

SEKHUKHUNE DISTRICT MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

2017-2018

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

The **Sekhukhune District Municipality** 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 **municipality**.

TABLE OF CONTENTS

No.	Description	Page No.
1	Foreword	5
2	Abbreviations	6
3	Definitions	7
CHAPTER 1		
ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY		
Supply chain management policy		
4	Purpose of policy	12
5	Policy objectives	13
6	Applicability of Policy	13
7	Amendment of supply chain management policy	14
8	Delegation of supply chain management powers and duties	15
9	Sub delegations	16
10	Oversight role of council	18
11	Supply chain management units	18
12	Training of supply chain management officials	19
CHAPTER 2		
SUPPLY CHAIN MANAGEMENT SYSTEM		
13	Format of supply chain management system	20
Part 1: Demand management		
14	System of demand management	20
Part 2: Acquisition management		
15	System of acquisition management	21
16	Range of procurement processes	22
17	General preconditions for consideration of written quotations or bids	24
18	Lists of accredited prospective providers	24
19	Petty cash purchases	25
20	Written or verbal quotations	25
21	Formal written price quotations	26
22	Procedures for procuring goods or services through written or verbal quotations and formal written price quotations	27
23	Competitive bidding process	28
24	Process for competitive bidding	28
25	Bid documentation for competitive bids	29

26	Public invitation for competitive bids	30
27	Procedure for handling, opening and recording of bids	31
28	Negotiations with preferred bidders	31
29	Two-stage bidding process	32
30	Committee system for competitive bids	32
31	Bid specification committees	33
32	Bid evaluation committees	34
33	Bid adjudication committees	36
34	Preference Points Systems, Evaluation of bids, awarding of bids not scoring highest points, Cancellation and re-invitation of bids.	37
35	Procurement of banking services	46
36	Procurement of IT related goods or services	47
37	Procurement of goods and services under contracts secured by other organs of state	47
38	Procurement of goods necessitating special safety arrangements	48
39	Proudly SA Campaign	48
40	Appointment of consultants	49
41	Deviation from, and ratification of minor breaches of, procurement processes	49
42	Unsolicited bids	50
43	Penalties, Insurance and guarantees	52
44	Surety	53
45	Retention	54
46	Variation of Orders	55
47	Cession	
48	Combating of abuse of supply chain management system	56
49	Declaration	56
Part 3: Logistics, Disposal, Risk and Performance Management		
50	Logistics management	57
51	Disposal management	58
52	Procurement through turnkey project approach	
53	Risk management	59
54	Performance management	59
Part 4: General matters		
55	Prohibition on awards to persons whose tax matters are not in order	60
56	Prohibition on awards to persons in the service of the state	60
57	Prohibition on multiple awards to single bidder or listed on defaulters register	61
58	Awards to close family members of persons in the service of the state	61
59	Ethical standards	61
60	Inducements, rewards, gifts and favours	62
61	Sponsorships	63
62	Operationalisation of SCM policy	63
63	Expanded Public Works Programme	63
64	General Pre-requisites	64
65	Objections and complaints	66
66	Resolution of disputes, objections, complaints and queries	66
67	Contracts providing for compensation based on turnover	67
68	Review of policy	68
69	Code of ethical conduct	68
70	Certificate of Endorsement	72

1. FOREWORD

This policy, as implemented in terms of Section 111 of the Act, reflects and represents the context of a specific government policy, that finds expression within the provision of the Municipal Finance Management Act of 2003 and SCM regulations, read together with other like- legislative prescript inter alia:

- a) The Constitution of the Republic of South Africa Act 108 of 1996
- b) The Preferential Procurement Policy Framework Act 5 of 2000 and its concomitant regulations.
- c) The Broad-Based Black Economic Empowerment Act 53 of 2003

Mandate

Section 111 of the Municipal Finance Management Act, 2003 (Act NO 56 of 2003) and SCM Regulations mandate the Sekhukhune District Municipality to develop, implement and maintain a procurement and provisioning system as part of the Supply Chain Management(SCM) system.

The SCM gives effect to Section 217 (2) of the Constitution of the Republic of South Africa.(Act No. 108 of 1996) which mandates the Municipality as an organ of state to implement a preferential Procurement Policy in accordance with a nationally prescribed framework, the Preferential Procurement Policy Framework Act(Act 5 of 2000).

Purpose of the SCM Policy

As an organ of state, the Sekhukhune District Municipality has a duty to ensure that all the legislative requirements are satisfied. Accordingly, all procurement policy (including those addressing preferential procurement), procedures and practices must be consistent with these requirements, in particular part 1 of chapter 11 and other provision of the MFMA.

2. ABBREVIATIONS

BBBEEA	Broad Based Black Economic Empowerment Act(Act 53 of 2000)
BEC	Bid Evaluation Committee
CIDB	Construction Industry Development Board
CFO	Chief Financial Officer
HDI	Historically Disadvantaged Individual
MFMA	Municipal Finance Management Act, 2003(Act 56 of 2003)
NT	National Treasury
PPPFA	Preferential Procurement Policy Framework Act
PSP	Professional Service Provider
RFI	Request For Information

RFQ	Request for Qualification
SCM	Supply Chain Management
SCP	Supply Chain Procedures
SITA	State Information Technology Agency
SARS	South African Revenue Services
SABS	South African Bureau of Standards
SMME	Small Medium and Micro Enterprise
TOR	Terms of Reference
SDM	Sekhukhune District Municipality
CSD	Central Supplier Database

3. 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 –

“Acceptable Bid” means any bid which, in all respects, complies with the specifications and conditions of bid as set out in the bid document.

“Accounting Officer” means the municipal official referred to in section 60 of MFMA Act 56 of 2003

“BBBEE Act” means Broad Based Black Economic Empowerment Act no 53 of 2003. The economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies.

“Bid” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods, works or services.

“Bidder” An entity participating in a public procurement procedure and which enter the competition and submit a Bid.

“Bid Committees” means a group of members appointed by the Accounting Officer to compile the specification for each procurement of goods or services, evaluate and adjudicate bids.

“CIDB” means the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000)

“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;

“Consultant” means a professional service provider

“Contract” means the agreement that results from the acceptance of a bid by an organ of state.

“Cost effectiveness” means a form of economic analysis that compares the relative costs and outcomes (effects) of two or more courses of action.

“Councilor” means a member of municipal council

“Disability” means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.

“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) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) 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);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) 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;

“Order” means a an official document to the service provider to render goods or services.

“Organ of state” means-

a national or provincial department as defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);

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

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- (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);

“PPPFA” means Preferential Procurement Policy Framework Act 5 of 2000

“Prospective provider” means services providers whom are intended to provide goods and services to the municipality

“Supplier register/ database” means goods and service providers currently registered as vendors

“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;

“the/this Policy” means the Supply Chain Management Policy adopted by the Council in terms of Section 111 of the Act, as amended from time to time;

“Sole supplier” means sole/single supplier as referred to in paragraph 36 of this policy;

“Supply Chain Management” means systems approach to manage the entire flow of goods and services that will create and optimize value for customer in the form of products and services which specifically at satisfying customer demands

“Supply Chain Management Code of Conduct” means the National Treasury’s Code of Conduct for Supply Chain Management Practitioners and other Role Players, as amended by the Council, which is part of the policy

“Systems Act” means the Local Government: Municipal Systems Act No. 32 of 2000, as amended.

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

CHAPTER 1

ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

4. PURPOSE OF THE POLICY

The purpose of this Policy is to regulate all Supply Chain Management practices within the Municipality. This policy implements the Supply Chain Management practices as envisaged in the MFMA Act and its Regulations. All employees must adhere, implement and observe provisions and requirements of this policy.

- (1) All officials and other role players in the supply chain management system of the 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.
- (2) The municipal entity must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent municipality, in a way that is consistent with the supply chain management policy of the parent municipality.

5. OBJECTIVES OF THE POLICY

The principal objective of the policy is to provide guidelines, governing processes and procedures within the supply chain management.

1. Procuring goods and services;
2. Disposing goods, assets and immovable property no longer needed;
3. Selecting contractors to provide assistance in the provision of municipal services other than that where Chapter 8 of the Municipal Systems Act applies; o

6. APPLICABILITY OF THIS POLICY

- (3) This Policy applies when the SDM
 - (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.
- (5) The Council management, individually and collectively, is committed to:
 - (a) The implementation and full compliance of the Supply Chain Management policies and practices as envisaged by the Act and its Regulations
 - (b) Economic development of local communities, Small Medium and Micro Enterprises, women-owned enterprises, youth-owned and disabled-owned enterprises within the jurisdiction of the Council.

7. 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 SDM
- (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.

8. 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 maximize administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism 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) The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality;
 - (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.

9. 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 R200 000 (VAT included) may not be sub delegated by the accounting officer;
 - (b) above R 30 000 (VAT included), but not exceeding R 200 000 (VAT included), may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a quotation bid adjudication committee of which the chief financial officer or a manager directly accountable to CFO, is a member; or
 - (c) not exceeding R 200 000 (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 quotation adjudication committee.

