



SUPPLY CHAIN MANAGEMENT POLICY

CENTLEC (SOC) LTD: SUPPLY CHAIN MANAGEMENT POLICY

CENTLEC (SOC) LTD

CENTLEC (SOC) LTD	
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CHAPTER 1

DEFINITIONS

A-class Items	A-class items are those items that are not consumable or expendable.
Acquisition management	<ul style="list-style-type: none"> <input type="checkbox"/> Acquisition management is the process of procurement of goods or services <input type="checkbox"/> in order to ensure that acquisition delegations are in place in the organization, the market strategy is assessed and a sourcing (procurement) strategy is determined, bid documents are compiled, bids are solicited, responses are received, responses are evaluated and assessed and awarded by the Bid Adjudication Committees
Affordable	<p>Affordable in relation to a PPP agreement, means that the financial obligations to be incurred by the entity in terms of the agreement can be met by:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Funds designated in the entity’s budget for the current year for the activity outsourced in terms of the agreement; <input type="checkbox"/> Funds destined for that activity in accordance with the future budgetary projections of the entity; <input type="checkbox"/> Any allocations of the entity; <input type="checkbox"/> Or a combination of such funds and allocations.
Agreement	In relation to a <i>prohibited Practice in terms of the Competition Act 89 of 1998 as amended</i> , includes a contract, arrangement or understanding, whether or not legally enforceable
Asset	<p>It is a resource controlled by an entity as a result of past events and from which future economic benefits or service potential is expected to flow to the entity. It has the following characteristics:</p> <ul style="list-style-type: none"> <input type="checkbox"/> It possesses service potential or future economic benefit that is expected to flow to the entity. <input type="checkbox"/> It is controlled by the entity. <input type="checkbox"/> It originates as a result of a past transaction or event.
Buy out	Pay someone to give up an ownership.
Competitive bid	Means a bid in terms of a competitive bidding process.

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Competitive bidding process	Means a competitive bidding process referred to in section 24 of this policy.
Concerted Practice	Means co-operative, or coordinated conduct between <i>firms</i> , achieved through direct or indirect contact, that replaces their independent action, but which does not amount to an <i>agreement</i> .
Current asset (inventory-perishable goods)	An asset that would, in the normal course of operations, be consumed or converted to cash within 12 months after the last reporting date.
Customer service	It is the process of serving customers in accordance with acceptable, pre-determined standards in such a manner that it increases customer satisfaction and minimizes times and costs.
Demand management	Demand management ensures that the resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quality that will satisfy the needs.
Depreciation	Depreciation refers to the reduction in the value of assets generally from wear and tear. The consumption of capital is recognized as a cost of production and an allowance for this is made before net profit is arrived at.
Disposal management	Disposal management is responsible to ensure that all unserviceable, redundant or obsolete assets are subjected to a formal process of doing away with movable assets in a cost-effective, but transparent and responsible manner. It also entails the maintenance of records and documents as prescribed.
E-class accountable	Accounting in respect of those stores approved by the relevant Treasury as consumables.
E-class items	E-class items are consumable and expendable stores that cannot be repaired when it becomes unusable.
Economic principle	Obtain the highest possible output for the lowest possible use of resources.
Economy of scale	Reductions in the average cost of a product in the long run, resulting from an expanded level of output
Equipment	A-class countable stores that are issued and accounted for on an inventory.
Final award	In relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
Formal written price quotation	Means quotations referred to in sub-section 11 of section 23 of this policy.

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<p>Historically disadvantaged individual</p>	<p><input type="checkbox"/> Historically Disadvantaged Individual (HDI) means a South African citizen who:</p> <ul style="list-style-type: none"> ▪ Had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 10 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act no 200 of 1993) (“the Interim Constitution”); and/or ▪ Is female and/or ▪ Has a disability. ▪ Provided that a person, who obtained South African citizenship on or after the coming into effect of the Interim Constitution, is deemed not to be an HDI.
<p>Horizontal Relationship</p>	<p><input type="checkbox"/> Relationship between competitors</p>
<p>Immovable assets</p>	<p><input type="checkbox"/> All non-produced, non-financial tangible assets, namely land, subsoil assets, water resources and some fixed tangible assets namely fixed structures (bridges, houses and roads).</p>
<p>Intangible assets</p>	<p><input type="checkbox"/> Intangible assets are trademarks, licenses and/or the legally enforceable rights associated with copyright and patents.</p>
<p>Integrated SCM</p>	<p><input type="checkbox"/> The foundation of the integrated SCM concept is total cost analysis, which is defined, as minimizing the total cost of SCM elements.</p>
<p>In the service of the state</p>	<p><input type="checkbox"/> A member of</p> <ul style="list-style-type: none"> ▪ Any municipal council, ▪ Any provincial legislature; or ▪ The National Assembly or the national Council of Provinces. <p><input type="checkbox"/> A member of the board of directors of any municipal entity.</p> <p><input type="checkbox"/> An official of any entity or municipal entity.</p> <p><input type="checkbox"/> 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).</p> <p><input type="checkbox"/> A member of the accounting authority of any national or provincial public entity; or an employee of Parliament or a provincial legislature.</p>

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Inventories	<input type="checkbox"/> Including stock and stores (consumable stores, maintenance materials, spare parts, WIP, education/training course materials, client services). Properties/land held for sale. Strategic stocks (fuel supplies, precious stones and metals). Seized or forfeited property.
Inventory (movable assets) management	<input type="checkbox"/> It shall be possible to determine accountability for all A-class-accountable items at all times. Records shall therefore be available to describe the full extent of the responsibility of officials for equipment belonging to the institution on personal account or sectional inventories for general usage. Inventory (distribution) ledger accounts shall therefore be maintained for all A-class items.
Items	<input type="checkbox"/> An individual article or unit.
Lifecycle costing	<input type="checkbox"/> Lifecycle costing is a technique developed to identify and quantify all costs, initial and on-going, associated with a project or installation over a given period. Thus, it is a tool that forecasts the total cost of a purchase throughout its predetermined lifecycle.
List of accredited prospective providers	<input type="checkbox"/> Means a list of accredited prospective providers which an entity or municipal entity must keep in terms of this policy.
Logistics management	<input type="checkbox"/> Logistics management ensure that goods and services are available at the right place, time and quantities required to execute the functions of the entity.
Long term contract	<input type="checkbox"/> Means a contract with a duration period exceeding one year.
Measurable objectives	<input type="checkbox"/> Measurable objectives identify very specific things that the entity intends doing or delivering in order to achieve the strategic objectives and ultimately the strategic goals it has set. There must therefore be a direct causal link running from the measurable objective to one or more of the strategic objectives.
Movable assets	<input type="checkbox"/> Movable assets are assets that can be moved (e.g. machinery, equipment, vehicles, etc.). All inventories and valuables and most fixed assets belong to this category.
Municipal functions	<input type="checkbox"/> A municipal service. Any other activity within the legal competence of an entity.

