planning for their personnel. When making a career plan performance evaluation result should also be considered.

Municipal Companies should apply the necessary processes and maintain continuity:

- a) to improve in skills and quality,
- b) to individually develop,
- c) to be get promotion,
- d) to establish institutional belonging,
- e) to motivate

for those working on behalf of them.

- Continuous Development of Human Resources

Municipal Companies should plan, apply, and document the required activities for the adaptation of the personnel who just started working for them or who changed their residing place.

These activities might include the training of the personnel, assignment of mentor, transfer to a different task, hiring competent personnel or working under contract.

- Communication

Municipal Companies should establish the correct way of communication to transfer the right information at the right time to the right people, within the institution.

- Motivation

Municipal Companies should plan, apply, and maintain the continuity of activities that would increase the efficiency of those working for them. Motivation tools such as reward, recognition and appreciation systems, participation in social responsibility projects and club activities can be used as motivation-increasing activities.

- Participatory Management

Municipal Companies should adopt a participatory management style in the decision-making process. In participatory management, participants should be encouraged to share their observations, suggestions, and recommendations to the decision-making process. Executives should support the participatory management; however, due to their liability for accountability, should make the final decision by taking social benefit and balance into account.

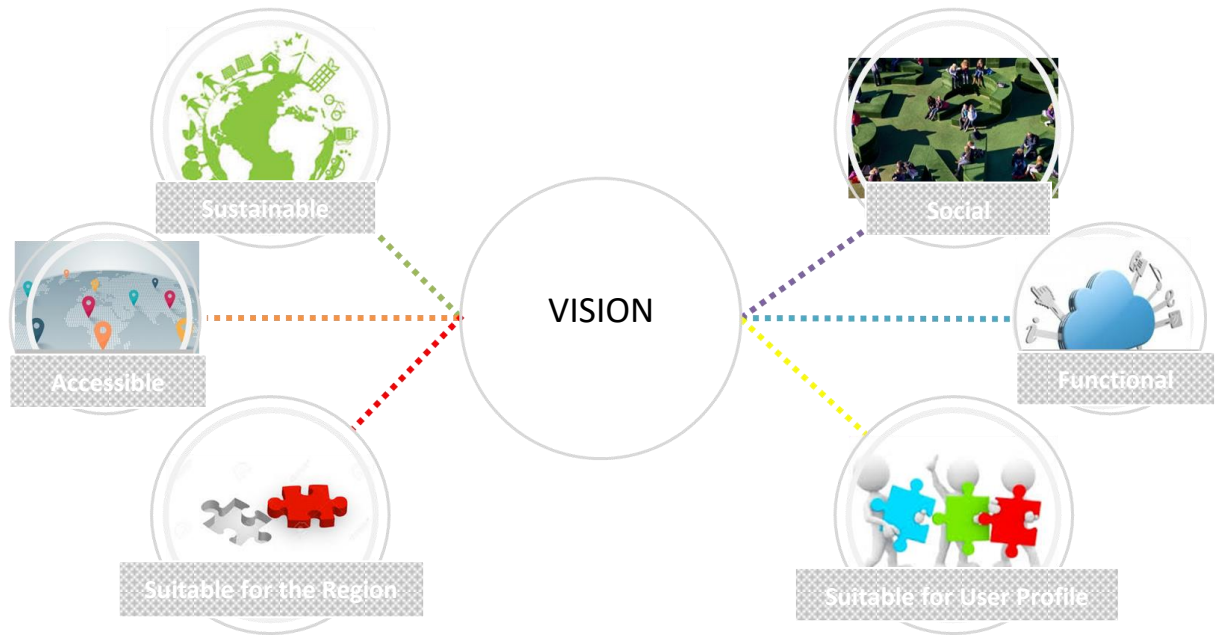
- Management of Mission and Vision

Concepts of mission and vision are fundamental terms of the strategic management process. Businesses aim to motivate and inspire their employees by creating mission and vision concepts, to create a synergy by establishing common sharing, and to realize their aims and objectives by creating strategies for the future. Besides, businesses today can also establish an advantage against their rivals by creating a mission and vision in this intense rivalry environment.

From this perspective, Municipal companies should also identify their missions and visions clearly and announce them to their employees or even to the public.

Example Vision

Vision represents a point that is planned to be achieved in the future. Therefore, it is significant for businesses to serve functional and sustainable projects/services and socially beneficial accessible projects/services to the region it is founded in to display its vision.



Example Mission

To lead the technological change and development of our country by serving the needs of the public/private sector in information and communications with social responsibility at National/International standards, respect for the environment, and a sustainable innovative understanding.

Human Resources Management of the Companies Established with 696 Numbered Decree Law

It is hereby resolved by the Council of Ministers dated 9/4/2018 upon the letter of the Ministry of Interior dated 3/4/2018 and numbered 1196, pursuant to the third paragraph of the additional article 20 of the Decree Law dated 27/6/1989 and numbered 375, to put into force the Procedures and Principles Regarding the Performance of Services Based on Personnel Employment of Special Provincial Administrations, Municipalities and Affiliated Organizations and Local Administration Unions of which they are Members (Official Gazette dated 28.04.2018 and numbered 30405).

The purpose of the relevant Procedures and Principles is to determine the procedures and principles regarding the recruitment of workers in companies within the scope of the additional

article 20 of the Decree Law dated 27.6.1989 and numbered 375, the upper limits regarding the share of personnel expenses related to workers in total expenses, the annual limitations based on the criteria to be determined for the first time workers, and the procedures and principles regarding the monitoring of purchases and expenditures within this scope.

Within these Procedures and Principles:

1. The necessary attention should be paid to the employees to be recruited having the conditions stated in the article 4 of Procedures and Principles in the recruitment of new employees to the management company.
2. In the calculation of the annual personnel expenses of the administrations, including the company personnel, the sum of the net wages paid to the company workers employed in the administration within the scope of direct service procurement and the company's management and support staff shall be considered.
3. In the second paragraph of Article 5 of the Procedures and Principles, the number of workers foreseen for that work within the scope of the contract based on the transition shall include the workers employed due to the increase in work and the calculation shall be made accordingly.
4. In the recruitment of new employees to the companies, in accordance with the second paragraph of Article 2 of the Regulation on the Procedures and Principles to be Applied in the Recruitment of Workers to Public Institutions and Organizations, recruitment announcements shall be sent to the Provincial Directorate of Turkish Employment Agency for announcement purposes.
5. The documents attached to the Circular shall be filled in for the requests for permission from the Ministry for the recruitment of new employees for the companies of the administrations that exceed the personnel expenditure rate stipulated in the Procedures and Principles, and a justification report shall be prepared for the requests for permission to recruit employees for job increase and new service types.

Permit requests shall be submitted to the Internal Affairs through Governorships.

Required Qualifications in a Recruited Personnel

Required qualifications in a company personnel are stated below

1. Being a Turkish citizen without prejudice to the provisions of 5/9/1981 dated and 2527 numbered Law on the Free Practice of Professions and Arts in Turkey by Foreigners of Turkish Nationality and Their Employment in Public and Private Organizations and Workplaces,
2. To be 18 years of age,
3. Not to be sentenced due to offenses against the security of the state, Constitutional order and the functioning of the constitution even if the person is pardoned,
4. Regarding military service:
 - a) Not to be related to military service,
 - b) Not having reached to the age of military service,
 - c) Having completed active military service or be postponed or transferred to the reserve class if reached the age of military service.
5. Not having mental illnesses that might hinder the performance of their duty constantly without prejudice to Article 30 of Labor Law dated 22/5/2003 and numbered 4857.
6. Having completed their security clearance or archive research,

7. If required by the related administrations, having special requirements of the job to be determined

Limit of Personnel Expenditures in the Total Budget Income

The total annual personnel expenditures of the municipalities, including the personnel of the company, shall not exceed 40% of the amount to be found as a result of the increase of the total budget revenues of the administration in the most recent year by the revaluation rate determined and announced in accordance with the repeated Article 298 of the Tax Procedure Law dated 4.1.1961 and numbered 213. This rate is applied as 30% in Metropolitan Municipalities.

If the personnel expenditures exceed the stated rates as a result of an increase in the payments during the year, new personnel cannot be recruited to the administration company until the personnel expenditures of the current year and the following year decrease under these rates.

Recruitment of New Employees to the Company

In the recruitment of new workers to companies, pursuant to the second paragraph of Article 2 of the Regulation on the Procedures and Principles to be Applied in the Recruitment of Workers to Public Institutions and Organizations recruitment announcements shall be sent to the Provincial Directorate of Turkish Employment Agency for announcement purposes.

Monthly Payment for the Personnel Expenses

Total monthly amount to be paid to the company for personnel expenditures from the administration cannot exceed the total employment expenditures foreseen in the service procurement contract including:

- Minimum employment cost,
- 4% contract expenditures and general expenditures calculated from the minimum employment cost,
- Real expenditures related to the employment,
- 7% profit to be determined from the real expenditures related to the minimum employment cost and employment (Minimum employment cost + 4% contract expenditures and general expenditures + 7% profit)

cannot exceed the total employment expenditures. In determining the employer wage, increases in the minimum wage are taken into consideration. Minimum employment cost, contract expenditures, general expenditures, real expenditures related to the employment and profit rates are determined based on the public procurement legislation.

The amount of personnel expenditures related to the employees within the total expenditures of the company cannot exceed the monthly personnel payment made to the company. Employee expenditures for employees working on activities outside the employment services provided by company to the administration is not considered in determining this amount.

Example personnel salary, progress billing, and accounting transactions work-flow schemes are included in Annex 3. (Annex-3)

Activity Field Limits of Company

It is considered that the field of activity of the local administration companies to be established to carry out services based on personnel employment is specifically regulated within the scope of

the additional Article 20 of Decree Law No. 375, apart from the general provisions of the Turkish Commercial Code, and in accordance with the provision in the same article that "they can have it performed exclusively by a company to be established for this purpose", the said companies cannot expand their field of activity, even directly or by obtaining permission by their authorized bodies.

2.4. Accounting, Tax and Reporting Practices of Municipal Companies

Accounting Systems of Municipal Companies

In the Commercial Code No. 6102, it is stated that real and legal persons subject to this Code are obliged to comply with the provisions of the Tax Procedure Law No. 213 regarding bookkeeping and recording time and the regulations made pursuant to the authorization in Articles 175 and repeated Article 257 of the same Law. Based on this authorization, the Ministry of Treasury and Finance issued the General Communiqué on Accounting System Application Serial No. (1) on 26.12.1992 and entered into force on 01.01.1994. The accounting system to which the companies are subject is the Uniform Accounting Plan in the General Communiqué on Accounting System Implementation Serial No. (1).

Like other companies subject to the Turkish Commercial Code, Municipal Companies should keep their accounting records in accordance with the principles of the Tax Procedure Law No. 213 and the General Communiqué on Accounting System Implementation and according to options 7/A or 7/B.