- (d) The quotation adjudication Committee, which is solely composed of employees, shall make decisions in accordance with their Terms of Reference. No advisor or consultant will have decision-making powers to make final awards on behalf of the council.
- (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(5) 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.
 - (d) the reason for deviations in the implementation of this policy
- (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.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) 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.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

10. 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 60 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
 - (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 executive mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

11. 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.

12. 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, South African Qualification Act, Skills Development Act and best practices.

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

13. Format of supply chain management system

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

14. 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 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.

Strategy for achieving the Preferential Procurement Policy Framework Act objectives and linking the system to Black Economic Empowerment (see page 19):-

1. The municipality will use the public sector SCM system as a tool to achieve the BEE objectives/goals. This will be achieved within the prescribed framework of the PPPFA and its Regulations.
2. In order to achieve the BEE objectives and goals the specifications and terms of reference for each project will be draft prior to publication. The specifications will be drafted in a manner that will assist in achieving the BEE targets set by the municipality. The Accounting Officer will approve all specifications drafted by the Bid Specification Committee prior to publication.

Part 2: Acquisition management

15. 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.

16. 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 **R500** (VAT included);
 - (b) R500 for Sekhukhune main offices and R1000 for Water Services Regions(VAT included);
 - (c) Three formal written price quotations for procurement of goods and services from a transaction value of R1. 00 up to R30 000 (VAT included); and
Public notices from R30 000 to R200 000
 - (d) a competitive bidding process for–
 - (i) procurements of goods and services 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 .
At least three formal written price quotations be obtained for any specific procurement of goods and services for a transaction value lower than R30 000 . Exemption will be provided for in the following services:
 - (i) Conference facilities,
 - (ii) Car hire.
 - (iii) Accommodations and
 - (iv) Trainings.
 - (v) a competitive bidding process be followed for any specific procurement of a transaction value above R200 000.

- (3) 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. 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.

7. General preconditions for consideration of written quotations or bids

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company registration Certificate and ensure that
 - (iii)The company tax matters are in order or
- (b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services .
- (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

- (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

18. Lists of accredited prospective service providers

- (a) The municipality will only consider the service providers that are listed in the Central Supplier Database system for the provision of services.
- (b) Disallow the listing of any service provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector

19. 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) a manager may delegate responsibility for petty cash requests to an official reporting to the manager in terms of the official delegation authority;
- (b) the maximum amounts per transaction shall be R500;
- (c) purchases from petty cash are to be restricted to small items of stationary, refreshments or small items required in an emergency that do not exceed a transaction value of R500
- (d) Petty cash shall be managed and issued by the Expenditure section as and when required by departments in terms of a procedure manual (petty cash policy). Monthly petty cash reconciliations will be compiled by Expenditure section.
- (e) petty cash requests must be properly authorized and have the correct line item description. All requests to be accompanied by relevant/appropriate supporting documents e.g. cash sale slips, receipts.

20. 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 in accordance with paragraph 12(1) from 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 of having the Company registration certificate, Tax clearance certificate, and other relevant certificates depending on the nature of the service.
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;

- (c) if it is not possible to obtain three quotations as prescribed in paragraph 12(1), 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.

21. 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 14(1)(b) and (c) 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.

22. 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) 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;
- (b) 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 the website and an official notice board of the municipality;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) 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;
- (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;

- (e) 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;

23. 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 14(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.

24. 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.

25. 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
- (f) 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.
- (g) SCM documents will be kept in accordance with record management policy of the Municipality.

26. 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, the website of the municipality 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
 - (ii) 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 must be sealed.

- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

27. 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.
- (c) 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;
- (d) 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.

28. 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.

29. 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.

30. Committee system for competitive bids(Non infrastructural projects)

(1) 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:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;
- (d) a quotation adjudication committee;

31. QUORUM

-A majority of the Bid committee's composition (physically present) as designated shall constitute a quorum for the transaction of business.

-The decision of at least a majority of those present at a meeting at which there is quorum shall be valid and binding as an act of the committees.

(2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) 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.

(4) The committee system must be consistent with –

- (a) paragraph 27, 28 and 29 of this Policy; and
- (b) any other applicable legislation.

(5) The accounting officer may apply the committee system to formal written price quotations.

32. Bid specification committees

(1) A bid specification committee must compile the specifications for each procurement of goods or services by the 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.
 - (5) The composition of the bid specification committee may change to accommodate different scenarios.
 - (6) A member or the Chairperson of the bid specification committee shall present reports to the bid evaluation committee.

33. 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).
 - (iii) allocation of empowerment points
 - a. in an 80/20 point system for the acquisition of goods, works and service up to a rand value of R1million.

B-BBEE STATUS LEVEL CONTRIBUTOR

B BBEE STATUS LEVEL OF CONTRIBUTOR	NUMBER OF POINTS (80/20) SYSTEM
1	20
2	18
3	16
4	12
5	8

6	6
7	4
8	2
Non compliant contributor OR B BBEE certificate not attached.	0

- b. in an 90/10 point system for the acquisition of goods, works and service with a rand value above R1million.

B-BBEE STATUS LEVEL CONTRIBUTOR

B BBEE STATUS LEVEL OF CONTRIBUTOR	NUMBER OF POINTS (90/10) SYSTEM
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non compliant contributor OR B BBEE certificate not attached.	0

- (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.
- (e) A member or the chairperson of the bid evaluation committee shall present reports to the bid adjudication committee only as advisors.

(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
- (c) The composition of the bid evaluation committee may change to accommodate different scenarios.

34. 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

- (iv) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (c) A member or chairperson of the bid evaluation committee shall be invited to present the report to the bid adjudication committee only as an advisor.
 - (2) A bid adjudication committee must consist of at least four 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.
 - (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.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days

35. Preference points system, evaluation of bids, awarding of bids not scoring the highest points, cancellation and re-invitation of bids

1. The 80/20 preference point system

- 1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value equal to, or above R30 000 and up to a Rand value of R1000 000.00

$$Ps = 80 \frac{(1 - \frac{Pt - Pmin}{Pmin})}{Pmin}$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration.

Pmin = comparative price of lowest acceptable bid

- 2) A maximum of 20 points shall be awarded to specific preferential goals to be determined by the specifications committee
- 3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000 must be added to the points scored for price.
- 4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy

2. The 90/10 preference point system

- 1) The following formula must be used to calculate the points for price in respect of bids/procurement with a Rand value above R1000 000.00

$$Ps = 90 \frac{Pt - Pmin}{(1 - Pmin)}$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

- 2) A maximum of 10 points shall be awarded to a service provider who scored the highest points. The points scored by the bidder in respect of the must be added to the points scored for price.

- 1) The following formula must be used to calculate the points for the price in respect of bids with a Rand Value equal to, or above R30 000.00 and up to a Rand value of R1000 000 and which relate to the sale and letting assets.

$$2) Ps = 80 \frac{(1 - \frac{Pt - Pmin}{Pmin})}{Pmin}$$

Where

Ps = points scored for price of bid under consideration

Pt = Rand value of bid under consideration

Ph = Rand value of highest acceptable bid

- 3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Act, 2000 must be added to the points scored for price.
- 4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy.

3. The 90/10 preference point system for the sale and letting of assets

- 1) The following formula must be used to calculate the points for price in respect of bids with a Rand Value above R1000 000.00 and which relate to the sale and letting of assets:

$$Ps = 90 \left(1 - \frac{Pt - P_{\min}}{p_{\min}} \right)$$

Where

Ps = Points scored for the price of bid under consideration

Pt = Comparative price of bid under consideration

Ph = Comparative price of lowest acceptable bid

- 2) A maximum of 10 points shall be awarded for specific preferential goals.
- 3) The points scored by a bidder in respect of the goals specified in terms of the Preferential Procurement Policy Framework Act, 2000, must be added to the points scored for price.
- 4) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this.

OR

When evaluating for both price and functionality the following formula must be used:

- (a) Calculations of percentages for functionality the following formula must be used:

$$Ps = (So/Ms) \times 100$$

Where

Ps = percentages scored for functionality by bid/ proposal under consideration

So = total score of bid/proposal under consideration

Ms = maximum possible score

Ap = percentage allocated for functionality

- (b) Calculation of percentage for price

$$Ps = (P_{\min}/Pt) \times Ap$$

Where

Ps = percentage scored for price by bid/proposal under consideration

Pmin = lowest acceptable bid/proposal

Pt = price of bid/proposal under consideration

Ap = percentage allocated for price

- (c) Calculating of points for functionality and price

The percentage obtained for functionality and price should be added together to obtain a percentage out of 100 and then be converted to points out of 80/90 in terms of the regulations

$$Ps = 80 \text{ r } 90 \left(1 - \frac{(Hs - Rs)}{Rs} \right)$$

Where

Ps = points scored for functionality and price of the bid /proposal under consideration

Hs = highest percentage scored by any acceptable bidder for functionality and price by bid/proposal under consideration.