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Municipal property	<input type="checkbox"/> In relation to an entity, includes any movable, immovable or intellectual property, owned by or under the control of: <ul style="list-style-type: none"> ▪ An entity; or ▪ A municipal entity under the sole or shared control of the entity.
Net present value (NPV)	<input type="checkbox"/> The sum that results when the discounted value of the expected costs of an investment are deducted from the discounted value of the expected returns. If the NPV is positive the project in question is potentially worth undertaking.
Obsolete	<input type="checkbox"/> No longer produced or used, out of date, to become obsolete by replacing it with something new.
Official	<input type="checkbox"/> Official means: <ul style="list-style-type: none"> ▪ An employee of an entity; ▪ A person seconded to an entity to work as a member of the staff of the entity; ▪ A person contracted to an entity to work as a member of the staff of the entity otherwise than as an employee.
Operation and maintenance plan	<input type="checkbox"/> The objective of operation and maintenance plans is to ensure assets remain appropriate to programme requirements, are efficiently utilized, and are maintained in the necessary condition to support programme delivery at the lowest possible long-term cost.
Other applicable legislation	<input type="checkbox"/> Means any other legislation applicable to municipal supply chain management, including: <ul style="list-style-type: none"> ▪ The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000). ▪ The Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003). ▪ The Construction Industry Development Board Act, 2000 (Act No 38 of 2000).
Over-utilization	<input type="checkbox"/> Over-utilization can have adverse effects in terms of deterioration in asset performance and condition, shortening productive life and increasing recurrent operating and maintenance costs.
Practitioner	<input type="checkbox"/> A person who practices a profession or art.

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Private party	<input type="checkbox"/> In terms of a PPP, excludes: <ul style="list-style-type: none"> ▪ An entity; ▪ A municipal entity; or ▪ An organ of state, including an institution listed in any of the schedules of the Public Finance Management Act, 1999 (Act 1 of 1999).
Procedures	<input type="checkbox"/> Policies are carried out by means of more detailed guidelines called “standard methods”. A series of actions conducted in a certain order or manner.
Process	<input type="checkbox"/> A series of actions or steps towards achieving a particular end.
Project management	<input type="checkbox"/> Project management is the planning, directing and controlling of an organization’s resources over a short term to ensure that specific objectives are successfully met.
Provider	<input type="checkbox"/> A provider is the private person or institution that provides supplies, services or works to the Government.
Public-private partnership	<input type="checkbox"/> Means a commercial transaction between an entity and a private party in terms of which the private party: <ul style="list-style-type: none"> ▪ Performs a municipal function on behalf of an entity. ▪ Acquires the use of municipal property for its own commercial purposes. ▪ Performs both a municipal function and acquires the use of municipal property as referred to above. ▪ Assumes substantial financial, technical and operational risks in connection with the performance of the municipal function or use of municipal property ▪ Receives a benefit for performing a municipal function or from utilizing municipal property, by way of: <ul style="list-style-type: none"> - Consideration to be paid by the entity. - Charges or fees to be collected by the private party from users or customers of a service provided to them. - A combination of the above.
Quittance	<input type="checkbox"/> The acknowledgement by the recipient of the receipt of issued stores, reflecting a signature, receipt voucher number and date of receipt.
Redundant	<input type="checkbox"/> No longer needed or useful, superfluous (unnecessary).

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SCM Regulations	<input type="checkbox"/> Means the Local Government: Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations.
Renewal	<input type="checkbox"/> Replace or restore (something broken or worn out).
Risk management	<input type="checkbox"/> Risk management may be defined as the identification, measurement and economic control of risks that threaten the assets and earnings of a business or other enterprise.
Rules	<input type="checkbox"/> Rules are statements that a specific action must or must not be taken in a given situation.
Salvage	<input type="checkbox"/> The Act of saving any goods or property in danger of damage or destruction
SMME	<input type="checkbox"/> Means a separate and distinct business entity, including co-operative enterprises and non-governmental organizations', 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 and which can be classified as a micro, a very small, a small or a medium enterprise by satisfying the criteria opposite the smallest relevant size or class.
Sourcing	<input type="checkbox"/> Find out where to obtain.
Stores/stock	<input type="checkbox"/> All movable state property/assets that are kept in stock for issue purposes.
Strategic goals	<input type="checkbox"/> Strategic goals are areas of organizational performance that are critical to the achievement of the mission. They are statements that describe the strategic direction of the organization.
Strategic objectives	<input type="checkbox"/> Strategic objectives are more concrete and specific than strategic goals. They should give a clear indication of what the entity intends doing or producing in order to achieve the strategic goals it has set for itself. As such strategic objectives would normally describe high-level outputs or "results" of actions that the entity intends taking.
Treasury guidelines	<input type="checkbox"/> Means the guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.
The MFMA	<input type="checkbox"/> Means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003).

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Under-utilization	<input type="checkbox"/> Under-utilization will increase the unit cost of programme delivery and may prompt the purchase of new assets when they are not required.
Value for money	<input type="checkbox"/> In relation to public-private partnership agreements, means that the performance of a private party in terms of the agreement will result in a net benefit to the entity in terms of cost, price, quality, quantity, risk transfer or any combination of those factors.
Written or verbal quotations	<input type="checkbox"/> Means quotations referred to in sub-section 11 of section 23 of this policy.

ABBREVIATIONS

AG	Auditor-General
AO	Accounting Officer – (Chief Executive Officer)
BBBEEA	Broad Based Black Economic Empowerment Act
BBBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
DTI	Department of Trade and Industry
EME	Exempted Micro Enterprise
HDI	Historically Disadvantaged Individual
IDP	Integrated Development Plan
IT	Information Technology
LCC	Life Cycle Costing
MFMA	Municipal Finance Management Act
MM	Municipal Manager (Accounting Officer) of Mangaung Metropolitan Municipality
MSA	Municipal Systems Act
MTEF	Medium Term Expenditure Framework
NIPP	National Industrial Participation Programme
PCCAA	Prevention and Combating of Corrupt Activities Act. 2004
PPP	Public Private Partnership

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PPPFA	Preferential Procurement Policy Framework Act (Act 5 of 2000) Amendment's 201
RDP	Reconstruction and Development Programme
RFI	Request for Information
RET	Radical Economic Transformation
RFP	Request for Proposal
RFQ	Request for Quotation
SANAS	South African National Accreditation Agency
SAPS	South African Police Services
SARS	South African Revenue Services
MBD	Municipal Bidding Documents
SCM	Supply Chain Management
SCM sub-directorate	Supply Chain Management Unit
SITA	State Information Technology Agency
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
SP	Service Provider
TCO	Total Cost of Ownership
TOR	Terms of Reference
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;
QSE	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

CHAPTER 2

SUPPLY CHAIN MANAGEMENT POLICY

1. OBJECTIVE OF THE POLICY

The objective of this policy is to provide a policy framework within which the Accounting Officer and Chief Financial Officer can institute and maintain a supply chain management system that is transparent, efficient, equitable and competitive; to ensure best value for money for the entity applies with the highest possible ethical standards, and promotes local economic development.

2. AIM OF THE POLICY

The aim of this policy is to transform the outdated procurement and provisioning practices into an integrated Supply Chain Management function and to ensure that SCM forms an integral part of the financial management system of Centlec (SoC) Ltd.

This policy further aims to promote consistency in respect of supply chain management policy and other related policy initiatives in Government as well as aligning with global trends and ensure that South Africa adheres to international best practices.

By adopting this policy, the entity further pledges itself and the entity administration, to the full support of the Proudly SA campaign and to the observance of all applicable national legislation, including specifically the:

- Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations;
- Broad Based Black Economic Empowerment Act No. 53 of 2003 and any applicable code of practice promulgated in terms of that Act; and
- Municipal Finance Management Act No. 56 of 2003, including the regulations relating to the prescribed framework for supply chain management.
- The Construction Industry Development Board Act No. 38 of 2000 and its regulations.

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3. PRINCIPLES ASCRIBED TO IN THIS POLICY

- (1) The board of directors as delegated by council of the parent municipality resolves in terms of section 111 of the MFMA to have and implement the supply chain management policy that-
 - (a) Gives effect to:
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA.
 - (b) Is fair, equitable, transparent, competitive and cost effective.
 - (c) Complies with:
 - (i) The regulatory framework prescribed in Chapter 2 of the Local Government: Municipal Supply Chain Management Regulations, 2005;
 - (ii) Preferential Procurement Regulations, 2000 (Act No.5 of 2000) and
 - (iii) Any minimum norms and standards that may be prescribed in terms of section 168 of the MFM.
 - (d) Is consistent with other applicable legislation.
 - (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres, and
 - (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the entity is:
 - (a) Procuring goods or services.
 - (b) Disposing of goods, no longer needed.
 - (c) Selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies.
 - (d) In the case of the entity, selecting external mechanisms referred to in section 80(1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) This policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) and 110(3) of the MFMA Act, including
 - (a) Public entity, another municipality or a municipal entity and
 - (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

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4. AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

- (1) The Accounting Officer must:
 - (a) at least annually review the implementation of this policy.
 - (b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this policy to the board of directors.
- (2) If the Accounting Officer submits proposed amendments to the board of directors that differs from the model policy, the Accounting Officer must-
 - (a) ensure that such proposed amendments comply with the Regulations.
 - (b) report any deviation from the model policy to the National Treasury and the relevant Provincial Treasury.
- (3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

5. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The Board as mandated by council of the parent municipality hereby delegate such additional powers and duties to the Accounting Officer so as to enable the Accounting Officer –
 - (a) to discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –
 - (i) Chapter 10 of the MFMA; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism, 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) The Board as mandated by council of the parent municipality hereby specifically delegate to the following Officials the power to make a final award, not exceeding the amount of R 1,000,000-00 (VAT included).
 - (a) Chief Financial Officer;
- (3) Sections 106 of the MFMA applies to the sub-delegation of powers and duties delegated to the Accounting Officer in terms of subparagraph (1) of this paragraph.

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- (4) The Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of Centlec (SoC) Ltd or to a committee which is not exclusively composed of officials of the entity.
- (5) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system.

6. SUB-DELEGATION

- (1) The Accounting Officer may in terms of section 106 of the MFMA Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 5 of this policy.
- (2) The power to make a final award –
 - (a) above R10 million (VAT included) may not be sub-delegated by the Accounting Officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
 - (i) the Chief Financial Officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the Chief Financial Officer or a senior manager is a member.
 - (c) not exceeding R2 million (VAT included) may be sub-delegated but only to –
 - (i) the Chief Financial Officer;
 - (ii) a senior manager;
 - (iii) a manager directly accountable to the Chief Financial Officer or a senior manager; or a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
 - (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.

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- (4) A written report referred to in subparagraph (3) must be submitted –
 - (a) to the Accounting Officer, in the case of an award by –
 - (i) the Chief Financial Officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the Chief Financial Officer or a senior manager is a member; or
 - (b) to the Chief Financial Officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - (i) a manager referred to in subparagraph (2)(c)(iii); or
 - (ii) a bid adjudication committee of which the Chief Financial Officer or a senior manager is not a member.
- (5) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system.
- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

7. OVERSIGHT ROLE OF BOARD

- (1) Centlec (SoC) Ltd reserves its right to maintain oversight over the implementation of this policy.
- (2) For the purposes of such oversight the Accounting Officer must –
 - (a) within 30 days of the end of each financial year, submit a report on the implementation of this policy to the board subsequently to council of the parent municipality; and
 - (b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the board subsequently to council of the parent municipality.
- (3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the board subsequently to council of the parent municipality.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

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8. SUPPLY CHAIN MANAGEMENT UNIT

- (1) A supply chain management unit is hereby established to implement this policy.
- (2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the MFMA.
- (3) The procurement section is responsible for the co-ordination and oversight of the supply chain management function. It is headed by a General Manager and comes under the management of the municipal entity's Chief Financial Officer.

9. TRAINING OF SUPPLY CHAIN MAGEMENT OFFICIALS

- (1) The training of officials involved in implementation of this policy should be in accordance with any Treasury guidelines on supply chain management training.

CHAPTER 3

SUPPLY CHAIN MANAGEMENT SYSTEM

10. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

This policy provides systems for –

- (I) Demand management;
- (II) Acquisition management;
- (III) Logistics management;
- (IV) Disposal management;
- (V) Risk management; and
- (VI) Performance management.

11. SYSTEM OF DEMAND MANAGEMENT

- (1) An effective system of demand management will be achieved through the successful implementation of the strategic operational commitments of the municipal entity, as identified in the Integrated Development Plan (IDP) and the entity's business plan. Performance Management System (PMS) must give the necessary support to ensure that the resources required to support the strategic and operational commitments of the entity are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the municipal entity.

12. SYSTEM OF ACQUISITION MANAGEMENT

- (1) This policy provides for an effective system of acquisition management to ensure that –
 - (a) goods and services which are procured by the municipal entity are in accordance with authorised processes only;
 - (b) expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) the threshold values for the different procurement processes are complied with;
 - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) any Treasury guidelines on acquisition management are properly taken into account.
- (2) This Policy, except where provided otherwise in the Policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (a) public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (3) When procuring goods or services through another organ of state as contemplated in section 110(2) of the Act, the municipality must make public the fact that such goods or services are procured otherwise than through the entity's supply chain management system, including –
 - (a) the kind of goods or services; and
 - (b) the name of the supplier.
- (4) All requests for the procurement of goods and services shall be submitted to Supply Chain Management sub-directorate within the Finance Department and must be:
 - (a) in writing, clearly specifying the nature and quantity/duration of the goods and services required. Preparation of specifications aimed at procuring goods or services of specific suppliers and brand names should be avoided.
 - (b) certified by a senior official or person with delegated authority in the Finance Department, that:
 - (i) there is sufficient provision in the relevant budget for the procurement;
 - (ii) the correct vote was used.
- (5) If the procurement is for a capital project, Section 19 of the MFMA regarding budgeting and costing of capital projects must also be complied with.
- (6) Where the procurement will have budgetary implications for future years (depreciation; contracts longer than one year, etc.), Section 33 of the MFMA regarding contracts must be complied with.

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13. RANGE OF PROCUREMENT PROCESS

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

Value of purchase (Vat Inclusive)	Range of Procurement Processes	Delegated Authority
R0 up to R 30,000.00	Three informal written price quotations	<ul style="list-style-type: none"> - Chief Financial Officer - General Manager: Financial Management and Support.
R 30,001.00 up to R 200 000.00	Three formal written price quotations and <ul style="list-style-type: none"> (i) complying with the PPPFA; (Specifically reg. 16 – TAX Clearance for amounts above R 30,000.00; Treasury Circular No: 29 of 31 January 2006) and (ii) suppliers to be used on a rotational basis; and (iii) advertised for seven (7) days on notice boards, National Treasury e-tender portal and website of the entity 	<ul style="list-style-type: none"> - Chief Financial Officer - General Manager: Financial Management and Support.
R 200 001 and above	A competitive bidding process: - <ul style="list-style-type: none"> (i) Municipal Supply Chain Management Regulations (Government Gazette 27636 of 30 May, 2005) requires that the closing date for tenders having an estimated value in excess of R 10 million including VAT or of a long term nature be not less than 30 days (ii) 14 days in all other cases except where a shorter period is permitted by the accounting officer on the grounds of urgency or emergency or in exceptional cases where it is impractical or impossible to follow the official procurement process. 	<ul style="list-style-type: none"> - Accounting Officer - Bid Adjudication Committee - Chief Financial Officer

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- (2) The Accounting Officer may, in writing, lower but not increase, the different threshold values in subparagraph (1) as specified in municipal supply chain management regulation 12 (1)
- (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) Transferring of entity's funds to an organization or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction must comply with Sec.67 of the MFMA (Act No.56 of 2003).

14. CONTRACT MANAGEMENT

- (1) Contract management focuses on what happens after a contract is concluded and signed.
- (2) According to the International Encyclopedia of the Social Sciences, management involves deciding what human, financial and technical resources an organization will devote to various initiatives; Thus,
 - (i) a contract manager decides how the department will ensure that it does what it agreed to do in an agreement with another party and that the other party also fulfills its obligations.
- (3) After a contract has been signed there are a number of matters that should be addressed to ensure the foundation of successful contract management. It is important for those responsible for contract management to understand both the contract provisions and contractual relationships at the outset.
- (4) Contract manager should be able to manage contracts with suppliers of goods and services and understand the following key tasks:
 - (i) the benefits of undertaking effective contract management;
 - (ii) tasks to be undertaken by the contract manager during the contract management period.

15. EXTENSION OF VALIDITY PERIOD

1. All tenders are subject to certain time periods. Once the tender closes, a decision must be taken within a certain number of days, as to who has been awarded the tender.
2. It is usually stated upfront that the period in question would, for example be 30 days, 60 days, 90 days, and so forth. This period is not only predetermined, but also known to all the bidders when they submit their respective bids on the closing date.
3. If the validity period is, for example 60 days, the 60 calendar days start counting the day after the tender has closed and includes Saturdays and Sundays. As soon as the 60 days have passed, the tender has reached the end of the period for which it was valid.
4. This means that all the bids must be evaluated during this time so that the organisation which advertised the tender is able to determine who the preferred bidder is, that is, who will receive the tender.
5. If it becomes apparent that the tender (evaluation and adjudication) process will not be finalised within the validity period Centlec that advertised the tender must write to all the bidders in good time (this is determined by the organisation) and ask them to agree, in writing, to an extension of the validity period.
6. The bids of all the bidders who agree, in writing, to the validity period being extended, remain part of the tender process. The extension period will be equal to the validity period. The bids of all the bidders who do not respond, and decline to meet the validity period, tender will be marked as non-responsive, and your tender response will not be considered for evaluation.
7. This is known as the “validity period” and bids can only be evaluated and adjudicated during that period.
8. According to Regulation 13 of the Preferential Procurement Regulations, 2017, a tender can be cancelled:
 - I. Due to a **change in circumstances**.
 - II. There are **no funds** available.
 - III. **No acceptable tender** offerings have been received.
 - IV. There is a **material irregularity** in the tender process.

16. CONTRACT VARIATIONS / AMENDMENTS

- (1) Contracts may be amended/varied/modified according to the Accounting Officer's delegated powers to achieve the original objective of the contract.
 - (a) amendments of contracts where the expansion or variation is not more than:
 - (i) twenty% (20%) (construction related goods, services and/or infrastructure projects), and
 - (ii) fifteen% (15%) (all other goods and/or services) of the original value of the contract,
 - (iii) must be submitted directly to the supply chain management for further reference and approval.
 - (b) amendments of contracts where the expansion or variation is more than the threshold prescribed by National Treasury (Circular 62), must be dealt with in terms of the provisions of section 116(3) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA)
 - (c) amendments may not materially alter the original objective; as such amendments should form part of a new bid invitation.
 - (d) all contractual parties must agree to the amendment in writing.
 - (e) no contract can be amended after the original contract has ceased to exist.
 - (f) the extension of a contract shall be finalized before the current expiry date of the contract.
 - (g) where prices are amended for the extended period, the reasonableness of the prices must be established.
- (2) When an item on contract is no longer available and another item has to be substituted, this implies an amendment of the contract. Such an amendment must be submitted to the relevant delegated authority for approval.
- (3) When a contractor is no longer able to supply a contract item and he offers a substitute, which is more expensive, the amendment is to the disadvantage of the municipal entity unless the substitute item offers additional benefits which can be utilized by the municipal entity and which justify the additional cost. If not, the Accounting Officer's or delegated authority's approval must be obtained.
- (4) For the appointment of consultants, any granting of a substantial extension of the stipulated time for performance of the contract, agreeing to any substantial amendment of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, will be subject to the approval of the Accounting Officer or the delegated authority.
- (5) The contractual conditions should stipulate the conditions under which amendments shall be considered and the process to be followed in such circumstance.

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- (6) No variation in or modification of the conditions of contract shall be made without all the parties signing the amendment.
- (7) The user division must approach the SCM sub-directorate with the request for amendment. The SCM sub-directorate should contact the contractor to determine whether he/she will be amenable to an amendment to the contract within the allowable parameters.
- (8) If the contractor is prepared to amend the contract and it is confirmed in writing, the SCM sub-directorate shall process the amendment and supply the user division with the details of the amendment.
- (9) The SCM sub-directorate must involve the legal department for the purpose of drawing up the amendment, if required.
- (10) The SCM sub-directorate must facilitate the signing of the amendment by all parties.
- (11) A signed copy must be forwarded to the user division and the contractor and the SCM sub-directorate must file the original signed amendment appropriately.

17. INCREASE/DECREASE OF QUANTITIES OR RANGE OF SERVICES

- (1) Before calling for bids, care must be taken to establish the quantities / range of services required as reliably as possible so that the need to increase / decrease quantities / range of services during the contract period may be kept to the minimum.
- (2) Quantities / range of services may be decreased provided consensus exists between the entity and the contractor and the unit prices remain unchanged.
- (3) After the original or officially amended quantities / services for which the contract was arranged have been delivered the contract ceases to exist. It is then no longer possible to purchase further items / services on the contract

18. CONTRACT PERIOD EXTENSION

- (1) Extension of contract periods is undesirable because it often leads to uncontrolled increases in the contract prices. These must therefore be restricted to the minimum.
- (2) The user division is responsible for ensuring that timely application is made to the SCM sub-directorate for the arrangement of new contracts.
- (3) Where justifiable reasons are provided for extending a contract's period, the relevant application may be considered favourably and contractors may be approached with the request to indicate whether they are

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prepared to extend the contract period. The fact that extension of contracts might affect the schedule for other contracts must also be borne in mind.

- (4) If contractors are prepared to extend the contract period, but with amended price conditions, the reasonableness of the prices must be established.
- (5) Contracts may normally not be extended beyond the period as determined by the Accounting Officer's delegated powers.
- (6) The market must again be informally tested before the extended period has expired.

