



SUPPLY CHAIN MANAGEMENT POLICY 2018

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DR E M RANKWANA
MUNICIPAL MANAGER

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PREAMBLE

The Council of Dr Beyers Naudé Municipality hereby adopts this Supply Chain Management Policy 2018 effective from 1 July 2018.

1. DEFINITIONS

In this policy, the singular includes the plural and vice versa, any one gender includes both genders and, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act has the same meaning as in this Act, and -

"Accounting Officer" means the manager of the municipal administration and accounting officer of the municipality appointed by the council in terms of section 82 of the Municipal Structures Act No 117 of 1998, section 54A of the Local Government: Municipal Systems Act No. 32 of 2000 and includes any employee of the municipality who acts in his stead and, in the event of the municipality being subject to an intervention in terms of section 139 of the Constitution or any other applicable law, includes the "Administrator" appointed as a consequence of such intervention or in terms of the conditions pertaining thereto;

"All applicable taxes" includes value-added tax, pay as you earn, income tax, skills development levies and unemployment insurance fund contributions;

"B-BBEE" means broad-based black economic empowerment as defined in section 1 of the Broad-Based Black Economic Empowerment Act;

"B-BBEE status level of contributor" means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment;

"Black designated groups" has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Black people" "black people" has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act and is a generic term which means Africans, Coloureds and Indians;

"Broad-Based Black Economic Empowerment Act" means the Broad-Based Black Economic Empowerment Act No. 53 of 2003;

"Chief Financial Officer" means the official of the municipality designated as such in terms of section 80(2)(a) of the Municipal Finance Management Act;

"CIDB regulations" means any regulations issued in terms of the Construction Industry Development Board Act No. 38 of 2000;

"Close family member" means spouse or partner, parent or children;

"Closing date" means the time and day specified in the bid documents and/or advertisement of the receipt of bids;

"Codes of Good Practice" means the Codes of Good Practice on Black Economic Empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and contained in General Notice 12 of 9 February 2007;

"Comparative price" means the price after the factors of a non-firm price and all unconditional discounts that can be utilized, have been taken into consideration;

"Competitive bidding process" means a competitive bidding process referred to in paragraph 12 of this policy;

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

"Consortium or joint venture" means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;

"Construction works" means the provision of a combination of goods and services arranged for the development, extension, installation, repair, maintenance, renewal, removal, renovation, alteration, dismantling or demolition of a fixed asset including building and engineering infrastructure;

"Contractor" means a person or body of persons who undertakes to execute and complete

construction works for or on behalf of the municipality;

"Contract" means the agreement that results from the acceptance of a tender by the municipality in accordance with this policy;

"Co-operative" means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);

"Council" means the council of the Dr Beyers Naudé Local Municipality;

"Day" unless expressly otherwise provided in this policy, means a calendar day, provided that when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively also of every such Sunday or public holiday;

"Designated group" means-

- (a) black designated groups;
- (b) black people;
- (c) women;
- (d) people with disabilities; or
- (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

"Designated Official" means the official of the municipality to whom the accounting officer or the chief financial officer, as the case may be, have, in accordance with sections 79 and 82 of the Municipal Finance Management Act No. 56 of 2003 delegated powers, functions and duties in connection with the application and implementation of this policy;

"Designated sector" means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content;

"EME" means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic

Empowerment Act;

"Emergency" means an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.

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

"Firm price" means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which, in terms of any applicable law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies or the rendering costs of any service, for the execution of a contract;

"Formal written price quotations" means quotations referred to in paragraph 12(1)(d) of this policy;

"Functionality" means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

"Fronting" means a deliberate circumvention or attempted circumvention of the "Broad-Based Black Economic Empowerment Act and the Codes of Good Practice";

"Head of Department" means a senior manager as defined in the Municipal Finance Management Act and who is responsible for a vote as assigned by the accounting officer;

"Imported content" means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;

"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 Act and 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;

"Line manager" means a manager reporting directly to a senior manager and who is responsible for a cost centre as assigned by the relevant senior manager;

"Local content" means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;

"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 15 of this policy;

"Mayor" means the councillor elected by the council as Mayor in terms of section 48 or the Executive Mayor (as the case may be) elected in terms of section 55 of the Local Government: Municipal Structures Act No. 117 of 1998 read with section 58 of the Municipal Finance Management Act. Also refer to the definition of "Mayor" in the MFMA where both the Executive Mayor and Mayor are only defined as "Mayor";

"Military veteran" has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

"Municipality" means the Dr Beyers Naudé Local Municipality, a local municipality established in terms of section 12 of the Local Government: Municipal Structures Act No. 117 of 1998 and includes any employee entitled to or duly authorized to perform any function or duty in terms of this policy and/or is responsible for the implementation of this policy or any part thereof;

"Municipal Finance Management Act" means the Local Government: Municipal Finance Management Act No. 56 of 2003 and, unless otherwise stated in this policy, any reference to "the Act" shall mean a reference to this Act;

"Municipal Systems Act" means the Local Government: Municipal Systems Act No. 32 of 2000 and includes the regulations under this Act;

"Non-firm prices" means all prices other than "firm" prices;

"Other applicable legislation" means any other legislation applicable to municipal supply chain management, including but not limited to –

- a. the Preferential Procurement Policy Framework Act No. 5 of 2000;
- b. Preferential Procurement Regulations, 2017;
- c. the Broad-Based Black Economic Empowerment Act No. 53 of 2003;
- d. The Construction Industry Development Board Act No. 38 of 2000;
- e. The Local Government: Municipal Systems Act No. 32 of 2000 (Municipal Systems Act);
- f. The Local Government Municipal Structures Act, 1998 (Act 117 of 1998);
- g. The Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) and
- h. The Competitions Act, 1998 (Act 89/1998).

"Person" includes a juristic person;

"People with disabilities" has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

"Preferential Procurement Regulations" means the Preferential Procurement Regulations, 2017 contained in Government Notice R 52 of 20 January 2017 promulgated in Government Gazette No. 40553 of said date;

"Price" includes all applicable taxes less all unconditional discounts;

"Principle shareholder" means a person possessing such an interest or number of shares in an organization that he can influence decisions taken;

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

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

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

“Rand value” means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

“Reckoning of number of days” means when any particular number of days is prescribed for the doing of any act, or for any other purpose, the same shall be reckoned exclusively of the first and inclusively of the last day, unless the last day happens to fall on a Sunday or on any public holiday, in which case the time shall be reckoned exclusively of the first day and exclusively of every such Sunday and public holiday;

“Regulation” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations;

“Responsible person” means a director or manager who is responsible for the procurement of goods and services in his/her department;

“Responsive bid” means a bid that complies in all material aspects with the requirements set out in or contained in an invitation to bid including the applicable specification;

“rural area” means-

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

“Single provider” means sole provider – one and only (alone of its kind) supplier (Oxford

dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one (1) provider exists in SA (for example, sole distribution rights);

"Small enterprise" means a separate and distinct business entity, together with its branches or subsidiaries, if any, including cooperative enterprises, managed by one owner or more predominantly carried on in any sector or sub-sector of the economy mentioned in column 1 of the Schedule to the National Small Business Act No. 102 of 1996 which is contained in Annexure B to this policy and classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of the said schedule;

"Stakeholder" means any person with a vested interest in a particular organization.

"Stipulated minimum threshold" means that portion of local production and content as determined by the Department of Trade and Industry from time to time;

"Strip and quote" means when the repairs and maintenance on machines, vehicles are done by one (1) supplier and/or strip/quote, for example a municipal vehicle enters the workshop that needs repairs, however to do the repairs, the vehicle has to be sent to a supplier that determines what repairs should be done.

"Sub-contract" means the primary contractor's assigning, leasing, making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of a contract;

"Rand value" means the total estimated value of a contract in South African currency calculated at the time of tender invitations, and includes all applicable taxes and excise duties;

"SANAS" means the South African National Accreditation System;

"Tender" means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals and **"bid"** has a corresponding meaning;

"The Act" means the Local Government : Municipal Finance Management Act, 56 of 2003;

"Total revenue" bears the same meaning assigned to this expression in the Codes of Good Practice;

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

"Treasury guidelines" means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.

"Trust" means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;

"Trustee" means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;

"Treasury" means either the National Department of Treasury or the Eastern Cape Provincial Treasury and, in this policy, any reference **"Treasuries"** means both Treasuries;

"Treasury guidelines" means any guidelines on supply chain management issued by the Minister of Finance in terms of section 168 of the Municipal Finance Management Act;

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

"Validity period" means the period for which a bid is to remain valid and binding on stipulated in the relevant tender document;

"Verification Certificate" means a B-BBEE certificate issued in compliance with the B-BBEE Codes of Good Practice and all Sector Codes issued in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Act;

"Written quotations" means quotations referred to in paragraph 12(1)(c) of this policy.

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

CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

2.1 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 Section 217 of the Constitution and Part 1 of Chapter 11 and other applicable provisions of the Act;
- b. is fair, equitable, transparent, competitive and cost effective;
- c. complies with the regulatory framework prescribed in chapter 2 of the Regulations; and 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 the conduct of business with the public sector.

2.2 The municipality may not act otherwise than in accordance with this supply chain management policy when:

- a. procures goods or services;
- b. disposes of goods no longer needed;
- c. selects contractors to provide assistance with 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.

2.3 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, but not limited to -

- 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.

2.4 Notwithstanding anything to the contrary in this policy, the municipality shall not award a contract to a contractor in respect of the undertaking, carrying out or completion of any construction works or a portion thereof in terms of a competitive tender or quotation process provided for in this policy unless such contractor is registered with the Construction Industry Development Board established by section 2 of the Construction Industry Development Board Act No. 32 of 2000 and holds a valid registration certificate issued by such Board or is exempted from such registration either in terms of the Act or the "CIDB Regulations".

3. AMENDMENT AND ADOPTION OF THE SUPPLY CHAIN MANAGEMENT POLICY

1. The accounting officer must at least annually review the implementation of this policy and, when necessary, submit proposals for the amendment thereof to the council through the mayor acting in conjunction with the mayoral committee with a view to its adoption by the council.
2. If the accounting officer submits proposed amendments to this policy to the council, he must ensure that same comply with the Regulations and Treasury guideline standards determining standards for municipal supply chain management policies.
3. The accounting officer must report any deviation from the Regulations and Treasury guideline standards determining standards for municipal supply chain management policies to the National Treasury and the Eastern Cape Provincial Treasury.
4. When amending this policy, the need for uniformity in supply chain practices, procedures and forms between all spheres of organs of state particularly to promote accessibility of supply chain management systems for small businesses, must be taken into account;

5. The accounting officer of the municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

1. The council hereby delegates all powers and duties to the accounting officer which are necessary to enable him -
 - a. to discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapters 8 or 10 of the Act; and this policy; and
 - 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, favouritism and unfair and irregular practices in the implementation of this policy; and
 - d. to comply with his 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 27 of this policy.
5. The accounting officer may delegate or sub-delegate the authority to enter into negotiations in terms of paragraph 25 of this policy.

5. SUB-DELEGATIONS

1. The accounting officer may, in terms of section 79 of the Act, sub-delegate any supply chain management powers and duties, including those bestowed upon him in terms of legislation or delegated to him in terms of this policy or by resolution of the council, but any such sub-delegation must be consistent with subparagraph (2) and paragraph 4 of this policy.
2. The accounting officer may sub-delegate the following and may give power to make a final award -
 - a. above R5 million (VAT included) may not be sub-delegated by the accounting officer;
 - b. above R2 million (VAT included), but not exceeding R5 million (VAT included), may be sub-delegated but only to -
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member;
 - c. Above R200 000,00 (VAT included) but not exceeding R2 million (VAT included) may be sub-delegated but only to -
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
 - (iv) a bid adjudication committee.
 - d. Below R200 000,00 (VAT included) may be sub delegated as per council delegations pertaining to the procurement of goods and services.
3. The bid adjudication committee must consist out of at least four (4) senior managers which must include:

Chief financial officer

At least one (1) senior supply chain management practitioner

Technical expert in the relevant field who is an official of the municipality

4. An official or bid adjudication committee to whom or which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must, within five days of the end of each month, submit to the official referred to in sub-paragraph (5) a written report containing particulars of each final award made by such official or committee during that month, including –
 - a. The contract numbers and descriptions of goods, services or infrastructure projects;
 - b. the amount of the award;
 - c. The B-BBEE level of contribution claimed;
 - d. the name of the person to whom the award was made; and
 - e. the reason why the award was made to that person.
5. A written report referred to in subparagraph (4) 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.
6. Subparagraphs (4) and (5) do not apply to procurements out of petty cash.
7. Bids awarded must be published on council's website in terms of section 75(g) of the

Act.

8. 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 27 of this policy.
9. No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF THE COUNCIL

1. The council must maintain oversight over the implementation of this policy to ensure that the accounting officer implements all supply chain management activities in accordance the Act. Therefore a councillor cannot be a member of a bid committee or any other committee evaluating or approving quotations or bids nor attend any meeting of such committees as an observer.
2. For the purposes of such oversight, the accounting officer must -
 - a. within 30 days of the end of each financial year, submit a report on the implementation of this policy to the council through its mayor;
 - b. whenever there are serious and material problems in the implementation of this policy, immediately submit a report thereon to the council through its mayor.
3. The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of this policy to the mayor.
4. The aforesaid reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. SUPPLY CHAIN MANAGEMENT UNIT

1. A supply chain management unit is hereby established to implement this policy.
2. The supply chain management unit shall operate under the direct supervision of the chief financial officer to whom this duty is hereby delegated by the accounting officer in

terms of section 82 of the Act.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

The training of officials involved in implementing this policy should be in accordance with any Treasury guidelines on supply chain management training and applicable prescribed minimum competency level requirements.

CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

9. 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.

10. SYSTEM OF DEMAND MANAGEMENT

1. The demand management plan must be developed at the beginning of the financial year when the IDP, SDBIP and annual budget have been approved. The accounting officer must, with due regard to sub-paragraph (2), establishes, through operational procedures, an appropriate demand management system in order to ensure that the resources required by the municipality supports its operational commitments and its strategic goals as outlined in the municipality's Integrated Development Plan and SDBIP, further, ensures that the procedures so established are implemented.
2. All user departments are required to submit their procurement plans to the Manager SCM within thirty (30) days of approval of the annual budget for the compilation of a municipal procurement plan.
3. The procurement plan must be submitted to and approved by the accounting officer or his/her delegate before the 31 July of each year.

4. The procurement plan must be renewed regularly and submitted to the accounting officer or his/her delegate on a quarterly basis.
5. Demand management must be co-ordinated by SCM officials of the municipality in consultation with end-users.
6. The outcome of this activity should be a detailed planning document in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy needs, an effective system of demand management must include the following:
 - a. Planning for future requirements. Acquisition and disposals of all goods required to meet the strategic goals outlined in the integrated development plan must be quantified, budgeted and planned to ensure timely and effective delivery, appropriate quality at a fair cost to meet the needs of the municipality and community. Critical delivery dates must be determined and adhered to.
 - b. If the requirement is of a repetitive nature and there are benefits of economies of scale a contract for a specific commodity should be arranged.
 - c. In order to compile the correct specifications an industry analysis/research should be undertaken to ensure future needs and technology benefits are maximized.
7. The accounting officer (demand management system) must, prior to making an invitation for tenders-
 - (a) properly plan for, and, as far as possible, accurately estimate the costs for the provision of services, works or goods in respect of which an invitation to tender is to be made;
 - (b) determine and stipulate, in such invitation and tender documents, the preference point system applicable to the tender and, if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system in the evaluation and adjudication of such

tender;

- (c) determine whether pre-qualification criteria are applicable to the tender;
 - (d) determine whether the services, works or goods for which an invitation to tender is to be made has been designated for local production and content in terms of regulation 8 of the Preferential Procurement Regulations, 2017 and paragraph 29.5 of this policy;
 - (e) determine whether compulsory subcontracting is applicable to the tender; and
 - (f) determine whether objective criteria are applicable to the tender.
8. The accounting officer must, where applicable, indicate in the invitation to submit a tender and in the relevant tender specification and documents-
- (a) that such tender will be evaluated on functionality and, in such event, the following shall be clearly stated:
 - (i) the evaluation criteria for measuring functionality which criteria must be objective;
 - (ii) the weight of each criterion which should not be generic but be determined separately for each bid on a case by case basis;
 - (iii) the applicable values that will be utilized when scoring each criterion and sub-criterion (if any) which values must be objective;
 - (iv) the minimum qualifying score for functionality in order to enable the bid concerned to be further evaluated in terms of this policy provided that the aforesaid qualifying score:
 - (aa) should not be generic but be determined separately for each bid on a case by case basis; and
 - (bb) should not be prescribed so low that it may jeopardize the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the

supply chain management system;

- (b) the fact that no tender will be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the invitation to tender and the relevant tender specification;
 - (c) that tenders that have achieved the minimum qualification score for functionality will be evaluated further in terms of the applicable preference point systems referred to in paragraphs 29.3 and 29.4 of this policy; and
 - (d) Points scored for functionality must be rounded off to the nearest two decimal places.
5. A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
6. Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria.
7. Any system designed in terms of this paragraph shall take cognizance of the provisions of this policy.

11. SYSTEM OF ACQUISITION MANAGEMENT

1. The accounting officer must establish and implement through operational procedures, an efficient system of acquisition management in terms of Part 2 of this Policy in order to ensure -
- a. that goods and services are procured by the municipality in accordance with authorized 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 the 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. This supply chain management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including:
 - a. Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - b. Electricity from Eskom or another public entity, another municipality or a municipal entity.
- 3. When procuring goods or services from the municipality as contemplated in section 110 (2) of the Act, the accounting officer must make public, in accordance with section 21A of the Municipal Systems Act, the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including-
 - a. the kind of goods or services; and
 - b. the name of the supplier.

12. RANGE OF PROCUREMENT PROCESSES

- 1. Goods and services may only be procured by way of -
 - a. Petty cash purchases up to a transaction value of R2 000 (VAT included) for items specified in the municipality's Petty Cash policy;
 - b. One (1) written quotation for procurement of a transaction value over R500,01 up to R2 000 (VAT included);
 - c. Three (3) written quotations for procurements of a transaction value over R2000,01 up to R30 000 (VAT included);
 - d. Formal written price quotations for procurements of a transaction value over R30 000,01 up to R200 000 (VAT included); and
 - e. A competitive bidding process for -
 - i. procurements above a transaction value of R200 000,01 (VAT included); and
 - ii. the procurement of long term contracts.

2. The accounting officer may, in writing:

- a. lower but not increase, the different threshold values specified in sub-paragraph (1) above; or
- b. direct that:
 - i. written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
 - ii. formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or
 - iii. a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

3. Calls for quotations and bids for the procurement of goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of this policy or any applicable legislation. 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.

13. SPECIAL CATEGORIES OF BIDDERS AND SUPPLIERS

In order to promote B-BBEE and comply with applicable legislation including the Codes of Good Practice, this policy recognizes the following special categories of bidders and suppliers:

13.1 Exempted Micro-Enterprise

- a. An exempted Micro-Enterprise (EME) is an entity with an annual turnover of R10 million or less provided that this amount may be reduced in accordance with sector charter thresholds for specific sectors or industries.
- b. The current thresholds for the Tourism and Construction Sector charters are R2.5 million and R1.5 million respectively.
- c. Exempted Micro-Enterprises are deemed to possess a B-BBEE Status of "Level Four Contributor", having a B-BBEE procurement recognition of 100% if it is less 51% owned by black people.

- d. An Exempted Micro-Enterprise qualifies for a promotion to a B-BBEE Status of "Level Two Contributor" having a B-BBEE procurement recognition of 125% if it is at least 51% owned by black people.
- e. Exempted Micro-Enterprises are deemed to possess a B-BBEE Status of "Level One Contributor", having a B-BBEE procurement recognition of 135% if it is 100% owned by black people.
- f. Exempted Micro-Enterprises are allowed to be measured in terms of the QSE scorecard contained in the applicable code of good practice in the event of them wishing to maximize their points and move to the next procurement recognition level.
- g. Sufficient evidence of qualification as an Exempted Micro-Enterprise is an auditor's certificate or similar certificate issued by an accounting officer of a closed corporation or a verification agency accredited by SANAS, or a Sworn B-BBEE affidavit for Exempted Micro Enterprises signed by a commissioner of oaths.

13.2 Qualifying Small Enterprise

- a. Any enterprise with an annual Total Revenue of between R10 million and R50 million qualifies as a Qualifying Small Enterprise.
- b. Qualifying Small Enterprises are deemed to possess a B-BBEE Status of "Level One Contributor", having a B-BBEE procurement recognition of 135% if it is 100% owned by black people.
- c. Qualifying Small Enterprises are deemed to possess a B-BBEE Status of "Level Two Contributor", having a B-BBEE procurement recognition of 125% if it is at least 51% owned by black people.
- d. Enterprises claiming qualifying small enterprise status must include in any bid submitted to the municipality, an original and valid B-BBEE status level certificate or a certified copy thereof, substantiating their B-BBEE rating. This certificate must be issued by a verification agency accredited by SANAS or a Registered Auditor approved by the Independent Regulatory Board of Auditors or a Sworn B-BBEE affidavit for Qualifying Small Enterprises signed by a commissioner of oaths.

13.3 Start-up enterprises

- a. Start-up enterprises must be measured as Exempted Micro-Enterprises for the first year following their formation or incorporation. This provision applies regardless of the expected total revenue of the start-up enterprise.
- b. Start-up enterprises are deemed to possess a B-BBEE Status of "Level One Contributor", having a B-BBEE procurement recognition of 135% if it is 100% owned by black people.
- c. Start-up enterprises are deemed to possess a B-BBEE Status of "Level Two Contributor", having a B-BBEE procurement recognition of 125% if it is at least 51% owned by black people.
- d. In order to qualify as a Start-up Enterprise, the enterprise must provide an independent confirmation of its status.
- e. Despite subparagraphs (a) and (b), Start-up Enterprises must submit a QSE Scorecard when tendering for any contract or seeking any other business with a value higher than R5 million but less than R35 million. For contracts above R35 million, they should submit the generic scorecard. The preparation of such scorecards must use annualized data.
- f. The accounting officer shall reserve the right to require a Start-up Enterprise referred to in subparagraph (d) to submit a verification certificate issued by either a verification agency approved by SANAS or a Registered Auditor approved by the Independent Regulatory Board of Auditors, or a Sworn B-BBEE Affidavit signed by a commissioner of oaths.

14. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

1. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid concerned -
 - a. has furnished the provider's -

- (i) full name or names including trading name;
 - (ii) identification number or company or other registration number;
 - (iii) tax reference number and VAT registration number, if any.
- b. Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within seven (7) working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder must be verified via CSD or e-filing. The Accounting officer should reject a bid/quote submitted if such bidder fails to provide proof of tax compliance status within the timeframe stated above.
- 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 (12) 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 (12) months; or
 - iii. whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-paragraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve (12) months.
 - iv. before making an award the supply chain management unit must check on central supplier database whether the bidder or any of its directors are not listed/indicated as a person prohibited from doing business with the public sector.
- d. has, where applicable, provided the municipality with a clearance certificate from the Construction Industry Development Board to the effect that he holds a valid registration certificate issued by the Board;
- e. has provided the municipality with a "Certificate of Independent Bid

Determination" on Form MBD 9 or a similar form;

- f. has certified that he and, in the event of the bidder being a company, also any of its directors, is not indebted to the municipality or to any other municipality or municipal entity for rates, taxes and/or municipal service which are in arrear for a period of more than three months and that no dispute exists between such bidder and the relevant municipality or municipal entity in respect of any such arrear amounts;

15. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS – CENTRAL SUPPLIER DATABASE (CSD)

With effect from 1 July 2016, Municipalities and Municipal Entities must use the CSD supplier number starting with (MAAA) which is auto generated by the Central Database System after successful registration and validation of the prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1) (b) of the Municipal Supply Chain Management Regulations.

The municipality will utilize accredited prospective providers that are registered on the Central Supplier Database (CSD).

For verifications such as Tax status, Restricted Suppliers, Employees status (In Service of the State or not), the municipality rely on information as per the Central Supplier Database (CSD).

15.1 The accounting officer must:

- a. In terms of MFMA Circular 81, transact with only vendors registered on National Treasury central supplier database. Vendors not registered on the National Treasury central supplier database will not be considered for transactions above the petty cash threshold;
- b. At least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers on the National Treasury central supplier database;

- c. Specify the listing criteria for accredited prospective providers;
- d. All listed accredited prospective providers of goods and services must register on the central database system.
- e. Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

15.2 The central database system (CSD) will automatically validate the following registration documents:

- a. Confirmation and status of business registration documents;
- b. Proof of bank account registration;
- c. Tax compliance status;
- d. Employee in the services of the state;
- e. Identity documents; and
- f. Tender defaulters and restrictions status.

15.3 The following documents will remain the responsibility of the municipality to obtain and verify:

- a. BBBEE status;
- b. CIDB; and
- c. Municipal account status.

15.4 Failure to be registered on the National Treasury central supplier database will result in the written quotations or bids to be non-responsive on closing date.

16. PETTY CASH PURCHASES

16.1 The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12(1)(a) of this policy, are that minor items are purchased for up to R2 000,00 (VAT included) where it is impractical, impossible or not cost-effective to follow the official procurement process. The conditions for the procurement of goods by means of petty cash are:

- a. Such payments will only be for reimbursement expenditure incurred by officials in terms of the petty cash policy.
- b. No claims will be accepted if to be paid to a supplier directly.
- c. Proof of such expenditures must be provided with each claim.
- d. The accountant expenditure must record these claims in a separate register and monthly be included in the report referred to in the petty cash policy.
- e. The chief financial officer will authorize officials from his department to keep petty cash registers and to grant refunds for cash purposes or allow cash advances.
- f. Cash advances can only be granted for out-of-pocket expenses for delegated representatives of the municipality or upon a written quotation but in all instances should a petty cash voucher be approved by the related departmental head.
- g. Officially delegated persons will agree to the deduction from his next remuneration any cash advances of which no proof of expenditure is presented on return from the attended event.
- h. The practice of breaking up purchases in order to circumvent the formal written price quotation and written price quotation processes is not permissible.
- i. Prospective suppliers used for petty cash transactions **do not need** to be registered on the central supplier database.
- j. Rotation of suppliers will not be compulsory during petty cash purchases.

16.2 A monthly reconciliation report from holder of petty cash must be provided to the chief financial officer, including:

- a. the total amount of petty cash purchases for that month;
- b. receipts and appropriate documents for each purchase;
- c. a list of petty cash purchases per month per department;
- d. be submitted to the chief financial officer by the tenth (5th) working day;
- e. The accounting officer may delegate responsibility for the management of petty cash to an official directly or indirectly reporting to the chief financial officer;
- f. No item that is an approved stores item may be purchased by means of a petty

cash transaction.