Stipulation of preference point system to be used

- 1) The municipality must, in the bid documents, indicate if, in respect of a particular bid invitation,

bids will be evaluated on functionality and price (amount of functionality and price points must be clearly indicated)

- 2) The total combined points allowed for functionality and price may, in respect of bids with an estimate Rand value equal to, or below R1000 000, not exceed 80 points.
- 3) The total combined points allowed for functionality and price may, in respect of bids with an estimate Rand Value above R1000 000, not exceed 90 points.
- 4) When evaluating the bids contemplated in this item, the points for functionality must be calculated for each individual.
- 5) The conditions of bid may stipulate that a bidder must score a specified minimum number of points for functionality to qualify for further adjudication.
- 6) The points for price in respect of a bid which has scored the specified number of points contemplated in subsection(5) must, subject to the application of the evaluation system for functionality and price contemplated in this section, be established and be calculated in accordance with the provisions of sections 1 and 2.
- 7) Calculation of points for B –BEE status level Contributor and/or achieving specified goals must be calculated separately and must be added to the points scored for functionality and price.
- 8) Only the bid with the highest number of points scored may be selected unless prohibited by any section provided for by this policy.

Award of contract to bid not scoring the highest number of points

5. despite subsections 1(4), 2(4), 3(4), and 4 (a contract may, on reasonable and justifiable grounds, be awarded to a bid that did not score the highest number of points.

36. Cancellation and re-invitation of bids

6. the Municipality may, prior to the award of a bid, cancel a bid if:
 - a) Due to changed circumstances, there is no longer need for the goods or services bided for; or
 - b) Funds are no longer available to cover the total envisaged expenditure; or
 - c) No acceptable bids are received.
 - d) If there was a deviation or an error in the procurement process.
 - e) The evaluation criteria (90/10) or (80/20) was estimated wrongly.
7. In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand Value of R1000 000, the bid invitation must be cancelled.
8. In the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to ,or below R1000 000, the bid must be cancelled.

37. General Conditions

9. (1) the Municipality may, before a bid is adjudicated or at any time, require a bidder to substantiate claims it has made with regard to preference.
- (2) Points scored, must be rounded off to the nearest 2 decimals

- (3) In the event that two or more bids have scored equal total points, the successful bid must be the one scoring the highest number of preference points for specific goals. Should two or more bids be equal in all respects, the award shall be decided by the drawing of lots.

Principles

- (1) Preference points stipulated in respect of a bid must include preference points for B BBEE.
- (2) The B BBEE ownership contemplated in subsection (1) must be equated to the percentage of an enterprise or business owned by individuals or, in respect of a company, the percentage of a company's shares that are owned by individuals, who are actively involved in the management of the enterprise or business and who do not exercise control over the enterprise, commensurate with their degree of ownership at the closing date of the bid.
- (3) In the event that the percentage of ownership contemplated in subsection (2) changes after the closing date of the bid, the bidder must notify the municipality and such bidder will not be eligible for any preference points.
- (4) Preference points may not be claimed in respect of individuals who are not actively involved in the management of an enterprise or business and who do not exercise control over an enterprise or business commensurate with their degree of ownership.
- (5) Subject to subsections (1), (2) and (4), all claims made for equity ownership by an B BBEE must be considered according to the following criteria.:
 - a) Equity within private companies must be based on the percentage of equity ownership
 - b) Preference points may not be awarded to public companies and tertiary institutions;
 - c) EP=the percentage of equity ownership by an B BBEE within the business, determined in accordance with subsections (1), (2), (3) and (4).

$$NEP = \frac{NOP \times EP}{100}$$

100

Where

NEP = Points awarded for equity ownership by
B BEE

NOP = The maximum number of points awarded for
Equity ownership by B BEE

EP = The percentage of equity ownership by an B BEE
Within the enterprise or business

- 1) Equity claims for a Trust may only be allowed in respect of those persons who are both trustees and beneficiaries and who actively involved in the management of the Trust.

- 2) Documentation to substantiate the validity of the credentials of the trustees must be submitted to the municipality.
- 3) A Consortium or Joint Venture may, based on the percentage of the contract value managed or executed by their B BEE , be entitled to equity ownership in respect of an B BEE.
- 4) The number of points scored for a Consortium or Joint Venture must be added to the number of points scored for achieving specified goals.
- 5) The points contemplated in subsection (9) must be added to the points scored for price, in order to establish the total number of points scored.
- 6) Subject to section 78 and 79, the contract must be awarded to the bid which scores the highest points unless prohibited by any section provided for by this policy.
- 7) A person awarded a contract as a result of preference for contracting with, or providing equity ownership to, an B BEE, may not subcontract more than 25% of the value of the contract to a person who is not an B BEE or does not qualify for such preference.

Specific goals

- 1) The bid conditions may stipulate that specific goals, as contemplated in terms of the Preferential Procurement Policy Framework Act, 2000, be attained.
- 2) The stipulation contemplated in section (1) must include the method to be used to calculate the points scored for achieving specific goals.
- 3) Over and above the awarding of preference points in favor of B BEEs, the following activities may be regarded as a contribution towards achieving the goals contemplated in terms of the Preferential Procurement Policy Framework Act, 2000.
 - a) The promotion of South African owned enterprises;
 - b) The promotion of SMME's
 - c) The creation of new jobs or the intensification of labour absorption;
 - d) The promotion of enterprises located in the Limpopo Province for work to be done or services to be rendered in the aforesaid province;
 - e) The promotion of enterprises located within the jurisdiction of the SDM for work to be done or services to be rendered within aforesaid jurisdiction;
 - f) The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered in that municipal area;
 - g) The promotion of enterprises located in rural areas;

Black Economic empowerment and other socio economic objectives

- 1) The SDM must award points for preference objectives in accordance with the PPPFA and its regulation, which also incorporate the 80/20 and 90/10 scoring models.
- 2) With the use of scoring models, the accounting officer must determine the ratio of points for B BEE development in the achievements of pre-determined goals.
- 3) The SDM aims at meeting the principles of BEE as stipulated in the BEE Act and will apply general score cards or sector specific Charters where applicable.
- 4) Other socio-economic objectives not addressing the RDP requirements and targeting previously disadvantaged individuals, such as HIV/AIDS, Enterprise Development, EPWP and environmental conditions must be addressed through contract specification or scope of work.

38. 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).

39. 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.

40. 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) Subparagraphs (1)(c) and (d) do not apply if –
- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

41. Procurement of goods necessitating special safety arrangements

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

42. 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.

43. 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.
- (3) 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.

44. 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 urgent or emergency case;
 - (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) acquisition of animals for zoos and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes;
 - (x) Imminent risks that can be considered by the Accounting Officer may include the following but not limited to
 - Disaster or imminent disaster
 - Human injury or death
 - Human suffering or deprivation of Human rights
 - Serious damage to property or financial loss
 - Serious environmental damage or degradation
 - Interruption of essential services
 - Cancellation of essential municipal services
 - Loss of funding or revenue

- (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.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

45. 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 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.

(8) 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.

46. Penalties, Insurance and guarantees

1. Suitable insurance arrangement, liquidated, damages or penalty clauses, retentions and various forms of guarantees should be made to protect the interest of SDM.
2. The levels of risks management arrangement should be commensurate with the degree of contractual risk to which the SDM is exposed.
3. Through the SDM would like to promote local and small business, all contracts considered as being of high risk due to the nature and scope of work should be subject to appropriate risk management.

The Accounting Officer has the right to impose a penalty equivalent to the offence where poor or unsatisfactory service is rendered.

1. The Municipality must adhere to the following general principles with regard to performance guarantees-
 - a) The performance guarantees must be commensurate with the degree of contractual risk to which the municipality will be exposed;
 - b) In the case of large and complex contracts, performance guarantees must be requested in order to discourage the submission of irresponsible bids; and,
 - c) The risk of failure must be distributed between the contracting parties and should be managed so that the municipality's costs resulting from any such failure are recoverable.

47. Management of expansion or variation of orders against the original contract

In exceptional cases, an accounting officer of a municipality may deem it necessary to expand or vary orders against the original contracts. Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

All variations should be submitted to the bid adjudication committee for consideration and for recommendations to the accounting officer. Reasons for variations should be recorded and approved by the Accounting officer

48. Cessions

1. A cession agreement may be concluded by the contractor, supplier, or any other third party in order to assist the appointed service provider.
2. The conclusion of a cession agreement shall be approved at the discretion of the accounting officer.