19. CONTRACTUAL PRICE ADJUSTMENT

- (1) The contractual conditions shall stipulate the circumstances under which price adjustments shall be considered, the intervals for adjustment, the base date for adjustments as well as the price adjustment formula and the process to be followed in such circumstances.
- (2) In cases of term contracts, price adjustments shall be considered on a yearly basis and this condition shall be indicated in the bid document.
- (3) No price adjustments should preferably be considered for a contract period less than twelve (12) months.
- (4) The prescribed formula will be used for adjustment of prices due to the fluctuation of the indices.
- (5) Rate of Exchange (ROE) fluctuations are only allowed on the imported content of the commodity.
- (6) Steel and Engineering Industries Federation of Southern Africa (SEIFSA) commodity indices will be applied.
- (7) In cases where the user division received a request for price adjustment from the contractor, the request must be immediately forwarded to the SCM sub-directorate for facilitation.
- (8) The SCM sub-directorate is responsible for confirming that the request is in line with the contractual conditions and will verify the calculations presented.
- (9) Once the request is accepted as correct and approved by the official with the necessary delegated authority, the SCM sub-directorate will inform the contractor in writing and will inform the user and the finance divisions of the approved amendment to demonstrate the influence of the change on the contract.
- (10) The SCM sub-directorate must file the amendment with the original contract.
- (11) Contractual price adjustments are considered in terms of the contract conditions.
- (12) All bid documentation will contain the relevant special conditions pertaining to price increases.

20. REDUCTION OF PRICES

The municipal entity must accept price reductions after award of a contract where this is advantageous to the entity, unless the acceptance of the price reduction amounts to breach of contract.

21. UNSATISFACTORY PERFORMANCE AND CONTRACT TERMINATION

- (1) The municipal entity should continuously communicate unsatisfactory performance to contractors in writing compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.
- (2) Unsatisfactory performance occurs when performance is not in accordance with the contractual.
- (3) Roles and responsibility of the municipal entity in relation to unsatisfactory performance:
 - (a) the user division must timely identify unsatisfactory performance in terms of the contract.
 - (b) the supply chain management sub-directorate must, in consultation with the user division and legal assistance if required, bring unsatisfactory performance to the attention of the contractor in writing, also apply the audi alteram partem rule in the management of unsatisfactory performance. The supply chain management sub-directorate shall give notice to the contractor of action to be taken in line with the contract due to non-performance.
 - (c) If the performance is not rectified, the user division must inform the supply chain management sub-directorate of this fact.
 - (d) Before action is taken or any other special contract condition applicable, the municipal entity must warn the contractor by registered mail that action will be taken in accordance with the contract conditions unless the contractor complies with the contract conditions and delivers satisfactory supplies or services within a specified reasonable time.
 - (e) If the contractor still does not perform satisfactorily despite a final warning, the municipal entity may make a recommendation to the Accounting Officer or the delegated authority for the appropriate penalties to be introduced or make a recommendation to the Accounting Officer for the cancellation of the contract concerned.
 - (f) When correspondence is addressed to the contractor, reference must be made to the contract number, the item number and the number and date of any relevant invoice, statement or letter received from the contractor.
 - (g) When the municipal entity has to satisfy its need through another provider (for the contractor's expense), the loss to the municipal entity must always be restricted to the minimum since it is difficult to justify the recovery of unreasonable additional costs from the contractor.

22. NON-CONTRACTUAL ADJUSTMENT OF PRICES

- (1) Non-contractual adjustment of prices is normally not allowed.
- (2) When contractors suffer a loss as a result of their own negligence price adjustments not covered by the contract are not favourably considered.
- (3) Non-contractual adjustment of prices will be allowed under the following circumstances:
 - (a) where a contractor suffers loss as a result of circumstances beyond their control, or as a result of incorrect action by the municipality entity and particularly when such loss might cause the contractors downfall, non-contractual price adjustments may be considered by the entity.
 - (b) If such adjustments are to the disadvantage of the municipality entity, approval from the Accounting Officer or delegated authority must be obtained.

23. GENERAL PRECONDITIONS

(1) General preconditions for consideration of written quotations or bids

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

- (a) has furnished that provider's –
 - (i) full name and address;
 - (ii) company registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the entity to obtain a tax /pin number from the South African Revenue Services that the provider's tax matters are in order; 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 shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

24. LIST OF ACCREDITED PROSPECTIVE PROVIDERS

- (1) The Accounting Officer must –
 - (a) utilize accredited prospective providers of goods and services which are listed on the National Treasury Centralised Suppliers Database (CSD) on rotational basis to procurement requirements through written quotations and formal written price quotations; and
 - (b) 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.
 - (c) The entity utilizes National Treasury centralized supplier's database to list accredited prospective providers of goods and services that must be used for the procurement requirements through written quotations and formal written price quotations.

25. PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT, 2000: PREFERENTIAL PROCUREMENT REGULATIONS

The Minister Finance has, in terms of section 5, read with section 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and with effect from 16 January 2023 made the regulations set out in the Schedule.

SCHEDULE

PREFERENTIAL PROCUREMENT REGULATIONS, 2022

Contents

1. Definitions
2. Application
3. Identification of preference point system
4. 80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million
5. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million
6. 80/20 preference points system for tenders to generate income or to dispose of or

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lease assets with Rand value equal to or below R50 million

7. 90/10 preference point system for tenders to generate income or to dispose of or

lease assets with Rand value above R50 million

8. Criteria for breaking deadlock in scoring

9. Remedies

10. Repeal of regulations

11. Short title and commencement

Definitions

1. In these Regulations, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned—

“highest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

“lowest acceptable tender” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

“price” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

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

“specific goals” means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

“tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

“tender for income-generating contracts” means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state,

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and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
“the Act” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).

Application

2. These Regulations apply to organs of state as defined in section 11 of the Act.

Identification of preference point system

3.(1) An organ of state must, in the tender documents, stipulate—

- (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;
- (b) 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 the claim for such goal.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state 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

4.(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:

1 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 Notices—

(a) 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; and

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(b) R. 571 of 15 June 2017 recognises, with effect from 17 June 2017, national and provincial government components listed in Schedule 3 to the Public Service Act, 1994 and municipal entity as defined in section 1 of the Local Government: Municipal Systems Act, 2000, 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.

$$P_s$$
$$P_t$$
$$P = \frac{P_s - P_t}{P_s - P_{min}} \times 100$$

Where P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{min} = Price of lowest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(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 with Rand value above R50 million

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

Where P_s = Points scored for price of tender under consideration;

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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 specified for the tender.

(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.

(5) 80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million

6.(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:

$$\begin{aligned}
 & \frac{P_s}{P_t} \\
 & \frac{P}{P_{\min}} \\
 & = \left(\frac{P_s}{P_t} - \frac{P}{P_{\min}} \right) \times 100 \\
 & \text{min}
 \end{aligned}$$

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(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

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Rand value above R50 million

7.(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:

$$\frac{Ps}{Pt} = \frac{Ps}{P_{max}} + \frac{Ps}{Pt} - \frac{Ps}{P_{max}}$$

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 goal specified for the tender.

(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

8.(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

9.(1) If an organ of state 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 subregulation (1)(b), the organ of state 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.

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Repeal of regulations

10.(1) Subject to this regulation, the Preferential Procurement Regulations, 2017 published in Government No. 40553 of 20 January 2017, are hereby repealed with effect from the date referred to in regulation 11.

(2) Any tender advertised before the date referred to in regulation 11 must be dealt with in terms of the Preferential Procurement Regulations, 2017.

Short title and commencement

11. These Regulations are called the Preferential Procurement Regulations, 2022 and take effect on 16 January 2023. (Check new **MBD 6.1**)

Table 1: Specific goals for the tender and points claimed are indicated per the table below.

(Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers: The tenderer must indicate how they claim points for each preference point system.)

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points claimed (80/20 system) (To be completed by the tenderer)
50% Black owned	10	
50% Women owned	5	
50% Youth owned <35 years	5	
Specified Goals Total	20	

26. FORMAL WRITTEN PRICE QUOTATIONS

(1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:

- (a) Requirements may be procured by inviting written quotations from as many as possible providers on the prospective provider list.
- (b) Requirements for quotations above R 30 000 and up to R 200 000 must be advertised for at least 7 days on the website, official notice board of the municipal entity and on National Treasury e-tender portal. Quotations must be deposited in the bid box on the due date accompanied by MBD forms and valid tax clearance/pin certificate issued by SARS.
- (c) Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list.

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- (d) If it is not possible to receive at least 3 quotations, the reasons should be recorded and approved by the Chief Financial Officer or the delegated authority.
 - (e) The Accounting Officer must record the names of the potential providers and their written quotations
 - (f) A designated official must within 3 days of the end of each month report to the CFO on any approvals given during that month by that official.
 - (g) offers below R30,000 (VAT included) threshold will not be awarded.
 - (h) The Municipal entity must apply the prescripts of the PPPFA for procurement above R30 000
- (2) Only quotations complying with the specifications will be considered, provided that there are sufficient funds within the appropriate budget.
- (3) Where no quotation complies with the specification, as determined by the senior manager, the senior manager may recall the quotations.
- (4) Where the relevant senior manager has a direct or indirect interest in the procurement requirements, another senior manager must adjudicate in the manner specified above. An interest is where the relevant senior manager has direct or indirect personal advantage in the specific procurement of goods or services.
- (2) A designated official referred to in subparagraph (1) (d) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that subparagraph.

27. INFORMAL PRICE WRITTEN QUOTATIONS

- (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:
- (a) Requirements for quotations above R 0 and up to R 30 000 (VAT Inclusive) must obtain at least three (3) written quotations from the list of prospective providers.
 - (b) If it is not possible to obtain at least three quotations, the reason must be recorded and approved by the Accounting Officer or the delegated authority.
 - (c) Order must only be placed against written quotation from the selected provider.
 - (d) 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 rotational basis.
 - (e) the supply chain management unit is responsible for proper record keeping.
- (2) Only quotations complying with the specifications will be considered, provided that there are sufficient funds within the appropriate budget.
- (3) Where no quotation complies with the specification, as determined by the senior manager, the senior manager may recall the quotations.

28. COMPETITIVE BIDS

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- (1) Goods or services above a transaction value of R200,000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 12(2) of this policy.
- (2) The bid documentation will be prepared by the user department in consultation with supply chain management sub-directorate.
- (3) After the specification is approved by the bid specification committee, the bid document will be published on National Treasury e-tender portal, the entity's official notice boards and website, with a closing date of at least 14 for bids with an estimated contract value of less than ten (10) million (VAT Inclusive) or 30 days for all bids with an estimated contract value in excess of 10 million (VAT inclusive) or longer term nature.
- (4) No requirement for goods or services above an estimated transaction value of R200,000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

29. PROCESS FOR COMPETITIVE BIDDING

- (1) The procedures for the stages of a competitive bidding process are as follows:
 - (i) compilation of bidding documentation as detailed in paragraph 28;
 - (ii) public invitation of bids as detailed in paragraph 29;
 - (iii) site meetings or briefing sessions as detailed in paragraph 30
 - (iv) handling of bids submitted in response to public invitation as detailed in paragraph 30;
 - (v) evaluation of bids as detailed in paragraph 34;
 - (vi) award of contracts as detailed in paragraph 37;
 - (vii) administration of contracts
- (2) After approval of a bid, the Accounting Officer and the bidder must enter into a written agreement.
 - (i) original / legal copies of written contract agreements should be kept in a secure place for reference purposes.

30. 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 (**ANNEXURE A**) and any special conditions of contract, if specified;
 - (j) any Treasury guidelines on bid documentation; and

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- (k) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (d) compel bidders to declare any conflict of interest.
- (e) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (ii) for the past three years; or
 - (iii) since their establishment if established during the past three years;
 - (iv) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (v) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (vi) 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 municipal entity is expected to be transferred out of the Republic;
- (f) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (g) a requirement to supply tax clearance/pin certificates, VAT registration numbers and company registration numbers;
- (h) details of any contracts above R200,000 carried out on behalf of the municipality entity within the last five years;
- (i) A contract management processes and procedures including provision for the Accounting Officer to cancel the contract on the grounds of unsatisfactory performance;
- (j) any other matters as required by the MFMA and the Supply Chain Management Regulations;
- (k) performance guarantees and retention.

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31. 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 on National treasury e-tender portal, Entity's official notice board and website.
 - (b) the information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date published on National treasury e-tender portal, Entity's official notice board and website, subject to subparagraph (2);
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the entity; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.
 - (c) must be approved by the Accounting Officer prior to publication of the invitation.
- (2) The Accounting Officer may determine a closure date for the submission of bids which is less than the 30 or 14 days' requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

32. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

- (1) The procedures for the handling, opening and recording of bids, are as follows:
 - (a) Bids–
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
 - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
 - (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award;
 - (d) Bids submitted must be sealed.

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- (e) For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box of the entity.
- (f) The board may charge a non-refundable deposit for provision of bid documents. This is subject to annual review. Values of the deposits will be determined annually and included in the official lists of tariffs.
- (g) The Chief Financial Officer or delegated official will ensure that tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- (h) On the closing date and time, the tender box will be unlocked and opened by three officials or more – one from the supply chain management sub-directorate. This will be done in public i.e. in the presence of the bidders or other interested parties. A Supply Chain Management official will open bid documents in the presence of any other interested parties. The tender box can be opened without any members of public being present provided that the appropriate procedure for advertising the time and venue has been followed.
- (i) Unmarked or incorrectly marked tenders will not be opened.
- (j) The names and total bid amounts will be read out and recorded in the tender register, which will be available for public inspection on request. A copy of the record must be kept in the Supply Chain Management unit office.
- (k) In instances of bulk tender amounts that are too time consuming to read out, only those requested by bidders will be read, and a complete schedule provided as soon as is practical. Bid results will be published on the entity's web site and official notice board.
- (l) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (m) 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 entity's website.

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33. NEGOTIATIONS WITH PREFERRED BIDDER

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

34. TWO STAGE BIDDING PROCESS

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

35. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the Accounting Officer may determine,
 - (a) bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee;
- (2) The Accounting Officer appoints the members of each committee on an annual basis, taking into account section 117 of the MFMA; and
- (3) The committee system must be consistent with –
 - (a) paragraph 34, 35 and 36 of this Policy; and
 - (b) any other applicable legislation.
- (4) The Accounting Officer may apply the committee system to formal written price quotations.

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36. BID SPECIFICATION COMMITTEE

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the Centlec (SoC) Ltd.
- (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 recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001.
- (3) The bid specification committee must be composed of the following members:
 - (1) Standing members
 - (a) one or two members from within the relevant department;
 - (b) supply Chain Practitioner
 - (c) professionals with required technical expertise from the department for whom the goods or services are to be procured, as may be required for each committee meeting
 - (d) external specialists (consulting engineers, architects, etc.) as deemed necessary, provided that no person, advisor or corporate entity involved with the bid specification committee, director of such a corporate entity, may bid for any resulting contracts.
- (4) The quorum for each meeting of the specification committee is fifty percent plus one (50%+1) standing members.
- (5) A member of the specification committee cannot be a member of either the bid evaluation or bid adjudication committee that considers any of the bids for the same goods or services.
- (6) 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.

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- (7) The specifications must be approved by the Accounting Officer, or the official delegated by the Accounting Officer, prior to advertisement of the bid. In the absence of the Accounting Officer this may be delegated to the Acting Chief Executive Officer or the Chief Financial Officer.

37. BID EVALUATION COMMITTEE

- (1) A bid evaluation committee must –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement;
 - (ii) compliant with requirements of the Supply Chain Management Framework including the supplier being up to date with all fees and charges due to the municipal entity;
 - (iii) in accordance with the best value for money to the municipal entity; and
 - (iv) the points system set out in terms of paragraph 37(10) ;(11).
 - (b) evaluate each bidder's ability to execute the contract and consider the prescripts of the Broad-Based Black Economic Empowerment Act.;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not thirty (30) days in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as possible be composed of –
- (1) Standing members;
 - (a) two officials from the relevant department requiring the goods or services;
 - (b) At least one supply chain management practitioner
 - (c) One technical expert, consultant or advisor, provided that these experts can only actively contribute to discussions, and not vote on the items evaluated.
 - (3) The quorum for each meeting of the bid evaluation committee is fifty percent plus one (50+1) standing members, provided that one is the supply chain management practitioner.
 - (4) Members cannot serve on any adjudication committee(s) that adjudicates on any of the same items that they have considered on the evaluation committee(s).
 - (5) Notwithstanding the above requirements for consideration, bids not to specification may not be accepted and the evaluation committee must recall for tenders.
 - (6) All bid documents must be submitted before closure of tender.

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38. BID ADJUDICATION COMMITTEE

- (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 committee shall be composed of the following members:
 - (1) Standing members;
 - (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another official in the Finance department reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
 - (b) at least one senior supply chain management practitioner who is an official of the municipality entity;
 - (c) Executive Manager Performance and Compliance;
 - (d) Executive Manager Retail;
 - (e) Executive Manager Engineering Wires
 - (f) any technical experts in the relevant field, when deemed necessary by the chairperson provided that these experts can only actively contribute to discussions, and not vote on the items being adjudicated.
 - (g) the quorum for each meeting of the bid adjudication committee is four (4) standing members
- (3) Members of the adjudication committee(s) cannot be members on the evaluation committee(s) that consider any of the same items to be adjudicated on. This includes any members who are appointed by nomination or delegation.
- (4) Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties. However, such members will not have any voting power on the Bid Adjudication Committee.
- (5) The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

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- (6) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (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 thirty (30) days in arrears, and notify the Accounting Officer.
 - (b) The Accounting Officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (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 working days.
- (10) For all quotations and tenders with an estimated value between R 30,001 and not exceeding R50,000,000 preference points will be allocated as follows:

	POINTS	ANNEXURE "C"
Value for money substantially to specification price	80	
Other Preference points	<u>20</u>	
Total	<u>100</u>	

- (11) Other preference points will be as per the Balanced Scorecard provided in the Procurement Regulations of the Preferential Procurement Policy Framework Act, 2000. This scorecard is provided in the Annexures to this policy. If all bids exceed R50,000,000 the bid invitation is to be cancelled and re-invited with the correct preference points.
- (12) Prior to the award of a bid, the entity may cancel the bid due to changed circumstances, or if there are insufficient funds to proceed, or if no acceptable bid is received.

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- (13) For all tenders with an estimated value above R 50,000,000 preference points will be allocated as follows:

	POINTS	ANNEXURE "C"
Value for money substantially to specification price	90	
Other Preference points	<u>10</u>	
Total	<u>100</u>	

- (15) Other preference points will be as per the Balanced Scorecard provided in the Procurement Regulations of the Preferential Procurement Policy Framework Act, 2000. This scorecard is provided in the Annexure to this policy. If all bids are less than R50,000,001 the bid invitation is to be cancelled and re-invited with the correct preference points.

39. ADVISING OF RESULTS

All awarded bids will be listed on the municipal entity's website and on the official notice board in the week following their approval, for a period of thirty (30) days.

40. PROCUREMENT OF BANKING SERVICE

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

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41. PROCUREMENT OF IT RELATED GOODS OR SERVICE

- (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The Accounting Officer must notify SITA together with a motivation of the IT needs if –
 - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the entity disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

42. PROCUREMENT OF GOODS AND SERVICE UNDER CONTRACT SECURED BY OTHER ORGAN OF STATE

- (1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –
 - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state.
 - (b) there is no reason to believe that such contract was not validly procured;
 - (c) there are demonstrable discounts or benefits to do so; and
 - (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraphs (1)(c) and (d) do not apply if –
 - (a) a municipal entity procures goods or services through a contract secured by its parent municipality;

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43. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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

44. PROUDLY SA CAMPAIGN

- (1) The Municipal entity supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
 - Firstly – suppliers and businesses within the municipality or district;
 - Secondly – suppliers and businesses within the relevant province;
 - Thirdly – suppliers and businesses within the Republic.

45. APPOINTMENT OF CONSULTANTS

- (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) A contract for provision of consultancy services to a municipal entity must be procured through competitive bids if –
 - (a) the value of the contract exceeds R200,000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipal entity.
- (5) The appointment of advisors must also follow the same competitive bidding process as set out in this Policy.

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- (6) No advisor will take any part in the final decision-making process regarding the award of bids.
- (7) No decision-making authority can be delegated to an advisor.

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

- (1) The Accounting Officer may –
 - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) Where the Accounting Officer determines that it is impractical to invite competitive bids for specific procurement such as urgent or emergency cases, or in the case of a sole supplier, the Accounting Officer may in consultation with the Chief Financial Officer procure the goods or services by other means such as price quotations or negotiations, or reduce the required advertising period from 14 days to an appropriately deemed period. The reasons for deviation from inviting competitive bids must be recorded and approved by the Accounting Officer.
 - (iii) Where it can be demonstrated that only one service provider can supply a particular service then a contract can be awarded by the Accounting Officer to that service provider subject to the recommendation by the Bid Adjudication Committee.
 - (iv) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (v) acquisition of animals for zoos and/or nature and game reserves; or
 - (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (vii) 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.
 - (viii) The following procurement of goods, services or works shall be exempted from following normal procurement process of obtaining minimum of three (3) written price quotations, irrespective of the inclusion of service providers on the Centralised Suppliers Database (CSD) accredited list of service providers. For all below listed items, the Accounting Officer authorizes the sourcing of one quotation:
 - Newspaper Advertisement;

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- Stamps and Postage
 - Courier Services;
 - Annual Subscriptions and Membership
 - Annual Registrations;
 - Registration and Licensing;
 - General Repairs and Maintenance of agent products;
 - Medical Products and Services;
 - Repairs for certificate of Roadworthy. Scheduled Fleet Maintenance or Services;
 - Emergency Breakdowns;
 - Stripe and Quote
 - Fuel or Petrol;
 - Legal Services and Legislation Updates.
 - Traffic books / documents.
 - Medical examinations.
 - Firearm training
- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the board and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 12(2) of this policy.

47. UNSOLICITED BIDS

- (1) In accordance with section 113 of the MFMA 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

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- (d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
 - (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipal entity to the bid may be entered into or signed within 30 days of the submission.

48. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

- (1) The Accounting Officer must–
 - (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, 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 Municipal entity, 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 Municipal entity 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 municipal entity or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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- (h) No person placing a procurement requisition for goods or services shall understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. Procurement is limited to R 200,000 per commodity type per month unless a competitive bidding process has been undertaken. The Accounting Officer shall promptly institute disciplinary action against any person infringing this requirement.
 - (i) No official shall engage in contact with a prospective supplier in respect of a quotation or tender which the supplier intends to submit except where clarification of requirements is required from either party, or where the Accounting Officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

49. LOGISTICS, DISPOSAL, RISK AND PERFORMANCE 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.
 - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
 - (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
 - (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
 - (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

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50. DISPOSAL

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the MFMA, and council's GRAP policy and procedures.
- (2) Assets may be disposed of by –
 - (a) transferring the asset to another organ of state in terms of a provision of the MFMA enabling the transfer of assets;
 - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (c) selling the asset; or
 - (d) destroying the asset.
- (3) The Accounting Officer must ensure that –
 - (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
 - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- (4) In disposing of movable assets, the disposal committee will determine the most advantageous method for sale and adhere to the communication requirements prescribed for quotations. If deemed necessary notification may also be by advertisement in a widely circulated local newspaper, but not limited thereto. In sales by private treaty the disposal committee will approve quotations received.
- (5) Municipal entity may dispose asset that are not needed provided the minimum level of basic municipal services.

51. RISK MANAGEMENT

- (1) The Accounting Officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
 - (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

52. PERFORMANCE MANAGEMENT

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

CHAPTER 4 OTHER MATTERS

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

- (1) No award above R 30 000 may be made in terms of this policy and *regulation* 16 of the Preferential Procurement Policy Framework Act, 2000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) The designated official(s) should verify the bidder's tax compliance status prior to the finalization of the award of the bid or price quotation.
 - (a) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.
 - (b) Where goods or services have been delivered satisfactorily without any dispute, Accounting Officers should not delay processing payment of invoices due to outstanding tax matters.
- (3) Municipalities and municipal entities are advised to update their current SCM policies to ensure alignment with the new TCS.
- (4) The Accounting Officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.
- (5) Before making an award to a person the Accounting Officer must first check with SARS whether that person's tax matters are in order.
- (6) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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54. PROHIBITION ON AWARDS TO PERSONS IN SERVICE OF 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) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) a person who is an advisor or consultant contracted with the Municipal entity

55. PROHIBITION OF AWARD TO CLOSE FAMILY MEMBERS OF PERSONS IN 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 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.

56. ETHICAL STANDARDS

- (1) A code of ethical standards as set out in subparagraph (2) is hereby established for officials and other role players in the supply chain management system of the Municipal entity 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 this Policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favor, 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; notwithstanding subparagraph (2) (c), must declare to the Accounting Officer details of any reward, gift, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

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- (d) 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 Municipal entity
 - (e) 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;
 - (f) must be scrupulous in his or her use of property belonging to Municipal entity
 - (g) 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, favoritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards (i) must assist the Accounting Officer in combating fraud, corruption, favoritism 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, favoritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (b) by the Accounting Officer must be made to the Board chairperson of the Municipal entity who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct (**ANNEXURE "E"**) must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
- (a) in the case of an employee, in terms of the disciplinary procedures of the municipal entity envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

57. INDUCEMENTS, REWARDS, GIFTS AND FAVORS TO THE MUNICIPAL ENTITY'S 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 municipal entity for or in connection with the award of a contract;
or
 - (b) any reward, gift, favor or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

58. SPONSORSHIPS

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

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

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59. OBJECTIONS AND COMPLAINTS AND QUERIES

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

- (1) The Accounting Officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
 - (a) to assist in the resolution of disputes between the municipal entity and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
 - (c) Suppliers must provide details of the reasons for their appeal including any noncompliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant and endeavor to finalize appeals within 10 working days of their receipt. Where this is not possible, the Accounting Officer shall advise the appellant in writing of the reasons for the delay.
 - (d) If the appeal is based on a technically complex matter, the Accounting Officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.
 - (e) The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay
 - (f) When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.
- (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

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- (b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (5) If the national treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

60. OBJECTIONS AND COMPLAINTS AND QUERIES

If a service provider acts on behalf of the municipal entity 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 municipal entity must stipulate –

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

61. UNBUDLING STRATEGIES

- (1) In order to encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into smaller, more manageable, contracts is encouraged. Unbundling must however be considered in the context of:
 - economies of scale being lost,
 - abortive work becoming necessary,
 - additional demands (not only financial) being placed on the areas resources,
 - the risk of later phases not being completed as a result of budget cuts becoming necessary in the future. Unbundling, and all of its associated
- (2) Implications, must therefore be carefully considered at the planning stage of any project and the budgets for, and design thereof, should be structured accordingly. It is important to note that while it is the municipal entity policy to procure works in the smallest practicable quantities, the practice of breaking out projects in order to circumvent the formal tender process is not permitted.

62. INCREASING EMPLOYMENT OPPORTUNITIES

It should be noted that one of the municipal entity's key socio-economic objectives is to facilitate the creation of employment for the people of the Mangaung Metropolitan Municipality. Increasing employment opportunities through procurement may be achieved by specifying labour friendly technologies and/or labour intensive methods of construction in the tender documents. The options available in this regard should be investigated to evaluate the positive versus negative impact of any proposals, and to specify labour friendly technologies and/or methods where appropriate.

63. SURETIES FOR DUE PERFORMANCE

Obtaining sureties (guarantees) from financial institutions is one of the major obstacles preventing emerging businesses from participating in Local Government Procurement. The value of the sureties required by the municipal entity, or waived altogether, in accordance with the class (value) of the contract.

The sureties required for each class of contract are as follows:

- **Micro** waived (that is, no surety is required)
- **Minor (under R 500 000)** 2.5% of the tender sum
- **Major (over R 500 000)** 5% of the tender sum

Sureties in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above.

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64. RETENTION

Having a large percentage of the value of work carried out withheld as retention, presents most contractors with serious cash flow problems, especially in the case of the higher value Major contracts. In order therefore, to lessen the impact of retention monies withheld and to assist less established contractors in the execution of a contract, retention, on Major contracts only, should be limited to 5% of the tender sum. In order however, to protect the municipal entity's interests on Minor contracts, where the value of the surety required has been reduced, or even waived, the usual 10% retention shall apply. The value of retention deducted will therefore be as follows:

- **Micro and Minor:** 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period.
- **Major:** 10 % of the value of the work carried out, up to a limit of 5% of the tender sum, with no reduction for the duration of the maintenance period. Retention in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above. Financial guarantees may be submitted in lieu of retention.

65. PAYMENT TERMS

Payments will be made within 30 days in terms of the MFMA.

66. COMMENCEMENT

This Policy takes effect on the date it is approved by Council of the parent municipality.

67. REVIEW PROCESS

This policy and underlying strategies will be reviewed at least annually, or as necessary, to ensure its continued application and relevance.