



**LOCAL MUNICIPALITY – UMKHANDLU
WASEKHAYA**

**MUNICIPAL SUPPLY CHAIN
MANAGEMENT POLICY**

2021/2022

MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

The council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the **Okhahlamba Municipality**

TABLE OF CONTENTS

1. Definitions

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy
3. Amendment of supply chain management policy
4. Delegation of supply chain management powers and duties
5. Sub delegations
6. Oversight role of council
7. Supply chain management units
8. Training of supply chain management officials

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system
 - Part 1: Demand management*
10. System of demand management
 - Part 2: Acquisition management*
11. System of acquisition management
12. Range of procurement processes
13. General preconditions for consideration of written quotations or bids
14. Lists of accredited prospective providers
15. Petty cash purchases
16. Written or verbal quotations

17. Formal written price quotations
18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations
19. Competitive bidding process
20. Process for competitive bidding
21. Bid documentation for competitive bids
22. Public invitation for competitive bids
23. Procedure for handling, opening and recording of bids
24. Negotiations with preferred bidders
25. Two-stage bidding process
26. Committee system for competitive bids
27. Bid specification committees
28. Bid evaluation committees
29. Bid adjudication committees
30. Procurement of banking services
31. Procurement of IT related goods or services
32. Procurement of goods and services under contracts secured by other organs of state
33. Procurement of goods necessitating special safety arrangements
34. Proudly SA Campaign
35. Appointment of consultants
36. Deviation from, and ratification of minor breaches of, procurement processes
37. Unsolicited bids
38. Combating of abuse of supply chain management system

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management
40. Disposal management
41. Risk management
42. Performance management

Part 4: Other matters

43. Prohibition on awards to persons whose tax matters are not in order
44. Prohibition on awards to persons in the service of the state
45. Awards to close family members of persons in the service of the state
46. Ethical standards
47. Inducements, rewards, gifts and favours
48. Sponsorships
49. Objections and complaints
50. Resolution of objections and complaints against procurement process
51. Contracts providing for compensation based on turnover
52. Local production and content
53. Preference for emerging contractors within the Jurisdiction of Okhahlamba Local Municipality
54. Subcontracting
55. Sub-contracting as condition of tender
56. Criteria for breaking deadlock in scoring
57. Subcontracting after award of tender
58. Cession for direct payment to suppliers and subcontractors
59. No Payment made to Suppliers not registered on Supplier Database
60. Equitable distribution of work and awards
61. Training & Skills Transfer
62. Time frame for delivery of goods
63. Commencement

1. Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

"Cession of a right to direct payment" refers to a service Providers election to cede their right to whole or part of their payment in favour of a Supplier

"competitive bidding process" means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

"competitive bid" means a bid in terms of a competitive bidding process;

"final award", in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

"formal written price quotation" means quotations referred to in paragraph 12 (1) (c) of this Policy;

"in the service of the state" means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
- (b) an official of any municipality
- (c) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (d) a member of the accounting authority of any national or provincial public entity; or
- (e) an employee of Parliament or a provincial legislature;

"long term contract" means a contract with a duration period exceeding one year;

“list of accredited prospective providers” means the list of accredited prospective providers which the **municipality** must keep in terms of paragraph 14 of this policy;

“other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

- (a) the Preferential Procurement Policy Framework Act, 2017 (Act No. of 2017);
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

“proof of B-BBEE status level of contributor” means-

- (a) the B-BBEE status level certificate issued by an authorised body or person;
- (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or
- (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

“QSE” means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“rural area” means-

- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

“township” means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

“Treasury guidelines” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

“the Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“the Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

“written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

“youth” has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

CHAPTER 1
IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy

- (1) All officials and other role players in the supply chain management system of the **Okhahlamba Municipality** must implement this Policy in a way that –
- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (3) This Policy applies when the Municipality (Okhahlamba Municipality) –
- (a) procures goods or services;
 - (b) disposes goods no longer needed;
 - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

- (4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. Amendment of the supply chain management policy

- (1) The accounting officer must –
 - (a) at least annually review the implementation of this Policy; and
 - (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the Council.