Companies whose 2021 Total Assets exceed TL 6.283.900 or Total Net Sales exceed TL 12.567.300 must keep their cost accounts according to to option 7/A in 2022. Companies with 2021 Total Assets below TL 6,283,900 or Total Net Sales below TL 12,567,300 may choose either option 7/A or 7/B in 2022.

Bookkeeping Obligations of Companies

Books that must be kept according to the Tax Procedure Law

1-Books to be kept on Balance Sheet Basis

According to Article 182 of the Tax Procedure Law, the following books must be kept.

- a) Journal
- b) General Ledger
- c) Inventory Register

2-Books to be kept according to the Operation Account Method

According to Article 193 of the Tax Procedure Law, taxpayers who will keep books on the Operation Account method keep only the Operation Account Book.

Compulsory Books to be kept according to the Turkish Commercial Code No 6102

Pursuant to Article 64 of the Turkish Commercial Code No. 6102;

"All merchants are obliged to keep commercial books, and, in their books, they are obliged to reveal the economic and financial status of their commercial enterprise with their commercial transactions, their debt and receivable relations and the results obtained in each accounting period in a clearly visible manner in accordance with this Law. The books shall be kept in such a way as to provide third party experts with an insight into the activities and financial position of the business during their examination within a reasonable period. The formation and development of business activities must be traceable from the books."

The Law also stipulates that the Share Ledger, Decision Book of the Board of Directors and General Assembly Meeting and Negotiation Books, which are not directly related to the accounting of the enterprises, are also commercial books.

Considering these explanations, the books that companies (Joint Stock and Limited Companies) operating intensively in our country must keep are as follows.

a) Journal

b) General Ledger

c) Inventory Register

d) Share Ledger

e) Decision Book of the Board of Directors (for Joint Stock Companies)

(f) Decision Book of the Board of Managers (For Limited Companies)

g) General Assembly Meeting and Negotiation Book

On the other hand, as it is known, for more than ten years, the procedure of keeping the aforementioned Journal and General Ledger electronically has been adopted in our country.

Electronic books, which can be abbreviated as e-Book, are a set of legal and technical regulations that aim to enable the preparation of the books that must be kept in accordance with the provisions of the Tax Procedure Law and the Turkish Commercial Code in electronic file format in accordance with the announced formats and standards, to be recorded without printing in electronic file format, to guarantee the immutability, integrity, and accuracy of the source and to be used as a means of proof before the relevant parties.

XBRL (Extensible Business Reporting Language), which is a standard in xml format and internationally used for the preparation of books in an electronic media, is based on Extensible Business Reporting Language.

Pursuant to the General Communiqué on Electronic Book regulation No. 1, the journal and general ledger shall be prepared in accordance with XBRL GL e-book formats and standards. These standards set out the content and standards for book records.

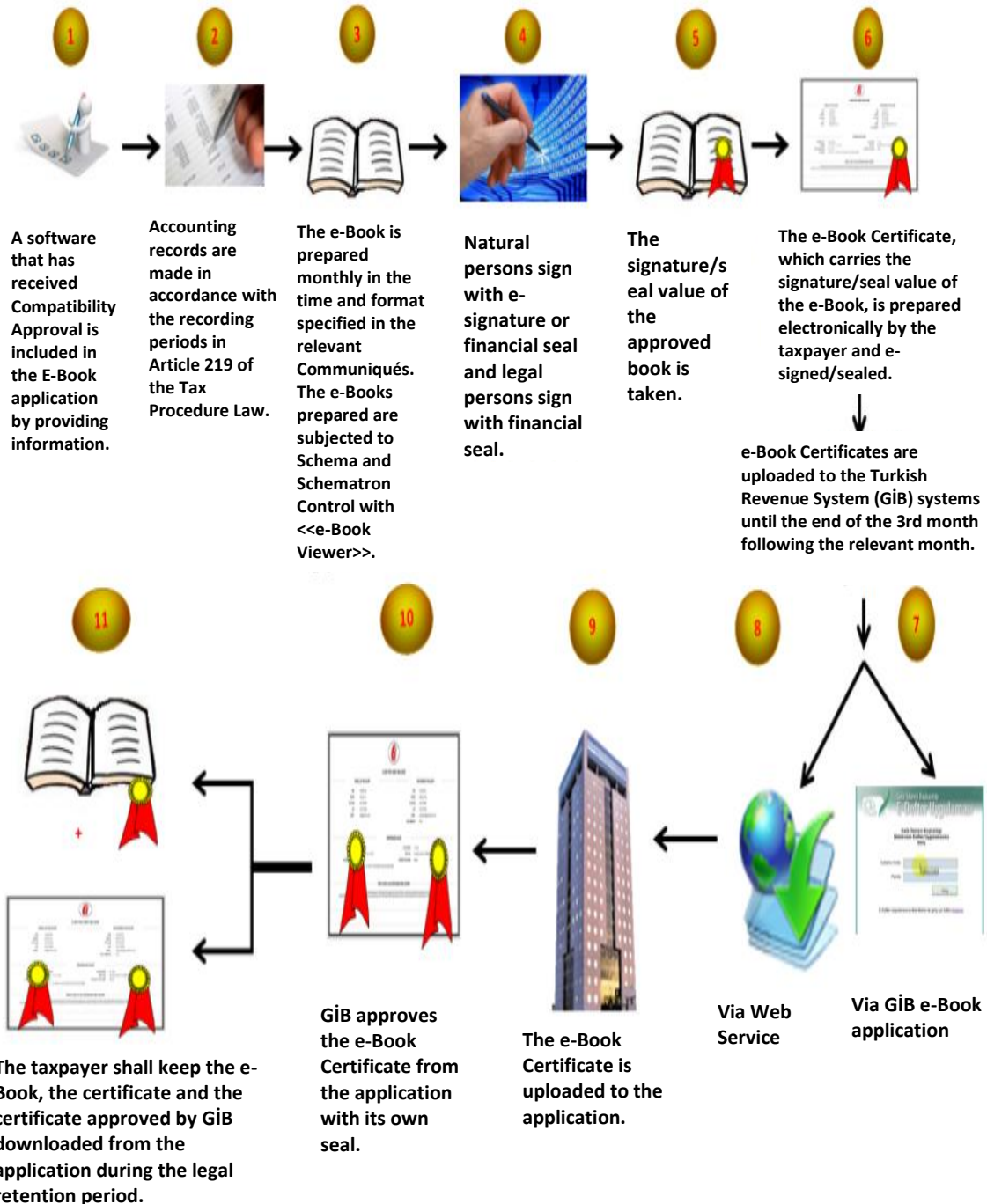
According to the regulations of the General Communiqué, the files created in accordance with the aforementioned standards must be sealed with a financial seal or signed with a secure electronic signature and certified through the e-Book Application in order to be accepted as e-book. Detailed explanations on the subject are made in the e-Book Technical Guide document included in the e-Ledger Package file.

The following summarizes the e-book upload and certificate creation process.

- E-Book files must be prepared in accordance with the standards and format specified in the relevant guidelines, and the prepared file must be placed in the space provided in the "book" schema structure.
- The created "book" file must be sealed or signed and a "certificate" file must be created by taking certain information from the sealed or signed "book" file.
- After the certificate file is also sealed and signed, the sealed or signed certificate file should be packaged.
- The prepared package must be uploaded by logging into the e-Book Application at edefter.gov.tr or sent via web service. <http://edefter.gov.tr/>

- The certificate file is also sealed with the financial seal of the Revenue Administration and made available to the book owner for download. (The e-book certificate and the signed or sealed book file shall be kept together in electronic storage.)

The following diagram summarizes the E-book Upload and Certificate Creation Process.



Status of Municipal Companies against Tax Laws

Municipal Companies established as joint stock or limited companies in accordance with the Turkish Commercial Code are subject to Corporate Tax Law No. 5520. In this context, they are

obliged to pay Corporate Provisional Tax on a quarterly basis and Corporate Tax at the end of the period. Municipal companies are also liable for all other indirect taxes imposed on companies in Turkey (e.g., Value Added Tax, stamp tax, etc.) and are required to keep their records in accordance with the Tax Procedure Law.

Below are a few issues that municipal companies should pay attention to, especially in terms of Corporate Tax.

Regulations on Thin Capitalization

Pursuant to the Corporate Tax Law, "The portion of all kinds of debts obtained directly or indirectly from the partners or persons related to the partners and used in the enterprise, which exceeds three times the equity capital of the corporation at any time during the accounting period, will be considered as thin capitalization for the relevant accounting period."

In order for the debts used in the enterprise to be considered as thin capitalization:

- Obtained directly or indirectly from a partner or a person related to a partner,
- Used in the business.
- The debt used in this way must exceed three times the institution's equity at any time during the accounting period.

Pursuant to the Law, for the debts obtained from a partner or a person related to a partner and used in the enterprise to be accepted as thin capitalization, these debts must exceed three times the equity at the beginning of the accounting period.

Therefore, for the debts borrowed from partners or persons related to partners, the total amount of the debts borrowed from these persons should be compared with three times the equity at the beginning of the accounting period and the debt amounts exceeding this ratio should be considered as thin capitalization for the relevant accounting period as long as they exceed the ratio.

In the application of thin capitalization, it is stipulated that only the portion of the debt obtained exceeding three times the equity, not the entire debt, shall be considered as thin capitalization and interest, exchange differences and similar expenses related to this portion shall not be considered as expenses in the application of the Corporate Tax Law.

In other words, since the portion of the debt exceeding three times the amount of the corporation's equity at any time during the accounting period is considered thin capitalization, it will not be possible to deduct interest, exchange differences, and similar expenses corresponding to the portion exceeding this limit from the tax base, including temporary tax periods.

When the issue is evaluated in terms of municipal companies, it is known that some municipal companies can take on debts from the municipalities to which they are affiliated or from other companies of the municipality in question. Moreover, due to prolonged operating losses, the capital of some of the municipal companies has been severely reduced, while others are in a state of technical bankruptcy. Therefore, it is highly probable that such debts received from municipalities, which are related parties, will fall within the scope of thin capitalization.

In this context, in cases where municipal companies obtain financing from related parties as explained above, the issue should be evaluated in terms of thin capitalization, and whether the interest and foreign exchange differences paid for the debt received can be deducted from corporate tax should be considered in this respect.

Concealed Gain- Transfer Pricing Regulations

If the corporation purchases or sells goods or services to related parties at a price or price determined in violation of the arm's length principle, the gain will be deemed to be distributed in whole or in part concealed through transfer pricing.

To talk about concealed gain distribution through transfer pricing; it is necessary that

- The purchase or sale of goods or services has been made by an organization,
- The organization in question has made this purchase or sale of goods or services with related persons,
- In the purchase or sale of these goods or services, price or charge determinations have been made in violation of the arm's length principle.

The arm's length principle states that the price or charge applied in the sale or purchase of goods or services with related parties should be in accordance with the price or charge that would have occurred in the absence of such a relationship.