- g. No fixed asset regardless of value may be purchased through petty cash;
- h. No petty cash will be issued without authorization from the head of department for each department through the completion of a purchase requisition which must be authorized and signed by the head of department;
- i. The council must, from time to time, determine the maximum amount of the permissible petty cash expenditure per month. The maximum amount of petty purchases for each manager may not exceed R 2 000.00 per month and each manager will be responsible for the monitoring of such petty cash purchases.

17. WRITTEN OR VERBAL PRICE QUOTATIONS

17.1 Written quotations above R500,00 (VAT included) up to R2 000,00 (VAT included)

The conditions for the procurement of goods by means of one (1) written quotation, referred to in clause 12(1)(b) of this policy for minor items are as follows:

- a. written quotations for transactions must be obtained from at least one (1) prospective supplier or service provider who is registered on the central supplier database
- b. Rotation of suppliers will not be applicable in this range of procurement.
- c. A monthly reconciliation report from holder of petty cash must be provided to the chief financial officer, including:
 - i. the total amount of petty cash purchases for that month;
 - ii. receipts and appropriate documents for each purchase; and
 - iii. be submitted to the chief financial officer by the fifth (5th) working day.

17.2 Written quotations above R2 000,00 (VAT included) up to R30 000,00 (VAT included)

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

- a. Quotations must be obtained from at least three (3) different providers listed on the accredited prospective provider of the National Treasury central supplier database;
- b. Quotations obtained must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis.
- c. Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within seven (7) working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by bidder must be verified via CSD or e-filing. The Accounting Officer should reject a bid/quote submitted if such bidder fails to provide proof of tax compliance status within the timeframe stated above.
- d. If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer.

18. FORMAL WRITTEN PRICE QUOTATIONS ABOVE R30 000,00 UP TO R200 000,00 (VAT INCLUDED)

18.1 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 (3) different providers whose names appear on the list of accredited prospective providers of the National Treasury central supplier database;
- b. If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer; and
- c. The accounting officer must record the names of the potential providers and their written quotations.

18.2 A designated official referred to in sub-paragraph (1)(c) must within five (5) working 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 sub-paragraph.

19. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN OR VERBAL QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS

19.1 The operational procedure for the procurement of goods or services through written quotations or formal written price quotations, are 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. Detailed specifications for formal written quotations above R30 000,00 must be signed off by the relevant department head for inclusion on the official quotation document before advertisement;
- c. All requirements in excess of R30 000,00 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 18, be advertised for at least seven (7) calendar days on the website and all official notice boards of the municipality;
- d. All quotes received above R30 000,00 (VAT included) are to be placed in the official quotation boxes as designated for each department from time to time.
- e. No late quotations will be accepted or opened after closing date and time;
- f. All acceptable offers above R30 000,00 (VAT included) are subjected to preference points system and be awarded to the bidder with the highest points;
- g. Offers above R30 000 (all applicable taxes included) must be awarded based on compliance with specifications, conditions of contract, ability, capacity and capability to deliver the required goods and/or services and lowest price (as well as unconditional discounts). Refer to paragraph 29 for calculations.
- h. 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;

- a. 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;
- b. Where the recommended supplier is not tax compliant, the supplier should be notified of their non-compliant status and the supplier must be requested to submit to the municipality or municipal entity, within seven (7) working days, written proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by supplier must be verified via CSD or e-filing.
- c. The accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused;
- d. The accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- e. The chief financial officer must set procedures for the procuring of goods and services through written quotations and formal written price quotations and the proper recordkeeping thereof; and
- f. Record of approved specifications, minutes of evaluation and approval memorandums and emails must be kept for audit purposes.

20 COMPETITIVE BIDDING

- 20.1 Goods or services above a transaction value of R200 000,01 (VAT included) and long term contracts (contracts exceeding one (1) year) may only be procured through a competitive bidding process, subject to paragraphs 11(2) of this policy; and
- 20.2 No requirement for goods or services above an estimated transaction value of R200 000,01 (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.

21 PROCESS FOR COMPETITIVE BIDDING

21.1 The procedures for a competitive bidding process are established in part 2 of this Policy for each of the following stages:

- a. The compilation of bidding documentation as per clause 22;
- b. Public invitation of bids as per clause 23;
- c. Site meetings or briefing sessions, if applicable;
- d. The handling of bids submitted in response to public invitation as per clause 24;
- e. The evaluation of bids as per clause 31;
- f. The award of contracts as per clause 32;
- g. The administration of contracts: After approval of a bid, the accounting officer and the bidder must enter into a written agreement;
- h. Proper record keeping; and
- i. Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

21.2 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. In the event of it not being possible to obtain quotations from at least three different providers whose names appear on the list of accredited prospective providers of the municipality, quotations may be obtained from providers who are not so listed, provided that such providers meet the listing criteria set out in paragraph 15 (1)(b) and (c) of this policy and, provided further, that the reasons for obtaining such quotations from the providers concerned must be recorded on the invitation to submit quotations and be approved by the chief financial officer.
- c. The chief financial officer must record the names of potential providers and their written quotations.
- d. In the event of a designated official being required to obtain formal written quotations in terms of this paragraph, that official must, within three days of the end of each month report to the chief financial officer on any action taken or approvals given during that month by that official in terms of subparagraph (b).

22. BID DOCUMENTATION FOR COMPETITIVE BIDS

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

- a. Take into account:
 - i. the general conditions of contract any special conditions of contract if specified;
 - ii. any Treasury guidelines on bid documentation;
 - iii. the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure; and
 - iv. registration on National Treasury central supplier database.
- b. Include the preference points system to be used as contemplated in the Preferential Procurement Regulations, evaluation and adjudication criteria, including any criteria required by the 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 for the past three (3) years; or since their establishment if established during the past three (3) 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 thirty (30) days;
 - iii. particulars of any contracts awarded to the bidder by the municipality during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract; and
 - 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;

- e. Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

22.2 In instances where Dr Beyers Naudé Municipality decide to apply pre-qualifying criteria to advance certain designated groups, the tender must be advertised with specific tendering conditions that only one (1) or more of the following tenderers may respond-

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

22.3 A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

22.4 If feasible to sub-contract for a contract above R30-million to advance designated groups the tender must be advertised with specific tender conditions that the successful tender must sub-contract a minimum of 30% of the value of the contract to –

- a. an EME or QSE;
- b. an EME or QSE which is at least 51% owned by black people;

- c. an EME or QSE which is at least 51% owned by black people
- b. who are youth;
- c. an EME or QSE which is at least 51% owned by black people who are women;
- d. an EME or QSE which is at least 51% owned by black people with disabilities;
- e. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
- f. a cooperative which is at least 51% owned by black people;
- g. an EME or QSE which is at least 51% owned by black people who are military veterans;
- h. more than one of the categories referred to in paragraphs (a) to (h).

22.5 The municipality must make available the list of all suppliers registered on a database approved by National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub-regulation (2) from which the tenderer must select a supplier.

22.6 A fee as determined from time to time shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality

23. PUBLIC INVITATION FOR COMPETITIVE BIDS

23.1 The procedure for the invitation of competitive bids, are 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, i-Tender, website of CIDB or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin) *and e-tender*; 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 thirty (30) calendar days in the case of transactions over R10-million (VAT included), or which are of a long term nature, or fourteen (14) calendar days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub-paragraph (2);

- ii. a statement that bids may only be submitted on the bid documentation provided by the municipality;
- iii. date, time and venue of any proposed site meetings or mandatory briefing sessions. (If bidder did not attend his bid will not be considered);
- iv. the required CIDB contractor category and grading designation for construction procurement;
- v. a statement that bids will only be considered if it was deposited into the bid box indicated in the bid invitation;
- vi. the period for which bids are to be valid and binding must be indicated in the bid invitation;
- vii. the notice shall state that all bids must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted;
- viii. an indication as when stipulated minimum threshold for local production and content is applicable; and
- ix. an indication as and when only local bidders will be considered if applicable.

23.2 Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies which must reach the accounting officer before the closing time for the receipt of bids on the bid closing date as stipulated in the invitation to bid.

23.3 The municipality must also comply with the applicable provisions of the Standard for Uniformity in Construction Procurement contained in Board Notice No. 86 of 2010 issued by the Construction Industry Development Board and any associated amended Standard insofar as such provisions relate to the invitation of bids.

23.4 The accounting officer may determine a closure date for the submission of bids which is less than the thirty (30) or fourteen (14) calendar 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.

23.5 Amendments before the closing date:

The municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing, provided that such amendments or extensions are advertised and/or that all bidders whom bid documents have been issued, are advised in writing per e-mail or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, officials and authorized service providers issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

23.6 Pre-qualifying criteria must be stipulated in the advertisement.

23.7 Provisioning of copy/printed tax certificate or tax compliance status pin and duration of bid validity period must be stipulated in the advertisement.

24. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

24.1 The opening of tenders committee will consist of:

- a. SCM Accountant
- b. Relevant responsible official from directorate
- c. SCM Buyer

24.2 The procedures for the submission of bids are:

1. Bids must be submitted before the closing time, at the address and in accordance with the directives in the bid documents.
2. Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid/Offer issued with the bid documents.
3. The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope.
4. The envelope may not contain documents relating to any bid other than that shown on the envelope.
5. Only sealed bids will be accepted.
6. The municipality may accept tenders where envelopes have been inadvertently

marked with the name of the bidder.

7. The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.
8. Postal bids will not be accepted for consideration, nor shall proof of posting or proof of delivery be accepted as proof that bids were delivered if received after the closing date of bid.
9. No bids forwarded by telegram, facsimile or similar apparatus shall be considered unless stated otherwise in tender document.
10. Electronic bids will not be accepted.
11. The bidder shall choose a *domicilium citandi et executandi* in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.
12. No person may amend or tamper with any bids or quotations after their submission.
13. Bids -
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the published closing time or period for the submission of bids; and
 - (iii) received after the published closing time or period should not be considered and be returned to the bidder, unopened, immediately.
14. The names of the bidders who submitted, the bids must be read out with the total bidding price; and
15. Any bidder or member of the public has the right to request that the names of the bidders who submitted responsive bids before the closing time or period be read out and, if practical, also each bidder's total bidding price;
16. No information, except the information referred to in subparagraph (13), relating to a bid should be disclosed to bidders or other persons until the successful bidder is notified of the award of the relevant bid; and
17. The designated official opening received bids must -

- (i) record in a register to be provided for this purposes, all bids received before the closing time or period for the submission of same;
 - (ii) make the aforesaid register available for public inspection during the normal office hours of the municipality; and
 - (iii) publish the entries in the aforesaid register and the bid results on the website of the municipality.
18. Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open (in which case the municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.
19. Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out.
20. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open.
21. If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.
22. The accounting officer must:
- i. record in a register all bids received in time;
 - ii. make the register available for public inspection;
 - iii. publish the entries in the register and the bid results on the website.

24.3 Stamping of bids and reading out of names:

- a. As each bid is opened the name of the bidder and the amount, if practical, shall be read out.
- b. Bids opened shall be checked for compliance with mandatory documents.
- c. An official shall date-stamp and endorsed with the opening officials signature and

endorsed with the opening the bid or quotation and all enclosures related to prices, delivery periods and special conditions.

- d. Bids and quotations shall be numbered in the sequence in which they have been opened and the words "*and last*" shall be endorsed on the last bid or quotation.
- e. In instances where only one (1) bid has been received the words "*and only*" shall be endorsed such bid.
- f. Where prices have not been inserted in all relevant spaces on the form and such items have not been deleted by bidders, such spaces shall be stamped "*no price*" by the employee who opens the bid or quotations and the name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose.

24.4 Late bids:

- a. A bid is late if it is not placed in the relevant bid box by the closing time.
- b. Bids or quotations arriving after the specified closing time shall not be considered and where practicable and cost effective shall be returned to the bidder unopened with a letter explaining the circumstances.
- c. Where it is necessary to open a late bid or quotation to obtain the name and address of the sender, each page of the document shall be stamped "*late bid*" before the bid is returned to the bidder.
- d. The envelope must be stamped and initialled in like manner and must be retained for record purposes.

24.5 No councillor of any municipality may be present at the opening of bids.

24.6 Extension of validity periods

- 1. The period for which bids are to remain valid and binding must be indicated in the bid documents. For goods and services as well as infrastructure projects the validity period is ninety (90) calendar days.
- 2. Extensions must be done prior to the expiry date of the bid validity period.
- 3. When validity lapses the contractual obligation that the bidder accepted on signing the relevant bid documentation falls away, therefore when a bid expires there is nothing to

extend. The bid cannot be evaluated further and it must be cancelled and re-advertised, when applicable.

4. Reasons for extensions of bid must be investigated.
5. Extensions must be granted based on good reasons and must be approved by the accounting officer.
6. All bidders must be notified in writing and submit their intentions to abide by the terms and conditions and participate further in the bid.
7. Only those bidders who agree to the extension will be evaluated.
8. Extension for validity period can be obtained for the extended period not exceeding sixty (60) calendar days for goods and services as well as for infrastructure projects.
9. Once an extension is granted, proper planning has to be done to ensure that the process of evaluation and awarding bids is carried out before the expiry of a bid validity period.
10. Should the validity period expire on a Sunday, Saturday or public holiday, the bid must be remain valid and open for acceptance until the closure on the following working day.