- (2) If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –
 - (a) ensure that such proposed amendments comply with the Regulations; and
 - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. Delegation of supply chain management powers and duties

- (1) The council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –
 - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

- (3) Prohibition of the delegation or sub-delegation of any supply chain management powers or duties to a person who is not an official of the municipality or municipal entity or to a committee which is not exclusively composed of officials of the municipality or municipal entity;

- (4) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. Sub delegations

- (1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

- (2) The power to make a final award –
 - (a) above R10 million (VAT included) may be sub delegated by the accounting officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or the chief financial officer or a senior manager
 - (c) not exceeding R2 million (VAT included) may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager;
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
 - (iv) a bid adjudication committee.

- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

- (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
 - (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - (i) a manager referred to in subparagraph (2)(c)(iii); or
 - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

- (5) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. Oversight role of council

- (1) The council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must –

- (a)
 - (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of the Municipality
 - (ii) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. Supply chain management unit

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

8. Training of supply chain management officials

The training of officials involved in implementing this Policy should be in accordance with any Treasury guidelines on supply chain management training.

CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system (Elements of SCM)

This Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

Part 1: Demand management

10. System of demand management

- (1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

- (2) The demand management system must –
 - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) provide for the compilation of the required specifications to ensure that its needs are met.
 - (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

11. System of acquisition management

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
- (a) that goods and services are procured by the municipality in accordance with authorised processes only;
 - (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
and
 - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -
- (a) the kind of goods or services; and
 - (b) the name of the supplier.

12. Range of procurement processes

- (1) Goods and services may only be procured by way of –
- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
 - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
 - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and

- (d) Written or verbal quotation for procurement of a transaction values over R30 000.00 and unlimited, n
 - (e) a competitive bidding process for–
 - (i) procurements above a transaction value of R200 000 (VAT included); and
 - (ii) the procurement of long term contracts.
- (2) The accounting officer may, in writing-
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) to direct that –
 - i. written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - ii. formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
 - iii. a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.
- (3) (a) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy.
- (b) When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

12.2 Planning and Stipulation of Preference Point System to be Utilized, Pre-qualification criteria for preferential procurement, Bids to be evaluated on Functionality, Preference Point System and Broad-Based Black Economic Empowerment Status, Award of Contracts to Bidders not Scoring the Highest Number of Points and the Cancellation and Re-Invitation of Bids

12.2.1 Planning and stipulation of preference point system to be utilized

An organ of state must, prior to making an invitation for bids-

- (a) properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for bids is to be made;
- (b) determine and stipulate preference point system to be utilized in the evaluation and adjudication of the bids; and

- (c) determine whether the services works or goods for which an invitation for bidders is to be made has been designated for local production and content in terms of regulation 9.

12.2.2 Pre-qualification criteria for preferential procurement

(1) If an organ of state decides to apply pre-qualifying criteria to advance certain designated groups, that organ of state must advertise the tender with a specific tendering

condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iii) an EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (vi) a cooperative which is at least 51% owned by black people;
 - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
 - (viii) an EME or QSE.

(2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender

12.2.3 Bids to be evaluated on functionality

- 1) An organ of state must indicate in the invitation to submit a bid if that bid will be evaluated on functionality.
- 2) The evaluation criteria for measuring functionality must be objective.
- 3) When evaluating bids on functionality, the-
 - a) evaluation criteria for measuring functionality;
 - b) the points for each criteria and, if any, each sub-criterion; and
 - c) minimum qualifying score for functionality.
- 4) The minimum qualifying score for functionality for a tender to be considered further-
 - (a) Must be determined separately for each tender, and
 - (b) May not be so-

- (i) Low that it may jeopardise the quality of the required goods or services; or
 - (ii) High that it is unreasonably restrictive.
- 5) Points scored for functionality must be rounded off to the nearest two decimal places.
 - 6) A bid that fails to obtain the minimum qualifying score for functionality as indicated in the bid documents is not an acceptable bid.
 - 7) Each bid that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

12.2.3 The 80/20 preference point system for acquisition of services, works or goods up to a Rand value of 50 million.

- a) The following formula must be used to calculate the points for price in respect of bids (including price quotations) with a Rand value equal to, or above R30 000.00 and up to a Rand value of R50 000 000.00 (all applicable taxes included).

$$P_s = 80 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- P_s = Points scored for comparative price of bid or offer under consideration;
- P_t = Comparative price of bid or offer under consideration; and
- P_{min} = Comparative price of lowest acceptable bid or offer.

