LEKWA LOCAL MUNICIPALITY
BUDGET RELATED POLICY

SUPPLY CHAIN MANAGEMENT POLICY

2026 – 2027

PART A

SUPPLY CHAIN MANAGEMENT POLICY, adopted in terms

of section 111 of the

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, NO. 56 OF 2003 and

the

MUNICIPAL SUPPLY CHAIN MANAGEMENT REGULATIONS, NOTICE 868 OF 30 MAY 2005

PART A

This Policy consists of three parts:

Part A is the Supply Chain Management Policy, adopted in terms of section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005;

Part B is the Supply Chain Management Policy adapted for the Standard for Infrastructure Procurement and Delivery Management; and

Part C is the Preferential Procurement Policy, adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2022.

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POLICY STATEMENT AND OBJECTIVES

1 Section 111 of the Local Government: Municipal Finance Management Act, 56 (MFMA) requires each municipality and municipal entity to adopt and implement a Supply chain Management Policy, which give effect to the requirements of the Act.

2 In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed.

3 The objectives of this Policy are:

1) to give effects to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;

2) to comply with applicable provisions of the Municipal Finance Management Act including Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636, 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA and regulations pertaining thereto; and

3) to acknowledge the provisions of:

a) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);

b) The Competitions Act 1998 (Act No. 89 of 1998)

c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

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

e) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);

f) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);

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

h) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004);

i) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)

1 Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) has the same meaning as in the Act, and –

"Accounting Officer"	means a person appointed by the Municipality in terms of Section 82 of the Local Government: Municipal Structures Act. 1998 (Act No. 117 of 1998) and who is the head of administration and also the Municipal Manager for the Municipality.
"Act" or "MFMA"	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
"Budget Holder"	Means the person/s accountable for expenditure from, and income to a particular budget. Each budget holder is responsible for the control of his/her budget and for the general financial administration of his/her area of responsibility. The Budget Holder is responsible to authorise expenditure from their budget up to a total of their budget allocation
"business day"	means any day of the week except Saturday, Sunday and public holidays as determined in the Public Holidays Act, 1994 (Act No. 36 of 1994)
"Capital Asset"	means a) any immovable asset such as land, property or buildings; or b) any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future economic benefit can be derived, such as plant, machinery and equipment.
"CFO"	means Chief Financial Officer of the Municipality or Director of Finance in this instance;
"CIDB"	means Construction Industry Development Board
"close family member"	a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption
"closing date"	means the time and day specified in the bid documents and/or advertisement of the receipt of bids.
"competitive bidding process"	means a competitive bidding process referred to in clause 12(1)(e) of this Policy;
"competitive bid"	means a bid in terms of a competitive bidding process;
"Construction Works"	means any work in connection with: c) the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure; d) the installation, erection, dismantling or maintenance of a fixed plant; e) the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or f) the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.
"Consultant"	means a person or entity providing services requiring knowledge based expertise
"contract"	means the agreement that results from the acceptance of a bid by the Municipality;
"Contract Owner"	means the deputy director, senior manager or manager, as the case may be, that is ultimately accountable for all activities during the life cycle of the contract. The Contract Owner can also be seen as the Budget holder.

"day(s)"	Means calendar days unless the context indicates otherwise;
"delegation"	in relation to a duty, includes an instruction a request to perform, or to assist in performing the duty.
"director"	means a manager referred to in section 56 of the Municipal Systems Act.
"emergency"	an emergency is an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.
"emerging enterprise"	means an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid.
"essential community services"	means (in Local Government context) as published in Government Gazette numbers 18043 of 6 June 1997; Government Gazette number 18276 of 12 September 1997; Government Gazette number 18439 of 21 November 1997; Government Gazette number 18761 of 27 March 1998; Government Gazette number 22670 of 21 September 2001; Government Gazette number 27104 of 24 December 2004; Government Gazette number 28076 of 28 July 2006; Government Gazette number 29987 of 22 June 2007; Government Gazette number 30805 of 29 February 2008: I. Municipal traffic services II. Municipal security. III. Supply and distribution of water IV. Generation, transmission and distribution of power V. Fire- fighting VI. The following parts of sanitation services: a) Maintenance and operation of water borne sewerage systems, including pumping stations and the control of discharge of industrial effluent into the system; b) Maintenance and operation of sewerage purification works; c) Collection of refuse of an organic nature; d) Collection of infectious refuse from medical and veterinary hospitals or practices; e) Collection and disposal of refuse at a disposal site; f) Collection of refuse left uncollected for fourteen (14) days or longer, including domestic refuse and refuse on public roads and open spaces
"final award"	in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote is accepted;
"financial interest"	means where a municipal staff member is a close family member of a person who is the owner, partner, principal shareholder or member, manager or who serves on the board of directors, etc of a tendering enterprise;
"financial year"	means a twelve-month period ending 30 June of every year.
"formal written price quotation"	means quotations referred to in clause 12(1)(d) of this Policy;
"Granting of Rights"	means the granting by the Lekwa Local Municipality of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to "transfer" or "disposal" of the asset and which includes leasing, letting, hiring out, etc., of the capital asset.
"Head: Supply Chain Management"	Any post in the approved organisational structure to whom the entire SCM Unit reports to functionally: Currently Manager Supply Chain
"IDP"	means Integrated Development Plan;

"in the service of the state"	means to be – a member of – a) any municipal council; b) any provincial legislature; or c) the National Assembly or the National Council of Provinces; d) a member of the board of directors of any municipal entity; e) an executive member of the accounting authority of any national or provincial public entity; or f) an official of any national or provincial department, national or provincial public entity or institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999); g) a member of the accounting authority of any national or provincial public entity; or an employee of Parliament or a provincial legislature;
"long term contract"	means a contract with a duration period exceeding one year;
"list of accredited prospective providers"	means the list of accredited prospective providers which the Lekwa Local Municipality must keep in terms of clause 14 of this policy;
"municipality"	means the Lekwa Local Municipality;
"notice boards"	means the official notice boards at the municipal offices;
"other applicable legislation"	means any other legislation applicable to municipal supply chain management, including – a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); e) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); g) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004); h) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003): Municipal Supply Chain Management Regulations; i) the Preferential Procurement Regulations The Competitions Act 1998 (Act No. 89 of 1998), 2017
"Policy"	means the Supply Chain Management Policy of the Lekwa Local Municipality;
"quotation"	means a stated price that a supplier expects to receive for the provision of specified services, works or goods;
"Regulations"	means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 30 May 2005;
"SDBIP"	means Service Delivery and Budget Implementation Plan;
"single provider"	Sole supplier - 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 provider exists in South Africa (for example, sole distribution rights);
"small business"	means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy

	mentioned in column I of the Small Business Classification Schedule, and which can be 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 Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule.
"supply chain management practitioners"	includes the Chief Financial Officer and the Head: Supply Chain Management;
"survivalist enterprise"	means a business set up by people unable to find a paid job or get into an economic sector of their choice. Income generated from these activities usually falls far short of even a minimum income standard, with little capital invested, virtually no skills training in the particular field and only limited opportunities for growth into a viable business. This category is characterised by poverty and the attempt to survive.
"tender"	means a 'bid' or a 'quotation' in relation to a "Tender Box";
"tender box"	means the specified tender box at the offices of LEKWA LOCAL Municipality, Magnolia Avenue, Hermanus.
"Treasury guidelines"	means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act
"validity period"	means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document.
Reckoning of number of days: 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~~.~~	
Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, closed corporations and firms, unless the context clearly indicates otherwise.	
All amounts / limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).	

CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2 Supply Chain Management Policy

1) All officials and other role players in the Supply Chain Management system of the Municipality must implement this Policy in a way that –

a) gives effect to –

(i) section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the Act; (iii) Regulations pertaining to Supply Chain Management.

b) is fair, equitable, transparent, competitive, cost effective. and complies with –

(i) the Regulations; and

(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

c) is consistent with other applicable legislation;

d) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres; and

e) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

2) This Policy applies when the Municipality –

a) procures goods or services;

b) disposes of goods no longer needed;

c) selects contractors to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal Systems Act applies.

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 the Act.

3) This Policy, except where provided otherwise, does not apply in respect of:

a) the procurement of goods and services contemplated in section 110(2) of the Act, including –

(i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;

(ii) electricity from Eskom or another public entity, another municipality or a municipal entity; and

(iii) or any other such entities.

3 Adoption, Amendment and Implementation of the Supply Chain Management Policy

1) The Accounting Officer must –

a) at least annually review the implementation of this Policy; and

b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to Council.

2) If the Accounting Officer submits proposed amendments to Council that differs from the model policy issued by the National Treasury, the Accounting Officer must –

a) ensure that such proposed amendments comply with the Regulations; and

b) report any deviation from the model policy to the National Treasury and the Provincial Treasury.

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

4) The Accounting Officer must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality implements the supply chain management policy.

4 Delegation of supply chain management powers and duties

1) Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –

a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –

(i) Chapter 8 or 10 of the Act; and

(ii) this Policy;

b) to maximize administrative and operational efficiency in the implementation of this Policy;

c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

d) to comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.

2) Section 79 of the Act applies to the sub delegation of powers and duties delegated to the Accounting Officer in terms of sub-clause (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 clause 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 clause 26 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 delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with sub-clause (2) of this clause and clause 4 of this Policy.