49. Surety

1. Sureties must be obtained in case of poor financial rating in respect of construction projects, classified as follows:

AMOUNT	PERCENTANGE
R300 000	5.5%
R300 001- R1 000 000	7.5%
R1 000 001- R3 000 000	10%
R5 000 001-and above	12.5%

2. The service provider must seek assistance from the open market in order to meet the surety requirements.
3. The Municipality may waive the requirement for a surety on construction contracts that are estimated to equal to or lower than one million rand [1 000 000].
4. With regard to the waiving of sureties-
 - a) This may be permitted to assist emerging and B BBEE entrepreneurs in the small works sector of the construction industry.
 - b) It may further be permitted where a surety, a performance guarantee or funds cannot be obtained with the assistance of financial institutions or a similar institution, a written indication thereof to be submitted to the municipality; and,
 - c) The municipality may bear the risks associated with such waiver in order to promote emerging and B BBEE entrepreneurs.
1. No contractor, supplier or service provider may be permitted to undertake more than two contracts simultaneously where sureties have been waived.
2. Sureties will be released from their obligations upon their application to the municipality and provided that the municipality is satisfied that the contract has been completed satisfactorily.

50. Retention

1. A percentage of the costs in respect of construction contracts must be set aside as retention funds.
2. No more than 10% of the value of the construction contract must be set aside for purposes of subsection (1).
3. With regard to the release of retention funds-

- a) 50% of the retention funds shall be released upon practical completion for contracts of not more than R1 000 000 with the remaining 50% released three months after the project has been completed. For contracts with a rand value exceeding R1000 000 but not exceeding R10 000 000, 50% of the retention shall be released upon practical completion with the remainder released six months thereafter.
- b) For projects with a rand value exceeding R10 000 000, 50% of the retention shall be released upon practical completion with the remainder released twelve months thereafter.
- c) The retention amount withheld by the municipality and not claimed within three years after practical completion certificate has been issued will be forfeited and written back by the municipality as income. Interest earned on retention funds retained is for the municipality's benefit.

51 Management of Expansion or Variation of orders against the original contract

In exceptional cases an accounting officer of a Municipality or Municipal entity may deem it necessary to expand or vary orders against the original contract.

The expansion or variation of orders against the original contract may be expanded or varied by not more than 20% for construction related goods, services and / or infrastructure projects and 15% for all other goods and / or services of the original value of the contract. Anything beyond the abovementioned thresholds must be reported to council.

52 Procurement through turnkey project approach

1. The municipality may opt to implement contracts for large complex projects or works of a special nature, when it may be undesirable or impractical to prepare complete detailed technical specifications in advance through a turnkey project approach.
2. A turnkey project approach is when a consultant and contractor are appointed simultaneously and the Consultant carries the project risk to ensure that the designs and contract work are done and the project is handed over to the municipality after project is commissioned. This is referred to as a design and build contract.
3. A two-stage bidding procedure may be used, under which first unpriced technical proposals on the basis of a conceptual design or performance specifications are invited, subject to technical as well as commercial clarifications and adjustments. The technical and commercial clarifications may include a prequalification that bidders have to provide proof of their ability to execute the project. In such a case it may be prescribed that only those bidders who prequalified, will be issued with the amended detailed bid documents and offered the opportunity to submit final technical proposals and price bids, as the second stage.
4. All the parties to be engaged during the project implementation including consultants, experts and contractors and the role of each contracting party should be documented to ensure that the first evaluation stage comprises of confirming technical ability for all contracting parties.
5. In the case of turnkey contracts, the bidder should be required to quote the price of the total project cost, including all costs for supply of equipment, marine and local transportation and insurance, installation and commissioning, as well as associated works and all other services included in the scope of contract such as design, maintenance, operation, etc. Unless otherwise specified in the bidding documents, the turnkey price should include all duties, taxes, and other levies.

53. 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.

54. Declaration

2. For purpose of establishing control measures to eliminate fraud and corruption-
 - a) A declaration schedule will form an integral part of all the Municipality’s bid documents;
 - b) Bidders must be required to complete the schedule as a prerequisite to submission of any bid;

Lack of declarations or incomplete declaration can act as a disqualification.

(3) End user departments should develop service level agreements with the appointed service provider. The

agreement should include management of performance of service providers and penalties in case of default.

55. Declaration of interest by officials, suppliers, service providers and consultants

3. In order to obtain the disclosure of any interests that an official, supplier, service provider or consultant may have with regard to a bid, the declaration of interest schedule must be completed prior to the award of a bid.
4. The declaration of interest must be completed by the following persons:-
 - a) All officials in the evaluation or approval of a bid;
 - b) All suppliers, service providers or consultants who are involved in the preparation of bid documentation and a bid reporting; and
 - c) Any other person who played a role in the preparation, specification, evaluation and approval of a bid and who has an interest in the award thereof.
 - d) The municipality reserves the right to vet any official, councilor or supplier who they deem necessary or believe that incorrect information is being supplied.

Part 3: Logistics, Disposal, Risk and Performance Management

56. 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.

57. 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, are as stipulated in council's policy on fixed asset management and accounting policy.
- (2) Assets may be disposed of by –

- (i) transferring the asset to another organ of state and or Non Profit Organisation 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.

(4) 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) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) the municipality also reserves the right to identify assets that can be disposed free or donated. The free disposals is limited only to Department of education and Health or any other government department.
- (g) 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.

58. Risk management

(1) 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.

59. Performance management

- (1) 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

60. 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 a municipality / municipal entity is in possession of a supplier's original valid tax clearance certificate, it is not necessary to obtain a new tax clearance certificate each time a price quotation or bid is submitted from that specific supplier. This provision may be applied only if the closing date of the price quotation or bid falls within the expiry date of the tax clearance certificate that is in the municipality's / municipal entity's possession. Whenever this ruling is applied, cross-reference must be made to the original tax clearance certificate for audit purposes.

61 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.

62. 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.

63. Ethical standards

- (1) A code of ethical standards as set out in *the* Code of Conduct for Supply Chain Management Practitioners and other role players adopted by council 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.
- (2) 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.

64. Inducements, rewards, gifts and favours to municipalities, 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) No official or other role player involved in SCM may accept any gift, reward, favor, hospitality or other benefit promised directly or indirectly, including to any close family member, partner or associate. Furthermore any official or other role player must declare any gift, reward, favor, hospitality or other benefit promised, offered or granted to that member or to a close family member, partner or associate of that member from suppliers or potential suppliers, irrespective of the value of such a gift.

65. 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.

66. Operationalisation of SCM policy

To operationalise the procurement process, the Municipal Manager shall pursue the development and approval of a standard operating procedure incorporating a generic SCM manual, standard bidding documents, forms and standard evaluation documents.

- 1. The SCM policy will be into operation through:
 - Procurement Directives which shall be issued by the SCM Unit from time to time,
 - Procurement delegations issued in terms of section 82 of MFMA; and
 - SCM Procedures
 - Financial delegations

67. Expanded Public Works Programme

1. The Expanded Public Works Programme (EPWP) is founded on the principle that the Implementing Agent (national or provincial department, state owned enterprise, municipality or municipality entity) is responsible for identifying and implementing suitable projects in accordance with the published EPWP Guidelines.

Labour-intensive infrastructure projects under the EPWP include:

- Using labour-intensive construction methods to provide employment opportunities to local unemployed people;
- Providing training or skills development to those locally employed workers;
- Building cost-effective and quality assets.

The employment to locally employed temporary workers on all EPWP labour-intensive infrastructure projects must be in accordance with the Code of Good Practice for Employment and Conditions of Work for Special Public Works Programmes issued in terms of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) and promulgated in Government Gazette Notice No. P64 OF 25 January 2002.

68. General pre-requisites

Introduction

This section covers a general set of prerequisites that have identified for supply chain management by the SDM. All bidders must submit the information requested below. Bid documents and registration forms can be obtained in the SCM Unit. Bids will not be considered should the prerequisites not be met.

Criteria

- a) Proof of company registration and/or any other form of legal standing must be submitted by all bidders and the company composition form must be completed.
- b) The Declaration of Interest form must be completed.
- c) The bid document must be completed in all respects in black ink.
- d) Bids must be submitted on original bid documents
- e) Bid documents must remain intact and no portion may be detached.
- f) A joint venture agreement must be formalized prior to submitting a bid.
- g) The tax clearance certificate requirements should be applicable to all transactions exceeding a value of R30 000(Thirty thousand rand, including vat)
- h) And any other requirement/pre requisite that might be stated in the tender document

Additional prerequisites for professionals

Introduction

This section covers additional Prerequisites for Professionals that have been identified for supply chain management by the SDM. All Professionals must submit the information requested below. Bids will not be considered should the prerequisites not be met.

Criteria

- a) Submit proof of Professional Registration with the relevant Professional Body, e.g The Engineering Council of South Africa.

- b) Submit Professional indemnity and type of cover.
- c) Submit company composition on the Company Composition Form which can be found from the SCM Unit.

Additional prerequisites for contractors

Introduction

This section covers additional Prerequisites for Contractors that have identified for supply chain management by the SDM. All Contractors must submit the information requested below. Registration forms and bid documents are obtainable from the SCM Unit. Bids will not be considered should the prerequisites not be met.