- b) Organs of state may apply the formula in paragraph (a) for price quotations with a value less than R30 000.00 if and when appropriate

(2) Subject to sub-regulation (3) points must be awarded to a bid for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8

6	6
7	4
8	2
Non-compliant contributor	0

3) A maximum of 20 points may be allocated in accordance with sub-regulation (2).

4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-regulation (2) must be added to the point's scores for price as calculated in accordance with sub-regulation (1).

5) Subject to regulation 7, the contract must be awarded to the bidder who scores the highest total number of points.

12.2.4. 90/10 Preference point system (for acquisition of services, works or goods with a Rand value above R50million) (all applicable taxes included)

(1) The following formula must be used to calculate the points for price in respect of bids with a Rand value above R50 000 000.00 (all applicable taxes included)

$$P_s = 90 \left(1 - \frac{P_t - P_{\min}}{P_{\min}} \right)$$

Where

- Ps = Points scored for comparative price of bid or offer under consideration
Pt = Comparative price of bid or offer under consideration
Pmin = Comparative price of lowest acceptable bid or offer.

(2) Subject to sub-regulation (3) points must be awarded to a bid for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)
1	10
2	9
3	6
4	5

5	4
6	3
7	2
8	1
Non-compliant contributor	0

- 3) A maximum of 20 points may be allocated in accordance with sub-regulation (2).
- 4) The points scored by a bidder in respect of B-BBEE contribution contemplated in sub-regulation (2) must be added to the point's scores for price as calculated in accordance with sub-regulation (1).
- 5) Subject to regulation 7, the contract must be awarded to the bidder who scores the highest total number of points.

12.2.5. Award of contracts to bidders not scoring the highest number of points

- (1) A contract may be awarded to bidder that did not scored the highest total number of point, only in accordance with section 2 (1) (f) of the Act.
- (2) If an organ of state intends to apply objective criteria in terms of section 2(1)(f) of the Act, the organ of state must stipulate the objective criteria in the bid documents.

12.2.6. Cancellation of bids

- (1)An organ of state may, before the award of a tender, cancel a tender invitation if –
 - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
 - (b) funds are no longer available to cover the total envisaged expenditure;
 - (c) no acceptable tender is received; or
 - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of subregulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time.

13. General preconditions for consideration of written quotations or bids and 14. Listing criteria of accredited prospective providers.

With effect from 1 July 2016 municipalities must use the CSD (Central Supplier Database) system starting with (MAAA) which is auto generated by the Central Database System after successful registration and validation of the prospective as mandatory requirement as part of listing criteria for accrediting prospective provider.

The CSD will automatically validate the following registration documents:-

- Confirmation and status of business registration documents
- Proof of bank account registration
- Tax compliance status
- Employee in the service of the state as defined in the Municipal Regulations with information only available in the PERSAL system at this time, namely national and provincial officials
- Identity documentation
- Tender defaulters and restrictions

The Okhahlamba Local Municipality will continue with verification of other listing criteria which are not currently validated by CSD, for instance, proof of municipal account and CIDB or other bodies.

15. Petty cash purchases

The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows –

- (a) Petty cash should not exceed the amount of R2000.00 in a month.
- (b) a monthly reconciliation report from petty cash administrator must be provided to the chief financial officer, including –
 - (i) the total amount of petty cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.

16. Written or verbal quotations

The conditions for the procurement of goods or services through written or verbal quotations, are as follows:

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 13 of this Policy;

- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17. Formal written price quotations

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
 - (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality
 - (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 13 of this Policy;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
 - (d) the accounting officer must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

18. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations

The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:

- (a) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of

paragraph 17, be advertised for at least seven days on an official notice board of the municipality

- (b) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (c) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegation;
- (d) The accounting officer or chief financial officer must on a monthly basis be notified in written of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a subdelegations; and
- (e) requirements for proper record keeping.
- (f) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (e) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
- (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
- (g) requirements for proper record keeping must be maintained at all times.
- (h) Procuring of goods and services in excess of R100 000 and unlimited must be reported to National Treasury on the monthly basis.