24.7 SAMPLES

1. Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents by no later than the closing time of the bid.
2. Bids may not be included in parcels containing samples.
3. If samples are not submitted as required in the bid documents, then the bid concerned may be declared invalid.
4. Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.
5. If a bid is accepted for the supply of goods according to a sample submitted by the

bidder, that sample will become the contract sample.

6. All goods/materials supplied shall comply in all respects to that contract sample.
7. Where the closing date of a bid or quotation is extended, bids or quotations already received, will be retained unopened in the bidding box and be duly considered after the expiry of the extended period, unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.

25. NEGOTIATIONS WITH PREFERRED BIDDERS AND COMMUNICATIONS RE PROSPECTIVE PROCESS AND BIDDERS

- 25.1 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;
 - (c) does not lead to a higher price than the bid as submitted;
 - (d) does not lead to a lower price in respect of the sale of land/goods; and
 - (e) will not be contrary to any legal requirement or amount to a prohibited or collusive practice.
- 25.2 Minutes of such negotiations must be kept for record and audit purposes and as far as possible be made part of the final contract.
- 25.3 Where bids and/or quotations have been submitted to the municipality, a bidder may not communicate with any councillor or official on any matter regarding his/her bid, quotation or offer other than a notice of withdrawal.
- 25.4 No municipal employee may communicate with a bidder or any other party who has an interest in a bid or quotation during the period between the closing date for the receipt of the bid and the date of notification to successful bidder of acceptance of his/her bid, quotation or offer except as provided for in paragraph 25.4 below. Every such case of unauthorized communication shall forthwith be reported to the accounting officer as well as the chairperson of BAC.
- 25.5 A bid or quotation in respect of which unauthorized communication has occurred may

be disqualified.

25.6 The accounting officer may authorize an employee, in writing, to communicate with a bidder during the period mentioned in subsection 25.4 above for the purpose of:

- a. Obtaining an explaining and verification of declaration made in the bid response
- b. Confirming technical particulars and the compliance thereof with specifications;
- c. Clarifying delivery times/quantities;
- d. Extending the validity period of a bid;
- e. Clarifying any other commercial aspect; and
- f. For the submission of substantiating documents.

25.7 Where authority has been granted to communicate with bidders in terms of paragraph 25.6 it should be clearly stated in the submission to the bid adjudication committee the nature of the communication as well as by whom such authority to communicate has been granted.

25.8 A bid will not be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening and shall be deemed to be the bid amount.

26. Two-stage bidding process

26.1 A two-stage bidding process is permissible 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.

26.2 In a two-stage (prequalification) bidding process, bidders are first invited to pre-qualify in terms of predetermined criteria, without being required to submit detailed technical

proposals (where applicable) or a financial offer.

26.3 In the second stage, all bidders that qualify in terms of the predetermined criteria will be shortlisted and invited to submit final technical proposals (where applicable) and/or a financial offer.

26.4 The notice inviting bidders to pre-qualify must comply with the provisions of public invitation for competitive bids.

27. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

27.1 A committee system for competitive bids shall be 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;

27.2 The accounting officer shall, in writing, appoint the members of each committee in respect of each competitive bid invitation, taking into account the provisions of section 117 of the Act in terms of which no councillor may be a member of any such committee or attend any of its meetings as an observer.

27.3 The accounting officer is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.

27.4 The accounting officer may, in appropriate cases and in his sole discretion, apply the committee system to formal written price quotations.

28. BID SPECIFICATION COMMITTEES

28.1 The bid specification committee must compile the specifications for procurement of goods or services by the municipality and ensure that:

- a. the draft tender document meets the supply chain management and contract management requirements;

- b. the functionality points meet the minimum requirements as prescribed;
- c. the applicable pre-qualification criteria are included in the draft tender document;
- d. correct preference point system is utilized;
- e. the advert meets the minimum requirements;
- f. local content, where applicable has been included in tender document as well as advert;
- g. BBBEE status level certificate is included;
- h. sub-contracting as a condition of tender for procurement above R30-million, where feasible, has been included; and
- i. determine briefing meeting and closure for submission of bids.

28.2 The bid specification committee must be composed of the following:

- a. a delegated supply chain management practitioner as chairperson;
- b. the project manager/ line manager responsible for the function or project for whom the bid is called; and
- c. any other official delegated by supply chain or the relevant directorate; and
- d. may, when appropriate, include external specialist advisors.

28.3 No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

28.4 Bid specifications may only be completed and advertised if sufficient budgetary provision was approved on the annual budget.

28.5 Bid specification committee meetings must be conducted in accordance with the applicable rules of order.

28.6 Where a bid specification is compiled with due regard to the findings and recommendations contained in a prior, associated feasibility study, the person, advisor or corporate entity who or which prepared the said feasibility study may be prohibited from bidding for the resulting contracts in circumstances where such person, advisor or corporate entity may obtain an unfair advantage or where a conflict of interest may arise.

28.7 A specification referred to in this paragraph must be approved by the accounting officer in writing prior to publication of the invitation for bids in terms of paragraph 23.

29. SPECIFICATIONS

29.1 General Requirements

Specifications -

- a. must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services to the municipality;
- b. must take into account any accepted standards such as those issued by Standards South Africa, the International Standards Organization or an authority accredited or recognized 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 labelling 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, 2017:
 - i 80/20 preference point system for the acquisition of goods or services for Rand value equal to or above R30 000,00 up to R50-million; and
 - ii 90/10 preference point system for acquisition of goods or services for Rand value above R50-million.
- g. Must be approved by the accounting officer or relevant delegated official prior to publication of the invitation for bids in terms of paragraph 23 of this policy.

29.2 Functionality

Where functionality is utilized as an evaluation criterion, specifications must clearly specify:

1. the evaluation criteria for measuring functionality which criteria must be objective, the weight of each criterion, the applicable values and the minimum qualifying score for functionality; and
2. the fact that no tender will be regarded as an acceptable tender if it fails to achieve the minimum qualifying score for functionality as indicated in the tender specification concerned; and
3. that tenders that have achieved the minimum qualification score for functionality will be evaluated further in terms of the preference point systems referred to in subparagraphs 29.3 and 29.4 below.

29.3 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million

1. The following formula must be used to calculate the points out of 80 for price in respect of a tender with a Rand value equal to or above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

$$P_s = 80 \left[1 - \frac{P_t - P_{min}}{P_{min}} \right]$$

Where:

P_s = Points scored for comparative price of tender or offer under consideration;

P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

a) When quotations/bids are received from either suppliers, contractors or service providers and at least one of those bidders are not registered for value added tax the following will apply:

- i. The quotation prices will be evaluated exclusive of Value Added Tax
- ii. The above mentioned will solely be used for comparative and evaluation purposes.

2. The following table must be used to calculate the score out of 20 for BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

OR

In respect of Exempted Micro Enterprises (EME's)

Black Ownership of EME	Deemed B-BBEE Status Level of Contributor	Number of Preference Points
100%	1	20
At least 51%	2	18
Less than 51%	4	12

3. A tenderer must submit proof of its B-BBEE status level of contributor.
4. A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
 - (a) may only score points out of 80 for price; and
 - (b) scores 0 points out of 20 for B-BBEE.

5. A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends sub-contracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
6. The points scored by a tenderer for B-BBEE in terms of sub-paragraph 5, must be added to the points scored for price under sub-sub-paragraph 1.
7. The points scored must be rounded off to the nearest two decimal places.
8. Subject to sub-paragraph 9 and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
9. (a) If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.
- (b) The municipality may-
 - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed, the municipality must cancel the tender.

29.4 90/10 Preference Points System acquisition of goods or services with Rand value above R50 million

1. The following formula must be used to calculate the points out of 90 for price in respect of a tender with a Rand value above R50 million, inclusive of all applicable taxes:

$$P_s = 90 - \frac{P_t - P_{min}}{P_{min}}$$

Where:

P_s = Points scored for comparative price of tender or offer under consideration;

P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

2. The following table must be used to calculate the points out of 10 for BBEE:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

Or, in respect of Exempted Micro Enterprises (EME's)

Black Ownership of EME	Deemed B-BBEE Status Level of Contributor	Number of Preference Points
100%	1	10
At least 51%	2	9
Less than 51%	4	5

3. A tenderer must submit proof of its B-BBEE status level of contributor.

4. A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but-
 - i. may only score points out of 90 for price; and
 - ii. scores 0 points out of 10 for B-BBEE.
5. A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends sub-contracting more than 30% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the sub-contract.
6. The points scored by a tenderer for B-BBEE contribution must be added to the points scored for price.
7. The points scored must be rounded off to the nearest two decimal places.
8. The contract must be awarded to the tenderer scoring the highest points.
9. (a) If the price offered by a tenderer scoring the highest points is not market related, the municipality may not award the contract to that tenderer.

(b) The municipality may-
 - i. negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - ii. if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - iii. if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
(c) If a market-related price is not agreed, the municipality must cancel the tender.

29.5 Local Production and Content

1. The Department of Trade and Industry may, in consultation with the National Treasury-

- (a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
 - (b) stipulate a minimum threshold for local production and content.
- 2. The municipality must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
- 3. The National Treasury must inform organs of state of any designation made in terms of 29.5.1 through a circular.
- 4. If there is no designated sector, the municipality may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- 5. The threshold referred to in sub-paragraph 2 must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.
- 6. A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.
- 7. Where necessary, bid specifications for tenders referred to in sub-paragraph 1 may state that a two- stage tendering process will be followed, where the first stage will involve functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short listed tenderers with a view to effecting cost savings in circumstances where the tendered prices are obviously inflated or to ensure the award of the tender concerned within budgetary constraints provided that, where such negotiations take place, the principles contained in paragraph 25.1 of this policy shall be applied.
- 8. Any tender specification issued in terms of this subparagraph must be capable of being

measured and audited.

29.6 B-BBEE status level certificates and scorecards

Bid specifications must state that:

- i. Those tenderers who qualify as Exempted Micro Enterprises (EME's) in terms of the Broad-Based Black Economic Empowerment Act, must submit, together with their tender, a certificate to this effect issued by a registered auditor, accounting officer (as contemplated in section 60(4) of the Close Corporations Act, 1984 (Act No. 69 of 1984)) or an accredited verification agency provided that a certificate issued by an Accounting Officer of a closed corporation must be on his letterhead which should also contain his practice number and contact number clearly specified on the face of such certificate, tenderers may also submit a sworn affidavit for B-BBEE Exempted Micro Enterprises signed by a commissioner of oaths.
- ii. Tenderers other than Exempted Micro-Enterprises (EME's) must submit, with their tender, their original and valid B-BBEE Status Level Verification Certificate complying at least with the provisions subparagraphs (v) and (vi), or a certified copy thereof, in support of their B-BBEE rating.
- iii. A trust, consortium or joint venture will qualify for points for its B-BBEE status level as a legal entity, provided it submits its B-BBEE Status Level Verification Certificate with its tender.
- iv. A trust, consortium or joint venture will qualify for points for its B-BBEE status level as an unincorporated entity, provided that it submits its consolidated B-BBEE scorecard as if were a group structure and, provided further, that such a consolidated B-BBEE scorecard is prepared for every separate tender.
- v. As a minimum requirement, all valid B-BBEE Status Level Verification Certificates should have the following information detailed on the face of the certificate:
 - a) The name and physical location of the measured entity;
 - b) The registration number and, where applicable, the VAT number of the measured entity;
 - c) The date of issue and date of expiry;

- d) The certificate number for identification and reference;
 - e) The scorecard that was used (for example EME, QSE or Generic);
 - f) The name and / or logo of the Verification Agency;
 - g) The SANAS logo;
 - h) The signature of the authorized person from the Verification Agency concerned;
and
 - i) The B-BBEE Status Level of Contribution obtained by the measured entity.
- vi. The format and content of B-BBEE Status Level Verification Certificates issued by registered auditors approved by the Independent Regulatory Board of Auditors (IRBA) must -
1. Clearly identify the B-BBEE approved registered auditor by the auditor's individual registration number with IRBA and the auditor's logo;
 2. Clearly record an approved B-BBEE Verification Certificate identification reference in the format required by the SANAS;
 3. Reflect relevant information regarding the identity and location of the measured entity;
 4. Identify the Codes of Good Practice or relevant Sector Codes applied in the determination of the scores;
 5. Record the weighting points (scores) attained by the measured entity for each scorecard element, where applicable, and the measured entity's overall B-BBEE Status Level of Contribution;
 6. Reflect that the B-BBEE Verification Certificate and accompanying assurance report issued to the measured entity is valid for 12 months from the date of issuance;
 7. Reflect both the issuance and expiry date of the Verification Certificate.

29.7 Additional Conditions

A bid specification must include a reference to the following additional conditions, where applicable:

29.7.1 Sub-contracting as condition of tender

1. If feasible to subcontract for a contract above R30 million, the municipality must apply subcontracting to advance designated groups.
2. If the municipality applies subcontracting as contemplated in sub-paragraph 1, the municipality must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
 - (a) an EME or QSE;
 - (b) an EME or QSE which is at least 51% owned by black people;
 - (c) an EME or QSE which is at least 51% owned by black people who are youth;
 - (d) an EME or QSE which is at least 51% owned by black people who are women;
 - (e) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (f) an EME or QSE which is 51% owned by black people living in rural or under-developed areas or townships;
 - (g) a cooperative which is at least 51% owned by black people;
 - (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
 - (i) more than one of the categories referred to in paragraphs (a) to (h).
3. The municipality must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub-paragraph 2 from which the tenderer must select a supplier.
4. A person will not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 30% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
5. A person awarded a contract may not sub-contract more than 30% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.