Criteria

Contractor Registration

- a) All contractors including sub-contractors must be registered with the Construction Industry Development Board (CIBD)

Subcontracting

- b) Should the contractor wish to sub contract any portion of the works, the contractor must submit details of subcontract together with names of subcontractor to the SDM.
- c) When Subcontracting to Non-B BBEE- Compliant companies, subcontracting will be restricted to a maximum of 25% of the total contract value.
- d) If details of sub contract are not disclosed, the bid will be set aside.
- e) No Sub Contractors are to further sub contract any portion of the works without disclosing details to SDM for approval prior to commencement of works.
- f) The Company Composition of the subcontracting firm must be disclosed.

Joint Ventures

- a) Submit written proof of Joint Ventures- disclosing Joint Venture partnerships (percentage or names or any other details required by SDM).
- b) All Joint Venture partners must be registered with the CIBD.
- c) Housing contracts must be registered with the National Home Builders Registration Council (NHBRC).

69. Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

70. Resolution of disputes, objections, complaints and queries

(1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

- (a) to assist in the resolution of disputes between the municipality and other persons regarding -

- (i) any decisions or actions taken in the implementation of the supply chain management system; or
- (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
 - (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 disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
 - (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
 - (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
 - (6) This paragraph must not be read as affecting a person’s rights to approach a court at any time.

71 Contracts providing for compensation based on turnover

If a service provider acts on behalf of a 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) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

72. Review of Policy

This policy will be reviewed annually with the review of the annual budget

73. CODE OF ETHICAL CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS

1. PURPOSE

1.1 The purpose of this code of conduct is to ensure that all business transactions take place in an environment of honesty, integrity, fair competition and respect for South African Laws. This code

outlines the council's expectations from all its employees and service providers who participate, directly or indirectly, in the Supply Chain Management activities. The main aim is to promote:-

- (a) Mutual trust and respect; and
- (b) An environment where business can be conducted with integrity and in a fair and responsible manner

1.2 Failure to adhere to this code is inexcusable and punishable by the council.

2. GENERAL PRINCIPLES

2.1 The council commits itself to a policy of fair dealing and integrity in the conducting of its business. Employees and other role players involved in Supply chain Management (SCM) are in position of trust, implying a duty to act in the public interest. Employees and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.

2.2 Employees and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that the public resources are administered responsibly.

2.3 Employees and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

3. EMPLOYEE ETHICAL CONDUCT

3.1 An employee or other involved with Supply Chain Management:-player

- (i) Must treat all providers and potential providers equitably;
- (ii) May not use his or her position for private gain or to improperly benefit another person;
- (iii) Must not interfere with Supply Chain Management processes and system in order to influence the outcome of an award by tempering with any price quotations and bids.
- (iv) Must keep all information, including service provider's information, as confidential. Only the duly authorized official will communicate the outcome of the bidding process;
- (v) Must not be soliciting price quotations/bids from bidders/ contractors whose name appear on register for Tender Defaulters;
- (vi) Must not exploit errors in price in quotations /bids
- (vii) May not accept any reward, gifts, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, irrespective of the value.
- (viii) Must declare to the Municipal Manager details of any reward , gifts ,favour ,hospitality or other benefit promised , offered or granted to that person or to any close family member, partner or associate of that person and record them on the declaration register to be kept by each manager.

- (ix) Must declare to the Municipal Manager 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, or in any award of a contract by the Council; declaration of interests must be recorded in the declaration register kept by the Municipal manager. Declarations by the Municipal manager must be made to the Mayor and the Council.
- (x) Must declare to the Municipal Manager 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, or in any award of a contract by the Council;
- (xi) 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;
- (xii) Must declare any business , commercial and financial interests or activities undertaken for financial gain may raise a possible conflict of interest;
- (xiii) Should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties ;
- (xiv) Should not take improper advantage of their previous office after leaving their official position ; and
- (xv) Employees must report to the Municipal Manager any alleged irregular conduct in the Supply Chain Management system which that person my become aware of ,including:-
 - (a) Any alleged fraud ,corruption , favoritism or unfair conduct;
 - (b) Any alleged contravention of the policy on the inducements , rewards ,Gifts and favours to the Council, employees or other role players; and

3.2 Any alleged breach of this code of conduct.

3.3 The Council is committed to the highest standard of integrity and any official transgressing this code will be dealt with in accordance with the Municipal Disciplinary code of conduct.

74. RECORD KEEPING

- a. Every head of department must keep an up to date gift register and record of all declaration made by the employees with regard to:-
 - (a) Business interests held by the employees;
 - (b) Business interest held by the family members;
 - (c) Interest in business transaction where conflict of interest exist
- b. The Accounting Officer must keep record of all declaration.

75. SERVICE PROVIDERS ETHICAL CONDUCT

- 5.1 Service provider, are expected to assist the Council in enforcing good ethical conduct from its employees and:-
 - (a) Must not induce or put pressure on employees;
 - (b) Must not induce or reward the employee for contract awarded or to be awarded;
 - (c) Must not request from employees information about the Council's operations or competitors

Information; and

(e) Must not offer favours or hospitality to employees irrespective of the value

5.2 Service providers are expected to comply with this policy fully and failure to do so will lead to barring or black listing from doing business with the Council. The names of service providers defaulting will be submitted to National Treasury for black listing.

A. IMPLEMENTATION

This code of conduct must be signed by employees of the municipality and service providers who provide goods and services to the municipality.

The code should form part of the tender document/contract to be entered into between the municipality and the service provider.

B. CERTIFICATE OF ENDORSEMENT:

This Policy shall come into effect on the date of endorsement and shall cease only in the event where such changes/variations has been reduced to writing, approved by council and been signed by the Speaker. Unless in the event where any changes in any applicable Act, Legislation has jurisdiction to supersede.

Part B

Supply Chain Management

Infrastructure Procurement Policy

SCM Policy for Infrastructure procurement and delivery management

Contents

1	Scope	1
2	Terms, definitions and abbreviations	1
2.1	Terms and definitions	1
2.2	Abbreviations	2
3	General requirements	2
3.1	Delegations	2
3.2	Implementation of the Standard for Infrastructure Procurement and Delivery Management	3
3.3	Supervision of the infrastructure delivery management unit	3
3.4	Objections and complaints	3
3.5	Resolution of disputes, objections, complaints and queries	3
4	Control framework for infrastructure delivery management	4
4.1	Assignment of responsibilities for approving or accepting end of stage deliverables	4
4.2	Additional gates	Error!
	Bookmark not defined.	
4.3	Additional requirements	Error!
	Bookmark not defined.	
4.4	Gateway reviews	4
4.4.1	Gateway reviews for major capital projects above a threshold	4
4.4.2	Elective gateway reviews	4
5	Control framework for infrastructure procurement	5
6	Infrastructure delivery management requirements	5
6.1	Institutional arrangements	5
6.1.1	Committee system for procurement	6
6.1.2	Actions of an authorised person relating to the award of a contract or an order	11
6.1.3	Conduct of those engaged in infrastructure delivery	12
6.1.4	Measures to prevent abuse of the infrastructure delivery system	14
6.1.5	Awards to persons in the service of the state	15
6.1.6	Collusive tendering	15
6.1.7	Placing of contractors under restrictions	16

6.1.8	Complaints	16
6.2	Acquisition management	16
6.2.1	Unsolicited proposal	16
6.2.2	Tax and rates compliance	17
6.2.3	Declarations of interest	17
6.2.4	Invitations to submit expressions of interest or tender offers	18
6.2.5	Publication of submissions received and the award of contracts	18
6.2.6	Disposal committee	19
6.3	Reporting of infrastructure delivery management information	19
7	Infrastructure procurement	19
7.1	Usage of procurement procedures	19
7.2	Procurement documents	19
7.3	Developmental procurement policy	19
7.4	Payment of contractors	20
7.5	Approval to utilise specific procurement procedures	20
7.6	Receipt and safeguarding of submissions	20
7.7	Opening of submissions	20
7.8	Use of another organ of state's framework agreement	21
7.9	Insurances	21
7.9.1	Contractors shall be required to take out all insurances required in terms of the contract.	21
7.10	Written reasons for actions taken	22
7.11	Request for access to information	22

Scope

This policy establishes the Sekhukhune District Municipality's policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

- a) the storage of goods and equipment following their delivery to *Sekhukhune District Municipality* which are stored and issued to contractors or to employees;
- b) the disposal or letting of land;
- c) the conclusion of any form of land availability agreement;
- d) the leasing or rental of moveable assets; and
- e) public private partnerships.

Terms, definitions and abbreviations

2.1 Terms and definitions

For the purposes of this document, the definitions and terms given in the standard and the following apply:

agent: person or organization that is not an employee of Sekhukhune District Municipality that acts on the Sekhukhune District Municipality's behalf in the application of this document

authorised person: the Accounting officer or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

conflict of interest: any situation in which:

- a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his [duties impartially](#),
- b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or
- c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

contract manager: person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view

family member: a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

framework agreement: an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

gate: a control point at the end of a process where a decision is required before proceeding to the next process or activity

gateway review: an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based

gratification: an inducement to perform an improper act

infrastructure delivery: the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

infrastructure procurement: the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

maintenance: the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

operation: combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

order: an instruction to provide goods, services or any combination thereof under a framework agreement

organ of state: an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

procurement document: documentation used to initiate or conclude (or both) a contract or the issuing of an order

principal: a natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

standard: the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

working day: any day of a week on which is not a Sunday, Saturday or public holiday

2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

General requirements¹

3.1 Delegations

3.1.1 The Council of Sekhukhune District Municipality hereby delegates all powers and duties to the Accounting officer which are necessary to enable the Accounting officer to:

- a) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 or 10 of the Local Government Municipal Finance Management Act of 2003 and this document;
- b) maximise administrative and operational efficiency in the implementation of this document;
- c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this document; and

¹ This clause is required to ensure that the standard is linked to the policy and aligned with the MFMA SCM Regulations.