19. Competitive bids

- (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

20. Process for competitive bidding

The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
- (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
- (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

21. Bid documentation for competitive bids

The criteria to which bid documentation for a competitive bidding process must comply, must –

- (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used , goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or

- (bb) since their establishment if established during the past three years;
- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

22. Public invitation for competitive bids

- (1) The procedure for the invitation of competitive bids is as follows:
 - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
 - (b) the information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

- (ii) a statement that bids may only be submitted on the bid documentation provided by The municipality ;and
- (iii) date, time and venue of any proposed site meetings or briefing sessions.;
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted to the municipality must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

23. Procedure for handling, opening and recording of bids

The procedures for the handling, opening and recording of bids, are as follows:

- (a) Bids–
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (b) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must –
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

24. Negotiations with preferred bidders

- (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
 - (a) does not allow any preferred bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted.
- (2) Minutes of such negotiations must be kept for record purposes.

25. Two-stage bidding process

- (1) A two-stage bidding process is allowed for –
 - (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (c) long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

26. Committee system for competitive bids

- (1) (a) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
 - i. a bid specification committee;
 - ii. a bid evaluation committee; and
 - iii. a bid adjudication committee;

- (b) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
 - (c) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- (2) The committee system must be consistent with –
- (a) paragraph 27, 28 and 29 of this Policy; and
 - (b) any other applicable legislation.
- (3) The accounting officer may apply the committee system to formal written price quotations.

27. Bid specification committees

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by municipality
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
 - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) A bid specification committee must be composed of one or more officials of the municipality preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
 - (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

28. Bid evaluation committees

- (1) A bid evaluation committee must –
 - (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f).
 - (b) evaluate each bidder’s ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

- (2) A bid evaluation committee must as far as possible be composed of-
 - (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the municipality

29. Bid adjudication committees

- (1) A bid adjudication committee must –
 - (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

A bid adjudication committee must consist of senior managers of the municipality which must include –

- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
- (b) at least one senior supply chain management practitioner who is an official of the municipality and
- (c) a technical expert in the relevant field who is an official, if such an expert exists.

(d) Where it is not viable for the posts in subparagraph (a) above to be filled, yet there are vacant positions, the municipality or municipal entity may consider appointing an official in an acting capacity to fulfil the role of senior manager in those instances;

(e) For those municipalities or municipal entities with less than four senior managers approved in their organogram, they may utilise senior managers from neighbouring municipalities in accordance with section 88 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and

(f) Senior Managers who are members of the bid adjudication committee will be allowed to sub-delegate, in writing, their responsibilities to competent staff members in cases where they cannot attend specific sittings of the committee.

- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.

- (5) The accounting officer must comply with section 114 of the Act within 10 working days
- (6) The Bid Adjudication Committee should only consider recommendations / reports if at least sixty percent (60%) of its members are present.

30. Procurement of banking services

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. Procurement of IT related goods or services

- (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
 - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

(4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

32. Procurement of goods and services under contracts secured by other organs of state

(1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

(2) Subregulation (1) (c) and (d) do not apply if –

- (a) a municipal procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through contract secured by a municipal entity of which it is the parent municipality.

33. Procurement of goods necessitating special safety arrangements

- (1) A supply chain management policy places a restriction for the acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel.

- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality or municipal entity.

34. Proudly SA Campaign

The municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

35. Appointment of consultants

- (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if
 - (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery,

thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality

36. Deviation from, and ratification of minor breaches of, procurement processes

- (1) The accounting officer may –
 - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

37. Unsolicited bids

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with
- (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –

- (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

38. Combating of abuse of supply chain management system

- (1) The accounting officer must–
- (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or to any other municipality or municipal entity, are in arrears for more than three months; or

- (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management

The accounting officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

40. Disposal management

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act,:
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

- (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.
- (2) The accounting officer must ensure that –
- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (c) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (d) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (e) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (f) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

The Disposal Management Process

For the purpose of the Disposal Management Process the Accounting Officer must ensure that the following steps are followed:

- Obsolescence planning must be effected, depreciation rates per item calculated
- A data base for all redundant assets must be compiled & maintained
- Assets to be disposed must be inspected for potential re use
- Determination for the asset disposal strategy

41. Risk management

- (1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follow

(4) Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. Performance management

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters

43. Prohibition on awards to persons whose tax matters are not in order

- (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

44. Prohibition on awards to persons in the service of the state

Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –

- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with the municipality.