2) The power to make a final award –

   a) above R10 million (Incl. VAT), may not be sub-delegated by the Accounting Officer;

   b) above R300,000 (Incl. VAT), but not exceeding R10 million (Incl. VAT) may be sub-delegated, but only to a bid adjudication committee of which the Chief Financial Officer is the chairperson and directors are members;

   c) below R300,000 (Incl. VAT) may be sub-delegated as per Council's delegations, attached as Annexure A, pertaining to the procurement of goods and services.

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

   a) contract numbers and description of goods, services or infrastructure projects;

   b) the name of the person to whom the award was made;

   c) the B-BBEE level of contribution claimed;

   d) the amount of the award; and

   e) the reason why the award was made to that person.

4) A written report referred to in sub-clause (3) must be submitted to the Accounting Officer, in the case of an award by a bid adjudication committee of which the Chief Financial Officer and directors are members.

   a) The awards scheduled must be published on Council's website in terms of Section 75(g) of the Act).

5) Sub-clauses (3) and (4) of this policy do not apply to procurement out of petty cash or written quotations below R2,000 (Incl. VAT).

6) This clause 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 clause 26 of this Policy. Also refer to clause 4(4) and 5(2)(a) of this Policy.

7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6 Oversight role of council

1) Council must maintain oversight over the implementation of this Policy.

2) For the purposes of such oversight the Accounting Officer must –

   a) within 22 business days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and

   b) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.

3) The Accounting Officer must, within ten (10) business days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality.

4) The reports must be made public in accordance with section 21A of the Local Government Municipal Systems Act 32, 2002.

7 Supply Chain Management Unit

1) The Lekwa Local Municipality has established a Supply Chain Management Unit to implement this Policy.

2) The Chief Financial Officer is administratively in charge of the supply chain management unit which operates under the direct supervision of the Manager: Supply Chain, to whom this duty has been sub-delegated in terms of Section 82 of the Act.

8 Training of Supply Chain Management officials

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

CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

9 Format of Supply Chain Management system

1) This Policy provides systems for –

a) demand management;
b) acquisition management;
c) logistics management;
d) disposal management;
e) risk management; and
f) performance management.

Part 1: DEMAND MANAGEMENT

10 System of Demand Management

1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan, the Budget and the Service Delivery and Budget Implementation Plan.
2) The Demand Management Plan must be developed in conjunction with the IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget.
3) All user departments are required to submit their procurement plans to the Supply Chain Management Unit by 30 April in terms of the IDP and Budget processes.
4) The Demand Management Plan must be submitted to and approved by the Accounting Officer or his or her delegate before 30 June of each year.
5) The Demand Management Plan must be reviewed regularly and submitted to the Accounting Officer or his delegate on a monthly basis.
6) Demand management must be co-ordinated by SCM officials of the Municipality in consultation with budget holders.
7) The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.

Part 2: ACQUISITION MANAGEMENT

11 System of Acquisition Management

1) The Accounting Officer must implement the system of acquisition management set out in this Part in order to ensure –

a) that goods and services are procured by the Municipality in accordance with authorised processes only;
b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
c) that the threshold values for the different procurement processes are complied with;
d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and

e) that any Treasury guidelines on acquisition management are properly taken into account.

2) When procuring goods or services contemplated in section 110(2) of the Act, the Accounting Officer must, subject to clause 2(3), make public the fact that such goods or services are procured otherwise than through the Municipality's supply chain management system, including –

a) the kind of goods or services; and

b) the name of the supplier.

12 Range of procurement processes

1) Goods and services may only be procured by way of –

a) petty cash purchases in terms of Council's Petty Cash Policy for procurement transactions with a value up to R2 000 (Incl. VAT);

b) formal written price quotations for procurement of a transaction value over R2000 up to R300 000 (VAT included),

c) a competitive bidding process for procurement above a transaction value of R300 000 (VAT included),

2) The Accounting Officer may, in writing -

a) lower, but not increase, the different threshold values specified in sub-clause (1); or

b) direct that –

(i) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000 (Incl. VAT); or

(ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than the competitive bidding thresholds specified in sub regulation (1)(c)(i) to (iii)."

3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

4) Panel of Service Providers

A panel of Service Providers is a tool for the procurement of goods or services which are regularly required by the Municipality.

Background

a) A panel is the result of a procurement process, where a number of suppliers are appointed through an open tender process
b) The process followed to form a panel is an assessment of suppliers against stipulated evaluation criteria. Only suppliers that met the minimum functionality threshold and represent value for money would be included on a panel.
c) Once the procurement process has been concluded to establish the panel. Procurement can then be undertaken directly with suppliers that on the panel.

Panels within the municipality and procedure to be followed when allocating work

I. Panels: Service Providers Appointed based on Price and Preference points only.
a) All suppliers are selected and invited from the Panel list. Awards are made on price and specified goals.
b) Selection from the panels will be monitored by the CFO and Accounting Officer as and when RFQ's are issued to ensure transparency and fairness on the procurement/awarding process.

c) If all supplier are invited and only one supplier responds to the request, procurement/awarding of the request may continue unless the price is not market related

II. Panels: Services providers Appointed based on fix rate
a) An appointment is made to a single company as all service providers on the panel are restricted to fix rate.

b) Awards are on a rotational basis. If there are circumstances that might warrant a deviation from a rotational process a submission for deviation will be generated and signed by the relevant authority.

Procurements via the Panel process may exceed R 300 000.00

13 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 –

a) has furnished that provider's –

(i) full name;

(ii) identification number or company or other registration number; and

(iii) tax reference number and VAT registration number, if any;

b) has authorised the Municipality to verify any of the documentation referred to in sub-clause (a) above; and

c) has indicated –

(i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

(ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholder or stakeholders are in the service of the state, or has been in the service of the state in the previous twelve months; or

(iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause (ii) is in the service of the state or has been in the service of the state in the previous twelve months.

14 Lists of accredited prospective providers

1) The Accounting Officer must –

a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the municipality through formal written price quotations; and

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; and

c) The listing criteria for prospective suppliers are:

(i) Name of supplier / service provider;

(ii) Street and postal address;

(iii) Contact person for quotations/enquiries;

(iv) Contact numbers for quotations / enquiries;

(v) Contact details for quotations/enquiries;

(vi) VAT registration yes/no;

(vii) VAT registration number;

(viii) Banking details in the name of the entity;

(ix) Type of industry;

(x) Valid certification for specialised services;

(xi) Valid tax clearance certificate or pin;

(xii) CIDB registration if applicable;

(xiii) Valid certification in respect of Exempted Micro Enterprises or

(xiv) B-BBEE Status Level of Contributor.

(xv) Relevant identification numbers and certified copies of identity documents of all members, directors and partners.

d) 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.

2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

3) The list must be compiled per commodity and per type of service.

15 Written or verbal quotations below R2,000 (Incl. VAT)

1) The conditions for the procurement of goods by means of written quotations referred to in clause 12(1)(b) of this Policy for minor items that are purchased for up to R2,000 (Incl. VAT), are as follows:-

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a) written quotations for transactions must be obtained from at least one prospective supplier or service provider preferably from, but not limited to, suppliers or service providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in clause 14(1)(b), (c) and (d) of this Policy;

b) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

16 Formal written price quotations

1) The conditions for the procurement of goods or services through formal written price quotations for amounts above R2000(Inc.VAT) up to R300 000.00are as follows:

a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Municipality;

b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in clause 14(1)(c) and (d) of this Policy;

c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer, or an official designated by the Chief Financial Officer; and

d) the Accounting Officer must record the names of the potential providers and their written quotations.

2) A designated official referred to in clause 16(1)(b) and sub-clause (1)(c) must by the 3rd of each month report to the Chief Financial Officer on any approvals given during the preceding month by that official in terms of that sub-delegation if applicable.

17 Procedures for procuring goods or services through formal written price quotations";

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

a) when using the list of accredited prospective providers, the Accounting Officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;

b) all requirements in excess of R30,000 (Incl. VAT) that are to be procured by means of formal written price quotations must, in addition to the requirements of clause 17, be advertised for at least seven days on the website and an official notice board of the Municipality;

c) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused and

d) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub delegation;

e) quotations received must be evaluated on a comparative basis taking into account unconditional discounts;

f) quotations must be awarded based on compliance to specifications, conditions of contract, ability and capability to deliver the goods and services and lowest price for quotations up to R30 000 (Incl. VAT) and the preference points system will apply for all quotations in excess of R30 000 (Incl. VAT);

g) the Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of the municipality;

18 Competitive bids

1) Goods or services above a transaction value of R300 000 (Incl. VAT) may be procured through a competitive bidding process, subject to clauses 11(2) of this Policy.

2) No requirement for goods or services above an estimated transaction value of R300,000 (Incl. VAT), 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.

19 Process for competitive bidding

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

a) Compilation of bidding documentation is detailed in clause 21;

b) Public invitation of bids is detailed in clause 22;

c) Site meetings or briefing sessions are detailed in clause 22;

d) Handling of bids submitted in response to public invitation is detailed in clause 23;

e) Evaluation of bids is detailed in clause 28;

f) Award of contracts is detailed in clause 29;

g) Administration of contracts is detailed in clause 6 of Council's Contract management Policy

h) Proper record keeping: Original and legal copies of all tender documentation must be kept in a secure place for reference purposes.