6. A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

29.7.2 Sub-contracting after award of tender

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

29.7.3 Specific goals

- a. In terms of section 11 of the Preferential Procurement Regulations, 2017 a contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with section 2(1)(f) of the Preferential Procurement Policy Framework Act No. 5 of 2000 and para 29.7.5 of this Policy.
- b. In the application of section 2 (1)(f) of the aforesaid Act, the accounting officer may explicitly determine in any bid specification that a tenderer shall be required to attain a specific goal or goals *other* than and excluding the goals of contracting with historically disadvantaged persons and implementing Reconstruction and Development Programmes in order to qualify for the award of a contract.

29.7.4 Criteria for breaking deadlock in scoring

1. If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
2. If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to

the tenderer that scored the highest points for functionality.

3. If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

29.7.5 Award of contracts to tenderers not scoring highest points

1. A contract may be awarded to a tenderer that did not score the highest points only in accordance with section 2(1)(f) of the Act.
2. If the municipality intends to apply objective criteria in terms of section 2(1)(f) of the Act, the municipality must stipulate the objective criteria in the tender documents.

29.7.6 Cancellation of tender

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

29.8 Miscellaneous Special Conditions of Contract

A bid specification must, inter alia, include the following conditions as Special Conditions of Contract:

29.8.1 General

- a. Only a tender where the tenderer has completed and signed the declaration part of the tender documentation may be considered;

- b. When comparative prices must be calculated, any discounts which have been offered unconditionally will be taken into account;
- c. A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a tenderer in respect of an accepted tender is effected.

29.8.2 Declarations

A tenderer must -

- (i) declare that the information provided in a tender document is true and correct;
- (ii) declare that the signatory to a tender document is duly authorised; and
- (iii) undertake to submit documentary proof regarding any tendering issue when required to the satisfaction of the municipality.

29.8.3 Remedies

1. In addition to the action contemplated in paragraph 41 of this policy which shall be read in conjunction with this subparagraph upon detecting that a tenderer submitted false information regarding its BBBEE status level, local production and content, or any other matter required in terms of the PP Regulations 2017 which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the municipality must-

(a) inform the tenderer accordingly;

(b) give the tenderer an opportunity to make representations within 14 days as to why-

- i. the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
- ii. if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and

- iii. the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
 - (c) if it concludes, after considering the representations referred to, that-
 - i. such false information was submitted by the tenderer-
 - aa. disqualify the tenderer or terminate the contract in whole or in part; and
 - bb. if applicable, claim damages from the tenderer; or
 - ii. the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.
- 2. The municipality must-
 - (a) inform the National Treasury, in writing, of any actions taken in terms of sub-paragraph (1);
 - (b) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
 - (c) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
- 3. The National Treasury may request the municipality to submit further information pertaining to sub-paragraph (1) within a specified period.
- 4. The National Treasury must-
 - (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
 - (b) maintain and publish on its official website a list of restricted suppliers.
- 5. The municipality may refer any fraudulent action on the part of a tenderer or contractor or any party aforesaid to the South African Police Services with a view to criminal prosecution.

30. PROCUREMENT FROM TERTIARY INSTITUTIONS

- a. Where the municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process with the identified tertiary institutions.
- b. Tertiary institutions referred to in subparagraph (a) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- c. Should the municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor will be done by means of a tendering process.
- d. Public entities must be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
- e. For purposes of this paragraph, a tendering process includes a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals.

31. RE-INVITATION OF TENDERS

The accounting officer must re-invite tenders cancelled in terms of paragraph 29 and must, in the new tender documents, stipulate the correct preference point system to be applied.

32. BID EVALUATION COMMITTEES

- 32.1 The municipal manager, or his delegated authority, shall, taking into account section 117 of the MFMA, appoint the members and Chairperson of the bid evaluation committee.
- 32.2 The bid evaluation committee must, as far as possible, be composed of-
 - (a) officials from the department requiring the goods or services;

- (b) the project manager/ responsible manager of the relevant project or function; and
- (c) at least one supply chain management practitioner of the municipality.

32.3 Bid evaluation committee meetings must be conducted in accordance with the applicable rules of order regulating the conduct of meetings.

32.4 A bid evaluation committee must -

- a. evaluate bids in accordance with the pre-qualification criteria and bid specifications;
- b. Evaluate each bidder's ability to execute the contract;
- c. Where consultants or agents were tasked with the invitation of bids the responsible consultant or agent shall carry out a preliminary evaluation of all valid bids received and shall submit a draft bid evaluation report to the bid evaluation committee for consideration;
- d. Where bids are invited on the basis of functionality as a criterion, they must be evaluated in the following two stages:

32.4.1 First stage - evaluation of functionality

- a. bids must be evaluated in terms of the evaluation criteria embodied in the bid specification. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardize the fairness of the process;
- b. a bid will be considered further if it achieves the prescribed minimum qualifying score for functionality;
- c. bids that fail to achieve the minimum qualifying score for functionality must be disqualified;
- d. score sheets should be prepared and provided to panel members to evaluate the bids;
- e. a score sheet should contain all the criteria and the weight for each criterion as well as the values to be applied for evaluation as indicated in the bid specification;

- f. each panel member should, after thorough evaluation, independently award his own value to each individual criterion;
- g. score sheets should be signed by panel members and if necessary, a written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist provided that if the minimum qualifying score for functionality is indicated as a percentage in the bid specification, the percentage scored for functionality may be calculated as follows:
 - i. the value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
 - ii. the scores for each criterion should be added to obtain the total score; and
 - iii. the following formula should be used to convert the total score to percentage for functionality:

$$Ps = \frac{So}{Ms} \times 100$$

Where: Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

- h. the percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

32.4.2 Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

- a) Only bids that achieve the minimum qualifying score / percentage for functionality must be evaluated further in accordance with the bid specification.
- b) Evaluate bids based on a stipulated minimum threshold for **local production and content** as required in the relevant bid specification in the following two stages:

32.4.3 First stage – Evaluation in terms of the stipulated minimum threshold for local production and content

- a. Bids must be evaluated in terms of the evaluation criteria stipulated in the bid specification. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardize the fairness of the process;
- b. a bid must be disqualified if:
 - i. the bidder fails to achieve the stipulated minimum threshold for local production and content; and
 - ii. the Declaration Certificate for Local Content (Form MBD 6.2) is not submitted as part of the bid;

32.5 Calculate the local content (LC) as a percentage of the bid price in accordance with the SABS approved technical specification number SATS 1286: 201x;

32.6 Verify the accuracy of the rates of exchange quoted by the bidder in the paragraph of the Declaration Certificate for Local Content (Form MBD 6.2)

32.6.1.1 Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

- a) only bids that achieve the minimum stipulated threshold for local production and content must be evaluated further in accordance with the relevant preference point system referred to in the bid specification;
- b) where appropriate, prices may be negotiated only with short listed or preferred bidders. Such negotiations must, however, not prejudice any other bidders;
- c) verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s)) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended

bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector.

- d) Once the tender achieves the prescribed minimum qualifying score for functionality, the stipulated minimum threshold for local production and content must be evaluated, if applicable and if a tender fails to achieve the stipulated minimum threshold for local production and content, the bid is disqualified;
- e) Only qualifying bids after functionality, prequalification and local production and content is then evaluated on the preference point system.

32.6.1.2 Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears;

32.6.1.3 Any evaluation of a bid shall consider the bids received and shall note for inclusion in the evaluation report to the adjudication committee, a bidder:

- i. Whose bid was endorsed as being invalid by the responsible official at the bid opening;
- ii. Bid does not comply with the provisions for combating abuse of this policy (section 43 of this policy);
- iii. Whose bid does not comply with the general conditions applicable to bids and quotations of this policy;
- iv. Whose bid is not in compliance with the specifications;
- v. Whose bid is not in compliance with the terms and conditions of the bid documentation;
- vi. Whose bid does not comply with any minimum goals stipulated in terms of the preferential procurement section of this policy;
- vii. Who is not registered and verified on the municipality's supplier database. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;
- viii. Who, in the case of construction works acquisitions, does not comply with the requirements of the Construction Industry Development Board Act regarding registration of contractors;
- ix. Whose tax status is non-compliant on the National Treasury central database on closing date of the bid; and
- x. Who fails to comply with any applicable Bargaining Council agreements.

32.7 A contract must be awarded to:

32.7.1 the bidder who scored the highest total number of points in terms of the preference points systems referred to in paragraphs 29(3.3) and 29(4.3) as may be applicable; and

32.7.2 in exceptional circumstances and as provided in paragraph 29(7.2) of this policy, a contract may be awarded to a bidder that did not score the highest number of points provided that the reasons for such a recommendation must be recorded for audit purposes and be defensible in a court of law.

32.8 The bid evaluation committee shall, having considered the responsible agent's draft report, submit a report, including recommendations regarding the award of the bid or any other related matter, to the bid adjudication committee for award.

33. BID ADJUDICATION COMMITTEES

33.1 A bid adjudication committee must consist of at least five members which must include-

- a. the Chief Financial Officer (Chairperson);
- b. Directors of the municipality;
- c. Technical expert in the relevant field who is an official of the municipality who can provide clarity and explanations of difficult technical aspects relating to the bid being adjudicated;
- d. The SCM Manager;

33.2 The accounting officer must appoint in writing the Chief Financial Officer as chairperson of the committee.

33.3 A quorum for the adjudication committee shall be three (3) members.

33.4 In the event of an equally of votes the chairperson shall have the casting vote over and above a deliberate vote.

33.5 Neither a member of a bid evaluation committee, nor an advisor or person assisting

the evaluation committee, may be a voting member of a bid adjudication committee.

33.6 Bid adjudication committee meetings must be conducted in accordance with the applicable rules of order regulating the conduct of meetings.

33.7 A bid adjudication committee must –

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

33.8 No tender may be awarded:

- a. If the tenderer's tax matters have not been declared by SARS to be in order;
- b. To a person who is in the service of the state;
- c. To a person of which any director, manager, principal shareholder or stakeholder is a person in the service of state;
- d. To an advisor or consultant contracted with the municipality
- e. If the tenderer did not furnish the municipality with his full name, identification number or company any other registration number or tax reference number and VAT registration number if any;
- f. To a tenderer who has failed to declare whether he/she has been in the service of the state in the previous twelve (12) months or if not a natural person, any of its directors, managers, principal, shareholders, or stakeholders has been in the service of the state or whether a spouse, child or parent of the tenderer or directors, managers, principal, shareholder, has been in the service of the state in the previous twelve (12) months;
- g. To a bidder who is on the National Treasury registered list for forbidden bidders;
- h. To a bidder whose municipal rates and taxes are in arrears for more than three (3)

months;

- i. To a bidder or any of its directors has committed a corrupt or fraudulent act;
- j. To a bidder that has been convicted for fraudulent or corrupt during the past five (5) years.

33.9 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 -

- (a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
- (b) notify the accounting officer.

33.10 The accounting officer may -

- (a) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in subparagraph 33.7; and
- (b) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

33.11 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.

33.12 The accounting officer must comply with section 114 of the Act within 10 working days.

33.13 If a tender other than the one recommended in the normal course of implementing this policy is approved, the accounting officer must notify the Auditor-General and both the National Treasury and the Eastern Cape Provincial Treasury of the reasons for deviating from such recommendation.

34 EXTENSION OR EXPANSION OF VARIATION ORDER AGAINST THE ORIGINAL

CONTRACT

- 34.1 It is recognized that in exceptional cases, an accounting officer may deem it necessary to expand or vary orders against the original contract.
- 34.2 In order to mitigate the risk to abuse the supply chain management system the following thresholds will apply:
- a. Contracts may be expanded or varied by not more than 20% of the original contract or R20-million (including all applicable taxes) for construction related goods, works and/or services whichever is the lower amount;
 - b. Contracts may be expanded or varied by not more than 15% of the original contract value or R15-million (including all applicable taxes for all other goods and/or services whichever is the lower amount; and
 - c. The period of extension of a contract may not exceed a period of more than twelve (12) months.
- 34.3 Once approved by the accounting officer to allow an expansion or variation order a report must be submitted to the bid evaluation committee to consider the following:
- a. sufficient funding on the budget; and
 - b. bidder comply with supply chain management requirements in terms of the expansion or variation.
- 34.4 The bid evaluation committee must then make recommendations to the bid adjudication committee to approve the expansions or variation order.
- 34.5 The bid adjudication committee must consider the recommendations by the evaluation committee and approve the expansion or variation order in terms of the delegations framework for supply chain management.

35 PROCUREMENT OF BANKING SERVICES

- 35.1 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.
- 35.2 The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 35.3 The closing 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.
- 35.4 Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

36 PROCUREMENT OF IT RELATED GOODS OR SERVICES

- 36.1 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.
- 36.2 Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 36.3 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).
- 36.4 If SITA comments on the submission and the municipality does not agree 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 Eastern Cape Provincial Treasury and the Auditor-General.

37. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

- 37.1 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.

37.2 Subparagraphs 37.1(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.

37.3 The evaluation committee must consider the following documents of the other organ of state but not limited when the bid is evaluated:

- a. Consent letter from organ of state;
- b. Tender closing register;
- c. Copy of tender documents;
- d. Approved tender specifications;
- e. Tender evaluation report;
- f. Tender adjudication report; and
- g. Appointment letter to service provider.

37.4 Municipalities may participate in a transversal term contract facilitated by National Treasury, relevant treasury. When considering to participate in a transversal contract the following will apply:

- a. Confirm the transversal contract meets the directive of supply chain management regulation 32(1)(a) to (d);
- b. Submit an application to National Treasury on the transversal term contracts participation template;
- c. Ensure adequate budgets for the transversal term contract is available;
- d. Ensure transversal term contract meets the technical specifications and quantities of the department;
- e. Obtain transversal term contract from National Treasury;

- f. Submit report to bid evaluation for recommendation to bid adjudication;
- g. Approval by bid adjudication to utilize transversal term contract according to the supply chain delegations.

38. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

- 38.1 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; and
- 38.2 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.

39 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 as per council's preferential procurement policy.

40 APPOINTMENT OF CONSULTANTS

- 40.1 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.
- 40.2 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.
- 40.3 In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of -
 - a. all consultancy services provided to the municipality in the last five years; and
 - b. any similar consultancy services provided to the municipality in the last five years.
- 40.4 The accounting officer must ensure that copyright in any document produced, and the

patent rights or ownership in any plant, machinery, thing, system or process designed or devised by a consultant in the course of the consultancy service is vested in the municipality.

41. DEVIATION FROM, AND RATIFICATION OF MINOR BREACHES OF, PROCUREMENT PROCESSES

41.1 The accounting officer may –

a. after consultation with the chief financial officer, dispense with the official procurement processes established by this policy and procure any required goods or services through any convenient process, which may include direct negotiations, but only -

- (i) in an emergency;
- (ii) if such goods or services are produced or available from a single provider only;
- (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
- (iv) 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 including, but not limited to:
 - 1. Ad hoc repairs to plant and equipment (strip and quote) where it is not possible to ascertain the nature or extent of the work required;
 - 2. Any contract relating to the publication of notices and advertisements by the municipality where applicable legislation or council policy dictates;
 - 3. The acquisition of accommodation, car rental and air travel for official purposes, subject thereto that the acquisition of such services be dealt with in terms of the applicable council policy;
 - 4. Membership and subscription to preferential bodies and any training provided by such bodies for purposes of achieving the skills

development plan;

5. Attendance of conferences and workshops and

6. Extension of contracts subject to new tender process to be followed.

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;

c. May condone any irregular expenditure incurred in terms of such contravention.

41.2 The accounting officer must record the reasons for any deviations in terms of the subparagraphs above and report them to the next meeting of the municipal council and also include such reasons as a note to the annual financial statements of the municipality.

41.3 Subparagraph 41.2 does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

42 UNSOLICITED BIDS

42.1 An unsolicited bid is a bid that is submitted by a prospective supplier to the municipality without any procurement requirement first having been identified and advertised. This situation arises when a supplier identifies an opportunity to render services or supply products not ordinarily required by the municipality.

42.2 In accordance with section 113 of the Act, there is no obligation upon the municipality to consider unsolicited bids received outside a normal bidding process.

42.3 The accounting officer may decide in terms of section 113 (2) of the Act to consider an unsolicited bid but 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 the municipality or have exceptional cost advantages;
- (c) the person who made the bid is the sole provider of the product or service

concerned; and

- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

42.4 If the accounting officer decides to consider an unsolicited bid that complies with subparagraph 42.3, his 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 on the proposal within 30 days of the publication of the relevant notice.

42.5 The accounting officer must submit all written comments received pursuant to subparagraph 42.4, including any responses from the unsolicited bidder, to the National Treasury and the Eastern Cape Provincial Treasury for comment.

42.6 Subject to sub-paragraphs 42.7 and 42.8 below, the adjudication committee must consider the unsolicited bid and may, depending on its delegations, award the bid or make a recommendation to the accounting officer.

42.7 A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

42.8 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 and the Eastern Cape Provincial Treasury..

42.9 If any recommendations of the National and Eastern Cape Provincial Treasuries are rejected or not followed, the accounting officer must submit to the Auditor-General and

such Treasuries the reasons for rejecting or not following those recommendations.

- 42.10 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.
- 42.11 The processes to be followed by the municipality with regard to the acceptance or rejection of an unsolicited bid shall clearly be made known to the bidder who submits the unsolicited bid concerned.
- 42.12 The council shall exercise caution when interviewing a potential supplier or a person who may wish to offer services to the municipality in circumstance which may be tantamount to the submission of or negotiation with regard to an unsolicited bid and shall not do anything or cause anything to be done which may be contrary to this policy.

43 COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

43.1 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) such 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 wilfully 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).

- 43.2 The accounting officer must inform the National and Provincial Treasuries in writing of any actions taken in terms of subparagraphs 43.1(b)(ii), (e) or (f) above.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

44. 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.

45. DISPOSAL MANAGEMENT

- (1) In terms of section 14 of the Act, the municipality may not transfer ownership as a result of sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
- (2) A municipality may transfer ownership or otherwise dispose of capital asset other than one contemplated in subsection (1), but only after the council, in a meeting open to the public-
 - (a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
 - (b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.
- (3) Assets may be disposed of by -
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.
- (4) The accounting officer must ensure that -
 - (a) when immovable property is sold by means of a competitive bidding process, the highest price offered shall be accepted, provided such price is equal to or higher than the market related price for the relevant immovable property;
 - (b) in other cases, only at a market related price except when the public interest or the plight of the poor demands otherwise in which event the sale price shall be determined in accordance with the applicable land disposal or indigent policy adopted by the council;
 - (c) movable assets are sold either by way of written price quotations, a competitive bidding process or by public auction at the highest offered price, provided such

price is market related;

- (d) 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;
 - (e) immovable property is let at market related rentals except when the public interest or the plight of the poor demands otherwise in which event the rental shall be determined in accordance with the applicable land disposal or indigent support policy adopted by the council;
 - (f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (g) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (h) 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.
- (5) This paragraph must be read with and applied in conjunction with the Municipal Asset Transfer Regulations contained in Government Notice R. 878 of 22 August 2008 and the associated policies adopted by the council. In the event of conflict, the provisions of the aforesaid Regulations shall be applied.

46. RISK MANAGEMENT

- (1) The accounting officer must establish and implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) 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.

47. PERFORMANCE MANAGEMENT

The accounting officer must establish and implement an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the performance objectives linked to and approved with the budget and SDBIP were achieved.

PART 4: OTHER MATTERS

48. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

1. No contract may be awarded or an order issued where the value of such transaction exceeds R15 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.
2. In the case of a partnership, each partner shall comply with the requirements of sub-paragraph 1.
3. No payment shall be made to a contractor who does not satisfy the requirements of sub-paragraph 2.
4. An employee of Dr Beyers Naudé Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.
5. Notwithstanding the requirements of sub-paragraphs 1 and 3, the following shall apply, unless a person who is not tax compliant indicates to the Municipal Manager that it intends

challenging its tax compliance status with SARS,

- a) a contract may be awarded to a non-compliant tenderer if such a tenderer is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
 - b) an order may be awarded to a non-compliant contractor if such a contractor is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
 - c) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
 - d) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
 - e) no payments may be released for any amounts due in terms of the contract due to a noncompliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.
6. The municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued.

49. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

- 49.1 Irrespective of the procurement process followed, no award may be made to a person in terms of this policy if that person is -
- 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.

49.2 The notes to the annual financial statements of the [municipality / municipal entity] shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified in 47.1 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.

50. 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 R2 000 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.

51. ETHICAL STANDARDS

(1) The code of ethical standards annexed to this policy shall apply to all 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 aforesaid 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 or the the applicable provisions of the Disciplinary Regulations for Senior Managers, 2012 as may be applicable;
 - (b) in the case a role player who is not an employee, through other appropriate means with due regard to the severity of the breach;
 - (c) in all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

52. 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 of 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

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 Eastern Cape Provincial Treasury if -
 - (a) the dispute, objection, complaint or query is not resolved within 60 days of lodgment; or
 - (b) no response is forthcoming within 60 days of lodgment.
- (5) If the Eastern Cape Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query concerned 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 competent court for such order as may be just and necessary in the circumstances at any time.

56. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of the 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.

57. CONTRACT MANAGEMENT - ISSUE OF VARIATION ORDERS

- (a) The accounting officer or nominee may, subject to subparagraphs (b) to (d) authorize the issue of variation orders in respect of contract specifications or conditions of contract in order to accommodate costs for additional work either unforeseen when contracts were awarded for infrastructure projects, essential or necessary additional work or in instances where factors beyond the control of an appointed contractor has led to or will lead to a delay in a contract completion date.
- (b) A variation order may only be issued after
 - (i) the need for such order has been fully motivated by the responsible project manager and supported by the head of department concerned; and
 - (ii) the chief financial officer has certified that funds are available to cover the cost the required additional work.
- (c) A request for the issue of a variation order in an amount exceeding R200 000 shall first be referred to the Bid Adjudication Committee which considered the initial bid for approval provided that the accounting officer may constitute a new Bid Adjudication Committee for this purpose.
- (d) No request for a variation order may be approved in circumstance where new bids may be invited for the additional work concerned.
- (e) The line manager responsible for the implementation of a project undertaken either departmentally or through an appointed contractor must keep a proper record of all variation orders issued in respect of a project.
- (f) The original copy of an issued variation order must be filed with the original bid and contract documents;
- (g) The responsible line manager must, upon completion of additional work or the expiry of

any extended contract period authorized by a variation order, certify that the terms and conditions of such variation order have been complied with.

58. APPLICATION OF POLICY TO MUNICIPAL ENTITIES

- (a) The provisions of this policy generally do not apply to municipal entities.
- (c) The supply chain management system of a municipal entity shall be applied with due regard to the provisions of this policy and the Regulations and, in the event of conflict, the provisions of the Regulations shall enjoy preference.

59. FRONTING

- (a) For purposes of this paragraph, "fronting" shall include the under-mentioned acts on the part of a tenderer or any person or party associated with a tenderer:
 - (i) Window-dressing: This includes cases in which black people are appointed or introduced to an enterprise on the basis of tokenism and may subsequently be discouraged or inhibited from substantially participating in the core activities of the enterprise concerned and/or be discouraged or inhibited from substantially participating in the declared areas and/or levels of their participation;
 - (ii) Benefit Diversion: This includes initiatives where the economic benefits received by an organization for having B-BBEE Status do not flow to black people in the ratio specified by law;
 - (iii) Opportunistic Intermediaries: This includes enterprises that have concluded agreements with other enterprises in order to leverage the opportunistic intermediary's favourable B-BBEE status in circumstances where the agreement involves:
 - (a) Significant limitations or restrictions on the identity of the opportunistic intermediary's suppliers, service providers, clients or customers;
 - (b) The maintenance of their business operations in a context reasonably considered improbable having regard to resources; and

- (c) Terms and conditions that are not negotiated at arms-length on a fair and reasonable basis.
- (d) Where the accounting officer detects fronting, he must act against a tenderer concerned in terms of paragraph 29 and, in addition, report such fronting to the Department of Trade and Industry.

60. COMMENCEMENT

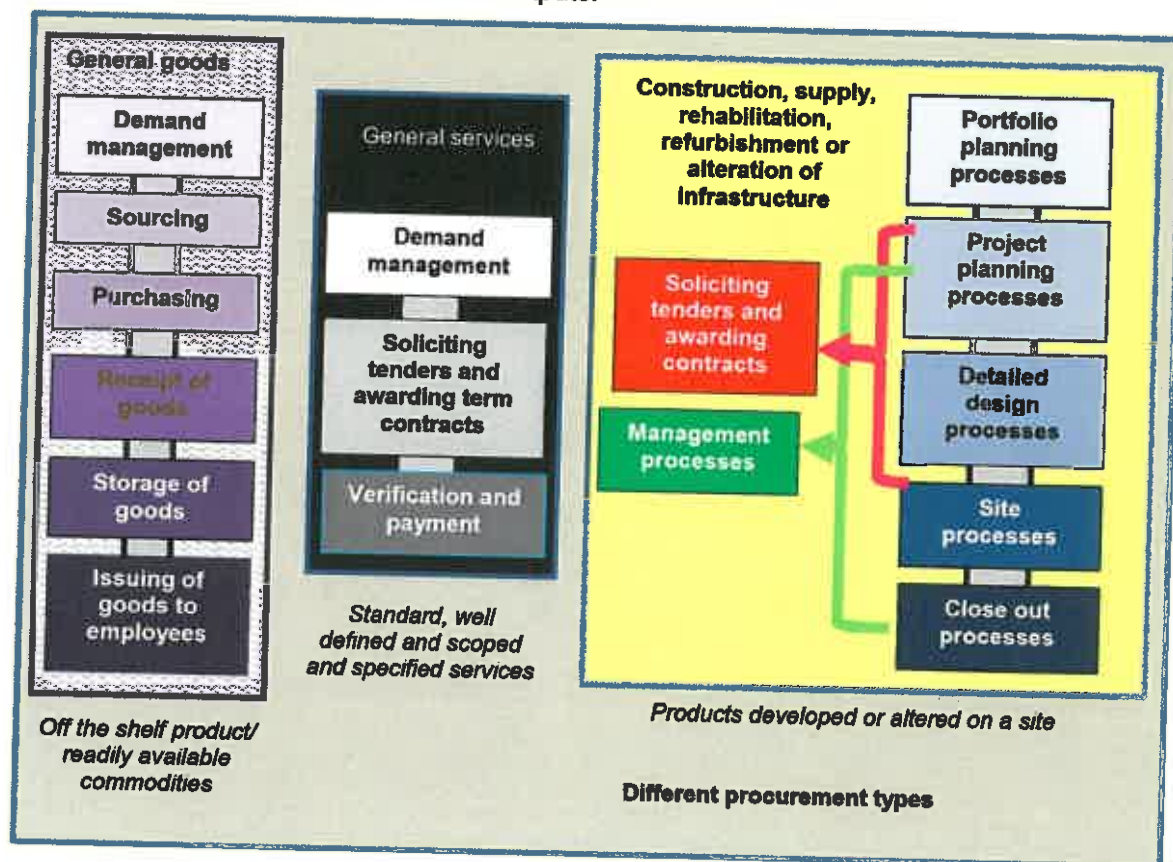
This policy takes effect on 1 July 2018.

DR BEYERS NAUDÉ MUNICIPALITY

SUPPLY CHAIN POLICY FOR INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT 2018

PREFACE

Public procurement that is unrelated to infrastructure delivery typically relates to goods and services that are standard, well-defined and readily scoped and specified. Once purchased, goods invariably need to be taken into storage prior to being issued to employees. Services most often involve routine, repetitive services with well understood interim and final deliverables which do not require strategic inputs or require decisions to be made regarding the fitness for purpose of the service outputs.



In contrast, procurement relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure covers a wide and diverse range of goods and services, which are required to provide or alter the condition of immovable assets on a

site. Accordingly, the procurement process for the delivery of infrastructure involves the initial and subsequent recurring updating of planning processes at a portfolio level flowing out of an assessment of public sector service delivery requirements or business needs. Thereafter it involves planning at a project level and the procurement and management of a network of suppliers, including subcontractors, to produce a product on a site. There is no need to store and issue materials or equipment unless these are issued to employees responsible for the maintenance or operation of infrastructure, or are issued free of charge to contractors for incorporation into the works.

Procurement is the process which creates, manages and fulfils contracts. Procurement deals with activities surrounding contracts. Such processes focus on establishing what is to be procured, developing a procurement strategy, producing procurement documentation, soliciting and evaluating tender offers, awarding of contracts and administering contracts. On the other hand, supply chain management (SCM) is the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods, services or any combination thereof. Supply chains comprise all those public and private entities that are involved in delivering the inputs, outputs and outcomes of projects. Accordingly, supply chain management is concerned with the oversight, co-ordination and monitoring of inputs, outputs and outcomes of projects from the various entities within a supply chain.

Infrastructure is defined as “immovable assets which are acquired, constructed or which results from construction operations or moveable assets which cannot function independently from purpose built immovable assets” while infrastructure delivery is defined as “the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.” Accordingly, infrastructure delivery management contextualises the supply chain management system for infrastructure.

Understandably, there are several overlaps between the supply chain management system for general goods and services and that for infrastructure delivery management. However, the inclusion of control frameworks in the Standard for Infrastructure Procurement and Delivery Management is aimed at expenditure control and a reduction in the gap between what is planned and budget for and what is delivered to ensure that value for money is achieved.

The primary purpose of this document is to embed an infrastructure delivery management system for Dr Beyers Naudé Municipality which is aligned with the regulatory framework for

public sector procurement, supply chain management and expenditure control. It also enables the National Treasury Standard for Infrastructure Procurement and Delivery Management to be implemented.

Dr Beyers Naudé Municipality hereby adopts this SCM Infrastructure Procurement and Delivery Management Policy as Annexure to the SCM Policy.

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1. SCOPE

This policy establishes the Dr Beyers Naudé 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 Dr Beyers Naudé 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.

2. 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” means a person or organization that is not an employee of Dr Beyers Naudé Municipality that acts on the Dr Beyers Naudé Municipality's behalf in the application of this document;

“authorised person” means the municipal manager or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order;

“conflict of interest” means 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” means the person responsible for administering a contract (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” means 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” means 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” means a control point at the end of a process where a decision is required before proceeding to the next process or activity;

“gateway review” means 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” means an inducement to perform an improper act;

“infrastructure delivery” means 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” means the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure;

“maintenance” means 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” means combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use;

“order” means an instruction to provide goods, services or any combination thereof under a framework agreement;

“organ of state” means an organ of state as defined in section 239 of the Constitution of the Republic of South Africa;

“procurement document” means a documentation used to initiate or conclude (or both) a contract or the issuing of an order;

“principal” means 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” means the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury; and

“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

3. GENERAL REQUIREMENTS¹

3.1 Delegations

3.1.1 The Council of Dr Beyers Naudé Municipality hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager 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
- 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 Municipal Manager of Dr Beyers Naudé Municipality².

3.1.3 The Municipal Manager 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 municipality, to the council 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 for submission to the council;

¹ This clause is required to ensure that the standard is linked to the policy and aligned with the MFMA SCM Regulations.
² SCM Regulation 36 of the MFMA permits deviations from, and ratification of minor breaches or procurement processes.

- 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 Dr Beyers Naudé Municipality for submission to the council;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the Mayor/ Executive Mayor (as the case may be); and
- d) 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

3.3 Supervision of the infrastructure delivery management unit⁴

The Infrastructure Delivery Management Unit shall be directly supervised by the [chief financial officer / person delegated in terms of section 82 of the MFMA].

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 Any deviation to the provisions of this standard must be reported to National Treasury and the relevant treasury.

⁴ SCM Regulation 7 which is issued in terms of the MFMA requires each municipality to establish a supply chain management unit to implement its supply chain management policy, which where possible, should operate 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 MFMA. There are benefits in establishing SCM units for general goods and services and infrastructure and to delegate the supervision to a person other than the chief financial officer.

⁵ This clause aligns with SCM Regulation 49 issued in terms of the MFMA.

3.5 Resolution of disputes, objections, complaints and queries⁶

3.5.1 The municipal manager or delegated person 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 municipality's 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 municipal manager 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 [municipal manager / chief executive] 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 [name of applicable 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.

⁶ This clause aligns with SCM Regulation 50 issued in terms of the MFMA.

4. 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.

4.2 Gateway reviews

4.2.1 Gateway reviews for major capital projects above a threshold

4.2.1.1 Municipal Manager 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.

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

All major capital projects having an estimated capital expenditure equal to or above R50 million (VAT inclusive) shall have a gateway review of the end-of-stage 4 deliverable, prior to the acceptance of such deliverable. The focus of such a review shall in the first instance be on the quality of the documentation and thereafter on:

- a) deliverability
- b) affordability
- c) value for money

4.2.1.3 The gateway review team shall comprise not less than three persons who are not involved in the project associated with the works covered by the end of stage 4 deliverable and who are familiar with various aspects of the subject of the deliverable at the end of the stage under review. Such a team shall be led by a person who has at least six years post-graduate experience in the planning of infrastructure projects and

⁷ This clause is required to ensure compliance with the requirements of the standard.

⁸ The terms "approve" and "accept" have the meanings "officially agree to" and "receive as adequate, valid, or suitable give an affirmative answer to a proposal", respectively. Approvals will typically take place at a senior management level whilst acceptances can be made at a lower level. Approvals and acceptances can be granted by individuals or committees. Where a municipality or municipal entity implements a project on behalf of an organ of state, acceptance / approval of end of stage deliverables may have to be granted in consultation with such an organisation. Alternatively it may be assigned to a party to an agency agreement developed in accordance with the provisions of clauses 5.2 of the standard. As a result, Table 1 may have to differentiate between own infrastructure and client institution's infrastructure. It may also have to differentiate between the value and type of projects.

is registered either as a professional engineer in terms of the Engineering Profession Act, a professional quantity surveyor in terms of the Quantity Surveying Profession Act or a professional architect in terms of the Architectural Profession Act. The members of the team shall, as relevant, have expertise in key technical areas, cost estimating, scheduling and implementation of similar projects.

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		Director: Engineering and Planning
1	Infrastructure planning		Director: Engineering and Planning approves the infrastructure plan
2	Strategic resourcing		Director: Engineering and Planning approves the delivery and / or procurement strategy
3	Pre-feasibility		Director: Engineering and Planning accepts the pre-feasibility report
	Preparation and briefing		Director: Engineering and Planning accepts the strategic brief
4	Feasibility		Director: Engineering and Planning accepts the feasibility report
	Concept and viability		Director: Engineering and Planning accepts the concept report
5	Design development		Director: Engineering and Planning accepts the design development report
6	Design documentation	6A Production information	Director: Engineering and Planning accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance
		6B Manufacture, fabrication and construction information	The contract manager accepts the manufacture, fabrication and construction information
Stage			Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name		
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	<p>The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract</p> <p>The contract manager certifies final completion in accordance with the provisions of the contract the Director: Engineering and Planning accepts the close out report</p>
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5. Control framework for infrastructure procurement¹⁷

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: ¹⁸

- a) The [designated person] 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;
- b) 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.

6. Infrastructure delivery management requirements

6.1 Institutional arrangements

6.1.1 Committee system for procurement¹⁹

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 appointed 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 Municipal Manager 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 Dr Beyers Naudé 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.

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*	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.	[Director: Engineering and Planning]
2*	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	SCM Manager
3	3.2 PG3 Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Procurement documentation committee
	3.3 PG4 Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	
4	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	Bid Evaluation Committee
	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	
5	5.3 PG7 Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	Municipal Manager
	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	

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.	Municipal Manager
	6.5 PG8B	Obtain approval to notify and refer a dispute to an adjudicator	
	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 ²¹	Municipal Manager
	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	Municipal Manager
	6.8 PG8E	Obtain approval to cancel or terminate a contract	Municipal Manager
	6.9 PG8F	Obtain approval to amend a contract	Municipal Manager
* 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			

²¹ 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 contractor 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	Director: Engineering and Planning
3 FG2 Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	SCM Manager
4 FG3 Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	FO
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	SCM Manager

6.1.1.3 Evaluation committee

6.1.1.3.1 The [municipal manager or chief executive or the appropriately delegated authority e.g. project director] 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 Dr Beyers Naudé Municipality with requisite skills. Other members shall include a supply chain management practitioner⁹ 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

⁹ A supply chain management practitioner in the context of infrastructure delivery includes a built environment professional

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 [municipal manager or chief executive or chief financial officer or designation of delegate] 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 committee¹⁰

6.1.1.4.1 The tender committee shall comprise the following persons or their mandated delegate:¹¹

- a) The CFO who shall be the chairperson
- b) Director: Corporate Services
- d) Director: Community Services
- e) Director: Engineering and Planning
- c) Accountant: SCM

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;
 - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;

¹⁰ 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

¹¹ 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.

- 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 Municipal Manager.
- 6.1.1.4.6 The tender committee shall report to the Municipal Manager 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 [name of applicable 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 delegated person, 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 authorised person shall immediately notify the [designated person] 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, and, in the case of a municipal entity, also the parent municipality, 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 framework contract, is within his or her delegation, 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 delivery¹²

6.1.3.1 General requirements

6.1.3.1.1 All personnel and agents of Dr Beyers Naudé 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 Dr Beyers Naudé 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;

¹² 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

- 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 Dr Beyers Naudé 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.

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 Dr Beyers Naudé 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 Dr Beyers Naudé 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 Dr Beyers Naudé Municipality proprietary information.

6.1.3.2.2 The employees and agents of Dr Beyers Naudé 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 Dr Beyers Naudé Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) Dr Beyers Naudé 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 Dr Beyers Naudé 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 Dr Beyers Naudé Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

6.1.3.3.3 Dr Beyers Naudé 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 Dr Beyers Naudé Municipality's confidential information and interests.

6.1.3.5 Gratifications, hospitality and gifts

6.1.3.5.1 The employees and agents of Dr Beyers Naudé 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 Dr Beyers Naudé 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 Dr Beyers Naudé 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 Dr Beyers Naudé 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 municipal manager.

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 Dr Beyers Naudé Municipality shall without delay report to the municipal manager or chief executive or chief financial officer or appropriately delegated authority 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 Dr Beyers Naudé Municipality shall promptly report to the [municipal manager or chief executive or chief financial officer or appropriately delegated authority] 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 system¹³

The municipal manager or chief executive or chief financial officer or appropriately delegated authority 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:

- 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

¹³ 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.

- 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 state

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 / municipal entity] 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 tendering¹⁴

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

¹⁴ 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.

³⁰ This sub-clause is aligned with the requirements of SCM Regulation 38 issued in terms of the MFMA.

- 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.

6.1.7 Placing of contractors under restrictions³⁰

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 Dr Beyers Naudé 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 Dr Beyers Naudé Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements, a designated person shall prepare a report on the matter and make a recommendation to the Municipal Manager for placing the contractor or any of its principals under restrictions from doing business with the Dr Beyers Naudé Municipality.

6.1.7.2 The Municipal Manager 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 [name of municipality or municipal entity for a period of time.

6.1.7.3 The SCM unit shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Dr Beyers Naudé Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and [name of applicable 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 Dr Beyers Naudé Municipality's infrastructure delivery management system shall be addressed to the Municipal Manager]. Such complaints shall be in writing.

6.1.8.2 The [designation of person, office or department] shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

6.2 ACQUISITION MANAGEMENT

6.2.1 Unsolicited proposal¹⁵

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

¹⁵ The clause aligns with SCM Regulation 37 issued in terms of the MFMA.

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- 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 Dr Beyers Naudé 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 Municipal Manager finds the reasons for not going through a normal tender processes to be sound.

6.2.1.2 The Municipal Manager 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 or municipal entity and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice;
- b) the Dr Beyers Naudé 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 Municipal Manager 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 compliance¹⁶

6.2.2.1 SARS tax clearance

6.2.2.1.1 No contract may be awarded or an order issued where the value of such transaction exceeds R 15 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

6.2.2.1.2 In the case of a partnership, each partner shall comply with the requirements of 6.2.2.1.1.

6.2.2.1.3 No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. An employee of Dr Beyers Naudé Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

6.2.2.1.4 Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply, unless a person who is not tax compliant indicates to the Municipal Manager that it intends challenging its tax compliance status with SARS,

- a) a contract may be awarded to a non-compliant tenderer if such a tenderer is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;

¹⁶ This sub-clause aligns with the provisions of SCM Regulation 43 issued in terms of the MFMA. .

- b) an order may be awarded to a non-compliant contractor if such a contractor is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- c) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
- d) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- e) no payments may be released for any amounts due in terms of the contract due to a noncompliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

6.2.2.1.5 The Dr Beyers Naudé Municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4 (e).

6.2.2.2 **Municipal rates and taxes**¹⁷

No contract may be awarded to a tenderer who, of 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.

¹⁷ This subclause aligns with the provisions of SCM Regulation 38 issued in terms of the MFMA.

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 Dr Beyers Naudé 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.

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 Dr Beyers Naudé Municipality's website and on the National Treasury eTender Publication Portal.¹⁸ Advertisements shall be placed by the SCM Manager.

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 the SCM Manager.

6.2.4.3 Where deemed appropriate by the Municipal Manager 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 the SCM Manager.

¹⁸ 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. ³⁵ 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.

6.2.4.4 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 municipal manager or the appropriately delegated authority e.g. project director.

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 contracts³⁵

6.2.5.1 The SCM Manager 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 SCM Manager shall publish within 7 working days of the award of a contract the following on the Dr Beyers Naudé 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 SCM Manager 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 the SCM Manager.

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 SCM Manager.

6.2.6 Disposal committee

6.2.6.1 The municipal manager 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 Dr Beyers Naudé Municipality.

6.2.6.3 The disposal committee shall make recommendations the Municipal Manager 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

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

7. INFRASTRUCTURE PROCUREMENT

7.1 Procurement documents

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

Form of Contract	Code	Intended usage
Construction Industry Development Board (CIDB)		
CIDB Standard Professional Service Contract	SPSC	Professional services
CIDB General Conditions of Purchase	-	An order form type of contract for low-value goods without any incidental work or services on or before a specified date being required.
CIDB Contract for the Supply and Delivery of Goods	-	Simple, regional purchase of readily available materials or commodities which require almost no management of the buying and delivery process, minimal testing, installation and commissioning on delivery.
CIDB General Conditions of Service	-	An order form type of contract where low-value services on or before a specified date are required.
International Federation of Consulting Engineers (FIDIC)		
FIDIC Short Form of Contract	Green Book	Building or engineering works of relatively small capital value, or for relatively simple or repetitive work, or for work of short duration. Use for design by employer- or contractor-designed works
FIDIC Conditions of Contract for Construction for Building and Engineering Works designed by the Employer	Red Book	Building or engineering works designed by the employer. (The works may include some elements of contractor-designed works.)
FIDIC Conditions of Contract for plant and design-build for electrical and mechanical plant, and for building and engineering works, designed by the contractor	Yellow Book	The provision of electrical or mechanical plant and the design and construction of building or engineering works.

FIDIC Conditions of Contract for EPC Turnkey Projects	Silver Book	The provision on a design and construct (turnkey) basis of a process or power plant, of a factory or similar facility, or an infrastructure project or other type of development.
FIDIC Conditions of Contract for Design, Build and Operate Projects	Gold Book	"Green field" building or engineering works which are delivered in terms of a traditional design, build and operate sequence with a 20-
		year operation period. (The contractor has no responsibility for the financing of the project/package or its ultimate commercial success.)
South African Institute of Civil Engineering (SAICE)		
SAICE General Conditions of Contract for Construction Works	GCC	Engineering and construction, including any level of design responsibility.
Joint Building Contracts Committee (JBCC)		
JBCC Principal Building Agreement	PBA	Buildings and related site works designed by the employer
JBCC Minor Works Agreement	MWA	Buildings and related site works of simple content designed by the employer.
Institution of Civil Engineers (ICE)		
NEC3 Engineering and Construction Contract	ECC	Engineering and construction including any level of design responsibility.
NEC3 Engineering and Construction Short Contract	ECSC	Engineering and construction which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the employer and contractor.
NEC3 Professional Services Contract	PSC	Professional services, such as engineering, design or consultancy advice.
NEC3 Professional Services Short Contract	PSCC	Professional services which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and consultant.
NEC3 Term Service Contract	TSC	Manage and provide a service over a period of time.

NEC3 Term Service Short Contract	TSSC	Manage and provide a service over a period of time, or provide a service which does not require sophisticated management techniques, comprises straightforward work and imposes only low risks on both the employer and contractor
NEC3 Supply Contract	SC	Local and international procurement of high value goods and related services, including design.
NEC3 Supply Short Contract	SSC	Local and international procurement of goods under a single order or on a batch order basis and is suitable for use with contracts which do not require sophisticated management techniques, and impose only low risks on both the purchaser and the supplier.

7.1.2 The Dr Beyers Naudé 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 [designated person] prior to being issued for tender purposes.

7.1.3 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.¹⁹

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

- a) consultancy services;²⁰ and
- b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.²¹

¹⁹ This sub-clause aligns with SCM Regulation 21 issued in terms of the PFMA.

²⁰ The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.

²¹ The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.

7.2 Developmental procurement policy²²

The following specific goals shall be proposed:

Dr Beyers Naudé Municipality shall utilise procurement to promote Broad-Based Black Economic Empowerment in accordance with the provisions of the Broad-Based Black Economic Empowerment Act and, where appropriate, to promote:

- a) work opportunities for target groups; and
- b) national development goals, such as those identified by the Presidential Infrastructure Coordinating Commission.

7.2.1 Not less than 50% of the points allocated to preference in a points scoring system in the evaluation of tenders shall be allocated to Broad-Based Black Economic Empowerment goals.

7.2.2 Minimum local content shall be included in contracts in accordance with the Preferential Procurement Regulations issued in terms of the Preferential Procurement Policy Framework Act. Requirements shall be evaluated in tenders through declarations made by tenderers and shall be included in the scope of work associated with the contract.

7.2.3 The targeted procurement procedures that may be used to promote social and economic objectives shall include one or more of the following:

- a) the granting of preferences;
- b) accelerated rotations on electronic databases, where appropriate;
- c) the granting of up to 10% of the total number of evaluation points used to short-list tenderers following a call for expressions of interest;
- d) financial incentives for the attainment of key performance indicators in the performance of the contract; and

²² State specific goals that may be promoted.

- e) the creation of contractual obligations to engage target groups in the performance of the contract by establishing requirements for the tendering of subcontracts in terms of a specified procedure, or establishing obligations to attain contract participation goals in accordance with the relevant provisions of SANS 10845.

7.3 Payment of contractors²³

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

7.4 Approval to utilise specific procurement procedures²⁴

7.4.1 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) The Municipal Manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager 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 procedure²⁵.

7.4.2 The person authorised to pursue a negotiated procedure in an emergency is the Municipal Manager.

²³ The Section 65 of the MFMA requires municipal manager or chief executives to settle all contractual obligations and pay all money owing within 30 days of receiving the relevant statement or invoice.

²⁴ This clause is necessary to enable the standard to be implemented.

²⁵ 7.5.1 c) is an optional statement and needs to be deleted if this control is not required.

7.5 Receipt and safeguarding of submissions²⁶

7.5.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.⁴⁷

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

7.6 Opening of submissions²⁷

7.6.1 Submissions shall be opened by an opening panel comprising two people nominated by the SCM Manager who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

7.6.2 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 108453; 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;

²⁶ This section may not be necessary if the policy for general goods and services already covers these requirements.

⁴⁷ Modify as necessary. Preferably describe the location and accessibility of the box.

²⁷ This section may not be necessary if the policy for general goods and services already covers these requirements.

- 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.

7.6.3 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 7.6.3h).

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

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

7.7 Use of another organ of state's framework agreement²⁸

The Dr Beyers Naudé 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 municipal manager shall make the necessary application to that organ of state to do so.

7.8 Insurances²⁹

7.8.1 Contractors shall be required to take out all insurances required in terms of the contract.⁵¹

²⁸ This clause aligns with SCM Regulation 32 issued in terms of the MFMA and clause 7.3 of the Standard.

²⁹ Align with the manner in which the municipality or municipal entity wishes to manage risk.

⁵¹ Alternatively state that the insurances shall be principal or employer controlled.

7.8.2 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 the Municipal Manager.

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

Table 4: Minimum insurance cover³⁰

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

7.8.4 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 the municipal manager.

³⁰ Modify as necessary

7.8.5 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.

7.8.6 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 Municipal Manager in relation to the nature of the service that they provide.

7.8.7 Dr Beyers Naudé 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.

7.8.8 Where payment is to be made in multiple currencies, either the contractor or Dr Beyers Naudé 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.

7.9 Written reasons for actions taken

7.9.1 Written reasons for actions taken shall be provided by the Municipal Manager.

7.9.2 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.

7.9.3 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.

7.10 Request for access to information³¹

7.10.1 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 Dr Beyers Naudé 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 Dr Beyers Naudé Municipality.

7.10.2 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.

ADOPTED BY COUNCIL ON 29 MAY 2018 (SCOUN-055.2/18) FOR IMPLEMENTATION ON 1 JULY 2018.

³¹ Amend as necessary



ANNEXURE B

THE NATIONAL TREASURY

DR BEYERS NAUDÉ MUNICIPALITY

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

In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

The **purpose** of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

General Principles

The Dr Beyers Naudé Municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials 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.

- 1.1 Officials 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 public resources are administered responsibly.
- 1.2 Officials 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.

2 Conflict of interest

An official or other role player involved with supply chain management –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than **R350**;
- (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that

person, or any close family member, partner or associate, has any private or business interest;

- (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) 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; and
- (i) should not take improper advantage of their previous office after leaving their official position.

3 Accountability

3.1 Practitioners are accountable for their decisions and actions to the public.

3.2 Practitioners should use public property scrupulously.

3.3 Only accounting officers or their delegates have the authority to commit the municipality to any transaction for the procurement of goods and / or services.

3.4 All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.

Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and

- (iii) any alleged breach of this code of conduct.

Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the Mayor/ Executive Mayor (as the case may be) who must ensure that such declaration is recorded in the register.

4 Openness

Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

5 Confidentiality

Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

Bid Specification / Evaluation / Adjudication Committees

- 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

- 6.2. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- 6.3 All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 6.4 No person should-
 - 6.4.1 interfere with the supply chain management system of the municipality; or
 - 6.4.2 amend or tamper with any price quotation / bid after its submission.

6 Combative Practices

Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

ANNEXURE C

SCHEDULE TO SMALL BUSINESSES ACT NO. 102 OF 1996

Column 1	Column 2	Column 3	Column 4	Column 5
Sector or sub-sector in accordance with the Standard Industrial Classification	Size of class	The total full-time equivalent of paid employees	Total turnover	Total gross asset value (fixed property excluded)
Agriculture	Medium	100	R 5 m	R 5 m
	Small	50	R 3 m	R 3 m
	Very small	10	R 0.50 m	R 0.50 m
	Micro	5	R 0.20 m	R 0.10 m
Mining and Quarrying	Medium	200	R 39 m	R 23 m
	Small	50	R 10 m	R 6 m
	Very small	20	R 4 m	R 2 m
	Micro	5	R 0.20 m	R 0.10 m
Manufacturing	Medium	200	R 51 m	R 19 m
	Small	50	R 13 m	R 5 m
	Very small	20	R 5 m	R 2 m
	Micro	5	R 0.20 m	R 0.10 m
Electricity, Gas and Water	Medium	200	R 51 m	R 19 m
	Small	50	R 13 m	R 5 m
	Very small	20	R 5.10 m	R 1.90 m
	Micro	5	R 0.20 m	R 0.10 m
Construction	Medium	200	R 26 m	R 5 m
	Small	50	R 6 m	R 1 m
	Very small	20	R 3 m	R 0.50 m
	Micro	5	R 0.20 m	R 0.10 m
Retail and Motor Trade and Repair Services	Medium	200	R 39 m	R 6 m
	Small	50	R 19 m	R 3 m
	Very small	20	R 4 m	R 0.60 m
	Micro	5	R 0.20 m	R 0.10 m
Wholesale Trade, Commercial Agents and Allied Services	Medium	200	R 64 m	R 10 m
	Small	50	R 32 m	R 5 m
	Very small	20	R 6 m	R 0.60 m
	Micro	5	R 0.20 m	R 0.10 m
Catering, Accommodation and other Trade	Medium	200	R 13 m	R 3 m
	Small	50	R 6 m	R 1 m
	Very small	20	R 5.10 m	R 1.90 m
	Micro	5	R 0.20 m	R 0.10 m

Transport, Storage and Communications	Medium	200	R 26 m	R 6 m
	Small	50	R 13 m	R 3 m
	Very small	20	R 3 m	R 0.60 m
	Micro	5	R 0.20 m	R 0.10 m
Finance and Business Services	Medium	200	R 26 m	R 5 m
	Small	50	R 13 m	R 3 m
	Very small	20	R 3 m	R 0.50 m
	Micro	5	R 0.20 m	R 0.10 m
Community, Social and Personal Services	Medium	200		
	Small	50		
	Very small	20		
	Micro	5		