45. Awards to close family members of persons in the service of the state

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

46. Ethical standards

- (1) A code of ethical standards as set out in the "*National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management*" is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

The code of conduct for Supply Chain Management Practitioners is as follows:

- Conflict of Interest: (Declaration of business, commercial and financial interests)
- Accountability: (For decisions and actions, scrupulous usage of public property, committing government through transactions for procurement of goods and services, recording and accounting for all transactions in an appropriate financial system)
- Openness: (regarding decisions and actions taken, provide reasons for such)
- Confidentiality: (protection of government and supplier information)
- Prevention of combative practices which are unethical and illegal

(2) An official or other role player involved in the implementation of this Policy

–

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must be scrupulous in his or her use of property belonging to municipality
- (h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.

(3) Declarations in terms of subparagraphs (2)(d) and (e) -

- (a) must be recorded in a register which the accounting officer must keep for this purpose;

- (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
 - (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

47. Inducements, rewards, gifts and favours to municipality officials and other role players

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.
- (4) Officials must disclose and fill in the gifts register for received gifts of value prescribed.

48. Sponsorships

The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

49. Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system may, within 14 days of the decision or action-

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall in turn, respond to the complainant in providing reasons for the bidder's unsuccessful bid.
- (b) If the bidder is not satisfied within a period of 14 days submit his/her appeal to the Municipal Manager who shall then refer the written appeal or complaint to the independent and impartial person referred to in paragraph 50 for resolution; or
- (c) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 50A.

50. Resolution of Objections and Complaints against Procurement Process

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding –
 - (a) the implementation of the procurement process in terms of the supply chain management system; or
 - (b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must -
 - (a) strive to resolve promptly all objections or complaints received; and
 - (b) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.
- (4) If the independent and impartial person referred to in paragraph 50.1, is of the view that a matter which should be dealt with in terms of paragraph 50A, he or she shall forthwith refer the matter to the Municipal Bid Appeals Tribunal and that

Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 50A.

- (5) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:
 - (a) the objection or complaint is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (1) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

50 A. Municipal Bid Appeals Tribunal

- (1) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.
- (2) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.
- (3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.
- (4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 50A.3.
- (5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.”

51. Contracts providing for compensation based on turnover

1. If a service provider acts on behalf of municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate a cap on the compensation payable to the service provider; and that such compensation must be performance based.

52. Local production and content

- (1) The Department of Trade and Industry may, in consultation with the National

Treasury-

- (a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
- (b) stipulate a minimum threshold for local production and content.
- (2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
- (3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.
- (4)(a) If there is no designated sector, an organ of state may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- (b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.
- (5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

53. Preference for Emerging Contractors within the Jurisdiction of Okhahlamba Local Municipality

1. The Okhahlamba Local Municipality has committed itself to the development of businesses in the region owned and operated by historically disadvantaged individuals, persons with disabilities and women.
2. In addition, it is noted that there are very few contractors within the jurisdiction of the Municipality who are capable of qualifying for major contracts advertised by the Municipality due to their emerging status. In addition, the status quo of large capital projects being awarded to contractors from outside the locale has resulted in the perpetuation of the cycle of poverty as money expended in these projects is not realised and utilised within the jurisdiction Okhahlamba Municipality and does not contribute to the local economy of Okhahlamba Local Municipality.
3. Council has resolved to facilitate the empowerment and development of contractors with a CIDB grading of Grade 1, Grade 2 and Grade 3 with their principle place of

business and operations within the jurisdiction of the Municipality to bid on an annual basis for projects ring fenced with a value not exceeding R 3 million, these projects would provide a platform to only local contractors to develop capacity to compete with major contractors based outside of the Municipality.

54. Subcontracting

1. The service provider shall notify the Municipality in writing of all subcontracts entered into in respect of any award granted where the details of any such subcontracts is not already specified in a bid, quotation or proposal.
2. Such notification, in the original bid or later, shall not relieve the service provider from any liability or obligation under the awarded contract.
3. Service Providers who are granted construction work contracts with a project value of R 3 million or more may be required to subcontract at least 20% of the works to service providers with a CIDB grading of between 1CE and 2CE, whose principal business address is registered, and whose operations are conducted primarily within the jurisdiction of the Okhahlamba Local Municipality

The service provider may be required to enter into an agreement with the Municipality and the third party subcontractor in order to facilitate a cession of a right to direct payment to allow for the transfer of direct payment to the third party subcontractor where necessary.

55. Subcontracting as condition of tender

- (1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.
- (2) If an organ of state applies subcontracting as contemplated in sub regulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
 - (a) an EME or QSE;
 - (b) an EME or QSE which is at least 51% owned by black people;
 - (c) an EME or QSE which is at least 51% owned by black people who are youth;
 - (d) an EME or QSE which is at least 51% owned by black people who are women;
 - (e) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;

- (g) a cooperative which is at least 51% owned by black people;
 - (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
 - (i) more than one of the categories referred to in paragraphs (a) to (h).
- (3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation (2) from which the tenderer must select a supplier.

56. Criteria for breaking deadlock in scoring

- (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.
- (3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

57. Sub contracting after award of tender

- (1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- (2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.
- (3) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

58. Cession for direct payment to suppliers and sub-contractors

- 1. A Service Providers duly appointed may not cede an awarded contract to any third party.
- 2. Notwithstanding the above, the Municipality may in certain instances, and subject to the authorisation of the Municipal Manager:
 - (a) A service provider may enter into an agreement in the prescribed form to cede it's "right to direct payment" to a third party supplier or subcontractor to enable the Municipality to make direct payment for works conducted, services rendered, or materials supplied.
 - (b) Cessions with subcontractors may not exceed 30%

- (b) The entering of such an agreement does not in any way detract from the Service Provider's obligations and general liability to the Municipality in terms of the award by the Municipality.
- (c) Such an agreement will only be permitted for local emerging contractors for contracts, awards or orders in favour of a service provider in excess of R 30 000-00 (Thirty Thousand Rand) and should not exceed three (3) times per contract or per financial year.
- (d) Such an agreement will only be permitted for the contracts, or subcontracts based on the Supply and Delivery of Goods and Materials, and not in respect of the rendering of professional services.

59. No Payment made to Suppliers not registered on Central Supplier Database

The Municipality will not make payment to any Service Provider, Supplier or Subcontractor unless such entity or individual is registered on the Municipality's Supplier Database and the National Treasury Central Supplier Database.

The Municipality will not accept any liability for any loss or damage that may be suffered by a Service Provider, Supplier or Subcontractor as a result of that person's/ entity's failure to be registered in the databases prescribed.

60. Equitable Distribution of work and Awards

1. In an attempt to allow for greater exposure of emerging contractors within the precincts of the Okhahlamba Local Municipality, as well as to facilitate fair competition and service provider rotation, in instances where the Municipality advertises for the submission of bids, or issues a request for quotations for the supply and delivery of goods, or rendering of any service the Municipality reserves the right to award the contract or award to the candidate with the second highest points (referred to hereinafter for purposes of this section as "The Second Bidder") in instances where:
 - a. The recommended bidder has already been awarded a contract of the same or similar nature which still subsists at the date of evaluation of the contract under consideration, and
 - b. The following criterion exist in respect of the following classes of contracts:
 - i. For construction related goods, services and / or infrastructure projects, the prices of The Second Bidder is market related and the difference between the final price of The Second Bidder

and Recommended Bidder is not greater than 20% from the lowest quoted price which would have been awarded..

- ii. For all other goods and/or services, the prices of The Second Bidder is market related and the difference between the final price of The Second Bidder and Recommended Bidder is not higher than 15% from the lowest quoted price which would have been awarded.
- c. For the purposes of this clause, the overall price of the submissions must be considered and not the prices on individual items or services submitted by the bidders.

61 Training and Skills Transfer

1. In the instance of a Service Provider providing professional consulting services, Municipal staff working in the area being serviced by the Service Provider will be identified for skills transfer and training.
2. The Service Provider is required to submit a plan detailing the work plan with set time frames and milestones, performance targets, monitoring systems, roles and responsibilities and a close out report confirming the training that was provided to the relevant Municipal Officials.

62. Time Frame for delivery of Goods

1. The time frame for delivery of goods in respect of any award for the supply and delivery of goods and materials (including such arrangements by means of a sub-contract) shall be 7 (seven) working days
2. Where the lead time, or other extenuating factors makes such delivery impossible, then the Service Provider in question may in conjunction with the Municipal Manager or his delegate agree in writing to an alternative time frame.
3. The granting of such an extension is at the sole discretion of the Municipal Manager and any concession granted in this regard shall not detract from the Municipality's right to cancel the contract and appoint the next candidate from a pool of candidates or restart a procurement process as may be necessary.

63. Effective Date

This Policy take effect on 01 July 2019.

**SN MALINGA
MUNICIPAL MANAGER**