20 Bid documentation for competitive bids

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 and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading, refurbishment of buildings or infrastructure.

b) include the preference points system to be used as contemplated in the Preferential Procurement Regulations, 2022, evaluation and adjudication criteria, including any criteria required by other applicable legislation;

c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;

d) if the value of the transaction is expected to exceed R10 million (Incl. VAT) –

(i) if the bidder is required by law to prepare annual financial statements for auditing, its audited annual financial statements –

(a) for the past three years; or

(b) since its establishment if established during the past three years;

(ii) certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than 30 calendar days;

(iii) particulars of any contracts awarded to the bidder by the municipality during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

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

2) A fee can 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 for tenders in excess of R300 000 (Incl. VAT).

21 Public invitation for competitive bids

1) The procedure for the invitation of competitive bids is as follows:

a) Any invitation to prospective providers to submit bids must be by means of a public advertisement:

(i) in newspapers commonly circulating locally,

(ii) on the notice boards at selected offices of the Municipality,

(iii) on the website of the Municipality,

(iv) on the e-Tender Publication Portal of the National Treasury

(v) on the i-Tender website of the CIDB for construction procurement related transactions or

(vi) any other appropriate ways (which may include an advertisement in the Government Tender Bulletin).

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 21 days in the case of transactions over R10 million (Incl. VAT), or which are of a long term nature (in excess of three years), or 10 business days in any other case, from the date on which the advertisement is placed in a newspaper, local newspaper or eTender, subject to sub-clause (2) of this policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the Municipality;

(iii) a statement that bids will only be considered if it was deposited into the bid box indicated in the bid invitation;

(iv) date, time and venue of any proposed site meetings or briefing sessions, provided that site meetings / information sessions may not be scheduled within 5 business days of the date on which a bid advertisement is placed; and

(v) the required CIDB contractor category and grading designation for construction procurement.

(vi) that only locally produced goods, works or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered for sectors designated by the Department of Trade and Industry.

2) The Accounting Officer may determine a closure date for the submission of bids which is less than the required 21 or 14 days, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

3) The notice shall further state that all bids for the contract 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.

4) The period for which bids are to remain valid, irrevocable and open for acceptance must be indicated in the bid documents and must not exceed 120 days.

5) The validity period of a bid may be extended by the accounting officer, or his/her delegate, prior to the expiry of the validity period indicated in the bid document.

6) Communication with bidders before the closing date:

a) The budget holder must approach the Bid Specification Committee, if necessary, to consider authorisation in writing, of communication with bidders prior to bids closing.

b) 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 date, provided that such amendments or extensions are advertised and/or where possible, that all bidders to 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 authorised 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.

c) All amendments must be approved by the Accounting Officer or the relevant delegated director prior to the closing date of the bid invitation.

22 Procedure for handling, opening and recording of bids

1) The procedures for the handling, opening and recording of bids, are as follows: a) Bids– must

be opened only in public;

(i) must be opened on the same date and as soon as possible after the period for the submission of bids has expired; and

b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;

c) No information, except the provisions in sub-clause (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and

d) The Accounting Officer must –

(i) record in a register all bids received in time;

(ii) make the register available for public inspection; and

(iii) publish the entries in the register and the bid results on the website.

2) 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) An official shall date-stamp the bid or quotation and all enclosures related to prices, delivery periods and special conditions.

c) Bids and quotations shall be numbered in the sequence in which they have been opened on the opening register.

d) In instances where only one bid has been received the words "and only" shall be endorsed on such bid.

e) 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 bids or quotations.

f) A bid will not be invalidated if the amount in words and the amount in figures do not correspond, where there is a discrepancy, the amount in words shall be read out at the bid opening and shall be deemed to be the bid amount.

3) Late Bids

a) 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.

b) 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. The envelope must be stamped and initialled in like manner and must be retained for record purposes.

4) Dealing with bids and quotations if the closing date thereof has been extended.

   a) 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.

23 Negotiations with preferred bidders and communication with prospective providers and bidders

1) The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation – a) does not allow any preferred bidder a second or unfair opportunity;

   b) is not to the detriment of any other bidder; and

   c) does not lead to a higher price than the bid as submitted;

   d) does not lead to a lower price in respect of sale of land / goods.

2) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.

3) No unauthorised communication with bidders and prospective providers:

   a) where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor, official, or authorised service provider on any matter regarding his bid, quotation or offer other than a notice of withdrawal.

   b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in clause (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.

   c) The budget holder must approach the Bid Evaluation Committee, as determined in clause 28(2), to consider authorising an employee or authorised consulting service provider, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of: -

      (i) Obtaining an explanation and verification of declarations made in the bid response;

      (ii) confirming technical particulars and the compliance thereof with specifications;

      (iii) clarifying delivery times/quantities;

      (iv) extending the validity period of a bid;

      (v) clarifying any other commercial aspect;

      (vi) for the submission of substantiating documents;

      (vii) any other clarifications

   d) In all cases where authority has been granted to communicate with bidders in terms of clause (c) above, 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.

24 Two-stage bidding process

1) A two-stage bidding process is allowed for –

   a) large complex projects; or

   b) projects where it may be undesirable to prepare complete detailed technical specifications; or

   c) long term projects with a duration period exceeding three years.

2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

3) In the second stage final technical proposals and priced bids should be invited.

25 Committee system for competitive bids

1) A committee system for competitive bids is hereby established, consisting of the following committees for each transaction or cluster of transactions as the Accounting Officer may determine: a) a bid specification committee;
   b) a bid evaluation committee; and
   c) a bid adjudication committee;
2) The Accounting Officer appoints the members of each committee, taking into account section 117 of the Act, and
3) The Accounting Officer may appoint a neutral or independent observer, to attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
4) The committee system must be consistent with –
   a) clause 27, 28 and 29 of this Policy; and
   b) any other applicable legislation.
5) The Accounting Officer may apply the committee system to formal written price quotations.

26 Bid Specification Committees

1) The appropriate bid specification committee must compile the specifications for each procurement transaction for goods or services by the Municipality, depending on the department involved.
2) Specifications –
   a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
   b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
   c) must, where possible, be described in terms of performance required and / or 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 trademark, 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 the preference points system for which points may be awarded as set out in the prevailing Preferential Procurement Regulations; and
   g) must be approved by the Accounting Officer or the relevant delegated director prior to publication of the invitation for bids in terms of clause 22 of this Policy.
3) A Bid Specification Committee must be composed of one or more officials of the municipality, including, but not limited to: -
   a) a delegated supply chain management practitioner;
   b) a manager with supply chain training;
   c) the budget holder from the Directorate for whom the bid is called; and
4) The Committee may, when appropriate, include external specialist advisors.
5) 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.

27 Bid Evaluation Committees

1) A Bid Evaluation Committee must –
   a) evaluate all bids in accordance with –

(i) the specifications for a specific procurement; and

(ii) the points system set out in terms of the Preferential Procurement Policy;

b) evaluate each bidder's ability to execute the contract;

c) check in respect of the recommended bidder whether municipal rates and taxes and municipal

d) service charges are not in arrears for more than three months;

e) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter; and

2) A Bid Evaluation Committee must as far as possible be composed of: -

a) the budget holder and other officials from departments requiring the goods or services

b) at least one delegated supply chain management practitioner

28 Bid Adjudication Committees

1) A bid adjudication committee must –

a) consider the report and recommendations of the bid evaluation committee; and

b) either –

(i) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or

(ii) make another recommendation to the Accounting Officer how to proceed with the relevant procurement.

2) The bid adjudication committee must be composed of at least four directors of the municipality which must include –

a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager reporting directly to the Chief Financial Officer and designated by the Accounting Officer; and

b) a senior supply chain management practitioner.

3) The Accounting Officer must appoint the chairperson of the committee. If the Chairperson is unable to chair the meeting, the members of the committee who are present must elect one of them to preside at the meeting.

4) A quorum for the Adjudication Committee shall be four members.

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

b) The Director of the department that called for the tender must be present at the meeting where the particular tender is considered.

5) The Chairperson of the Bid Evaluation Committee, or their delegates, must be present at the Bid Adjudication Committee meetings [introduce the reports to the Committee and assist in] to clarify issues that were dealt with in the Bid Evaluation Committee meetings without voting rights.

6) A technical expert in the relevant field, who is an official, if such an expert exists, may attend the meeting as an advisor for clarification purposes. This official will not have voting rights at the Bid Adjudication Committee meeting. Neither a member of a bid evaluation committee, nor an advisor or person assisting the bid evaluation committee, may be a member of a bid adjudication committee.

7) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee –

a) the bid adjudication committee must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears for more than three months, and;

(ii) notify the Accounting Officer.

b) The Accounting Officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in clause (a); and

(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

8) 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.

9) The Accounting Officer must comply with Section 114 of the Act within 10 days–

a) If a tender other than the one recommended in the normal course of implementing the supply chain management policy is approved, the Accounting Officer must, in writing, notify the Auditor General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.

b) Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.

29 Procurement of Banking Services

1) A contract for banking services –

a) must be procured through competitive bids;

b) must be consistent with section 7 of the Act; and

c) may not be for a period of more than five years at a time.

2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of clause 22(1).

4) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

30 Procurement of Information- and Communication Technology (ICT) related goods or services

1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of ICT related goods or services through a competitive bidding process.

2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

3) The Accounting Officer must notify SITA together with a motivation of the ICT needs if –

a) the transaction value of ICT related goods or services required in any financial year will exceed R50 million; or

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

4) If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to Council, the National Treasury, the Provincial Treasury and the Auditor-General.

5) The Municipality is required to follow the following process before inviting proposals for a new financial management system:

a) National and Provincial Treasury should immediately be informed of any intention to replace the accounting or billing system currently operating at the municipality;

b) The submission should include a comprehensive motivation with specific reasons for why it is deemed necessary to replace the existing financial system;

c) A copy of the service level agreement with minutes of the meetings between the municipality and the current service provider (financial system vendor) during the previous twelve months must be made available;

d) The organisational structure, specifically for the IT department/function, clearly indicating management capacity and responsibility for operating the financial system, must be submitted;

e) An assessment should be done to determine which modules of the existing financial system are being utilised by the municipality and reasons must be provided for modules not in operation. In cases where an existing system is not an ERP system the municipality must provide details of any other systems utilised by the municipality;

f) The date on which the existing financial system was implemented, the procurement and implementation costs and the current operational costs thereof must be disclosed;

g) A technical assessment must be undertaken on the server and network requirements of the new financial system and a copy of such report should be submitted; and

h) Copies of all IT strategies, policies and procedural documents including the IT disaster recovery plan must be made available.

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

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

a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

b) there is no reason to believe that such contract was not validly procured;

c) there are demonstrable discounts or benefits to do so; and

d) that other organ of state and the provider have consented to such procurement in writing.

32 Procurement of goods necessitating special safety arrangements

1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever possible.

2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the official duly authorised in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

33 Proudly SA Campaign

1) The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services as per Council's Preferential Procurement Policy

34 Appointment of consultants

1) The Accounting Officer may procure consulting services provided that any National Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such services procurement is made.

2) Consultancy services must be procured through competitive bids if:

a) the value of the contract exceeds R300 000 (Incl. VAT); or

b) the duration period of the contract exceeds one year.

3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

a) all consultancy services provided to an organ of state in the last five years; and

b) any similar consultancy services provided to an organ of state in the last five years.

4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.

5) A municipality or municipal entity may only appoint consultants if an assessment of the needs and requirements confirms that the affected municipality or municipal entity does not have the requisite skills or resources in its full time employ to perform the function.

6) An accounting officer must adopt a fair and reasonable remuneration framework for consultants taking into account the rates -
   a) determined in the "Guideline on fees for audits undertaken on behalf of the Auditor - General of South Africa ", issued by the South African Institute of Chartered Accountants;
   b) set out in the "Guide on Hourly Fee Rates for Consultants ", issued by the Department of Public Service and Administration; or
   c) as prescribed by the body regulating the profession of the consultant.
7) The tender documentation for the appointment of consultants must include a clause that the remuneration rates will be subject to negotiation, not exceeding the applicable rates mentioned in sub regulation (2).
8) When negotiating cost -effective consultancy rates for international consultants, the accounting officer may take into account the relevant international and market –determined rates.
9) When consultants are appointed, an accounting officer must -
   a) appoint consultants on a time and cost basis with specific start and end dates;
   b) where practical, appoint consultants on an output- specified basis, subject to specific measurable objectives and associated remuneration;
   c) ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements;
   d) ensure the transfer of skills by consultants to the relevant officials of a municipality or municipal entity;
   e) undertake all engagements of consultants in accordance with the Municipal Supply Chain Management Regulations, 2005 and the municipality or municipal entity's supply chain management policy; and
   f) develop consultancy reduction plans to reduce the reliance on consultants.
10) All contracts with consultants must include a fee retention or penalty clause for poor performance.
11) A municipality or municipal entity must ensure that the specifications and performance are used as a monitoring tool for the work to be undertaken and are appropriately recorded and monitored.
12) The travel and subsistence costs of consultants must be in accordance with the national travel policy issued by the National Department of Transport, as updated from time to time.
13) The contract price must specify all travel and subsistence costs and if the travel and subsistence costs for appointed consultants are excluded from the contract price, such costs must be reimbursed in accordance with the national travel policy of the National Department of Transport.

35 Deviation from, and ratification of minor breaches of procurement processes

1) The Accounting Officer may –

a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

(i) in an emergency;

(a) Circumstances that warrant emergency dispensation, includes but are not limited to -
   (i) the possibility of human injury or death;
   (ii) the possibility of damage to property;
   (iii) failure to take necessary action may result in the municipality not being able to render an essential community service;
   (iv) the interruption of services related to communication facilities or support services critical to the effective functioning of the municipality as a whole; or
   (v) the eminent possibility of serious damage occurring to the natural environment.

(b) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.

(c) Procurement in the case of emergencies must be tacitly approved by the relevant director or his delegate prior to incurring the expenditure (before issuing an instruction to the supplier) and must be reported in writing for final approval to the Accounting Officer before an order or instruction is issued.

(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-:

(a) ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids (strip and quote);

(b) any contract relating to the publication of notices and advertisements by the municipality where applicable legislation or applicable council policy dictates.

(c) Membership and subscription to professional bodies and any training provided by such bodies for purposes of obtaining continuous professional development points;

(d) the attendance of conferences and workshops;

(e) the use of couriers for official documents/parcels;

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; and

c) may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this Policy and which is not also a contravention of the Municipal Supply Chain Management Regulations (GG 27636 of 30 May 2005), provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.

2) The Accounting Officer must record the reasons for any deviations in terms of sub-clauses (1)(a) and (b) of this policy and report them to the next Council Meeting and include as a note to the annual financial statements.

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

36 Unsolicited bids

1) In accordance with Section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

2) The Accounting Officer may decide in terms of Section 113(2) of the Act to consider an unsolicited bid, only if –

a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;

c) the person who made the bid is the sole provider of the product or service; and

d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.

3) If the Accounting Officer decides to consider an unsolicited bid that complies with sub-clause (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with –

a) reasons as to why the bid should not be open to other competitors;

b) an explanation of the potential benefits if the unsolicited bid was to be accepted; and

c) an invitation to the public or other potential suppliers to submit their comments within 22 business days of the notice.

4) The Accounting Officer must submit all written comments received pursuant to sub-clause (3), including any responses from the unsolicited bidder to the National Treasury and the Provincial Treasury for comment.

5) The bid adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.

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

7) When considering the matter, the adjudication committee must take into account –

    a) any comments submitted by the public; and

    b) any written comments and recommendations of the National Treasury or the Provincial Treasury.

8) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

9) Such submission must be made within five business 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 22 business days of the submission.

37 Combating of abuse of the supply chain management system

1) The Accounting Officer is hereby enabled to –

    a) take all reasonable steps to prevent abuse of the supply chain management system;

    b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –

        (i) take appropriate steps against such official or other role player; or

        (ii) report any alleged criminal conduct to the South African Police Service;

    c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

    d) reject any bid from a bidder –

        (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality, or to any other municipality or municipal entity are in arrears for more than three months; or

        (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

    e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

    f) cancel a contract awarded to a person if –

        (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

        (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

    g) reject the bid of any bidder if that bidder or any of its directors –

        (i) has abused the supply chain management system of the Municipality or has committed any improper conduct in relation to such system;

        (ii) has been convicted for fraud or corruption during the past five years;

        (iii) has 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).

2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of sub-clauses (1)(b)(ii), (e) or (f) of this policy.

Part 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

38 Logistics management

1) 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 prior to the receipt of goods and/or services. Orders must be issued by 31 July for all contracts active during July;

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. Orders may be amended/issued where estimates are used to issue orders for rates/tariff-based contracts when it is impractical to determine the final amount upfront;

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 are properly managed and maintained in terms of Council's Asset Management Policy; and

g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

h) Contracts will be implemented in terms of the requirements of Section 116 of the Act and Council's Contract Management Policy.

39 Disposal management

a) Assets must be disposed of in terms of the Municipal Asset Transfer Regulations, Lekwa Local Municipality's Asset Management Policy respectively.

b) Disposal Management does not represent a procurement process and is thus exempt from the prohibitions of Clause 44 of this policy. As a result, the municipality is not prohibited from selling/disposing of movable or immovable assets to persons in the service of the state.

c) Granting of Rights

The granting of rights (where sections 14 and 90 of the MFMA do not apply) by the Lekwa Local Municipality, shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations and the Asset Management Policy, as amended from time to time.

40 Risk management

The Accounting Officer must implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system as per Council's Risk Management Policy.

41 Performance management

The Accounting Officer must implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved in terms of the Performance Management System-Policy.

Part 4: OTHER MATTERS

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

1) Irrespective of the procurement process followed, the municipality may not make any award above R30 000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

2) Before making an award to a person, the Municipality must first check with SARS/CSD whether that person's tax matters are in order.

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

43 Prohibition on awards to persons in the service of the state

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

a) who is in the service of the state;

b) that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

c) a person who is an advisor or consultant contracted with the Municipality in respect of a contract that would cause a conflict of interest.

44 Awards to close family members of persons in the service of the state

1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 (Incl. VAT) 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.