- d) comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

3.1.2 No departure shall be made from the provisions of this policy without the approval of the Accounting officer of Sekhukhune District Municipality²

3.1.3 The Accounting officer shall for oversight purposes:

- a) within 30 days of the end of each financial year, submit a report on the implementation of this the policy and the equivalent policy of any municipal entity under the sole or shared control of the Sekhukhune District Municipality, to the council of the Sekhukhune District Municipality within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of directors, who must then submit the report to the municipal manager of Sekhukhune District Municipality for submission to the council;
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council, who must then submit the report to the municipal manager of Sekhukhune District Municipality for submission to the council;
- a) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the *mayor*, and
- b) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management

3.2.1 Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.³

3.2.2 Pre-feasibility and feasibility reports are required.

3.2.3 Stage 3 to 7 are also required.

3.3 Supervision of the infrastructure delivery management unit⁴

The Infrastructure Delivery Management Unit shall be directly supervised by the chief financial officer .

3.4 Objections and complaints⁵

Persons aggrieved by decisions or actions taken in the implementation of this policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

3.5 Resolution of disputes, objections, complaints and queries⁶

3.5.1 The accounting officer shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the municipality and other persons regarding:

- a) any decisions or actions taken in the implementation of the supply chain management system;
 - b) any matter arising from a contract awarded within the Sekhukhune district municipality infrastructure delivery management system; or
-

- c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

3.5.2 The Director Corporate shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

3.5.3 The person appointed in terms of 3.5.1 shall:

- a) strive to resolve promptly all disputes, objections, complaints or queries received; and
- b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

3.5.4 A dispute, objection, complaint or query may be referred to the Provincial treasury if:

- a) the dispute, objection, complaint or query is not resolved within 60 days; or
- b) no response is forthcoming within 60 days.

3.5.5 If the Provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

Control framework for infrastructure delivery management⁷

4.1 Assignment of responsibilities for approving or accepting end of stage deliverables⁸

The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

4.4 Gateway reviews

4.4.1 Gateway reviews for major capital projects above a threshold

4.4.1.1 Accounting officer shall appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

4.4.1.2 The requirements for a gateway review in addition to those contained in section 4.1.13 of the standard are as follows:⁹

4.4.2 Elective gateway reviews¹⁰

Gateway reviews shall be undertaken

Table 1: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name	
0	Project initiation	<i>Director Infrastructure Department</i>

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables	
No	Name		
1	Infrastructure planning	Project design manager	
2	Strategic resourcing	<i>Director Infrastructure Department</i>	
3	Pre-feasibility	<i>Manager responsible for the project.</i>	
	Preparation and briefing	<i>Project Manager</i>	
4	Feasibility	<i>Director Infrastructure Department</i>	
	Concept and viability	<i>Projects Planning Manager</i>	
5	Design development	<i>Chairperson design committee</i>	
6	Design documentation	6A Production information	<i>Director Infrastructure Department</i>
		6B Manufacture, fabrication and construction information	Director Infrastructure
7	Works	The contract manager certifies completion of the works or the delivery of goods and associated services	
8	Handover	The owner or end user accepts liability for the works	
9	Package completion	Project Manager	

Control framework for infrastructure procurement¹¹

5.1 The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table 2.

5.2 The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows: 12

Accounting officer shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;

- a) the authorised person may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard.

5.3 The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table 3.

Infrastructure delivery management requirements

6.1 Institutional arrangements

6.1.1 Committee system for procurement¹³

6.1.1.1 General

6.1.1.1.1 A committee system comprising the documentation committee, evaluation committee and tender committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds the financial threshold for quotations and to the putting in place of framework agreements.

6.1.1.1.2 The evaluation committee shall, where competition for the issuing of an order amongst framework contractors takes place and the value of the order exceeds the financial threshold for quotations, evaluate the quotations received.

6.1.1.1.3 The persons appoint in writing as technical advisors and subject matter experts may attend any committee meeting.

6.1.1.1.4 No person who is a political officer bearer, a public office bearer including any councilor of a municipality, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a procurement documentation, evaluation or tender committee.

6.1.1.1.5 Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterised by the lack of sustained opposition to substantial issues. Committees shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.

6.1.1.1.6 Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

6.1.1.2 Procurement documentation committee

6.1.1.2.1 The Accounting officer shall appoint in writing on a procurement by procurement basis:

- a) the persons to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard; and
- b) the members of the procurement documentation committee.

6.1.1.2.2 The procurement documentation committee shall comprise one or more persons. The chairperson shall be an employee of Sekhukhune District Municipality with requisite skills. Other members shall, where relevant, include a representative of the end user or the department requiring infrastructure delivery.

6.1.1.2.3 No member of, or technical adviser or subject matter expert who participates in the work of the any of the procurement committees or a family member or associate of such a member, may tender for any work associated with the tender which is considered by these committees.

¹³ SCM Regulation 26 of the MFMA requires that a committee system be established for procurement above the threshold for quotations. A municipality of a municipal entity may require that the tender committee (bid adjudication committee) also deal with quotations

The principle of segregation (an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task) is dealt with the committee system in the standard as follows:

- procurement gate 3: a technical evaluation of procurement documents and an approval of such documentation;
- procurement gate 5: a technical evaluation of submissions and an authorization to proceed with the next phase of a procurement process; and
- procurement gate 6: a tender evaluation and a recommendation to award a contract.

Table 2: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold

Activity		Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1*	Establish what is to be procured	1.3 PG1	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	<i>CFO</i>
2*	Decide on procurement strategy	2.5 PG2	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	<i>CFO</i>
3	Solicit tender offers	3.2 PG3	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Chairperson of Procurement documentation committee
		3.3 PG4	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	<i>Budget manager</i>
4	Evaluate tender offers	4.2 PG5	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	<i>Chairperson Evaluation Committee</i>
		4.7 PG6	Confirm recommendations contained in the tender evaluation report	Review recommendations of the evaluation committee and refer back to evaluation committee for reconsideration or make recommendation for award	Chairperson Tender committee
5	Award contract	5.3 PG7	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	<i>Accounting Officer</i>
		5.5 GF1	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	<i>Manager SCM</i>

* Applies only to goods and services not addressed in a procurement strategy developed during stage 2 (strategic resourcing) of the control framework for infrastructure delivery management

Table 2 (concluded)

Activity		Sub-Activity		Key action	Person assigned responsibility to perform key action
6	Administer contracts and confirm compliance with requirements	6.4 PG8A	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	Accounting officers
		6.5 PG8B	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	Accounting officers
		6.6 PG8C	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage ¹⁴	Approve amount of time and cost overruns up to the threshold	Accounting officers
		6.7 PG8D	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20% and 30%, respectively	Approve amount of time and cost overruns above a the threshold	Accounting officers
		6.8 PG8E	Obtain approval to cancel or terminate a contract	Approve amount	Accounting officers
		6.9 PG8F	Obtain approval to amend a contract	Approve proposed amendment to contract	Accounting officers

¹⁴ Stepped thresholds leading up to the 20% and 30% values given in PG8D may be necessary to manage cost and time overruns, respectively, the principle being that approval to exceed these percentages needs to be granted at a more senior level with each increase. For example, the increases for cost overruns could be as follows:

- ≤ 2,5 % - contract manager;
- 2,5 to 10% - project director
- > 10% - appropriately delegated authority

Table 3: Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework **agreement**

Activity		Key action	Person assigned responsibility to perform key action
1 FG1	Confirm justifiable reasons for selecting a framework contactor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	<i>Accounting Officer</i>
3 FG2	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	<i>Accounting Officer</i>
4 FG3	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	<i>Budget Manager</i>
6 FG4	Authorise the issuing of the order	If applicable, review evaluation report and confirm or reject recommendations. Formally accept the offer in writing and issue the contractor with a signed copy of the order	<i>Accounting Officer</i>

6.1.1.3 Evaluation committee

6.1.1.3.1 The Accounting officer shall appoint on a procurement by procurement basis in writing:

- a) the persons to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clauses 4.2.3.2 and 4.2.3.4 of the standard, respectively; and
- b) the members of the evaluation committee.

6.1.1.3.2 The evaluation committee shall comprise not less than three people. The chairperson shall be an employee of Sekhukhune District Municipality with requisite skills. Other members shall include a supply chain management practitioner¹⁵ and, where relevant, include an official from the department requiring infrastructure delivery.

6.1.1.3.3 The evaluation committee shall review the evaluation reports prepared in accordance with sub clause 4.2.3 of the standard and as a minimum verify the following in respect of the recommended tenderer:

- a) the capability and capacity of a tenderer to perform the contract;
- b) the tenderer’s tax and municipal rates and taxes compliance status;
- c) confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;
- d) the Compulsory Declaration has been completed; and
- e) the tenderer is not listed in the National Treasury’s Register for Tender Defaulters or the List of Restricted Suppliers.

6.1.1.3.4 No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the procurement documentation committee or a family member or associate of such a member, may be considered by the evaluation committee.

6.1.1.3.5 The chairperson of the evaluation committee shall promptly notify the accounting officer of any respondent or tenderer who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.

6.1.1.4 Tender committee¹⁶

6.1.1.4.1 The tender committee shall comprise the following persons or their mandated delegate:¹⁷

- a) CFO shall be the chairperson:
- b) Senior SCM Official.....
- c) Other Senior Officials
- d) Etc Any person with special skill if required(Internally or Externally).....

6.1.1.4.2 No member of the evaluation committee may serve on the tender committee. A member of an evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.

6.1.1.4.3 The tender committee shall:

- a) consider the report and recommendations of the evaluation committee and:
 - 1) verify that the procurement process which was followed complies with the provisions of this document;

¹⁵ A supply chain management practitioner in the context of infrastructure delivery includes a built environment professional

¹⁶ Where no separate tender committee is established, this section should simply refer to the bid adjudication committee which is set up to deal with tenders with both the supply chain for general goods and services and for infrastructure

¹⁷ The chairperson needs to be an employee of the municipality or the municipal entity with requisite skills. Other members should be employees of the municipality or the municipal entity and include at least four senior managers including the chief financial officer, a supply chain management practitioner and a technical expert in the relevant field, if such municipality or municipal entity has such an expert.

- 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
 - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
 - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

6.1.1.4.4 The tender committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

6.1.1.4.5 The tender committee shall consider the merits of an unsolicited offer and make a recommendation to the accounting officer.

6.1.1.4.6 The tender committee shall report to the accounting officer any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.

6.1.1.4.7 The tender committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

- a) made a misrepresentation or submitted false documents in competing for the contract or order; or
- b) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

6.1.1.4.8 The tender committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper conduct in relation to such system. The National Treasury and the Provincial treasury shall be informed where such tenderers are disregarded.

6.1.2 Actions of an authorised person relating to the award of a contract or an order

6.1.2.1 Award of a contract

6.1.2.1 The authorised person shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the tender committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the tender committee, and either:

- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or
- b) decide not to proceed or to start afresh with the process.

6.1.2.2 The Accounting officer authorised person shall immediately notify the if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and provincial treasury, of the reasons for deviating from such recommendation.

6.1.2.3 Issuing of an order

The authorised person shall, if the value of an order issued in terms of a financial delegations, consider the recommendation of the evaluation committee or the *designated person* as relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or

- b) decide not to proceed or to start afresh with the process.

6.1.3 Conduct of those engaged in infrastructure delivery¹⁸

6.1.3.1 General requirements

6.1.3.1.1 All personnel and agents of Sekhukhune District Municipality shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement. They shall:

- a) behave equitably, honestly and transparently;
- b) discharge duties and obligations timeously and with integrity;
- c) comply with all applicable legislation and associated regulations;
- d) satisfy all relevant requirements established in procurement documents;
- e) avoid conflicts of interest; and
- f) not maliciously or recklessly injure or attempt to injure the reputation of another party.

6.1.3.1.2 All personnel and agents engaged in Sekhukhune District Municipality's infrastructure delivery management system shall:

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) ensure that resources are administered responsibly;
- f) be fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist Sekhukhune District Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and
- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

¹⁸ Sub clause 5.1 d) of the standard requires that the municipality's or municipal entity's policy establish ethical standards for those involved in the procurement and delivery of infrastructure. This clause is aligned with the provisions of SCM Regulation 46 (Ethical standards) issued in terms of the MFMA and National Treasury's Code of Conduct for Supply Chain Management Practitioners

6.1.3.1.2 An employee or agent may not amend or tamper with any submission, tender or contract in any manner whatsoever.

6.1.3.2 Conflicts of interest

6.1.3.2.1 The employees and agents of Sekhukhune District Municipality who are connected in any way to procurement and delivery management activities which are subject to this policy, shall:

- a) disclose in writing to the employee of the Sekhukhune District Municipality to whom they report, or to the person responsible for managing their contract, if they have, or a family member or associate has, any conflicts of interest; and
- b) not participate in any activities that might lead to the disclosure of *Sekhukhune District Municipality* proprietary information.

6.1.3.2.2 The employees and agents of Sekhukhune District Municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

6.1.3.2.3 Agents who prepare a part of a procurement document may in exceptional circumstances, where it is in *Sekhukhune District Municipality's* interest to do so, submit a tender for work associated with such documents provided that:

- a) Sekhukhune District Municipality states in the tender data that such an agent is a potential tenderer;
- b) all the information which was made available to, and the advice provided by that agent which is relevant to the tender, is equally made available to all potential tenderers upon request, if not already included in the scope of work; and
- c) the procurement documentation committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

6.1.3.3 Evaluation of submissions received from respondents and tenderers

6.1.3.3.1 The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) not have any conflict between their duties as an employee or an agent and their private interest;
- b) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;
- c) deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged to Sekhukhune District Municipality.

6.1.3.3.2 The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of Sekhukhune District Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

6.1.3.3.3 Sekhukhune District Municipality personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they, or any close family member, partner or associate, has any private or business interest.

6.1.3.4 Non-disclosure agreements

Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect Sekhukhune District Municipality's confidential information and interests.

6.1.3.5 Gratifications, hospitality and gifts

6.1.3.5.1 The employees and agents of Sekhukhune District Municipality shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

6.1.3.5.2 The employees and agents of *Sekhukhune District Municipality* as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) money, loans, equity, personal favours, benefits or services;
- b) overseas trips; or
- c) any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

6.1.3.5.3 The employees and agents of Sekhukhune District Municipality shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

6.1.3.5.4 All employees and agents of Sekhukhune District Municipality may for the purpose of fostering inter-personal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;
- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and
- e) gifts in kind other than those listed in a) to d) which have an intrinsic value greater than R350 unless they have declared them to the Accounting officer.

6.1.3.5.5 Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

6.1.3.5.6 Employees and agents of Sekhukhune District Municipality shall without delay report to the Accounting officer any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

6.1.3.6 Reporting of breaches

Employees and agents of Sekhukhune District Municipality shall promptly report to the Accounting officer any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

6.1.4 Measures to prevent abuse of the infrastructure delivery system¹⁹

The Accounting officer shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this policy against an employee or an agent, a contractor or other role player and, where justified:

¹⁹ The requirement to prevent abuse of the supply chain management system is aligned with the provisions of SCM Regulation 38 issued in terms of the MFMA.

- a) take steps against an employee or role player and inform the National Treasury and Provincial treasury of those steps;
- b) report to the South African Police Service any conduct that may constitute a criminal offence;
- c) lodge complaints with the Construction Industry Development Board or any other relevant statutory council where a breach of such council's code of conduct or rules of conduct are considered to have been breached;
- d) cancel a contract if:
 - 1) it comes to light that the contractor has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular contract or during the execution of that contract; or
 - 2) an employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

6.1.5 Awards to persons in the service of the state²⁰

6.1.5.1 Any submissions made by a respondent or tenderer who declares in the Compulsory Declaration that a principal is one of the following shall be rejected:

- a) a member of any municipal council, any provincial legislature, or the National Assembly or the National Council of Provinces;
- b) a member of the board of directors of any municipal entity;
- c) an official of any municipality or municipal entity;
- d) 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);
- e) a member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature.

6.1.5.2 The notes to the annual financial statements of the municipality shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified in 6.1.5.1 or who has been in the previous 12 months. Such notes shall include the name of the person, the capacity in which such person served and the amount of the award.

6.1.6 Collusive tendering²¹

Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:

- a) is not associated, linked or involved with any other tendering entity submitting tender offers; or
- b) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender

shall be rejected.

²⁰ The clause aligns with SCM Regulation 44 issued in terms of the MFMA.

²¹ The standard requires the inclusion of the Compulsory Declaration in all procurement documents. This sub-clause aligns with SCM Regulation 44 issued in terms of the MFMA and SANS 10845-3 which is incorporated by reference in the standard.

6.1.7 Placing of contractors under restrictions²²

6.1.7.1 If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) after having been notified of the acceptance of his tender, failed or refused to commence the contract;
- c) had their contract terminated for reasons within their control without reasonable cause;
- d) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards Sekhukhune District Municipality; or
- f) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of Sekhukhune District Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

a Chief accounting officer shall prepare a report on the matter and make a recommendation to the Accounting officer for placing the contractor or any of its principals under restrictions from doing business with the Sekhukhune District Municipality.

6.1.7.2 The [Accounting officer] may, as appropriate, upon the receipt of a recommendation made in terms of 6.1.7.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to Sekhukhune District Municipality for a period of time.

6.1.7.3 The supply chain management shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Sekhukhune District Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and provincial treasury and , if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

6.1.8 Complaints

6.1.8.1 All complaints regarding the Sekhukhune District Municipality's infrastructure delivery management system shall be addressed to the accounting officer. Such complaints shall be in writing.

6.1.8.2 The Director *Corporate department* shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the *Accounting officer* who will decide on what action to take.

6.2 Acquisition management

6.2.1 Unsolicited proposal²³

6.2.1.1 The Sekhukhune District Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;

²² This sub-clause is aligned with the requirements of SCM Regulation 38 issued in terms of the MFMA.

²³ The clause aligns with SCM Regulation 37 issued in terms of the MFMA.

- b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;
- c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for Sekhukhune District Municipality;
- d) the offer is in writing and clearly sets out the proposed cost;
- e) the person who made the offer is the sole provider of the goods or service; and
- f) the accounting officer finds the reasons for not going through a normal tender processes to be sound.

6.2.1.2 The accounting officer may only accept an unsolicited offer and enter into a contract after considering the recommendations of the tender committee if:

- a) the intention to consider an unsolicited proposal has been made known in accordance with Section 21A of the Municipal Systems Act of 2000 together with the reasons why such a proposal should not be open to other competitors, an explanation of the potential benefits for the municipality and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice;
- b) the Sekhukhune District Municipality' has obtained comments and recommendations on the offer from the National Treasury and provincial treasury;
- c) the tender committee meeting which makes recommendations to accept an unsolicited proposal was open to the public and took into account any public comments that were received and any comments and recommendations received from the National Treasury and provincial treasury; and
- d) the provisions of 6.2.1.3 are complied with.

6.2.1.3 The accounting officer shall, within 7 working days after the decision to award the unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the provincial treasury and Auditor General. A contract shall in such circumstances not be entered into or signed within 30 days of such submission.

6.2.2 Tax and rates compliance²⁴

6.2.2.1 SARS tax clearance

No contract may be awarded or an order issued where the value of such transaction exceeds R 30 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS or if not domiciled in the Republic of South Africa, SARS has confirmed that such a person is not required to prove their tax compliance status.

6.2.2.2 Municipal rates and taxes²⁵

No contract may be awarded to a tenderer who, or the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are in arrears for more than 3 months.

6.2.3 Declarations of interest

Tenders and respondents making submissions in response to an invitation to submit a tender or a call for an expression of interest, respectively shall declare in the Compulsory Declaration whether or not any of the principals:

- a) are an employee of the Sekhukhune District Municipality or in the employ of the state; or
- b) have a family member or a business relation with a person who is in the employ of the state.

²⁴ This sub-clause aligns with the provisions of SCM Regulation 43 issued in terms of the MFMA. .

²⁵ This subclause aligns with the provisions of SCM Regulation 38 issued in terms of the MFMA.

6.2.4 Invitations to submit expressions of interest or tender offers

6.2.4.1 All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on the Sekhukhune District Municipality's website and on the National Treasury eTender Publication Portal.²⁶ Advertisements shall be placed by supply chain officials

6.2.4.2 Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by Supply chain officials

6.2.4.3 Where deemed appropriate by Accounting officer an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by *Supply chain officials*.

6.2.4.4 Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the Accounting officer.

6.2.4.5 Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification meeting. Procurement documents shall be made available not less than 7 days before the closing time for submissions.

6.2.5 Publication of submissions received and the award of contracts²⁷

6.2.5.1 The accounting officer shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's or municipal entity's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 30 days.

6.2.5.2 The chief financial officer shall publish within 7 working days of the award of a contract the following on the Sekhukhune District Municipality's website

- a) the contract number;
- b) contract title;
- c) brief description of the goods, services or works;
- d) the total of the prices, if practical;
- e) the names of successful tenderers and their B-BBEE status level of contribution;
- f) duration of the contract; and
- g) brand names, if applicable.

6.2.5.3 The chief financial officer shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders. Submissions shall be made by chief financial officer

6.2.5.4 The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by placed by chief financial officer.

²⁶ This subclause aligns with National Treasury Instruction No 1 of 2015/2016 – Advertisement of bids and the publication of awards on the eTender Publication Portal.

²⁷ This subclause aligns with National Treasury Instruction No 1 of 2015/2016 – Advertisement of bids and the publication of awards on the eTender Publication Portal.

6.2.6 Disposal committee

6.2.6.1 The accounting officer shall appoint on a disposal by disposal basis in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

6.2.6.2 The disposal panel shall comprise not less than three people. The chairperson shall be an employee of Sekhukhune District Municipality.

6.2.6.3 The disposal committee shall make recommendations to accounting officer who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration, decide not to proceed or to start afresh with the process.

6.3 Reporting of infrastructure delivery management information

Accounting officer shall submit any reports required in terms of the standard to the National Treasury or provincial treasury.

Infrastructure procurement

7.1 Usage of procurement procedures²⁸

7.2 Procurement documents

7.2.1 The forms of contract that may be used are as follows:

Form of contract ²⁹	Code	Usage

7.2.2 The Sekhukhune District Municipality’s preapproved templates for Part C1 (Agreements and contract data) of procurement documents shall be utilised to obviate the need for legal review prior to the awarding of a contract. All modifications to the standard templates shall be approved by accounting officer prior to being issued for tender purposes.

7.2.3 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.³⁰

7.2.4

7.2.5 The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for:

- a) consultancy services;³¹ and
- b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.³²

7.3 Developmental procurement policy³³

The following specific goals shall be proposed:

²⁸ Delete this clause if there are no restriction. Amend if there are specific circumstance under which a procurement procedure is to be used.
²⁹ Reproduce from Table 11 of the standard the forms of contract which the municipality or municipal entity wishes to make use of.
³⁰ This sub-clause aligns with SCM Regulation 21 issued in terms of the PFMA.
³¹ The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.
³² The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.
³³ State specific goals that may be promoted.

7.4 Payment of contractors³⁴

The Sekhukhune District Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.

7.5 Approval to utilise specific procurement procedures³⁵

7.5.1 Prior approval shall be obtained for the following procurement procedures from the following persons, unless such a procedure is already provided for in the approved procurement strategy:

- a) Accounting officer shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) Accounting officer shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure³⁶.

7.5.2 The person authorised to pursue a negotiated procedure in an emergency is accounting officer.

7.6 Receipt and safeguarding of submissions³⁷

7.6.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.³⁸

7.6.2 The tender box shall be fitted with two locks and the keys kept separately by two supply chainmanager. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

7.7 Opening of submissions³⁹

7.7.1 Submissions shall be opened by an opening panel comprising two people nominated by *[designated persons]* who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

7.7.2 The opening panel shall open the tender box at the stipulated closing time and:

- a) sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- b) return submissions unopened and suitably annotated where:
 - 1) submissions are received late, unless otherwise permitted in terms of the submission data;
 - 2) submissions were submitted by a method other than the stated method,
 - 3) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and.
 - 4) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;

- d) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) stamp each returnable document in each tender submission.

7.7.3 Each member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 7.7.3h).

7.7.4 Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

7.7.5 Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.

7.8 Use of another organ of state's framework agreement⁴⁰

The Sekhukhune District Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so. The [Accounting officer shall make the necessary application to that organ of state to do so.

7.9 Insurances⁴¹

7.9.1 Contractors shall be required to take out all insurances required in terms of the contract.⁴²

7.9.2 The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by accounting officer.

7.9.3 Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

Table 4: Minimum insurance cover⁴³

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract	Not less than R20 million
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0 million electrical, mechanical and engineering: R3,0 million architectural: R5,0 million other R3,0 million

7.9.4 The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed by accounting officer.

7.9.5 SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.

7.9.5 Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the accounting officer in relation to the nature of the service that they provide.

7.9.6 Sekhukhune District Municipality shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

7.9.7 Where payment is to be made in multiple currencies, either the contractor or Sekhukhune District Municipality should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

7.10 Written reasons for actions taken

7.10.1 Written reasons for actions taken shall be provided by a

7.10.2 The written reasons for actions taken shall be as brief as possible and shall as far as is possible, and where relevant, be framed around the clauses in the:

- a) SANS 10845-3, *Construction procurement - Part 3: Standard conditions of tender*, and, giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or
- b) SANS 10845-4, *Construction procurement - Part 4: Standard conditions for the calling for expressions of interest*;

as to why a tenderer was not considered for the award of a contract or not awarded a contract.

7.10.3 Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

7.11 Request for access to information⁴⁴

7.11.1 Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act 2 of 2000), the "requestor" should be referred to the Sekhukhune District Municipality's Information Manual which establishes the procedures to be followed and the criteria that have to be met for the "requester" to request access to records in the possession or under the control of Sekhukhune District Municipality's.

7.11.2 Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.