The arm's length price or consideration is the market or common price, also referred to as the arm's length price, established by persons who are not related to each other in a relationship that meets the definition of a related person, under the conditions prevailing at the time of the transaction. This price or charge is the most appropriate amount objectively determined without any influence at the time of the transaction, and the price or charge applied in transactions with related parties should be this amount.

The tax administration will redetermine the taxable income, in other words, the tax base of the taxpayer who made transactions with related parties in violation of the arm's length principle and will claim the additional tax arising from this correction. In addition, loss of tax penalty is imposed for taxpayers who act in violation of the arm's length principle and are found to have reduced their tax base.

When the issue is evaluated in terms of municipal companies, it is observed that municipal companies carry out intensive commercial transactions with related party municipalities and other companies of the municipality in question. In this context, the arm's length price principle should be observed in all commercial transactions, regardless of the nature of the transaction, and the prices used should be determined in accordance with market conditions.

Institutions are required to prepare or provide information and documents showing that transactions are made in accordance with the arm's length principle, and to keep these information and documents ready to be submitted to the Tax Administration or those authorized to conduct tax inspections upon request.

Cash Capital Increase - Corporate Tax Deduction

In accordance with the Corporate Tax Law, equity companies can benefit from the deduction application in cash capital increases. The Law defines the deductible cash capital amount as "cash capital increases in the paid-in or issued capital amounts registered in the trade registry within the relevant accounting period, or the portion of the paid-in capital of newly established equity companies that is covered in cash".

The amount of the discount is calculated as 50% of the amount calculated until the end of the relevant accounting period, considering the weighted average annual interest rate applied to TL-type commercial loans granted by banks, as announced by the Central Bank of the Republic of Turkey (CBRT) for the year in which the discount is applied. The calculated discount amount can be deducted from the corporate income provided that it is shown separately on the corporate tax return.

In the calculation of the amount to be subject to the deduction cash capital increases in the amounts of paid-in or issued capital in existing capital companies registered in the trade registry

as of 1/7/2015, and in newly established equity companies, the part of the paid-in capital that is covered in cash will be taken into account, and the part of the capital that is not covered in cash cannot benefit from the discount application.

Financial Reporting Systems of Companies

Limited Companies

The provisions on the financial statements of limited companies are included in the Turkish Commercial Code No. 6102. Pursuant to Article 625 of the Law, the Managers are in charge and authorized in all matters in which the laws and the articles of association do not assign duties and powers to the general assembly. In this context, it is the duty of the managers to prepare the company financial statements, the annual report and, if necessary, the group financial statements.

Pursuant to Article 616 of the Law, the General Assembly is authorized to approve the year-end financial statements and annual reports of the companies, to approve the year-end financial statements, to decide on dividends, and to determine gain margins.

Pursuant to Article 88 and Provisional Article 1 of the Turkish Commercial Code No. 6102, real or legal person merchants who are obliged to keep books in accordance with the laws to which they are subject are required to prepare their individual or consolidated financial statements in accordance with the Turkish Accounting Standards (TAS) issued by the Public Oversight, Accounting and Auditing Standards Authority.

Joint Stock Companies

The provisions on the financial statements of joint stock companies are set out in the Turkish Commercial Code No. 6102. Pursuant to Articles 514 and 515 of the Law, the board of directors shall prepare and submit to the general assembly within the first three months of the accounting period following the balance sheet date, the financial statements, their annexes, and the annual report for the previous accounting period, as stipulated in the Turkish Accounting Standards.

The financial statements of the joint stock company shall be issued following the Turkish Accounting Standards in a manner that reflects the company's assets, debts and liabilities, equities, and operating results in a complete, understandable, comparable, appropriate to the needs and the nature of the business; transparently and reliably; truthfully, accurately, and faithfully.

Pursuant to Article 88 and Provisional Article 1 of the Turkish Commercial Code No. 6102, real or legal person merchants who are obliged to keep books in accordance with the laws to which they are subject are required to prepare their individual or consolidated financial statements in accordance with the Turkish Accounting Standards (TAS) issued by the Public Oversight, Accounting and Auditing Standards Authority.

The same articles also state that the Institution is authorized to set special standards and regulations for different business sizes and sectors. In 2014, the Public Oversight, Accounting and Auditing Standards Authority separated the scope of application of TFRS from the scope of independent audit and limited the scope of application of Turkish Financial Reporting Standards (TFRS) to entities that are generally in the public interest.

In addition, businesses outside these organizations are also permitted to apply TFRS on an optional basis. Firms subject to independent audit should prepare the financial statements (Statement of Financial Position, Statement of Profit or Loss and Other Comprehensive Income, Statement of Changes in Equity and Statement of Cash Flows) required by TFRS.

Books, Statements, Documents Required to be Submitted to the Court of Accounts by Companies and Court of Accounts Audit

Pursuant to Article 5 of the Procedures and Principles on Submission of Public Administration Accounts to the Court of Accounts and Notification of Accounting Units and Accounting Authorities, the information to be submitted by companies at the beginning of the accounting period are as follows

- Information form showing the names, surnames, titles and e-mail addresses of accounting units and accounting officers.
- Information form showing the bank account numbers opened in the name of the public administration or accounting units.

The books, financial statements, and documents to be submitted by companies at the end of the accounting period are as follows

- Unified data book.
- Trial balance.
- Closing trial balance.
- Financial statements.
 - Balance sheet,
 - Statement of operating results/income statement/profit and loss statement,
 - Statement of changes in equity,
 - Comparison table of budgeted and actual amounts.
- Detailed calculation sheet of the administration's movable property management, and the administration's movable property management account statement or inventory book.

2.5. Financial Management of Municipal Companies

Financial Management

Local governments with the ability to manage public finances effectively are better prioritize and allocate resources for social and economic needs. On the contrary, inefficient, corrupt, or inadequate public financial management can lead to missed growth opportunities and fiscal losses, lower overall investment and infrastructure quality, under-performer institutions, and widespread institutional corruption.

Poor planning practices, such as a lack of connections between policies, planning, and budgeting, can contribute negatively to government performance and encourage corruptive behavior in public financial management.

In this context, participation in the formulation of meaningful public oversight and budget programs, as well as making audit reports publicly available, can help to effectively prevent corrupt and inefficient behavior.

In this context, municipal companies can consider the financial management strategies listed below as development points:

- In addition to legislative adjustments, a clear and comprehensive regulatory and operational framework for budget and financial management should be introduced and implemented. Budgeting and policy-making mechanisms should be clearly designed to strengthen coordination and coherence in decision-making. Ensure that budget planning is based on reliable information and that the integrity of financial information is subject to public and independent examination.
- All relevant personnel should be trained to ensure that they are aware of their responsibilities and have the necessary competence. Opportunities should be created for effective participation of relevant staff in all stages of the budget process. It should also be ensured that the heads of departments who need to formulate their projected budgets are competent for the job.
- All stages of the company's budget process (formulation, approval, implementation, and evaluation), future fiscal policies, and the results of past fiscal policies should be made public.
- Experts, CSOs, and other local stakeholders should also be consulted when formulating budgets. Financial reporting should be timely, comprehensive, reliable and identify deviations from the budget.
- Clear and comprehensive procedures for executing and monitoring approved expenditure budgets should be established and implemented. Approval procedures for any new expenditure proposal exceeding a certain level of threshold should be established in detail. Payments made in relation to expenditures should be verified by supporting documentation such as contracts, purchase requisitions and reconciliation forms. The use of electronic payment systems should be promoted to minimize the use of cash.
- Clear and comprehensive policies and procedures should be established and communicated to management and employees for the payment of salaries and other personnel payments, such as bonuses, as part of payroll.
- Clear procedures should be established for staff to claim work-related expenses from the company and standardized rates for travel allowances should be adopted.
- It should be ensured that controls or systems are in place to record and monitor all payroll transactions, and adequate recordkeeping and reporting procedures should be

established to ensure that all access to payroll systems and transactions performed in the system are recorded.

BORROWING AND TECHNICAL BANKRUPTCY IN MUNICIPAL COMPANIES

Pursuant to Article 68 of the Municipality Law No. 5393, which entered into force after being published in the Official Gazette dated 13/07/2005 and numbered 25874; "The amount of domestic and external debt stock, including interest, of the municipality and its affiliated organizations and the companies in which they own more than fifty percent of their capital cannot exceed the amount of the total of the latest finalized budget revenues increased by the revaluation rate to be determined according to the Tax Procedure Law No. 213. This amount is applied one and a half times for metropolitan municipalities."

In addition, according to the Law, "Municipalities and their affiliated organizations and the companies in which they hold more than fifty percent of their capital may make internal borrowing not exceeding ten percent of the amount of the latest finalized budget revenues increased by the revaluation rate to be determined according to the Tax Procedure Law No. 213 within the year by the decision of the municipal council; and internal borrowing exceeding ten percent may be made by the decision of the absolute majority of the total number of council members and the approval of the Ministry of Environment and Urbanization."

Accordingly, it is not possible for municipal companies to borrow money by their own decision-making bodies; municipal companies may borrow money below the limit with the decision of the municipal council and borrow money above the limit with the decision of the absolute majority of the total number of council members and the approval of the Ministry of Environment, Urbanization and Climate.

On the other hand, the Turkish Commercial Code No. 6102 published in the Official Gazette dated 14/02/2011 and numbered 27846 regulates the insolvency of companies. Article 633 titled "Obligation to Notify" under the heading "Capital Loss and Insolvency" in the section of the Law No. 6102 regulating limited companies stipulates as follows:

"In cases of loss of capital or insolvency, the relevant provisions regarding joint stock companies shall be applied by comparison."

The Law on the loss of capital and insolvency of joint stock companies also stipulates:

"If it is understood from the last annual balance sheet that half of the total capital and legal reserves are uncovered due to losses, the board of directors shall immediately call the general assembly for a meeting and present the remedial measures it deems appropriate to this general assembly."

If, according to the last annual balance sheet, it is understood that two-thirds of the total capital and legal reserves are uncovered due to losses, the company shall automatically terminate unless the general assembly, which is called for an immediate meeting, decides to be satisfied with one-third of the capital or to complete the capital."

As can be seen from the text of the Article, if a company loses at least two-thirds of its capital, the company shall automatically terminate unless the general assembly, which is called for an immediate meeting, decides to be satisfied with one-third of the capital or to complete the capital. In addition, if it is understood that the situation of insolvency cannot be eliminated, the company officials must immediately notify the commercial court of first instance.

Court of Accounts audits focus on the indebtedness of municipal companies. Sample financial audit findings in the Court of Accounts Audit Reports are as follows:

".... As a result of the examination of 300 BANK LOANS Account in the 2015 trial balance of A.Ş., it was seen that borrowing was made in violation of the Municipality Law No. 5393.

Article 68 (e) of the Municipal Law No. 5393 titled "Borrowing" stipulates that municipalities and companies in which they own more than fifty percent of the capital can make domestic borrowing not exceeding ten percent of the amount of the last finalized budget revenues increased by the revaluation rate to be determined according to the Tax Procedure Law No. 213, with the decision of the Municipal Council.

During the examination, it was observed that in 2015, 167,558.32.-TL was recorded to the receivable of 300 BANK LOANS Account. It was determined that this situation arose from two vehicle purchase loans obtained from a private bank for the purchase of one foreign origin passenger car and one commercial vehicle for the use of the chairman of the board of directors of the company. Since the transaction in question is a borrowing subject to the above-mentioned ten percent limitation, it is considered that the realization of this borrowing without the decision of the Metropolitan Municipality Council is contrary to the legislation."

Financial Analysis

Financial statements, which are prepared in a way to carry certain characteristics, are analyzed by using various indicators, measures or by making comparisons, and issues such as the financial position, profitability and efficiency of the enterprise are evaluated. By using horizontal analysis, analysis by percentage method, analysis by trend percentages method, and analysis by ratio method, issues such as whether the profitability of the business is sufficient, whether the capacity to pay debts is available, and whether both short-term and long-term debts will be paid on time, whether the use of assets is efficient or not are tried to be determined and the change of the business over time is analyzed.

Financial statements are prepared to provide information about the allocation and use of resources, the financing of organizations, their liabilities, commitments, and effectiveness in their operations. However, financial statements are documents containing complex information and they need to be analyzed to understand the financial position of institutions. Comparison of current year data with prior year data in the financial statements reveals information on significant differences, trends, and relationships.

Although there are a wide variety of financial statement analysis methods, any one of these techniques alone is not sufficient. This is because each technique provides information on a different aspect. Therefore, to understand the financial position of companies, analysis techniques should be used together, and the results should be evaluated together. Therefore, financial statement analysis is a tool that enables users of these statements to understand the financial position of administrations.

When model application results are analyzed considering the purposes of financial statements in the public sector:

- The vertical analysis provides information on the financial structure of the administration, the use and distribution of resources, how cash needs are met, and the sources of financing,
- Horizontal and trend analyses provide information on the financial position and changes in the financial position of institutions.

Ratio analyses provide information on the financial status, financial structure, use of resources, changes in financial status, effectiveness and efficiency of activities, debt, and service sustainability of institutions. The analyses provide information on audit risks and the detection of inconsistencies to internal audit units and the Court of Accounts, the supreme audit institution, in the audit of organizations. The fundamental analysis ratios frequently used in practice in this process are given below.

Liquidity Ratios

Liquidity analysis is a type of ratio analysis used to determine the adequacy of the working capital of the business and the efficiency of paying short-term debts. Liquidity ratios are basically expressed in three different ratios. These are Current Ratio, Acid-Test Ratio and Cash Ratio.

<u>Ratio Name</u>	<u>Formula</u>	<u>Explanation</u>
Current Ratio	Current Assets / Short Term Foreign Assets	Indicates the ability of all current assets to cover short-term debts.
Acid -Test Ratio	(Current Assets - Inventories) / Short Term Foreign Assets	Indicates the ability to cover the short-term debt.
Cash Ratio	(Liquid Assets + Securities) / Short Term Liabilities	Indicates the ability to pay short-term debts without cash inflows.

Among the above-mentioned ratios, the Acid-Test ratio is considered to be the most sensitive measure of a firm's liquidity. An acid-test ratio of less than 0.60 is considered to indicate that the company will have difficulty in paying back its short-term debts. However, a low ratio does not mean that the firm is unable to pay its financial obligations. A ratio of around 1 indicates that the firm can pay its short-term debts when it converts its highly liquid assets into cash.

On the other hand, keeping idle cash in the company's safe in excess of the daily requirement is both incompatible with business practices and poses certain risks in terms of tax liability. In addition to these tax risks, a fact of business life is that no business should hold idle funds.

In addition, in today's conditions, where the banking system has developed and the flow of money is provided with faster and more modern methods, keeping more money than needed in the cash account may increase the opportunity cost of businesses, as well as cause taxpayers to face some penalized tax assessments in the future. In this context, funds beyond daily needs should be deposited in the company's bank and utilized with existing financial instruments.

Operating Ratios

Operating ratios examine the extent of the relationship between the sales of the enterprise and the asset groups. This ratio is also known as efficiency analysis.

<u>Ratio Name</u>	<u>Formula</u>	<u>Explanation</u>
Inventory Turnover	$\text{Cost of Trade Goods Sold} / \text{Average Trade Goods Inventory}$	Represents the number of times inventories are converted into cash in a year.
Accounts Receivable Turnover	$\text{Net Sales} / \text{Assets Average Trade Receivables}$	It shows how long it takes the company to collect its receivables.
Asset Turnover	$\text{Net Sales} / \text{Total Assets}$	It is the ratio that measures the sales generated by the assets of the business.

A low receivables turnover rate indicates that receivables are collected over a longer period. For this reason, a high receivable turnover rate is a positive situation for the enterprise, indicating that receivables are easily collected. At high turnover rates, lower current ratio and liquidity ratio can be used. At high turnover rates, lower current ratio and liquidity ratio can be used.

Inventory turnover is a calculation method that shows the number of products in a firm's inventories during the year. In other words, it shows how many times the firm replaces its inventories in a year. When the inventory turnover rate is high, it can be considered that the products in inventory are sold quickly, and product turnover is ensured. When the inventory turnover rate is low, it can be understood that the company is unable to quickly turn products in inventory into sales. At this point, some strategic problems such as inadequate company management, marketing and advertising activities can be considered to be on the agenda.

Profitability Ratios

Profitability ratios are ratios that investors, partners, or others who are considering becoming a partner in a business are particularly interested in monitoring. In the profitability ratio assessment, the profitability targets in the budgets of the businesses, the general course of the economy and the profitability status of other businesses belonging to the same sector group should be taken into consideration. In addition, inflation, if any, should not be ignored. In fact, inflation allows firms to increase their profitability in real terms, but it can also lead to overstatements due to valuation method limitations.

Municipal Companies are also subject to the Turkish Commercial Code No. 6102. As stated in Articles 16 and 18 of the Turkish Commercial Code, organizations established by municipalities to operate commercially are also merchants, and every merchant is required to act as a prudent businessperson in all his/her commercial activities. Accordingly, when municipal companies are hired by municipalities, especially from the municipalities to which they are affiliated;

- Full calculation of costs and bidding according to this calculation,
- Preventing the Company's losses by making savings in the cost of goods sold and other expenses and transitioning to a profitable company status,
- Completion of the necessary documents in progress payment and guarantee refunds on time and finalization of collections,
- Paying public debts on time and not allowing accrual of accessory obligations

are important for the sustainability of the Company.

Although there is an understanding that the main purpose of municipal companies is to meet public needs rather than making a profit and therefore it is not possible to evaluate the financial

statements in the same way as other companies, it should be kept in mind that municipal companies, like all other companies, are companies subject to the Turkish Commercial Code No. 6102. All the responsibilities set out in the Law apply to municipal companies as well, and if financial statements and ratios decrease below expected levels, insolvency and similar sanctions may be imposed on these companies as well.

In addition, the financial difficulties experienced in the Company will lead to the seizure of the Company's assets and receivables due to debts owed both to the market and to other institutions, and to the revival of accessory obligations in addition to the principal debt due to unpaid debts. Therefore, it is not a correct approach to try to explain the deteriorating state of the Company's financial statements based on "meeting public needs".

Municipal companies should be required to achieve rates of return consistent with those achieved by rival private enterprises, considering the operational conditions of their economic activities, particularly where they trade in open market conditions.

Given that profits generated even among private companies operating in highly competitive environments can vary significantly in the short to medium term, rates of return need to be considered over a long period of time.

<u>Ratio Name</u>	<u>Explanation</u>
Gross Sales Margin / Net Sales	Indicates what percentage of net sales is gross sales margin
Operating Profit / Net Sales	It indicates the extent to which a business is profitable from its core business
Profit for the Period / Net Sales	It indicates the amount of profit before tax for every hundred liras of sales
Profit for the Period / Total Assets	It indicates the extent to which assets are used efficiently in the enterprise.
Profit for the Period / Equity	It indicates the profit share per unit financed by the owner and partners

Financial Structure Ratios

Financial ratios are used to measure the degree of foreign resources utilized in the financing of the business. With financial ratios, the place of business debts in the financial structure and the consequences of this financial structure are investigated. For this purpose, the status of foreign resources against equity, their use in financing tangible fixed assets and the coverage of borrowing expenses with the profit for the period are discussed.

It is known that many of the municipal companies in Turkey have been continuously receiving capital from the relevant municipality as a result of their losses. While such losses may be acceptable to a certain extent in municipal companies providing public services, profitability should ideally be the main objective, especially for commercial companies.

The critical issue in this respect is the accurate projection of financial needs and the correct determination of financing policies during the establishment phase of companies. Due to the lack of such a projection prior to the establishment of the company, some companies have always obtained capital from the Municipality to which they are affiliated, while others have obtained external financing at high interest rates.

In this respect, it is important to consider the following financial structure ratios in detail and analyze them on company balance sheets.

Ratio Name	Formula	Explanation
Leverage Ratio	Total Foreign Fund/ Total Liabilities	It indicates what percentage of assets is financed by liabilities
Short Term Liabilities Ratio	Short Term Foreign Funds / Total Liabilities	It indicates how much of the economic assets are covered by short-term liabilities
Long Term Liabilities Ratio	Long Term Foreign Funds / Total Liabilities	It indicates how much of economic assets are covered by long-term liabilities
Equity Ratio	Equities / Total Liabilities	It indicates what percentage of assets are financed by partners or the business owner
Ratio of Foreign Liabilities to Equity	Total Liabilities / Equity	It indicates the relationship between liabilities and equity

Financial structure analysis provides important clues about the sustainability of companies. For example, if the Financial Leverage Ratio, which shows what percentage of assets is financed by foreign assets and is generally targeted to be less than 50%, is above 50% for a company for three consecutive years, it indicates that a large portion of assets are financed by foreign assets, which is not desirable for the sustainability of the company.

Likewise, the continuous decline in the equity ratio, which is expressed as the ratio of shareholders' equity to total liabilities, which shows the financial independence of the company and is generally expected to be higher than 1, is important in terms of indicating that the company has suffered consecutive losses and its equity has been depleted.

Furthermore, as is well known, Article 68 of the Municipal Law No. 5393 stipulates that the amount of domestic and external debt stock, including interest, of municipalities and their affiliated organizations and companies in which they hold more than 50% of the capital cannot exceed the amount of the total of the latest finalized budget revenues updated with the revaluation rate, and that this amount shall be applied one and a half times for metropolitan municipalities.

The Law also sets out the principles of domestic borrowing and states that municipalities and their affiliated organizations and companies in which they hold more than 50% of the capital may borrow a total amount not exceeding 10% of the amount of the latest finalized budget revenues updated with the revaluation rate within the year by the decision of the municipal council, and a total amount exceeding 10% by the decision of the absolute majority of the total number of members of the council and the approval of the Ministry of Environment and Urbanization.

2.6. The Relationship Between Municipal Company and Subsidiary Companies

The fundamental rule in providing public services is that the tasks are carried out by the closest department to the public at the rate of their financial strength and as much as they enable the use of efficient resource. On the other hand, another important aspect of the local administrations is that they are departments serving effectively and efficiently. One of the biggest problems in today's municipalities is stated as "the efficient use of resources". What the indicators of efficiency are take an important part within the discussions on to what extent municipalities efficiently use their resources. By establishing subsidiary companies, local governments attempt to ensure expediency and increase resource efficiency and diversification.

The administration and supervision organs of municipal companies should be determined by the municipality administration. Municipalities have a higher influence on municipal companies. Even though municipal companies are private legal entities, they give the impression of public legal entities due to the administrative relationship network they are in with the municipality. Relationships municipalities have with municipal companies are conducted by the official departments under the name of Fund Raising and Subsidiaries Head of Department within metropolitan municipalities.

This department manages coordination among all municipal companies on top of establishing the one-way connection between the municipality and the company. Besides, in some local administrations, subsidiaries are administered by making decisions under the initiative of general director and administration commissions relatively independently from municipalities.

When the partnership rates of municipalities in subsidiaries are considered and their establishment goals are analyzed, it is safe to say that these companies which act independently from the vision and decisions of the municipalities do not contribute much to the common goal in municipalities conducting their work. Therefore, within the framework of a system whose responsibilities and limits are identified, it is necessary to establish relationship between municipality and municipality subsidiaries.

Companies should submit reports to the department conducting the coordination between municipality and subsidiary in harmony and periodically with the aim of maintaining the relationship between municipality and municipality subsidiaries. To this means, responsibilities and report contents to be prepared by human resources, fiscal-economic affairs, legal, media-communications, fundraising departments are given in detail in ANNEX-4. (Annex-4 suggested work for job description and standards of Human Resources, Fiscal-Economic Affairs, Legal, Fund Raising and Media-Communications departments)

Job Description and Standards of Senior Management Conducting Coordination Between Municipality - Subsidiary

Duty and responsibilities of senior management conducting coordination between municipality - subsidiary is as follows:

- Coordination of institutionalization activities,
- Conducting Institutional Identity activities,
- Determining the Strategic Plans of the department conducting coordination between municipality - subsidiary,
- Making Investment Decisions,
- Identifying necessities regarding outsourcing,

- Identifying necessities for establishment or liquidation or privatization of a company,
- Approval of strategic cooperation,
- Monitoring and developing company's activities,
- Determining Internal Authority and Approval Limits,
- Making press releases,
- Making decisions regarding new Product/Service,
- Approval of modifications to be made in product/services,
- Publishing Regulations, Directives and Announcements,
- Approval of revisions made on Company Organization Schemes,
- Approvals regarding recruitments, promotions, rotation, and termination of employment contracts in executive level and senior positions,
- Determining wage rises.

Monthly/Periodic Reports To be Prepared by the Department Conducting Coordination Between Municipality - Subsidiary for the Compliance Inspection of Companies

Conducting the compliance inspection of activities of companies of which the municipality is an affiliate or owns to the determined policies, procedures/regulations, applicable legal rules, and standards, evaluating inspection working results and inspector report and opinions on improvement, preparing the inspection report are some of the most important duties of the department conducting coordination between municipality - subsidiary. This department should periodically report about the related vision of the companies and in light of the general strategies. Within this framework, regular reporting in all activity topics especially the topics stated below is significant.

To this end,

Reports to be prepared strategically are as follows,

- Comparing strategic plans,
- Making investment decisions,
- Adding or discarding companies from portfolio,
- Making decisions regarding outsourcing,
- Making decisions regarding the partial or full transfer or sale of the company shares.

Reports to be prepared periodically are as follows,

- Income Budget,
- Expense Budget,
- Investment Budget,
- Personnel Budget.

Reports to be prepared monthly are as follows,

- Accounting and tax transactions
- Financing transactions
- Budget and reporting
- Investment and fixed-assets transactions
- Stock accuracy, traceability
- Cost and production efficiency
- Activities of partners
- Customer operations
- Marketing and business development

- Production and Logistics
- Human resources, administrative affairs and security processes
- Information systems management
- Activities of other service departments.

Job Description and Standards of Department Conducting Coordination Between Municipality - Subsidiary

The duty of this department is to inform, direct Subsidiaries and responsible Municipality administration about the identification of strategic goals and priorities of Subsidiaries, to improve and manage the team according to identified strategic goals and priorities, to perform all activities of the company effectively, efficiently and timely, to evaluate the performance results of the activities, submitting these to Municipality Administration, making permanent and systematic improvement work and active management of institutional structure.

- Central management, control, and coordination of activities regarding all functions in line with the Strategic Goals and institutional priorities.
- Leading the preparation of work plans and budgets and submitting these to Municipality Administration in line with the Strategic Goals and institutional priorities.
- Analyzing the budget realization results occurring on the company level with the period, evaluating them with Municipality Administration, ensuring the decision making and taking care of the application of the required actions.
- Regularly monitoring the fiscal and operational performance of activities within the responsibility area, taking care of conducting the required corrective and improving activities, and being responsible for the identification of activity performance to Subsidiaries and Municipality Administration.
- Monitoring markets closely, identifying opportunities, risks, and possibilities regarding the activity field, conducting research and feasibility practices on scope of work, ensuring taking required actions, informing Subsidiaries and Municipality Administration about this, and getting the necessary approvals.
- Determining policies and standards regarding the activities of the company, ensuring its application in throughout companies.
- Ensuring the unity of organization and work processes, evaluating strategies of labor divisions according to work goals, ensuring the compatibility of strategic goals and work plan, and evaluating the performance thereof.
- Following the preparation, approval and application of activity and budget plans for the identification of goals that comply with Company Strategies and realization of goals.
- Creating management team appropriate for the goals and ensuring its development.
- Ensuring and evaluating the feasibility of new investments, approving according to the level of authority, inspecting the realization of investments within project discipline, and checking its compatibility with feasibility.
- Evaluating the suggestions made on Marketing Communications (advertisement, logo, etc.), actively playing a part in the medium selection.
- Leading the research, development and realization of innovative applications that will support the growth target and institutional activity.

- Ensuring the performance of activities within official and legal framework and timely fulfilment of responsibilities.
- Ensuring the establishment of systems that will enable the conducting of operations within appointed authority and responsibilities.
- Ensuring the establishment of human resources and employment plans compatible with Strategic Plan and Work Plans.
- Taking care of evaluation and selection of candidates for executive positions, improvement of executive potentials, development and application of career and performance management systems, operating the approval process, and evaluating the performance.
- Ensuring the realization of applications in comply with law and legislation.
- Being a guide in making and implementing strategic decisions in a timely manner for ensuring the establishment of information system infrastructure in accordance with current and potential business needs, provision of up-to-date service and ensuring the security of information and obtaining the necessary approvals.
- Ensuring the active use of information systems by the organization, contributing the timely creation of required information within the defined standards, and forming the institution memory.
- Contributing to the cooperation with related departments, ensuring management compliance, and improvement of management efficiency.
- Taking care of the functioning of all related systems within the scope of duty, designing new systems, and improving current ones.
- Working on the improvement of work processes.
- Paying attention to productivity, profitability, and environmental awareness in the use of resources, using resources efficiently.
- Ensuring and checking up on the performance of company activities within the scope of identified legislation and directives.
- Reporting and informing the required information, developments and problems regarding the duty and responsibility to the managing director or positions he/she has a functional relationship with.
- Following legislation amendments regarding the duty field, informing the personnel on time, and doing follow ups on application thereof.
- Conducting the work organization of the personnel reporting to him/her and the coordination on high levels, determining their duty, authority, and responsibilities.
- Ensuring the coordinated work of department with other divisions / departments and outside customers.
- Representing Municipality and its companies before governmental agencies, private institutions, and 3rd parties at best their abilities.
- Keeping internal/foreign customer and employee satisfaction high, working from their improvements.
- Regularly monitoring the performances of all personnel reporting to him/her, giving feedbacks, preparing their training and developmental plans, taking necessary actions, and mentoring the team.

- Ensuring and checking the personnel to abide by the workplace rules and applications of being present at work, dress code, etc.
- Ensuring taking measures regarding work health and security in workplace and conducting work in compliance with these measures.
- Ensuring the archiving of documents related to the duty and storing thereof ready for the required internal and external inspection for a period obliged by the laws.
- Showing utmost care for stationary, office items and any device or tool belonging to company, taking necessary measures for the storage and maintenance of inventory stock, documents of the unit, folders, and similar documents.
- Fulfilling duties appointed under the regulations and other legislations issued by municipality.

2.7. Annual Report and Website in Municipal Companies

The Obligation to Prepare an Annual Report in Accordance with the Municipality Law Numbered 5393

With Article 56 of Law numbered 5393, Mayors are appointed with the duty to prepare annual reports, and it is obliged for them to include the stated information and evaluation regarding the subsidiary and businesses and the municipality partnerships in the report to be prepared. But in practice this provision is not fully implemented.

The fact that municipal companies are public bodies is undeniable even though they are not included in Article 2 of Law numbered 5018. Therefore, strategic plan and performance programs of the administrations of these companies should be prepared and ensured that they conduct their activities accordingly. To this end, as included in development plans, the legal structuring of municipal companies should be clearly indicated. Information on companies should be shared in the Annual Reports of the municipalities and standards such as the below-suggested content of the annual report of companies should be implemented regarding the content to be shared.

SUGGESTED CONTENT OF MUNICIPAL COMPANY ANNUAL REPORT

- I. GENERAL INFORMATION
 - A. Mission and Vision
 - B. Authority, Duty, and Responsibilities
 - C. Company Information
 - a. Physical Structure
 - b. Organization Scheme
 - c. Board of Directors
 - d. Information and Technological Resources
 - e. Human Resources
 - f. Corporate Governance
 - D. Provided Services
 - E. Management and Internal Control System
- II. AIMS AND OBJECTIVES
 - A. Aims and Objectives of Company
- III. ACTIVITY INFORMATION AND EVALUATION
 - Fiscal Information
 - Performance Information
 - Activity and Project Information
 - Performance Results
- IV. EVALUATION OF CORPORATE CAPABILITY AND CAPACITY

Strategic plans and performance programs of the administrations of these companies should be prepared and ensured that they conduct their activities accordingly. Information on municipal

companies should be shared in the Annual Reports of the municipalities and standards should be implemented regarding the content to be shared. Besides, reporting of companies in an additional annual report to increase the accountability of the companies to municipal councils in Metropolitan municipalities can be considered as another suggestion.

The Obligation to Prepare an Annual Report in Accordance with Turkish Commercial Code

As is known, there is a provision in article 514 of Turkish Commerce Code regarding the submission of annual report to be prepared within the first three months of the following balance sheet date by the board of directors of anonymous companies to the general assembly.

In article 516 of the law, the quality of the annual report and the points it should include are ensured. The mentioned annual report is a document that accurately, fully, directly, realistically, and honestly reflects the flow of the activities and financial status of the company from every aspect in that year.

In addition, report also indicates the development of the company and the possible risks that might occur. Evaluation of board of directors in these topics is also included in the report.

Report should also include the events that occur following the end of the activity year and that are especially important, research and development work of the company, and topics such as wages, premiums, and bonuses regarding financial benefits, in-kind and in-cash opportunities such as allowances, trips, accommodation and representation expenditures, insurance, and similar warranties.

"Regulation on Determining the Minimum Content of the Annual Reports of Companies" issued by Ministry of Customs and Trade to explain these topics in detail was published in Official Gazette dated 28.08.2012 and numbered 28395. Topics that are included in the law are stated in regulations as well. Ground for the stated regulation is provisions on annual report included in the Turkish Commercial Code numbered 6102.

The Regulation stipulates that the annual report shall be prepared in a way to reflect the flow of the company's business and transactions for the relevant accounting period, and its financial status in all aspects, accurately, fully, directly, realistically, and honestly, considering the rights and interests of the company. Managing body prepares the annual report in a way that will enable the partners to access every kind of information regarding the activities of company fully and accurately. The simplest possible terms and concepts are used and ambiguous expressions that may cause uncertainty are avoided in the annual report. Explanations that everyone can understand are provided in sections where technical terms are to be used. Therefore, the aim is to ensure that the annual report is accurate, apparent, transparent, and reflects reality.

Explanations on efficiency, competency, and harmony of internal inspections are included in annual report. Statistical information and graphs can also be included in the report. According to Article 82 of the Turkish Commerce Code annual reports are one of the documents that should be stored for 10 years.

Information To Put on the Website of the Company

The "Regulation on the Websites to be opened by Capital Companies" published in the Official Gazette dated 31.05.2013 and numbered 28663 and entered into force on 01.07.2013 regulates the procedures and principles regarding the opening of a website pursuant to paragraph (1) of Article 1524 of the Turkish Commercial Code No. 6102 and the allocation of a certain part of this website for the publication of announcements required by law and information society services.

According to paragraph (1) of article 6 of the above-mentioned Regulation, the content that should be regularly published on the website following the opening of it are as follows:

- The company's Central Registry Number System number, trade name, headquarters, amount of capital subscribed and paid, and the names and surnames of the chairman and members of the board of directors in joint stock companies, managers in limited liability companies, and managers in limited partnership companies with capital divided into shares,
- In the event that a legal person is elected as a member of the board of directors in joint stock companies and as a manager in limited liability companies; a statement that the real person designated by the legal person on behalf of the legal person is registered and announced together with the legal person, the Central Registry Number System number, trade name, headquarters of the elected legal person and the name and surname of the real person registered together with the legal person,
- Name and surname/title, place of residence/headquarters, registered branch office if any of the elected auditor.

Again, in paragraph (3) of article 6 of the stated Regulation many topics to be issued within a minimum of six months period were stated. Among these are the merger agreement, merger report, financial tables of the last three years and annual reports.

In this context, it is very important for the municipal companies to include certain information about their activities, management and performances on their websites, examples of which are given below, to ensure transparent management:

- Information about directors,
- Financial results as of activity period,
- Results of the completed inspections,
- Strategical plans, important investments/purchases for following periods,
- Performance evaluation criteria and measurements,
- Human Resources Policies.

Pursuant to paragraph (12) of Article 562 of the Turkish Commercial Code No. 6102; the members of the governing body of companies that fail to establish the website stipulated in Article 1524 shall be punished with a judicial fine from one hundred days to three hundred days, and the perpetrators listed in this paragraph who fail to duly place the content required to be placed on the website pursuant to the same article shall be punished with a judicial fine up to one hundred days.

2.8. Internal Audit in Municipal Companies

Audit refers to a systematic process in which information and documents related to economic, commercial activities and events carried out within a certain period are collected and the results are evaluated, reported, and presented to those concerned by independently and impartially investigating whether the activities are carried out economically, effectively, and efficiently.

As can be understood, the audit should cover a specific period, be oriented towards activities and events, be in accordance with predetermined criteria and research should be conducted accordingly. In addition, the final report should be made available to the relevant authorities and the evaluation-reporting process should be carried out in an independent, impartial, and systematic manner, just like the other phases.

Some uncertainties arise in the process of auditing municipal companies. The underlying reason for these uncertainties arises from the uncertainty as to whether municipal companies are subject to the provisions of private law or public law.

Currently, municipal companies are audited under both private and public law. In terms of private law, companies are audited by the Capital Markets Board, the Ministry of Commerce and the Public Oversight, Accounting and Auditing Standards Authority and are subject to independent audit like any other commercial company, and in terms of public law, they are audited by the Court of Accounts like public legal entities. In addition, the Municipal Law also includes provisions for the audit of municipal companies by the municipality.

However, as important as the above-mentioned types of external audits to which companies are subjected is the establishment of internal audit mechanisms within the company. Municipal Companies are not subject to the internal control and internal audit legislation regulated in detail in the Fifth Section of Law No. 5018 and the sub-legislation regulations issued based on the Law.

Since the Municipal Companies are not subject to the Public Financial Management and Control Law No. 5018, there is no internal control system as defined by this Law. No. 6102 Turkish Commercial Code and carries out its activities in accordance with these principles. Therefore, municipal companies should establish their own internal audit systems within the scope of their activities.

Internal audit is the whole of the organization, methods and processes and financial and other controls established by the administration to ensure that the activities are carried out effectively, economically and efficiently in accordance with the objectives of the administration, determined policies and legislation, that assets and resources are protected, accounting records are kept accurately and completely, and financial and management information is produced in a timely and reliable manner.

The internal audit system is a system designed and implemented by the Company management and other relevant personnel to provide reasonable assurance that the Company's objectives are achieved, activities and transactions are carried out effectively, and laws and regulations are complied with. To this end, the internal control system is designed and implemented in such a way as to ensure that operational risks that pose a threat to the realization of these objectives are also identified.

The Internal Audit System should be carried out as a set of systems covering all business processes of the company, a continuous structure, and a cyclical process. This process should be shaped by customer complaints, employee suggestions, stakeholder feedback, strategic plan,

performance program, corporate risk, disaster and emergency management, project analyses, and financial external audit activities.

Process improvement efforts should be aimed at improving quality, reducing costs, and eliminating activities that do not create added value. In the Strategic Plan and Performance Program, Critical Success Factors, Unit Based Annual Strategic Activities, General Performance Criteria and Process Performance criteria should be monitored and scored at manager and chief level.

Internal Audit audits the Company's compliance with corporate governance principles and ethical values and examines and evaluates the adequacy and effectiveness of internal control systems. The Corporate Risk Management Process consists of the assessment of the maturity level, which aims to determine the level of competence in risk management, the identification of high risks, and taking measures by evaluating the risks of the institution.

Internal controls are activities within the company organization that is directed by the board of directors, managers, and employees. Accounting controls aim to protect company assets and prevent any losses and ensure the accuracy and reliability of accounting data. Such controls generally include organizational structure, protection of assets, authorization to ensure the reliability of financial records, approval, record keeping and preparation of accounting reports, and internal audit.

An effective internal control system is essential for the achievement of the company's objectives, the realization of long-term profit targets and reliable financial reporting. The existence of an effective internal control system in companies is also important for maintaining a strong economic structure. The establishment of an internal control system that will provide sufficient assurance in companies is a requirement of both international standards and legal regulations.

In this context, instead of the traditional internal control approach that questions whether the past transactions related to the company's activities are carried out in accordance with the rules and regulations; to develop and improve the company, as well as to add value to the company and to provide assurance, the company's activities should be organized in accordance with international standards and rules within the framework of modern internal control understanding. Companies with a strong and effectively functioning internal control structure will be less likely to experience financial losses and risks. Therefore, the financial activities of the businesses will be healthier.

Pursuant to Article 398 of the Turkish Commercial Code No. 6102, the audit shall be conducted in a manner to clearly state whether the financial position of the company and the group is reflected in accordance with the principle of honesty set out in Article 515, and if not, the reasons thereof. Pursuant to Article 399 of the same Law, the company auditor fulfils his/her duties every activity period, and the general assembly of the company elects the company auditor before the end of the activity period. After the election, the board of directors must without delay register the auditor to whom it has assigned the auditing duty with the trade registry and the registered auditor must be announced in the Turkish Trade Registry Gazette and on the company's website.

The presence of the Company's auditor and the fulfilment of his/her responsibilities to protect the Company's assets, prevent losses and ensure the accuracy/reliability of accounting data will contribute to the establishment of an effective internal control system.

ESTABLISHMENT OF INTERNAL CONTROL/INTERNAL AUDIT SYSTEM

Internal control is considered as a continuous process together with the other aspects it includes. Because of this feature, it may not always be possible to observe internal control as a concrete and fully functioning system. Therefore, the term "establishing" an internal control system should not be understood as a computer program to be installed with the support of IT systems or as a mechanism to be formed by combining some parts.

Considering that internal control is a system that covers and affects the business processes related to the areas of activity of the administration and everyone involved in these processes, from the lowest level employees to the top managers, it would be a more accurate approach to look for the "establishment" activity of internal control as a set of systems in all of the mentioned corporate business processes.

The Communiqué on Public Internal Control Standards, which is one of the legislative arrangements on internal control, should be seen as one of the main sources to be taken as a reference for the establishment of an internal control system. In the relevant communiqué, all the elements in the internal control system and tips on the practical applications of the system are comprehensively included. The Communiqué sets out the standards and general requirements for internal control.

A careful examination of the Communiqué reveals that these standards and the general conditions related to them meet the practices carried out in all business processes in all areas of corporate activities. Practices such as ethical values, personnel performance, planning and programming activities for corporate goals and objectives, reporting system, horizontal and vertical communication channels, personnel employment policies, specialization, delegation of authority, and recording and filing system can be given as examples of routine activity areas where the standards and general conditions in the relevant communiqué are met.

The internal control system is not a mechanism that can be put into practice separately and independently from daily business processes, nor is it a system that will produce outputs on its own. In essence, internal control is an infrastructure and a set of systems that should be evaluated together with the daily administrative activities themselves. For this reason, the level of realization of the standards and general conditions specified in the relevant communiqué in corporate business processes will be an important indicator of the establishment and functioning of the internal control system.

In addition, the internal control system is a set of practices that are continuous and need to be constantly updated for reasons such as technological developments, changes in management, and differentiations in goals and objectives, and should never be seen as a static structure.

In terms of these characteristics, it can be said that there is no ideal point in the internal control system and that internal control practices will be applied indefinitely as long as organizational activities continue. As a result, the activity of establishing and designing internal control as a system with a holistic perspective requires long-term planning, producing projects in line with this planning and creating infrastructure suitable for the future. In addition, starting from the design and construction phase of internal control, continuous assessment, improvement, and development (through internal audit) activities should be included in the system and existing plans should be updated accordingly.

Internal auditors are a very important agent in the internal control system, but they are not its direct implementers. The internal audit unit can be characterized as an agent that improves the quality of the system, evaluates its performance, and reports it to the senior management, as well as provides guidance and consultancy services to the senior management.

The duty of giving necessary instructions, monitoring the implementation, and taking necessary measures regarding internal control is assigned to the senior manager; the duty of establishing and implementing internal control and reporting to the senior manager is assigned to the expenditure units; the duty of coordinating internal control activities, providing technical support and consultancy to expenditure units and reporting the results to the senior manager is assigned to the strategy development units; and finally, the duty of auditing and reporting is assigned to internal auditors.

In these respects, internal audit and internal control activities differ from inspection, as summarized in the table below.

Internal Audit	Inspection
System and process oriented	Complaint, individual, event and transaction oriented
Future oriented	Past oriented
There is no duty to investigate	There is a duty to investigate
Risk based auditing methodology	No risk-based audit technique
Good application examples technique	Error samples technique
There are international standards	There are accumulations based on the past
Priority objective is to improve administration activities	Priority objective is compliance with legislation
System, performance, compliance, financial, IT audit	Audit of compliance with the laws
The guidelines, working forms, and working methodology are the same in all institutions.	Guidelines and forms vary across institutions.

Internal audit units can be established by companies by establishing an internal audit system within their organization or external experts can be utilized for internal audit activities. This decision should be based on an assessment of factors such as the size of the Company, its geographical spread, the diversity of its operations and the level of expertise required by the business.

In Turkey, the most competent institution in internal audit is the Institute of Internal Auditors of Turkey. The Institute of Internal Auditors of Turkey ("TIIA") was established on September 19, 1995, for the development of the internal audit profession in Turkey in accordance with international standards. TIIA has nearly 3,000 members representing more than 900 institutions. The Institute provides various services for the competencies of professionals, the quality of

corporate governance of financial and real sector companies and public institutions and organizations, and the academic development of the profession.

In this context, while establishing internal audit units within companies, it will be recommended to benefit from TIIA's Professional Development Trainings, utilize its publications and seminars, and obtain professional support through TIIA.

IMPORTANT STEPS IN ESTABLISHING AN INTERNAL CONTROL/INTERNAL AUDIT SYSTEM

The recommended steps to be followed for internal audit systems planned to be established in Municipal Companies are listed below:

- Investigating the legal basis for the establishment of an Internal Audit Unit
- Appointment of the internal audit officer
- Determination of audit standards to be followed in the institution
- Defining the audit universe
- Training senior managers on internal audit, audit standards, audit types, internal controls, etc.
- Realization of the company's risk assessment
- Writing the Internal Audit regulation
- Development of mission, vision, core values and strategic plan
- Identifying audit capacity and linking it to the audit work plan

QUALIFICATIONS REQUIRED FOR INTERNAL AUDIT PERSONNEL¹

- **Independence and Objectivity**

Internal audit activity must be independent and internal auditors have to act objectively while performing their duties.

- **In-house Independence**

The Internal Audit Manager must report to a level of management within the organization that enables the internal audit activity to fulfil its responsibilities. At least annually, the Internal Audit Manager must confirm to the board of directors the in-house independence of the internal audit activity.

- **Duties of the Internal Audit Manager Other than Internal Audit**

Where the internal audit manager has, or is expected to have, duties and/or responsibilities outside of internal audit, there must be measures in place to limit the impairment of independence or objectivity.

- **Individual Objectivity**

Internal auditors must act in an impartial and unbiased manner and avoid any conflict of interest.

- **Impairment of Independence or Objectivity**

¹ This section of the Guidance is based on the International Standards on Internal Auditing within the scope of the Professional Practice Framework.

If the independence or objectivity of the auditors is actually impaired or appears to be impaired, the details of the impairment must be disclosed to the relevant parties. The scope of this disclosure depends on the nature of the impairing factor.

- **Competence**

Internal auditors must personally possess the knowledge, skills and other qualifications required to fulfil their responsibilities. The internal audit activity, collectively, must also possess or acquire the knowledge, skills, and other attributes required to fulfil its responsibilities.

- **Utmost Professional Care and Attention**

Internal auditors must, within reasonable limits, possess the skills expected of a prudent and competent internal auditor and exercise the utmost care and attention. Utmost professional care and attention do not mean that mistakes will never be made.

- **Continuing Professional Development**

Internal auditors must enhance and strengthen their existing knowledge, skills, and other attributes through continuing professional development.

2.9. Procurement and Tender Processes in Municipal Companies

Procurement is the supply of the products and services needed by the business at optimum cost and from reliable sources. In this context, the objectives of the procurement function can be listed as follows:

- Determining the characteristics of the products and services to be procured
- Identifying the most suitable supplier
- Negotiating with the supplier
- Placing an order to the agreed supplier
- Tracking and controlling the order
- Monitoring and evaluating the procurement process

An effective procurement function significantly increases the success of the business. For example, procurement policies that provide financial savings increase the maintained markup of the business, and procurement activities contribute to the capital turnover rate of the business by making better quality and logistics adjustments. When suppliers are properly directed, they make a significant contribution to the development processes of the business.

It is important to conduct market research and correctly identify market alternatives in procurement processes. The procurement process starts with the business's request to procure equipment, parts, etc. from suppliers and ends with the notification of the procurement department that the products and services have been received. The main stages of the procurement process are as follows:

- The procurement department receives the procurement request. This request includes a description of the material requested, the quantity and quality required, the desired delivery dates, the place of delivery and the name of the person requesting the procurement.
- The procurement department should identify suppliers that can supply the requested goods. Supplier evaluation ranking influences supplier selection.
- The procurement department places the order with the supplier. Negotiations with the supplier are made at this stage.
- The procurement department follows up orders. Possible delays are notified to the relevant department. If there are changes such as quantity etc. related to the order, the supplier is notified.
- Products received from suppliers are checked for quality and quantity and then received from suppliers. If the incoming goods do not meet the required conditions, they are returned to the supplier or subjected to detailed inspection. In each case, the information is entered into supplier evaluation files
- Value analysis is then performed by testing the functions of purchased materials and parts to reduce their costs and improve their performance.

4734 NUMBERED MUNICIPAL COMPANIES IN TERMS OF PUBLIC PROCUREMENT LAW

As it is known, Article 2 of the Public Procurement Law No. 4734 titled "Scope" lists those subject to this Law.

As can be understood from the expressions "municipalities" in subparagraph 2/a of the Public Procurement Law No. 4734 and "all kinds of organizations, institutions, unions, enterprises and companies in which those mentioned in subparagraphs (a), (b) and (c) directly or indirectly together or separately own more than half of the capital" in subparagraph 2/d, municipalities are subject to Public Procurement Law, as well as all kinds of institutions, organizations, unions, businesses and companies in which municipalities directly or indirectly together or separately own more than half of the capital are subject to Public Procurement Law.

In this context, companies that are subsidiaries of the Municipality are also subject to this law.

EXCEPTIONS OF MUNICIPAL COMPANIES 3-(g)

In the article 3 of Public Procurement Law numbered 4734 there are many procurement types that can be exempted under the Law. However, Guideline highlights procurements made under clause 3-G of the Law numbered 4734 that especially interest the companies.

According to subparagraph (g) of Article 3 of Law No. 4734; commercial and industrial activities of the organizations listed in subparagraphs (b) and (d) of the first paragraph of Article 2 of the same Law; within the framework of the Law, the procurement of goods or services for the supply of their needs for the direct production of goods and services or for their main activities, whose approximate cost and contract value does not exceed 33,494,082.-TL (for the year 2022), except for those financed by Treasury guarantee or direct transfer from the budget's transfer line, are not subject to this Law, except for the provisions on penalties and prohibition from tenders. In other words, the Law makes some exceptions for these types of procurements.

However, construction works cannot be conducted under 3-G. Therefore, construction works should be carried out under the scope of Public Procurement Law numbered 4734.

The specific situations in the application of this article can be summarized as follows:

- It is not possible for the company to procure services such as cleaning and security under 4734/3-(g). This is because the relevant article of the Law states that 4734/3-(g) procurements are limited to "procurement of goods and services directly related to the production of goods and services or main activities". Similarly, the company's purchases such as stationery, cleaning, and furniture should be evaluated within the same scope.
- The limits specified in subparagraph 4734/3-(g) are excluding VAT.
- It is not possible to realize the annual plannable needs by dividing them into parts within the scope of subparagraph 4734/3-(g).
- In contracts established according to Law No. 4735 and provided that there is a provision in the contract, an increase in work is possible. However, it is not possible to exceed the limit specified in 4734/3-(g) by increasing the work.
- According to Law No. 4734, price difference can be paid provided that it is specified in the tender document. Increases arising from the price difference shall not be considered as increasing the contract price.

- It is not possible to file an objection complaint to the Public Procurement Authority regarding exempt procurements that are not covered by the procurement law.

RECEIVING EXEMPTION DOCUMENTS UNDER 3-(g)

For the exemption applications to be filed to the Institution by the administrations specified in the Law regarding subparagraph (g) of Article 3 of the Law No. 4734 to be evaluated, such applications must be submitted in the following way:

- Since the organizations specified in subparagraphs (b) and (d) of the first paragraph of Article 2 of Law No. 4734 and the undertakings, enterprises, and companies operating in the energy, water transportation, and telecommunications sectors can request an exemption, the administration that will apply must submit the documents certifying that they are within the scope of the aforementioned article (main statute, articles of association, etc.) in the annex of their requests.
- The commercial and industrial activities of the above-mentioned administrations, including their duties and fields of activity based on the legislation on their establishment, will be clearly stated.
- The procurement of goods or services to be made by the administrations for the direct production of goods and services within the framework of their commercial and industrial activities or for the supply of their needs for their main activities shall be specified in the forms by gathering them under main headings, and each page of these forms shall be signed and approved by the authorized persons of the administrations. These request forms will also be sent as Word or Excel files on diskette or CD.
- Documents certifying the above-mentioned issues such as the annual operating budget and capacity report should also be sent with the requests.
- The goods and services to be included in the exemption requests should be limited to the procurement of goods and services directly related to the production process, such as machinery equipment, first materials, and supplies (first material, auxiliary material, main material, other operating materials, and their spares) and outsourced benefits and services within the scope of the supply of the needs of these administrations for the direct production of goods and services or their main activities within the framework of their commercial and industrial activities, applications should not be made for final goods and services that are the main activity itself, and requests should not include procurement of goods and services that are not related to the production process and that are needed by other administrations in addition to these administrations, that may be indirectly related to production and/or of a general nature.
- Since subparagraph (g) of Article 3 of the Law only regulates the exemption provisions regarding the procurement of goods or services to be made for the direct production of goods and services within the framework of commercial and industrial activities or for the supply of needs for main activities, construction works should not be included in the applications to be made to the Institution. In some applications, no exemption is requested directly for the construction work, but exemption is requested for the goods to be used within the scope of the construction work and the services such as labour/subcontractor etc. required for the construction work. In the event that such goods and service items are included together in the exemption requests, such requests should not be included in the applications to be made to the Institution, as it will result in the realization of the works in the nature of construction within the scope of the exemption contrary to the Law.
- In cases where the Public Procurement Authority rejects the exemption applications within the scope of subparagraph 4734/3-(g), an application can be filed to the Ankara Administrative Court within 60 days.

2.10. Court of Accounts Inspection Findings on Municipal Companies

Municipal companies are audited by the Court of Accounts. These audits are based on the Law No. 6085 on Court of Accounts, international auditing standards, secondary legislation of the Court of Accounts and audit guidelines. The audits are carried out to determine the compliance of the accounts and transactions of the Municipality companies with the laws and other legal regulations, to obtain reasonable assurance that the financial reports and statements accurately and reliably reflect the results of all activities and transactions of the companies and to evaluate the financial management and internal control systems.

The Court of Accounts is responsible for evaluating the financial management and internal control systems of the audited Municipality companies through the reports it prepares as a result of its audits, expressing an opinion on the reliability and accuracy of the financial reports and statements, and determining whether their income, expenditures and properties and their accounts and transactions are in compliance with the laws and other legal regulations.

The issues frequently criticized by the Court of Accounts in its audits of municipal companies are summarized below:

- Failure to Recognize Certain Doubtful Receivables in Doubtful Trade Receivables Account and Not to Allocate Provisions
- Failure to Submit Public Administration Accounts to the Court of Accounts in Accordance with the Relevant Procedures and Principles
- Failure to Include All of the Information Required in the Company's Annual Report
- Failure to Include Certain Information Required to be Included on the Company's Website
- Failure to Determine Procedures and Principles for Procurements to be Made According to the "Exceptions" Article of the Public Procurement Law
- Failure to Comply with the Provisions of the Construction Inspection Law in Constructions Built or Had Built
- Failure of the Related Banks to Transfer the Collections Made with Credit Cards to the Company's Account in the Public Capital Bank in Due Time
- Execution of the Company's Current Accounts without a Contract
- Coverage of Health Insurance Costs of Certain Company Employees and Family Members from the Company Budget
- Leasing of Immovable Properties Given to the Use of the Company by the Metropolitan Municipality to Third Parties without Tender

- Dividing the Construction Work, which is not covered by the Exemption Article of the Public Procurement Law, into Service and Goods Procurement without Complying with the Tender Procedures in the Law
- Incorrect Calculation of Progress Payments to the Contractor in Revenue Sharing Construction Works
- Failure to Receive Some of the Deposit Fees Required to be Received as Collateral According to the Lease Agreements
- Incorrect Application of Discount Rates in Housing Sales
- Failure to Consider the Company's Interests in the Termination of a Protocol Signed with a Municipality
- Assignment of the Contract without Act of God
- Overpayment of VAT due to Direct Service Procurement of Personnel Based Services from Other Companies
- Contrary to the Legislation, Additional Increase in the Wages of Workers Employed within the Scope of Direct Service Procurement Based on Personnel Employment
- Failure to Provide Annual Leave to Workers in Accordance with the Law

2.11. Budgetary Businesses

In subparagraph (i) of Article 18 of Municipal Law No. 5393 (Duties and Powers of the Council), it is stated that municipalities are authorized to establish companies with the statement "To decide on the establishment of budgetary businesses and partnerships subject to the Turkish Commercial Code No. 6762 or to decide to leave these partnerships, to increase capital and to establish real estate investment partnerships."

In article 71, municipalities are authorized to establish budgetary businesses with the statement "Municipality may provide services with special income and expenditure by establishing budgetary businesses with the permission of the Ministry of Environment, Urbanization and Climate Change."

Municipalities, which are authorized to establish budgetary businesses by the above-mentioned articles of law, must first take a parliamentary decision to establish a budgetary business and obtain permission from the Ministry of Environment, Urbanization and Climate Change with this decision.

Budgetary businesses operated by municipalities in accordance with the Local Authorities Budgetary Business Regulation are subject to the Public Procurement Law. Article 2 of the Public Procurement Law No. 4734 titled "Scope" states that "The procurement of goods or services and the tender of construction works, which are covered from all kinds of resources available to the administrations, are carried out in accordance with the provisions of this Law" and that budgetary businesses are subject to the Law No. 4734 in the procurement of goods and services. It is stated that the provisions of the Local Authorities Expenditure Documents Regulation will be applied in the proving documents to be attached to the payment document in business activities, realization, and accounting of financial transactions. In addition, the accounting officer who carries out the accounting services of the municipality is also the accounting officer of the business, and the business account should be included in the final account of the municipality by the accounting officer and sent to the relevant authorities.

In relation to the services with special revenues and expenditures within the scope of the duties and responsibilities of the local administration, (Amended: RG-23/5/2019-30782) Budgetary businesses established with the permission of the Ministry of Interior for special provincial administrations and the Ministry of Environment and Urbanization for municipalities,

Regarding the services with special revenues and expenses within the scope of the local administration's duties and responsibilities (Amended phrase: RG-23/5/2019-30782) Budgetary businesses established with the permission of the Ministry of Interior for special provincial administrations and the Ministry of Environment and Urbanization for municipalities may be established as a Department or Directorate of Operations or Directorate of Operations and Affiliates in metropolitan municipalities; as a Directorate of Operations or Directorate of Operations and Affiliates in special provincial administrations; and as a separate service unit as Directorate of Operations or Directorate of Operations and Affiliates in other municipalities, or may be established within an existing service unit. (Article 4 of the Regulation on Budgetary Businesses of Local Administrations)

The budget operations of Budgetary Businesses are carried out according to the following principles (Article 8 of the Regulation on Budgetary Businesses of Local Administrations):

- In institutional classification within the budget, if the business is included as a main service unit in the local administration organization chart, it is coded under its own code, if it is included in any service unit, it is coded under that service unit.
- Funds appropriated on behalf of the business are shown in the economic affairs and services code in the functional classification.
- Personnel expenses, social security institution state premium expenses, goods and service procurement expenses, capital expenses, and transfers other than the expenses related to the economic commercial affairs of the enterprise are made from the local administration budget.
- The part of the business appropriation to be used as cash capital for economic and commercial affairs is shown under the lending code in the economic classification. This appropriation is used by transferring it to a special account opened on behalf of the business.
- The unused portion of the operating allowance is canceled at the end of the year. The surplus income or profit from operating activities shall be recorded as income in the budget of the local administration.
- Except for short-term borrowings required by commercial activity and economic practices, no borrowing can be made for financing purposes.

The accounting transactions of Budgetary Businesses are carried out according to the following principles: (Article 9 of the Local Administrations Budgetary Business Regulation);

- The accounting transactions of the business activities shall be kept in the accounting unit of the local administration in accordance with the provisions of the Regulation on Budget and Accounting of Local Administrations published in the Official Gazette dated 10/3/2006 and numbered 26104.
- The activities of the entity subject to Corporate Tax are subject to the provisions of the Local Authorities Budget and Accounting Regulation only regarding the accounting and reporting of budget transactions in terms of the chart of accounts.
- For the activities of the business related to the purchase and sale of commercial goods and services (subject to Corporate Tax), books are kept within the framework of the accounting standards, uniform chart of accounts and procedures and principles regarding the issuance of financial statements determined in accordance with the provisions of Article 175 and repeated Article 257 of the Tax Procedure Law No. 213 dated 4/1/1961. Personnel and other management and equipment expenses incurred within the local administration budget are considered separately in the determination of the corporate income and in the preparation of the Corporate Tax declaration.

When the 8th and 9th articles of the local administrations in-budget enterprise regulation are examined; In terms of the account plan of the activities of budgetary businesses subject to corporate tax, they are only subject to the provisions of the Local Administrations Budget and Accounting Regulation regarding the accounting and reporting of budget transactions. For the mentioned activities, the accounting standards, uniform chart of accounts and the procedures and principles regarding the preparation of financial statements determined in accordance with the relevant articles of the Tax Procedure Law No. 213 will be applied. The accounting records of

budgetary businesses operated by the administration will require the use of both the uniform system of accounts and the local government accounting system. Since the double-entry bookkeeping system will be applied, the municipalities (in accordance with Article 2 of the Local Authorities Budget and Accounting Regulation and Article 9 of the Local Authorities Budgetary Business Regulation) are required to keep accounting records for all their expenditures and revenues in accordance with the uniform chart of accounts. In addition, personnel expenses, social security premium expenses, purchase of goods and services, capital expenditures and transfers other than the expenses related to the economic commercial affairs of the business should be made from the local administration budget.

According to this,

- (1) In the institutional classification within the budget; if the business is included as a main service unit in the local administration organizational chart, it is coded under its own code; if it is included in any service unit, it is coded under that service unit.
- (2) Appropriations allocated on behalf of the business shall be shown in the economic affairs and services code in the functional classification.
- (3) Personnel expenses, social security institution state premium expenses, goods and services procurement expenses, capital expenses and transfers other than the expenses related to the economic commercial affairs of the business shall be covered by the local administration budget.
- (4) The part of the operating appropriation to be used as cash capital for economic and commercial affairs is shown in the lending code in the economic classification. This appropriation is used by transferring it to a special account opened on behalf of the business.
- (5) The unused portion of the operating allowance is canceled at the end of the year. The surplus income or profit from operating activities shall be recorded as income in the local administration budget.
- (6) Except for short-term borrowings required by commercial activity and economic practices, no borrowing can be made for financing purposes.

In addition, the accounting transactions of the business activities are kept in the accounting unit of the local administration in accordance with the provisions of the Local Administrations Budget and Accounting Regulation published in the Official Gazette dated 10/3/2006 and numbered 26104. The activities of the business subject to Corporate Tax are subject to the provisions of the Regulation on Budget and Accounting of Local Authorities regarding the accounting and reporting of budget transactions only in terms of the chart of accounts.

For the activities of the business related to the purchase and sale of commercial goods and services (subject to Corporate Tax), books are kept within the framework of the accounting standards, uniform chart of accounts and procedures and principles regarding the issuance of financial statements determined in accordance with the provisions of Article 175 and repeated Article 257 of the Tax Procedure Law No. 213 dated 4/1/1961. Personnel and other management and equipment expenses incurred within the local administration budget are considered separately in the determination of the corporate income and in the preparation of the Corporate Tax declaration.

The provisions of the Regulation on Local Authorities Expenditure Documents published in the Official Gazette dated 15/8/2007 and numbered 26614 shall apply to the substitutive documents to be attached to the payment document in business activities, realization, and accounting of financial transactions.

3.LIST OF ANNEXES

Annex-1 Legal Basis of Municipal Companies

Annex-2 Sample Council Decision on Establishment of a Municipal Company

ANNEX-3 Business Processes of Municipal Companies

Annex-4 Proposal for job descriptions and standards for Human Resources, Legal, Financial-Economic Affairs, Resource Development and Media-Communication Affairs units