45 Ethical standards

1) A code of ethical standards for supply chain management practitioners and other role players involved in supply chain management is hereby established in accordance with sub-clause (2) 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) An official or other role player involved in the implementation of the supply chain management policy –

a) must treat all providers and potential providers equitably;

b) may not use his or her position for private gain or to improperly benefit another person;

c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

d) notwithstanding sub-clause (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality;

f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

g) must be scrupulous in his or her use of property belonging to the municipality;

h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –

(i) any alleged fraud, corruption, favouritism or unfair conduct;

(ii) any alleged contravention of clause 47(1) of this policy; or

(iii) any alleged breach of this code of ethical standards.

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

a) must be recorded in a register which the Accounting Officer must keep for this purpose;

(i) by the Accounting Officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

4) A breach of the code of ethics must be dealt with as follows -

a) in the case of an employee, in terms of the disciplinary procedures of the Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;

b) in the case a councillor, in terms of Schedule 1 of the Systems Act;

c) in the case a role player who is not an employee, or a councillor through other appropriate means in recognition of the severity of the breach; and

d) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

46 Inducements, rewards, gifts and favours to municipal officials and other role players

1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

a) any inducement or reward to the Municipality for or in connection with the award of a contract; or

b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of this Policy.

2) The Accounting Officer must promptly report any alleged contravention of sub-clause (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

3) Sub-clause (1) does not apply to gifts less than R350 (Incl. VAT) in value.

47 Sponsorships

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

a) a provider or prospective provider of goods or services; or

b) a recipient or prospective recipient of goods disposed or to be disposed.

48 Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 10 business days of the decision or action, a written objection or complaint against the decision or action subject to the payment of applicable appeal deposit as per Council's approved tariffs.

49. Resolution of disputes, objections, complaints and queries

1) The Accounting Officer must appoint an independent and impartial person or persons, not directly involved in the supply chain management processes –
   a) to assist in the resolution of disputes between the Municipality and other persons regarding -
      (i) any decisions or actions taken in the implementation of the supply chain management system; or
      (ii) any matter arising from a contract awarded in the course of the supply chain management system;
   b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
3) The person appointed must –
   a) strive to resolve promptly all disputes, objections, complaints or queries received; and
   b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
4) A dispute, objection, complaint or query may be referred to the Provincial Treasury if –
   a) the dispute, objection, complaint or query is not resolved within 60 days; or
   b) no response is forthcoming within 60 days.
5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query will be referred to the National Treasury for resolution.
6) This clause must not be read as affecting a person's rights to approach a court at any time.

50 Contracts providing for compensation based on turnover

1) 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.

51. Public-Private Partnerships

Public-Private Partnerships will be procured in terms of Part 2 of Chapter 11 of the Act.

52. Contract Management

Contracts will be implemented in terms of the requirements of Section 116 of the Act and Council's Contract Management Policy.

53 Transversal Contracts

All commodities, services and products covered by a transversal contract concluded by the National Treasury must be considered before approaching the market, to benefit from savings where lower prices or rates have been negotiated.

54 Short title and commencement

This part of the policy is called the Lekwa Local Municipality Supply Chain Management Policy.

This policy will come into effect on 16 January 2023 and will be reviewed at least annually by way of a Council resolution.

LEKWA LOCAL

MUNICIPALITY

PART B

SCM POLICY FOR INFRASTRUCTURE PROCUREMENT AND

DELIVERY MANAGEMENT

TABLE OF CONTENTS

1 SCOPE

This policy establishes the 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:

1) the storage of goods and equipment following their delivery to the Municipality which are stored and issued to contractors or to employees;
2) the disposal or letting of land;
3) the conclusion of any form of land availability agreement;
4) the leasing or rental of moveable assets; and
5) public private partnerships.

2 TERMS, DEFINITIONS AND ABBREVIATIONS

1) Terms and definitions

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

agent:	person or organization that is not an employee of the Municipality that acts on the Municipality's behalf in the application of this document
authorised person:	the Municipal Manager or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order
conflict of interest:	any situation in which: someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially, 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 incompatibility or contradictory interests exist between an employee and the organization which employs that employee
contract owner:	person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view
family member:	a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption
framework agreement:	an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged
gate:	a control point at the end of a process where a decision is required before proceeding to the next process or activity
gateway review:	an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based
gratification:	an inducement to perform an improper act
infrastructure delivery:	the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure
infrastructure procurement:	the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure
maintenance:	the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function
operation:	combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use
order:	an instruction to provide goods, services or any combination thereof under a framework agreement
organ of state:	an organ of state as defined in section 239 of the Constitution of the Republic of South Africa
procurement document:	documentation used to initiate or conclude (or both) a contract or the issuing of an order
principal:	a natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

standard:	the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury
working day:	any day of a week on which is not a Sunday, Saturday or public holiday

2) Abbreviations

For the purposes of this document, the following abbreviations apply

a) CIDB: Construction Industry Development Board

b) SARS: South African Revenue Services

3 GENERAL REQUIREMENTS

1) Delegations

a) The council of the Municipality hereby delegates all powers and duties to the Accounting Officer to enable him or her to:

(i) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 of the Local Government Municipal Finance Management Act of 2003 and this document;

(ii) maximise administrative and operational efficiency in the implementation of this document;

(iii) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this document; and

(iv) 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.

(v) No departure shall be made from the provisions of this policy without the approval of the Accounting Officer of the Municipality

(vi) The Accounting Officer shall for oversight purposes:

(vii) within 22 business days of the end of each financial year, submit a report on the implementation of this policy to the council of the Municipality.

(viii) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council.

(ix) within 10 business days of the end of each quarter, submit a report on the implementation of the policy to the mayor; and

(x) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

2) Implementation of the Standard for Infrastructure Procurement and Delivery Management

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

3) Supervision of the infrastructure delivery management unit

The Project Management Unit (PMU) shall be directly supervised by the Executive Manager Technical Services.

4) Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this policy, may lodge within 10 business days of the decision or action, a written objection or complaint against the decision or action.

5) Resolution of disputes, objections, complaints and queries

a) The Accounting Officer shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the Municipality and other persons regarding:

(i) any decisions or actions taken in the implementation of the supply chain management system;

(ii) any matter arising from a contract awarded within the Municipality's infrastructure delivery management system; or

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

b) 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.

c) The person appointed in terms of 3(5)(a) shall:

(i) strive to resolve promptly all disputes, objections, complaints or queries received; and

(ii) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

d) A dispute, objection, complaint or query may be referred to the Mpumalanga Provincial Treasury if:

(i) the dispute, objection, complaint or query is not resolved within 60 days; or (ii) no response is

forthcoming within 46 business days.

(iii) If the Mpumalanga Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

4 CONTROL FRAMEWORK FOR INFRASTRUCTURE DELIVERY MANAGEMENT

1) Assignment of responsibilities for approving or accepting end of stage deliverables[1]

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

2) Gateway reviews

a) Gateway reviews for major capital projects above a threshold

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

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	Relevant Executive Manager accepts the initiation report
1	Infrastructure planning	Relevant Executive Manager approves the infrastructure plan
2	Strategic resourcing	Relevant Executive Manager approves the delivery and / or procurement strategy
3	Pre-feasibility	Relevant Executive Manager accepts the pre-feasibility report
	Preparation and briefing	Relevant Executive Manager accepts the strategic brief
4	Feasibility	Relevant Executive Manager accepts the feasibility report
	Concept and viability	Relevant Executive Manager accepts the concept report

[1] 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.

5	Design development		Relevant Executive Manager accepts the design development report
6	Design documentation	6A Production information	Relevant Executive Manager accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance
		6B Manufacture, fabrication & construction information	The contract owner accepts the manufacture, fabrication and construction information
7	Works		The contract owner 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		The contract owner or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract owner certifies final completion in accordance with the provisions of the contract Contract owner accepts the close out report

5 CONTROL FRAMEWORK FOR INFRASTRUCTURE PROCUREMENT

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.

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:

   a) the relevant Executive Manager 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.

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

1) Institutional arrangements

a) Committee system for procurement[2]

(i) General

(a) A committee system comprising the bid specification committee, bid evaluation committee and bid adjudication 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.

(b) The bid 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.

(c) The persons appointed in writing as technical advisors and subject matter experts may attend any committee meeting.

(d) No person who is a political officer bearer, a public office bearer including any councillor 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 bid specification, evaluation or bid adjudication committee.

(e) 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.

(f) 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.

(ii) Bid specification committee

(a) the Accounting Officer shall appoint in writing:

(i) 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

(ii) the members of the bid specification committee.

(b) The bid specification committee shall comprise two or more persons. The chairperson shall be an employee of the Municipality with requisite skills. Other members shall where relevant, include a representative of the end user or the department requiring infrastructure delivery.

(c) No member of, or technical adviser or subject matter expert who participates in the work of 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.

[2] SCM Regulation 26 of the MFMA requires that a committee system be established for procurement above the threshold for quotations. A municipality of a municipal entity may require that the bid adjudication committee also deal with quotations.
The principle of segregation (an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task) is dealt with the committee system in the standard as follows:

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

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

Activity		Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1*	Establish what is to be procured	1.3 PG1	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	Relevant Executive Manager
2*	Decide on procurement strategy	2.5 PG2	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	Relevant Executive Manager
3	Solicit tender offers	3.2 PG3	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Relevant Executive Manager
		3.3 PG4	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	“Contract owner in consultation with the budget office”
4	Evaluate tender offers	4.2 PG5	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	Bid evaluation committee
		4.7 PG6	Confirm recommendations contained in the tender evaluation report	Review recommendations of the bid evaluation committee and refer back to bid evaluation	Bid adjudication committee

				committee for reconsideration or make recommendation for award	
5	Award contract	5.3 PG7	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	Authorised person
		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	Database administrator

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

Table 2 (concluded)

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

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

Activity	Key action	Person assigned responsibility to perform key action

1 FG1	Confirm justifiable reasons for selecting a framework contactor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	Contract owner in consultation with relevant Executive Manager
3 FG2	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Manager Supply Chain
4 FG3	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	Contract owner in consultation with the budget office
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	As per delegated authority

[3] 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 % - appropriately delegated authority
- 2,5 to 10% - appropriately delegated authority
- 10% - appropriately delegated authority

(iii) Bid evaluation committee

(a) The accounting officer shall appoint in writing:

(i) the persons to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clause.2.3.2 and 4.2.3.4 of the standard, respectively; and

(ii) the members of the bid evaluation committee.

(b) A bid evaluation committee must as far as possible be composed of-

(i) the budget holder and other officials from departments requiring the goods or services

(c) at least one delegated supply chain management practitioner[2].

(d) The bid 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:

(i) the capability and capacity of a tenderer to perform the contract;

(ii) the tenderer's tax and municipal rates and taxes compliance status;

(iii) confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;

(iv) the Compulsory Declaration has been completed; and

(v) the tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.

(e) No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the bid specification committee or a family member or associate of such a member, may be considered by the bid evaluation committee.

(f) The chairperson of the bid evaluation committee shall promptly notify the accounting officer 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.

(iv) Bid adjudication committee

(a) The bid adjudication committee must be composed of at least four Executive Managers of the municipality which must include –

(i) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager reporting directly to the Chief Financial Officer and designated by the Accounting Officer; and

(ii) a senior supply chain management practitioner.

(b) No member of the bid evaluation committee may serve on the bid adjudication committee. A member of a bid evaluation committee may, however, participate in the deliberations of a bid adjudication committee as a technical advisor or a subject matter expert.

(c) The bid adjudication committee shall:

(i) consider the report and recommendations of the bid 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 an award or a recommendation;

3. confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and

[2] A supply chain management practitioner in the context of infrastructure delivery includes a built environment professional.

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

(ii) refer the report back to the bid evaluation committee for their reconsideration or make an award or a recommendation to the Accounting Officer on the award of a tender, with or without conditions, together with reasons for such recommendation.

(d) The bid adjudication 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.

(e) The bid adjudication committee shall consider the merits of an unsolicited offer and make a recommendation to the Accounting Officer.

(f) The bid adjudication committee shall report to the Accounting Officer any recommendation made to award a contract to a tenderer other than the tenderer recommended by the bid evaluation committee, giving reasons for making such a recommendation.

(g) The bid adjudication committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

(i) made a misrepresentation or submitted false documents in competing for the contract or order; or

(ii) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

(h) The bid adjudication 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 Mpumalanga Provincial Treasury shall be informed where such tenderers are disregarded.

b) Actions of an authorised person relating to the award of a contract or an order. Award of a

contract

(a) 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 bid adjudication committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the bid evaluation committee, and either:

(i) 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

(ii) decide not to proceed or to start afresh with the process.

(b) The authorised person shall immediately notify the Accounting Officer 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 business days, notify in writing the Auditor-General, the National Treasury and the Mpumalanga Provincial Treasury of the reasons for deviating from such recommendation.

(c) (ii) Issuing of an order / Appointment letter

(a) 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 bid evaluation committee or the delegated authority, as relevant, and either:

(i) authorise the issuing of an order in accordance with the provisions of clause 4.2.5 of the standard by

1. confirming that the required goods or services, or any combination thereof, are within the scope of the work associated with the relevant framework

2. considering the recommendations of the evaluation report where competition amongst framework contracts takes place or a significant proportion of the total of the prices is negotiated, based on the financial parameter contained in the framework contract, and either confirm the reasonableness of such recommendations and sign the acceptance of the order, refer the evaluation report and recommendation back to those who prepared it; or

(ii) decide not to proceed or to start afresh with the process.

c) Conduct of those engaged in infrastructure delivery

(i) General requirements

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

(i) behave equitably, honestly and transparently;

(ii) discharge duties and obligations timeously and with integrity;

(iii) comply with all applicable legislation and associated regulations;

(iv) satisfy all relevant requirements established in procurement documents;

(v) avoid conflicts of interest; and

(vi) not maliciously or recklessly injure or attempt to injure the reputation of another party.

(b) All personnel and agents engaged in the Municipality's infrastructure delivery management system shall:

(i) 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;

(ii) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;

(iii) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;

(iv) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;

(v) ensure that resources are administered responsibly;

(vi) be fair and impartial in the performance of their functions;

(vii) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;

(viii) not abuse the power vested in them;

(ix) 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;

(x) assist the Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;

(xi) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;

(xii) not make false or misleading entries in reports or accounting systems; and

(xiii) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

(c) An employee or agent of the Municipality may not amend or tamper with any submission, tender or contract in any manner whatsoever.

(d) (ii) Conflicts of interest

(a) The employees and agents of the Municipality who are connected in any way to procurement and delivery management activities which are subject to this policy, shall:

(i) disclose in writing to the employee of the 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

(ii) not participate in any activities that might lead to the disclosure of the Municipality proprietary information.

(b) The employees and agents of the 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.

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

(i) the Municipality states in the tender data that such an agent is a potential tenderer;

(ii) 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

(iii) the bid specification committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

(iii) Evaluation of submissions received from respondents and tenderers

(a) 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:

(i) not have any conflict between their duties as an employee or an agent and their private interest;

(ii) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;

(iii) deal with respondents and tenderers in an equitable and even-handed manner at all times; and

(iv) 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 the Municipality.

(b) The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of the Municipality and a tenderer or respondent shall be disclosed and recorded in the bid adjudication evaluation report.

(c) the Municipality's 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.

(iv) 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 the Municipality's confidential information and interests.

(v) Gratifications, hospitality and gifts

(a) The employees and agents of the 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.

(b) The employees and agents of the Municipality as well as their family members or associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

(i) money, loans, equity, personal favours, benefits or services;

(ii) overseas trips; or

(iii) 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.

(c) The employees and agents of the 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.

(d) All employees and agents of the Municipality may for the purpose of fostering interpersonal business relations accept the following:

(i) meals and entertainment, but excluding the cost of transport and accommodation;

(ii) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;

(iii) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;

(iv) 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

(v) gifts in kind other than those listed in a) to d) which have an intrinsic value greater than R350 unless they have not declared them to the Accounting Officer or delegated official.

(e) 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.

(f) Employees and agents of the Municipality shall without delay report to the Accounting 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.

(vi) Reporting of breaches

Employees and agents of the Municipality shall promptly report to the Accounting Officer or chief financial officer or appropriately delegated authority any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

d) Measures to prevent abuse of the infrastructure delivery system

(i) The Accounting Officer 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 the Mpumalanga 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:

(i) 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

(ii) an employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

e) Awards to persons in the service of the state

(i) 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.

(ii) The notes to the annual financial statements of the Municipality shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified who is in the service of the state 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.

f) Collusive tendering

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

(ii) is not associated, linked or involved with any other tendering entity submitting tender offers; or

(iii) 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.

g) Placing of contractors under restrictions

(i) 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 the 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 the Municipality that the statement

was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

(g) the Manager: Legal (Contract Management) shall prepare a report on the matter and make a recommendation to the Accounting Officer for placing the contractor or any of its principals under restrictions from doing business with the Municipality.

(ii) The Accounting Officer may, as appropriate, upon the receipt of a recommendation made in terms of 6(1)(g)(i)(g) 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 the Municipality for a period of time.

(iii) The Contract Management office shall:

(a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of the Municipality who are engaged in procurement processes; and

(b) notify the National Treasury and Mpumalanga Provincial Treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

h) Complaints

(i) All complaints regarding the Municipality's infrastructure delivery management system shall be addressed to the Accounting Officer. Such complaints shall be in writing.

(ii) The relevant user department shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Manager: Supply Chain Management who will decide on what action to take.

2) ACQUISITION MANAGEMENT

a) Unsolicited proposal

(i) The Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:

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

(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 the Municipality;

(d) the offer is in writing and clearly sets out the proposed cost;

(e) the person who made the offer is the sole provider of the goods or service; and

(f) the Accounting Officer finds the reasons for not going through a normal tender processes to be sound.

(ii) The Accounting Officer may only accept an unsolicited offer and enter into a contract after considering the recommendations of the bid adjudication committee if:

(a) the intention to consider an unsolicited proposal has been made known in accordance with Section 21A of the Municipal Systems Act of 2000 together with the reasons why such a proposal should not be open to other competitors, an explanation of the potential benefits for the Municipality and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice;

(b) the Municipality has obtained comments and recommendations on the offer from the National Treasury and the Mpumalanga Provincial Treasury;

(c) the bid adjudication 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 the Mpumalanga Provincial Treasury; and

(d) the provisions of 6(2)(a)(iii) are complied with.

(iii) The Accounting Officer shall, within 5 business 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 Mpumalanga Provincial Treasury and Auditor General. A contract shall in such circumstances not be entered into or signed within 22 business days of such submission.

b) Tax and rates compliance

(i) SARS tax clearance

(a) No contract may be awarded or an order issued where the value of such transaction exceeds R 30 000, whose tax matters have been declared by the South African Revenue Service to be in order or if 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.

(b) In the case of a partnership, each partner shall comply with the requirements of 6(2)(b)(i)(a).

(c) No payment shall be made to a contractor who does not satisfy the requirements of 6(2)(b)(i)(a). An employee of the Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

(d) Notwithstanding the requirements of 6(2)(b)(i) and 6(2)(b)(ii) the following shall apply, unless a person who is not tax compliant indicates to the Manager: Supply Chain Management or his delegate that it intends challenging its tax compliance status with SARS,

(i) 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 business days after being duly notified of its non-compliant status;

(ii) 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 business days after being duly notified of its non-compliant status;

(iii) 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;

(iv) 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;

(v) no payments may be released for any amounts due in terms of the contract due to a non-compliant 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.

(e) 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 in terms of 6(2)(b)(i)(d)(v).

(ii) Municipal rates and taxes

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

c) Declarations of interest

(i) 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 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.

d) Invitations to submit expressions of interest or tender offers

(i) All invitations to submit tenders where the estimated value of the contract exceeds R300,000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on the Municipality's website and on the National Treasury e-Tender Publication Portal.

(ii) Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Board Act of 2000 shall in addition to the requirements of 6(2)(d)(i) be advertised on the CIDB website.

(iii) Where deemed appropriate by the bid specification committee 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.

(iv) Such advertisements shall be advertised for a period of at least 21 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the Accounting Officer.

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

e) Publication of submissions received and the award of contracts

(i) The names of all tenderers that made submissions shall be published within 10 business 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 R300,000 including VAT on the Municipality's website, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 21 business days.

(ii) The following information will be published on the Municipality's website within 7 business days of the award of a contract:

(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.

(iii) The information regarding the successful and unsuccessful tenders required by National Treasury shall be submitted within 7 business days of the award of a contract on the National Treasury e-Tender Publication Portal.

(iv) 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 Board Act of 2000 shall in addition to the requirements of 6(2)(e)(iii) be notified on the CIDB website.

f) Disposal committee

(i) The Accounting Officer shall appoint on a disposal-by-disposal basis in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

(ii) The disposal panel shall comprise not less than three people. The chairperson shall be an employee of the Municipality.

(iii) The disposal committee shall make recommendations to the Accounting Officer who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration and decide not to proceed or to start afresh with the process.

3) REPORTING OF INFRASTRUCTURE DELIVERY MANAGEMENT INFORMATION

The Manager Project Management Unit or his delegate shall submit any reports required in terms of the standard to the National Treasury or the Mpumalanga Provincial Treasury.

7 INFRASTRUCTURE PROCUREMENT

1) Procurement documents

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

Form of contract	Code	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 20year operation period. (The contractor has

		no responsibility for the financing of the project/package or its ultimate commercial success.)
South African Institution 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 straight forward 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.

Form of contract	Code	Usage
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.

(i) The 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 the Specification Committee prior to being issued for tender purposes.

(ii) Disputes arising from the performance of a contract shall be finally settled in a South African court of law.

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

(a) consultancy services; and

(b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.

2) Developmental procurement policy

a) The following specific goals shall be proposed:

Refer to the Emerging contractor development policy.

3) Payment of contractors

The Municipality will settle all accounts within 30 days after receipt of an invoice and statement for the month in question, detailing all invoices during that month and reflecting the total amount due by the Municipality, unless specified differently in the contract. In exceptional circumstances the Municipality may, at its discretion, deviate from the above.

4) Approval to utilise specific procurement procedures

a) 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:

   (i) The Accounting Officer shall authorise the use of the negotiated procedure above the thresholds provided in the standard.

   (ii) The Accounting Officer shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and

   (iii) The proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure

b) The person authorised to pursue a negotiated procedure in an emergency is the Accounting Officer.

5) Receipt and safeguarding of submissions

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

b) The tender box shall be locked, and the keys kept separately by staff of the Records section. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

6) Opening of submissions

a) Submissions shall be opened by an opening panel comprising two people of which one should be a SCM practitioner who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

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

   (i) sort through the submissions of all tenders that has closed that day;

   (ii) return submissions unopened and suitably annotated where:

      (a) submissions are received late,
      (b) submissions were submitted by a method other than the stated method,
      (c) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and.
      (d) only one tender submission is received, and it is decided not to open it and to call for fresh tender submissions;
      (e) record in the register submissions that were returned unopened;

(f) 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;

(g) record in the register the name of any submissions that is returned with the reasons for doing so;

(h) sign the entries into the register; and

(i) stamp each returnable document in each tender submission.

c) Each member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 7.7.2h).

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

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

7) Use of another organ of state's framework agreement

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

8) Insurances

a) Contractors shall be required to take out all insurances required in terms of the contract.

b) 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 relevant Executive Manager.

c) Lateral earth support insurance in addition to such insurance shall be taken out on a case-by-case basis.

Table 4: Minimum insurance cover

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

Type of insurance	Value
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 & engineering: R3,0million Architectural: R5,0 million Other R3,0 million

d) 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 relevant Director.

e) 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.

f) 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 relevant Executive Manager in relation to the nature of the service that they provide.

g) The 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.

h) Where payment is to be made in multiple currencies, either the contractor or the 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.

9) Written reasons for actions taken

a) Written reasons for actions taken shall be provided by a contract owner.

b) 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:

   (i) 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

   (ii) 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.

c) 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.

10) Request for access to information

a) 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 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 the Municipality.

b) 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.

11) SHORT TITLE AND COMMENCEMENT

This part of the policy is called the SCM Policy for Infrastructure Procurement and Delivery Management of the Lekwa Local Municipality.

This policy will come into effect on 01 March 2024 and will be reviewed at least annually by way of a Council resolution.

CURRENT UPDATE	2024-02-29		
CURRENT UPDATE	2023/01/16	PREVIOUS REVIEW:	2021/05/12
PREVIOUS REVIEW:	2022/05/12	PREVIOUS REVIEW:	2020/06/26

LEKWA LOCAL
MUNICIPALITY

PART C
PREFERENTIAL PROCUREMENT POLICY

PART C

PREFERENTIAL PROCUREMENT POLICY adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2022

PREAMBLE

WHEREAS the Lekwa Local Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council takes into account the need for transparent procedures that give the effect to the principle of preferential procurement;

AND WHEREAS local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities;

NOW THEREFORE the Council of the Lekwa Local Municipality resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2022 are herewith integrated into the Lekwa Local Municipality’s Supply Chain Management Policy to form the basis of the evaluation criteria for quotations and competitive tenders.

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1 Definitions

In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

"all applicable taxes"	includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
"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, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
“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;
“Previously Disadvantaged”	A generic term which means Africans, Coloureds and Indians. (a) Who are citizens of the Republic of South Africa by birth or descent; (b) Who became citizens of the Republic of South Africa by naturalization- (i) Before 27 April 1994. In terms of section 9(2) of the Constitution of the Republic of South Africa,1996 (Act No. 108 of 1996).
"Broad-Based Black Economic Empowerment Act" (B-BBEEA)	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);
“co-operative”	means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);
“Comparative price"	means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
"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;
"Contract"	means the agreement that results from the acceptance of a tender by the Lekwa Local Municipality;
“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 sector”	means a sector, sub-sector or industry or product designated in terms of clause 8(1)(a);
“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;

"Firm price"	is 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 a 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 the contract;
"Functionality"	means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;
"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 subcontractors) and which costs are inclusive of the costs abroad, plus freight and 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;
"local content"	means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
"military veteran"	has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);
"Locality"	Municipal jurisdiction.
"Municipality"	Lekwa Local Municipality;

"National Treasury"	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
"Non-firm prices"	means all prices other than "firm" prices;
"organ of state"	The definition of organ of state in section 1 of the Act in paragraph (a) to (e) includes- • a national or provincial department as defined in the Public Finance Management Act, 1999; • a municipality as contemplated in the Constitution; • a constitutional institution as defined in the Public Finance Management Act; • Parliament; • a provincial legislature. Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of "organ of state" in section 239 of the Constitution and recognised by the Minister by notice in the Government Gazette as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.
"Person"	includes reference to 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);

“Policy”	Means the Preferential Procurement Policy of Lekwa Local Municipality
“price”	includes all applicable taxes less all unconditional discounts;
“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; (d) as sworn to on the Central Suppliers’ Database of National Treasury
“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;
“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;
“stipulated minimum threshold”	means the minimum threshold stipulated in terms of clause 8(1)(b);
"Sub-Contract"	means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;
"Tender"	means a written offer in a prescribed or stipulated form in response to an invitation by Lekwa Local Municipality for the provision of services, works or goods, through price quotations, advertised competitive tender processes or proposals;
"the Act"	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
"Total revenue"	bears the same meaning assigned to this expression as in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 and promulgated in the Government Gazette on 9 February 2007;
“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”	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
"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; and
"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.

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

2 Application

These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.

3 Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting

1) The Municipality must determine and stipulate in the tender documents-
   i the preference point system applicable to the tender as envisaged in regulation 4,5,6 or 7;
   ii the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of claim for such goal.
2) If it is unclear whether the 80/20 or 90/10 preference point system applies, the municipality must in the tender documents, stipulate in the case of-
   a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
   b) any other invitation for tender, 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

80/20 preference point system for acquisition of goods or services with Rand value

equal to or below R50 million

1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes: .

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

Where;
Ps = Points scored for price of tender under consideration; Pt = Price of tender under consideration; and Pmin = Price of lowest acceptable tender.

2) A maximum of 20 points may be awarded to a tenderer for the specific goal as follows:

Specific Goals	Points
Previously Disadvantaged Individuals (Certified ID Copy)	4
Women (Certified ID Copy)	4
Disabled (Health Record Stating nature of disability)	4
Youth (Certified ID Copy)	4
Locality (CIPC)	4

3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for acquisition of goods or services for 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:

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

Where

Ps = Points scored for price of tender under consideration; Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender

2) A maximum of 10 points may be awarded to a tenderer for the specific goal as follows:

Specific Goals	Points
Previously Disadvantaged Individ (Certified ID Copy)	2
Women (Certified ID Copy)	2
Disabled (Health Record Stating nature of disability)	2
Youth (Certified ID Copy)	2
Locality (CIPC)	2

3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference points system for tenders for income-generating contracts with

Rand value equal to or below R50 million

1) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80\left(1 + \frac{Pt - Pmax}{Pmax}\right)$$

Where -

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

2) A maximum of 20 points may be awarded to a tenderer for the specific goal as follows:

Specific Goals	Points
Previously Disadvantaged (Certified ID Copy)	4
Women (Certified ID Copy)	4
Disabled (Health Record Stating nature of disability)	4
Youth (Certified ID Copy)	4
Locality (CIPC)	4

3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

1) The following formula must be used to calculate the points for price in respect of a tender for income-generating contracts, with a Rand value above R50 million, inclusive of all applicable taxes:

$$Ps = 90\left(1 + \frac{Pt - Pmax}{Pmax}\right)$$

Where –

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

2) A maximum of 10 points may be awarded to a tenderer for the specific goals as follows:

Specific Goals	Points
reviously Disadvantaged Individuals(Certified ID Copy)	2
Women (Certified ID Copy)	2
Disabled (Health Record Stating nature of disability)	2
Youth (Certified ID Copy)	2
Locality (CIPC)	2

3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

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 specific goals.

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

Remedies

1) If the municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—
   a) inform the tenderer accordingly; and
   b) give the tenderer an opportunity to make representations within 14 days as to why the tender may 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.
2) After considering the representations referred to in sub-regulation (1)(b), the municipality may, if it concludes that such information is false—
   (a) disqualify the tenderer or terminate the contract in whole or in part; and (
   (b) if applicable, claim damages from the tenderer.

SHORT TITLE AND COMMENCEMENT

This part of the policy is called the Preferential Procurement Policy of the LEKWA LOCAL Municipality.

This policy will come into effect on 16 January 2023 and will be reviewed at least annually by way of a Council resolution.

POLICY SECTION:	BTO: SUPPLY CHAIN MANAGEMENT				
CURRENT REVIEW	2026/02/28	PREVIOUS REVIEW:			
PREVIOUS REVIEW	2025/02/28	PREVIOUS REVIEW:		: PREVIOUS REVIEW:	
PREVIOUS REVIEW	2020/06/26	PREVIOUS REVIEW:	2021/03/12	PREVIOUS REVIEW:	
PREVIOUS REVIEW		PREVIOUS REVIEW		PREVIOUS REVIEW:	
PREVIOUS REVIEW:		PREVIOUS REVIEW:		PREVIOUS REVIEW:	
PREVIOUS REVIEW:		PREVIOUS REVIEW:		PREVIOUS REVIEW:	
PREVIOUS REVIEW:		PREVIOUS REVIEW:		APPROVAL	

DELEGATION OF POWERS AND DUTIES CLAUSE 4.2.81		
As far as contractual obligations are concerned: Personnel to be nominated in writing by the Municipal Manager, and Executive Managers, subject to the undermentioned criteria, and further subject to the municipality's Supply Chain Management Policy, financial regulations and council resolutions where applicable.		
4.2.81.1. APPROVAL / AWARD / CANCELLATION OF QUOTATIONS, FORMAL QUOTATIONS AND TENDERS		
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL (With due regard to proper segregation of duties)	QUOTATIONS / TENDERS PROCESS FOLLOWED
Up to R2 000	Chief Financial Officer	Petty cash Purchases in terms of the Petty Cash Policy AND / OR One (1) written quotation
R2 000.01 – R30 000.00	Chief Financial Officer	Three (3) written price quotations in terms of Paragraph 17(1)(a) of the SCM Policy
R30 000.01 – R300 000.00	Chief Financial Officer	Formal written price quotations in terms of Paragraph 18(b) of the SCM Policy
R300 000.01 – R10 million	Municipal Manager after recommendation from the Bid Adjudication Committee	Competitive Bidding – committee system
> R10 million	Municipal Manager after recommendation from the Bid Adjudication Committee	Competitive Bidding – committee system
4.2.81.2 APPROVAL OF DEVIATIONS		
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL	
IN TERMS OF CLAUSE 36 ((1)(a)(v)(b) TO (i))		
R0 – R300 000.00	Accounting Officer	
>R300 000.00	Accounting Officer	
36(1)(a)(v)(c) & (d)	Accounting Officer	
IN TERMS OF CLAUSE 36 ((1)(a)(i) TO (v)(a).		
R0 – R70 000.00	Accounting Officer	
R70 000.01 – R200 000.00	Accounting Officer	
>R200 000.00	Accounting Officer	
4.2.81.3 APPROVAL OF REQUESTS FOR PURCHASE ORDERS		
Up to R2 000	Level of approval as delegated by relevant Executive Manager	
R2 000.01 – R30 000.00	Chief Financial Officer or delegate (not lower than manager)	
R30 000.01 – R300 000.00	Chief Financial Officer or delegate (not lower than manager)	
> R300 000	Chief Financial Officer or delegate (not lower than manager)	
Municipal Store Issues	Senior Managers	
4.2.81.4 CERTIFICATION AND AUTHORISATION OF ALL PAYMENTS inclusive of where an official order has been issued in terms of subparagraph 4.2.81.3 above		
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL (With due regard to proper segregation of duties)	
R0 – R70 000.00	Municipal Manager & Executive Managers	
R70 000.01 – R500 000.00	Municipal Manager & Executive Managers	
> R 500 000.00	Municipal Manager & Executive Managers	
Eskom Bulk Electricity Purchases	Senior Manager: Electro-technical Services	
4.2.81.5 APPROVAL OF SPECIFICATIONS FOR COMPETITIVE BIDS, in terms of Clause 27(2)(g) of the SCM Policy		
Cryptic description of Power or Duty	Sub-delegated to	Remarks, Limitations or Conditions

Specifications for Competitive Bids must be approved prior to the publication of the invitation for bids in terms of clause 22 of the SCM Policy.	All Executive Managers	This delegation applies in so far as each Executive Manager's responsibility for managing the respective votes of the municipality and to whom powers and duties for this purpose have been delegated in terms of Section 79 of the MFMA (Act 56 of 2003).
4.2.81.6	APPROVAL OF COMMUNICATION WITH PROSPECTIVE BIDDERS	
Cryptic description of Power or Duty	Sub-delegated to	Remarks, Limitations or Conditions
The budget holder must approach the bid specification committee to consider authorising communication with bidders prior to the closing date of tenders in terms of clause 22(6)(a) of the SCM Policy	Bid Specification Committee	This delegation applies in so far as the tender to which the communication relates and the members of the committee as appointed by the accounting officer
The budget holder must approach the bid evaluation committee to consider authorising communication with bidders after the closing of tenders in terms of clause 24(3)(c) of the SCM Policy	Bid Evaluation Committee	This delegation applies in so far as the tender to which the communication relates and the members of the committee as appointed by the accounting officer

POLICY SECTION:	BTO: SUPPLY CHAIN MANAGEMENT		
CURRENT UPDATE:	2026-02-28		
PREVIOUS REVIEW:	2025/02/28	PREVIOUS REVIEW:	2020/06/26
PREVIOUS RE-VIEW:	2024/02/29	PREVIOUS REVIEW:	
PREVIOUS REVIEW:		PREVIOUS REVIEW:	

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

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.

1. General Principles

1) The 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.

2) 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.

3) 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. Conflict of interest

4) 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. Accountability

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

6) Practitioners should use public property scrupulously.

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

8) 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.

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

10) 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 a) any alleged fraud, corruption, favouritism or unfair conduct;

b) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and

c) any alleged breach of this code of conduct.

11) 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 who must ensure that such declaration is recorded in the register.

Openness

12) 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.

Confidentiality

13) 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.

14) 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 provision of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

2. Bid Specification / Evaluation / Adjudication Committees

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.

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.

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.

4) No person should-

a) interfere with the supply chain management system of the Municipality; or

b) amend or tamper with any price quotation / bid after its submission.

3. Combative Practices

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

a) Suggestions to fictitious lower quotations;

b) Reference to non-existent competition;

c) Exploiting errors in price quotations / bids;

d) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

NOTES: