



BEAUFORT WEST MUNICIPALITY

BEAUFORT WEST MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY

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VOLUME 1: INSTITUTIONALISATION

PART 1.1: DOCUMENT DEFINITION

1.1.1 ISSUING CERTIFICATE

Version	03
Date	01 June 2022
Summary	This document is the SCM Policy and Principles and applicable to the Beaufort West Municipality
Signature	_____ Date: _____
	ACCOUNTING OFFICER <i>As delegated in terms of the AO Finance Delegations, item 856797 issued in terms of section 79 of the MFMA, dated 25 February 2015</i>
Approved by the Council	_____ Date: _____
Transitional arrangements	
Effective date	01 July 2022 – 30 June 2023
Next revision date	March 2023



1.1.2 APPROACH

- 1.1.2.1 For ease of reference this SCMPPOS is divided into Volumes and Parts as set out in the contents table.
- 1.1.2.2 The SCMPPOS, where applicable, is divided into a Policy and Principle. The rationale for this division is to identify the policy provisions of the Council – the ‘WHAT’, the principle provisions unique to the Municipality and the provisions to guide operations – the ‘HOW’.
- 1.1.2.3 The relevant prescripts governing the specific Part is also indicated.
- 1.1.2.4 It is imperative to note that this SCMPPOS aims to summarise the important aspects to be considered when conducting Municipal SCM and does not in any way replace other official prescripts issued in this regard nor exempt officials from full compliance with such prescripts.
- 1.1.2.5 The Flow of the SCMPPOS is as per the prescribed SCM System and is graphically depicted in Figure 1 below:

PART 1.3: LEGISLATIVE ENVIRONMENT

Policy

- Beaufort West Municipality is committed to comply with applicable legislation as it pertains to SCM.

- 1.3.1 THE CONSTITUTION
- 1.3.2 MUNICIPAL FINANCE MANAGEMENT ACT (MFMA)
- 1.3.3 PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPFA)
- 1.3.4 PROMOTION OF ADMINISTRATIVE JUSTICE ACT (PAJA), 2000
- 1.3.5 PROMOTION OF ACCESS TO INFORMATION ACT (PAIA), 2000
- 1.3.6 CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT (CIDBA), 2000
- 1.3.7 COMPETITION ACT, 1998 (CA)
- 1.3.8 POLICY TO GUIDE UNIFORMITY IN PROCUREMENT REFORM PROCESSES IN GOVERNMENT
- 1.3.9 NATIONAL TREASURY PRACTICE NOTES
- 1.3.10 THE KING REPORTS ON CORPORATE GOVERNANCE FOR SOUTH AFRICA
- 1.3.11 THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT, 2004
- 1.3.12 THE NATIONAL SMALL BUSINESS ACT, 1996 – [NSBC]
- 1.3.13 STATE INFORMATION TECHNOLOGY AGENCY ACT, 1998 –[SITA]
- 1.3.14 BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT, 2003 – [B-BBEEA]
- 1.3.15 OTHER LEGISLATION AFFECTING SCM IN THE MUNICIPALITY

The following table indicates other legislation affecting SCM in the Municipality:

Table 3.15: Legislative framework: = direct impact = indirect impact

LEGISLATION AFFECTING SCM IN THE MUNICIPALITY		Direct/Indirect impact
<input type="checkbox"/>	Constitution of the RSA, 1996	

LEGISLATION AFFECTING SCM IN THE MUNICIPALITY		Direct/Indirect impact
<input type="checkbox"/>	Public Finance Management Act, 1999 (Act 1 of 1999)	
<input type="checkbox"/>	Municipal Finance Management Act, 2003 (Act 56 of 2003)	
<input type="checkbox"/>	Division of Revenue Act (Annual)	
<input type="checkbox"/>	Annual Budgets	
<input type="checkbox"/>	Borrowing Powers of Provincial Governments Act, 1996 (Act 48 of 1996)	
<input type="checkbox"/>	Disaster Management Act, 2002 (Act 57 of 2002)	
<input type="checkbox"/>	Finance Acts	
<input type="checkbox"/>	Intergovernmental Fiscal Relations Act, 1997 (Act 97 of 1997)	
<input type="checkbox"/>	Local Government Municipal Property Rates Act, 2004 (Act 6 of 2004)	
<input type="checkbox"/>	Municipal Systems Act, 2000 (Act 32 of 2000)	
<input type="checkbox"/>	National Credit Act, 2005 (Act 34 of 2005)	
<input type="checkbox"/>	Public Audit Act (PAA), 2004 (Act 25 of 2004)	
<input type="checkbox"/>	Western Cape Direct Charges Act, 2000 (Act 6 of 2000)	
<input type="checkbox"/>	Financial Intelligence Centre Act, 2001 (Act 38 of 2001)	
<input type="checkbox"/>	Provincial Tax Regulation Process Act, 2001 (Act 53 of 2001)	
<input type="checkbox"/>	Value Added Tax Act, 1991 (Act 89 of 1991)	
<input type="checkbox"/>	Promotion of Administrative Justice Act (PAJA), 2000 (Act 3 of 2000)	
<input type="checkbox"/>	Promotion of Access to Information Act (PAIA), 2000 (Act 2 of 2000)	
<input type="checkbox"/>	Public Protector Act, 1994 (Act 23 of 1994)	
<input type="checkbox"/>	Basic Conditions of Employment Act, 1997 (Act 75 of 1997)	
<input type="checkbox"/>	Employment Equity Act (EEA), 1998 (Act 55 of 1998)	
<input type="checkbox"/>	Compensation for Occupational Injuries and Disease Act, 1993 (Act 130 of 1993)	
<input type="checkbox"/>	Income Tax Act, 1962	
<input type="checkbox"/>	Public Office Bearers Act, 1998 (Act 20 of 1998)	
<input type="checkbox"/>	Unemployment Insurance Act, 2001 (Act 63 of 2001)	
<input type="checkbox"/>	Unemployment Insurance Contributions Act, 2002 (Act 4 of 2002)	
<input type="checkbox"/>	State Information Technology Agency Act (SITA), 1998 (Act 88 of 1998)	
<input type="checkbox"/>	Broad-Based Black Economic Empowerment Act (B-BBEEA), 2003 (Act 53 of 2003)	
<input type="checkbox"/>	Competition Act (CA), 1998 (Act 89 of 1998)	
<input type="checkbox"/>	Construction Industry Development Board Act (CIDBA), 2000 (Act 38 of 2000)	
<input type="checkbox"/>	Employment Equity Act (EEA), 1998 (Act 55 of 1998)	
<input type="checkbox"/>	Companies Act, 1973 as amended in 2008)	
<input type="checkbox"/>	Prevention and Combating of Corrupt Activities Act, 2003)	
<input type="checkbox"/>	National Environmental Management Act (NEMA), 1998 (Act 107 of	

LEGISLATION AFFECTING SCM IN THE MUNICIPALITY		Direct/Indirect impact
	1998)	
<input type="checkbox"/>	National Small Business Act (NSBA), 1996 (Act 102 of 1996)	
<input type="checkbox"/>	Preferential Procurement Policy Framework Act (PPPFA), 2000 (Act 5 of 2000)	
<input type="checkbox"/>	Prevention and Combating of Corrupt Activities Act (PCCAA), 2004 (Act 12 of 2004)	
<input type="checkbox"/>	Prevention of Organized Crime Act, 1998 (Act 121 of 1998)	
<input type="checkbox"/>	Reconstruction and Development Fund Act, 1998 (Act 79 of 1998)	
<input type="checkbox"/>	State Tender Board Act, 1968 (Act 86 of 1968)	
<input type="checkbox"/>	National Road Traffic Act, 1996 (Act 93 of 1996)	
<input type="checkbox"/>	Road Transportation Act, 1977 (Act 74 of 1977)	
<input type="checkbox"/>	Road Transport Management Corporation Act, 1999 (Act 20 of 1999)	
<input type="checkbox"/>	Building Standards Act, 1977 (Act 103 of 1977)	
<input type="checkbox"/>	National Building Regulations and Building Standards Act, 1977 (Act 103 of 1997)	
<input type="checkbox"/>	Intelligence Service Act, 2002 (Act 65 of 2002)	
<input type="checkbox"/>	Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)	
<input type="checkbox"/>	Labor Relations Act, 1995. (Act 66 of 1995)	
<input type="checkbox"/>	Magistrates Act, 1993 (Act 90 of 1993)	
<input type="checkbox"/>	Magistrates Court Act, 1944 (Act 32 of 1944)	
<input type="checkbox"/>	National Archives and Records Service of South Africa Act, 1996 (Act 43 of 1996)	
<input type="checkbox"/>	Occupational Health and Safety Act, 1993 (Act 85 of 1993)	
<input type="checkbox"/>	Protected Disclosures Act (PDA), 2000 (Act 26 of 2000)	
<input type="checkbox"/>	Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act 33 of 2004)	
<input type="checkbox"/>	Skills Development Act, 1998 (Act 97 of 1998)	
<input type="checkbox"/>	Skills Development Levy Act, 1999 (Act 9 of 1999)	
<input type="checkbox"/>	Western Cape Procurement Act, 2010)	
<input type="checkbox"/>	SPLUMA	

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PART 1.4: OVERALL OBJECTIVE

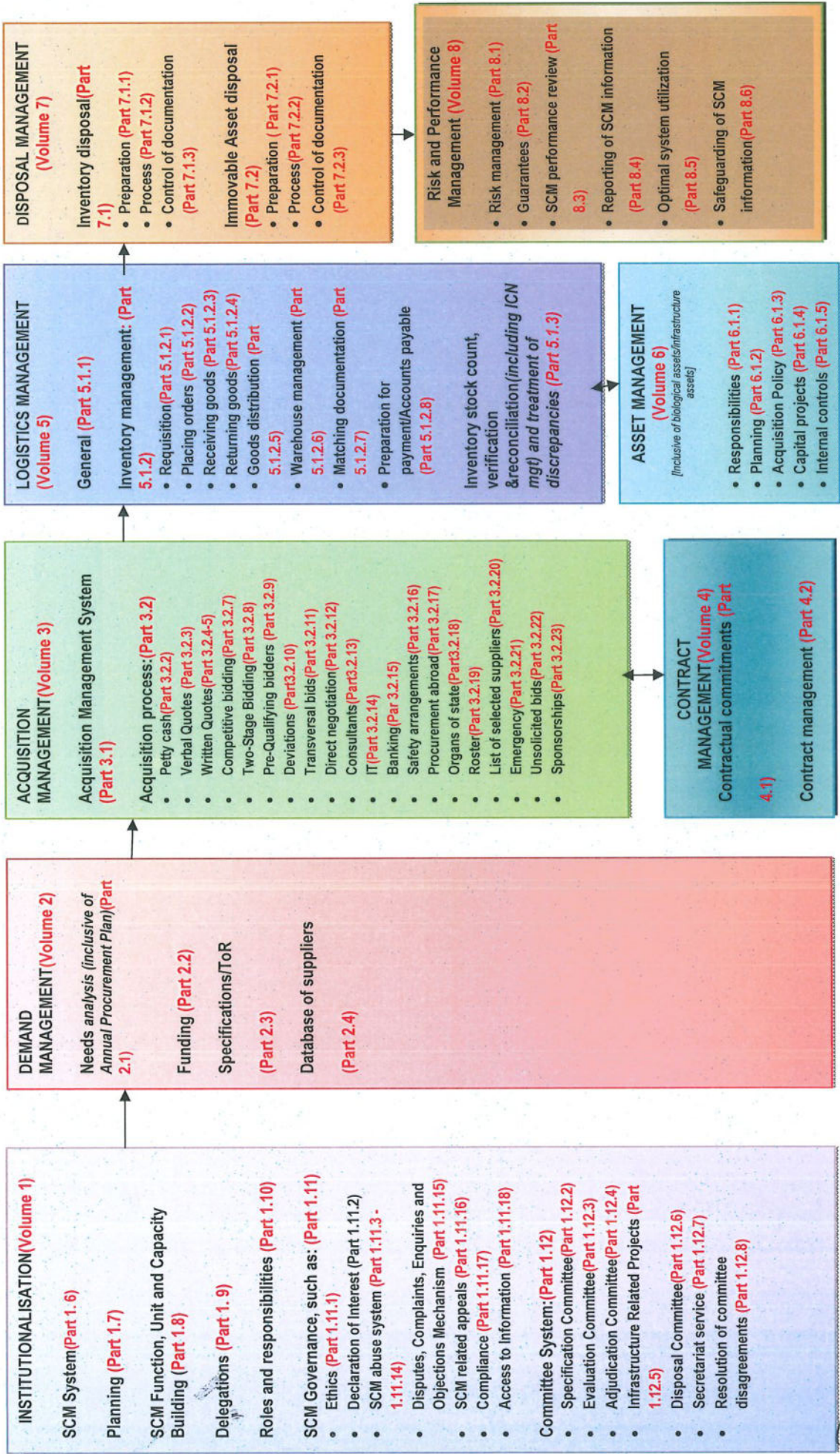
1.4.1 OVERALL OBJECTIVES

- 1.4.1.1 Beaufort West Municipality's overall objective of this SCMPPoS is the following:
- 1.4.1.2 To ensure the efficient, effective and uniform planning for and procurement of all services and goods, required for the proper functioning of the Municipality as well as the sale and letting of assets that conforms to constitutional and legislative principles whilst developing, supporting and promoting historically disadvantaged individuals, black economic empowerment, small, medium and micro enterprises (SMME's) and preferential goals.
- 1.4.1.3 To ensure the efficient, effective and uniform management and disposal of goods and assets.
- 1.4.1.4 To ensure good governance through its SCM processes.
- 1.4.1.5 To prevent SCM System abuse and resultant irregular expenditure.

A handwritten signature in black ink, consisting of a large, stylized 'G' followed by a smaller 'P' and a flourish.

MUNICIPAL SCM SYSTEM MAP

[NOTE that public sector SCM provides for 3 systems – (1) goods and services, (2) infrastructure, (3) immovable property]



1.1.3 APPLICATION

1.1.3.1 This SCMPPPOS is applicable to all Councilors, Municipal officials, stakeholders, contractors, suppliers, service providers and any other party doing business with the Beaufort West Municipality.

1.1.4 MAINTENANCE

1.1.4.1 Given the changing nature of the regulatory, and control environment, this SCMPPPOS is subject to review every year, and being updated as and when required. Amendments emanating from review and updating processes will be issued under cover of a SCM Instruction.

1.1.4.2 Maintenance will be performed by the SCMU in the Office of the CFO.

1.1.4.3 Other independent assurance providers, such as the National Treasury, relevant Provincial Treasury, Internal Audit, inclusive of the Audit Committee, and the Auditor-General: SA, will also be involved in the examination of the adequacy and effectiveness of this SCMPPPOS to ensure an effective and appropriate control environment.

1.1.5 IMPLEMENTATION

1.1.5.1 The Accounting Officer of Beaufort West Municipality must take all reasonable steps to ensure that the Municipality has and implements this Policy.

1.1.5.2 It is the responsibility of management to bring the content of this SCMPPPOS to the attention of all parties within their area of control.

1.1.5.3 Non-compliance with this SCMPPPOS may result in appropriate disciplinary procedures and/or criminal actions being considered and instituted against the relevant officials and perpetrators where deemed necessary.

1.1.5.4 For clarification of any matter contained in this SCMPPPOS, please address queries to the SCMU in the Office of the CFO.

PART 1.2: TERMINOLOGY

1.2.1 ABBREVIATIONS

B-BBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
AO	Accounting Officer
CCR	Cost Containment Regulations
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
CIDBA	Construction Industry Development Board Act
EPWP	Expanded Public Works Programme
DTI	Department of Trade and Industry
FM	Financial Manager

HDI	Historically Disadvantaged Individuals
GCC	General Conditions of Contract
MEC	Member of Executive Council
MUNICIPALITY	Beaufort West Municipality
MTEF	Medium Term Expenditure Framework
MFMA	Municipal Finance Management Act (Act 56 of 2003)
NSBC	National Small Business Council
PAIA	Promotion of Access to Information Act (Act 2 of 2000)
PAJA	Promotion of Administrative Justice Act (Act 3 of 2000)
PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Framework Act (Act 5 of 2000)
RD	Reconstruction and Development Programme
RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
SAPO	South African Post Office
SAPS	South African Police Services
SARS	South African Revenue Services
SASSA	South Africa Social Security Agency
SBD	Standard Bidding Documents
SCA	Supreme Court of Appeal
SCM	Supply Chain Management
SCM TR	Supply Chain Management Treasury Regulations, 2005
SCMU	SCM Unit
SITA	State Information Technology Agency
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
SP	Service Provider
SPLUMA	Spatial Planning and Land Use Management Act, 2013
TCO	Total Cost of Ownership
TOR	Terms of Reference

1.2.2 DEFINITIONS

A-CLASS ITEMS	A-class items are those items which are not consumable or expendable
ACQUISITION MANAGEMENT	Acquisition management is the process of procurement of goods or services and includes the: <ul style="list-style-type: none"> <input type="checkbox"/> Evaluation of bids and tabling of recommendations; <input type="checkbox"/> Compilation and signing of contract documents; and <input type="checkbox"/> Contract administration and management.
ASSET	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

	<p>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"/> <input type="checkbox"/> It is controlled by the entity. <input type="checkbox"/> It originates as a result of a past transaction or event.
BROAD BASED BLACK ECONOMIC EMPOWERMENT	<p>Means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to—</p> <p>(a) increasing the number of black people that manage, own and control enterprises and productive assets;</p> <p>(b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;</p> <p>(c) human resource and skills development;</p> <p>(d) achieving equitable representation in all occupational categories and levels in the workforce;</p> <p>(e) preferential procurement; and</p> <p>(f) investment in enterprises that are owned or managed by black people.</p>
CONSULTANT	<p>An external person or organization that provides a service to the municipality in those areas, where the municipality either lacks the required specialized skills or Capacity.</p>
DEMAND MANAGEMENT	<p>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 and is inclusive of, but not limited to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identification of preferential policy objectives; <input type="checkbox"/> Determination of market strategy; <input type="checkbox"/> Application of depreciation rates; <input type="checkbox"/> Application of total cost of ownership principle; <input type="checkbox"/> Compilation of bid documentation, including conditions; and <input type="checkbox"/> Determination of evaluation criteria.
DEPRECIATION	<p>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.</p>
DISPOSAL MANAGEMENT	<p>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.</p>
E-CLASS ACCOUNTABLE	<p>Accounting in respect of those stores approved by the Treasury as consumables.</p>
E-CLASS ITEMS	<p>E-class items are consumable and expendable stores that cannot be repaired when it becomes unusable.</p>
ECONOMIC	<p>Obtain the highest possible output for the lowest possible use of resources.</p>

PRINCIPLE	
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 accountable 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
INTEGRATED SCM	The foundation of the integrated SCM concept is total cost analysis, which is defined, as minimizing the total cost of SCM elements.
IN THE SERVICE OF THE STATE	Means to be – (a) A member of – (i) Any Municipal council (ii) Any provincial legislature, or (iii) The National Assembly or the National Council of Provinces (b) A member of the board of directors of any Municipal entity (c) An official of any Municipality or Municipal entity (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) (e) A member of the accounting authority of any national or provincial public entity (f) An employee of Parliament or a provincial legislature (g) A person who is an advisor or consultant contracted with the Municipality
INVENTORIES	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	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	An individual article or unit.
LACK OF CAPACITY	<input type="checkbox"/> Insufficient physical resources within the Municipality; <input type="checkbox"/> Relevant knowledge, expertise and - experience that may not exist within the municipality
LIFECYCLE COSTING	Lifecycle costing is a technique developed to identify and quantify all costs, initial and ongoing, 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	Means a list of accredited prospective providers which the Municipality / Municipal entity must keep in terms of Part 2.4 of this SCMPPOS

PROVIDERS	
LOGISTICS MANAGEMENT	Logistics management ensures that goods and services are available at the right place, time and quantities required to execute the functions of the Municipality.
LONG TERM CONTRACT	Means a contract with a duration period exceeding three years
MEASURABLE OBJECTIVES	Measurable objectives identify very specific activities that the Municipality intends performing 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	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.
NET PRESENT VALUE (NPV)	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	No longer produced or used, out of date, to become obsolete by replacing it with something new.
OTHER APPLICABLE LEGISLATION	Means any other legislation applicable to Municipal supply chain management, including – <ul style="list-style-type: none"> (a) The Preferential Procurement Policy Framework Act, 2000 (Act no. 5 of 2000) (b) The Broad – Based Black Economic Empowerment Act, 2003 (Act no 53 of 2003) (c) The Construction Industry Development Board Act, 2000 (Act no 38 of 2000) (d) The Municipal Systems Act, 2000 (Act 32 of 2000)
MFMA	MFMA means the Municipal Finance Management Act, 2003 (Act No 56 of 2003) as amended, as well as National Treasury Regulations, including SCM Regulations issued in terms thereof.
PRACTITIONER	A person who practices a profession or art.
REDUNDANT	No longer needed or useful, superfluous (unnecessary).
SALVAGE	The act of saving any goods or property in danger of damage or destruction.
SMALL, MEDIUM AND MICRO ENTERPRISE (SMME)	SMME is as defined in the National Small Business Act, 102 of 1996, as amended. Employing a maximum of 100 employees in any sector except manufacturing or construction where the maximum is 200 employees.
STORES/STOCK	All movable state property/assets that are kept in stock for issue purposes.
STRATEGIC GOALS	Strategic goals are areas of institutional performance that are critical to the achievement of the mission. They are statements that describe the strategic direction of the Municipality. It is useful to think of strategic goals as outcomes to be achieved by the Municipality.
STRATEGIC OBJECTIVES	Strategic objectives are more concrete and specific than strategic goals. They should give a clear indication of what the Municipality intends doing 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 institution intend taking.
SCM	<p>SCM is an integral part of financial management. This function integrates the planning, procurement and provisioning processes, seeks to introduce international best practices, whilst at the same time addressing Government’s preferential procurement policy objectives. Four phases are distinguished in the SCM processes, namely:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Demand management <input type="checkbox"/> Acquisition management <input type="checkbox"/> Logistics management <input type="checkbox"/> Disposal management <p>The planning process is dealt with in the Demand Management phase, the procurement function in Acquisition Management and provisioning in Logistics and Disposal Management.</p>
TREASURY GUIDELINES	Means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.
‘THE ACT’	Means the Local Government Municipal Finance Management Act, 2003 (Act no 56 of 2003) – MFMA
‘THE REGULATIONS’	Means the Local Government Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005
VALUE FOR MONEY	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 institution defined in terms of cost, price, quality, quantity, risk transfer or any combination of those factors.

1.4.2 THE SCM POLICY

Refer to section 111& 112 of the MFMA & SCM TR 2&3

1.4.2.1 This SCMPPPOS shall give effect to the legislation and the overall objectives stated, through appropriate policy and principles.

1.4.2.2 The entire Municipality's SCM must be done in accordance with this SCMPPPOS.

PRINCIPLES

1.4.2.3 Where the National Treasury issue amendments in the interim, those instructions will also be taken into account in the execution of the SCM in addition to the SCMPPPOS which must be consequently amended within.

1.4.3 POLICY ADOPTION AND REVIEW

Refer to section 111 of the MFMA and SCM TR 3

1.4.3.1 This SCMPPPOS shall be adopted by the Municipal Council and reviewed at least annually.

1.4.3.2 Ensure continuous review and update of the SCMPPPOS against prescripts and related legislative frameworks and amendments.

PRINCIPLES

1.4.3.3 The SCMPPPOS must be reviewed at least annually to ensure that it is compliant with the legislative environment.

1.4.3.4 When deemed necessary on an *ad hoc* basis, the AO must submit proposals for the amendment of the policy to the Council.

1.4.3.5 On an annual basis, at least a quarter before the adoption of the Municipal Budget, the Head of the SCMU must review the SCMPPPOS and submit such to the CFO for consultation with the AO and submission to the Council for adoption.

1.4.3.6 When amending this 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.



PART 1.5: PROCUREMENT PRINCIPLES

1.5.1 PROCUREMENT PRINCIPLES

Refer to section 112 of the MFMA and SCM TR 2

1.5.1.1 The Municipality hereby adopts the procurement principles as noted hereunder:

Transparency	The procurement process shall be open and predictable and shall afford each prospective bidder timely access to the same and accurate information
Equal treatment	All bidders and providers shall be treated equally throughout the whole procurement process and shall be given access to the same information.
Effectiveness	The Municipality shall strive for SCM system effectiveness and shall carry out its procurement processes as cost-effectively as possible while meeting the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.
Efficiency	The Municipality shall strive to standardise and simplify procedures where appropriate to enhance SCM system effectiveness and shall carry out its SCM processes as cost-effectively and efficiently as possible. The Municipality shall strive to build relationships with providers, shall ensure good working practices and shall encourage innovative solutions for providers
Competitiveness	The Municipality shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.
Fairness	All bidders and contractors shall be dealt with fairly and without unfair discrimination. Unnecessary constraints shall not be imposed on bidders/contractors and commercial confidentiality shall be protected.
Ethics	All suppliers shall be treated equally whilst promoting certain empowerment objectives, all stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interests shall be disclosed and all breach shall be reported.
Proportionality	The product/service requirements stipulated in the specification/terms of reference and the qualification requirements attached thereto must be appropriate, necessary and in reasonable proportion to the product/service being procured.
Uniform application	The Municipality shall ensure the application of a SCMPPPOS and a streamlined SCM process and documentation that is uniformly applied by the Municipality, all things being equal. The procurement process shall be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.
Accountability	Each practitioner shall be accountable for their decisions and actions relative to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. The Municipality shall have a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with the Municipality, for their decisions and actions relative to their

	procurement responsibilities, the procurement process as well as in the implementation of concluded contracts.
Openness	The Municipality shall ensure a procurement process and a subsequent contract award and implementation according to the predetermined specification in line with the best practice procurement principles.
Value for money	The Municipality shall achieve value for money through the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements while maximizing efficiency, effectiveness and flexibility.
	The Municipality shall apply the following TCO philosophy to the procurement of goods and services in achieving value for money.
	$TCO = Price + Administration (maint. and process) + Quality/Usage + Supplier Value-add.$
Commitment to safety, health and the environment	The Municipality is committed to the health and safety of its personnel and its providers in the application of its SCM process.
	The Municipality is committed to the preservation of the environment, minimising pollution and the improved use of natural resources in the application of its SCM processes and more specifically in the design of the specifications/terms of reference for each requirement.
	The Municipality shall apply preventative measures in situations of scientific uncertainty where a course of action could harm the environment.
Black Economic Empowerment	The Municipality is committed to the promotion of Black Economic Empowerment.
Preferential Procurement Policy	The Municipality shall implement the preferential system and its preferential procurement policy (once adopted) in the allocation of contracts for categories of services providers such as previously disadvantaged individuals, women and small business.
Local Sourcing	The Municipality is committed to give preference to locally sourced products and services whenever possible.
Resolution of Bid Award Disagreements	Should the Bid Adjudication Committee and or the AO not agree with any recommendations made by the Bid Evaluation Committee, only the AO may make the final award within 10 working days, subject to the provisions of section 114 of the MFMA.
Local Production and Content	The Municipality must, in case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering condition that only locally produced goods, services or works of locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
	National Treasury will issue instructions, circulars and guidelines with specific reporting mechanisms to ensure compliance with above mentioned.
	Where there is no designated sector, the Municipality may include, as a specific tendering condition, that only locally produced services, works or goods or locally

manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.

All tenders issued in terms of PPPFA regulation 9 must be measurable and audited.

A two-stage bidding process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second stage price and B-BBEE with the possibility of price negotiations only with the short listed bidder/s



PART 1.6: SCM SYSTEM

1.6.1 SCM SYSTEM

Refer to section 115 of the MFMA and SCM TR 9

1.6.1.1 The Accounting Officer shall develop and implement an effective and efficient SCM system for:

- The acquisition of goods and services
- The disposal and letting of assets and goods no longer required.

1.6.1.2 The system shall be fair, equitable, transparent, competitive and cost-effective.

1.6.1.3 The system shall be consistent with the PPPFA and the B-BBEE Act.

1.6.1.4 The system shall provide for at least the following:

- Demand management.
- Acquisition management.
- Logistics management.
- Disposal management.
- Risk management.
- Regular assessment of supply chain performance.

PRINCIPLES

1.6.1.5 The SCMPPOS must, in the case of procurement through a competitive and other relevant bidding process, provide for:

- Bidding procedures.
- The establishment, composition and functioning of bid specification, evaluation and adjudication committees.
- Selection of bid committee members.
- Adjudication of bids through a bid adjudication committee.
- Approval of bid evaluation committee recommendations by the Bid Adjudication Committee for bids up to R 10m and the AO for bids exceeding R 10m.

1.6.1.6 The SCM system must be seen as an integrated system and takes into account the main influencers such as the suppliers, clients, information and inventory flow.



PART 1.7: PLANNING

1.7.1 PLANNING

Refer to Municipal Systems Act, chapter 5, MFMA, chapter 4 and SCM TR 3

1.7.1.1 The SCMPPOS of the Municipality must complement its IDP and SDBIP

PRINCIPLES

1.7.1.2 Management must align the SCM strategies with their Municipal departmental strategies

PART 1.8: SCM FUNCTION, UNIT AND CAPACITY BUILDING

1.8.1 SCM FUNCTION, UNIT AND CAPACITY BUILDING

Refer to section 119 of the MFMA and SCM TR 7 & 8

1.8.1.1 The AO must establish a separate SCMU which operates under the direct supervision of the CFO to implement its SCM system.

1.8.1.2 The AO shall ensure that officials implementing the SCM system are trained and deployed in line with the National Treasury prescripts and guidelines.

1.8.1.3 National Treasury shall regulate the training.

1.8.1.4 National Treasury must validate the training material of providers.

PRINCIPLES

1.8.1.5 The separate SCMU must operate under the direct supervision of the CFO.

1.8.1.6 The section Supply Chain Management is responsible for the co-ordination and oversight of the supply chain management function. It is headed by the SCM manager and falls under the management of the Municipality's CFO.

1.8.1.7 The AO and all other officials of the Municipality involved in the implementation of the SCMPPOS must meet the prescribed competency levels.

1.8.1.8 The Municipality must therefore provide resources or opportunities for the training of relevant officials to meet the prescribed competency levels and training will be provided for at least the following officials:

- Senior management
- Practitioners and users
- New entrants – new appointees irrespective of the level at which they are appointed.

1.8.1.9 The training material must be of an acceptable level of quality and in accordance with the relevant SCM policy reforms and legislation and must be validated by National Treasury.

1.8.1.10A phased-in implementation strategy as outlined below could be followed:

- Short term through Introduction to SCM.
- Medium term through training in all elements of SCM as well as training in specialised skills.

PART 1.9: AUTHORITY TO EXECUTE

1.9.1 DELEGATION OF AUTHORITY

Refer to section 59 of the MSA, sections 79 and 82 of the MFMA and SCM TR 4 & 5

- 1.9.1.1 All SCM activities shall be executed in accordance with pre-established levels of authority through delegations and sub-delegations to ensure control and division of responsibility.
- 1.9.1.2 Delegations shall be in writing to a specific individual or the holder of a post and shall be in line with the Delegation Framework.
- 1.9.1.3 A delegation shall be subject to such limitations and conditions as the Council, AO and/or CFO may impose in a specific case.
- 1.9.1.4 The specific provisions and limitations as prescribed in SCM TR 4 and 5 must at all times be adhered to.
- 1.9.1.5 The AO and/or CFO is entitled to confirm, vary or revoke any decision taken in
- 1.9.1.6 consequence of a delegation, provided that no such variation or revocation of a decision should detract from any rights that may have accrued as a result of the decision.

PRINCIPLES

- 1.9.1.7 The Council hereby delegates such additional powers and duties to the AO so as to enable the AO:
- To discharge the SCM responsibilities conferred on AO in terms of –
 - Chapter 8 or 10 of the MFMA; and
 - This Policy.
 - To maximise administrative and operational efficiency in the implementation of this Policy;
 - To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of this Policy; and
 - To comply with his/her responsibilities in terms of Section 115 and other applicable provisions of the MFMA.
- 1.9.1.8 No individual official should be in a position to take a decision in isolation regarding the award of a bid.
- 1.9.1.9 The AO may not sub-delegate any SCM powers or duties to any person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality.
- 1.9.1.10 The AO may sub-delegate the power to make a final award above R2 million but not exceeding R10 million, but only to the CFO, a senior manager or a BAC of which the CFO or a senior manager is a member.
- 1.9.1.11 The word 'delegation' is derived from Latin; delegate meaning 'to send from', which in

turn means that when delegating, work is being sent 'from' one person 'to' someone else.

1.9.1.12 Delegation is the process through which a portion of authority assigned to an official is passed on to a lower-level official who in turn has the authority to deploy resources in his or her area of responsibility to execute a specific task.

1.9.1.13 In this context:

- 'Accountability' and 'Responsibility' means that the official who delegates authority remains accountable and the lower-level official must be held responsible for the execution of the delegated power or authority.
- 'Centralisation' considers where the responsibility for decision-making authority is vested, i.e., the degree to which decision-making is concentrated at a single point in the organisation.
- 'Decentralisation' is when authority is widely dispersed within the organisation.
- Centralisation and decentralisation does not refer to geographical dispersion.

1.9.1.14 The delegation process is essential to every Municipality as this is a mechanism through which it can ensure the achievement of effective, efficient and economical service delivery by officials.

1.9.1.15 Management processes are dependent on the concept of delegation. It is therefore important that this concept and its advantages during implementation is understood by all parties involved. Some of the key advantages are the following:

1.9.1.16 Managers who allow their staff to accept more responsibilities are in a better position themselves to accept more responsibilities and higher levels of authority.

1.9.1.17 Delegations encourage officials to exercise judgment and to accept accountability.

1.9.1.18 Better decisions are often taken by officials who operate closer to implementation.

1.9.1.19 Decision-making processes are quicker and enhances officials' confidence to make future decisions.

1.9.1.20 The Municipal Financial and SCM delegations must be designed to distinguish between:

- Strategic, tactical and operational level delegations.
- Different activity requirements in exercising a delegated power, being to initiate, process, recommend, approve, execute and monitor the execution of a delegated power.
- Different principles guiding the appropriate delegation level, being the management impact level, post level and frequency level.
- Whether the provision is mandatory or allows for discretion in terms of implementation.
- Different risk impact levels when executing a delegated power, being, extensive, moderate or limited, including the area of impact.

1.9.2 RESPONSIBILITY OF OFFICIALS

Refer to sections 77, 112(1)(k) and 117 of the MFMA and SCM TR 44&46

1.9.2.1 Each official shall carry out its activities within its area of responsibility.

1.9.2.2 Each official shall take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in its area of responsibility.

PRINCIPLES

1.9.2.3 A person in the relevant division or department holding the rank to which the authority has been delegated or the person with the authority appointed for the task must carry it out satisfying the various SCM requirements, including the ability to commit the Municipality.

1.9.2.4 All activities not delegated to a person in the relevant division or the SCMU holding the rank to which the authority has been delegated, must be forwarded upwards to the person holding the required rank or to the relevant delegated structure.

1.9.2.5 Officials acting on behalf of others, may execute the delegations of such post, subject to written appointment.

1.9.3 PARTICIPATION OF ADVISORS

Refer to SCM TR 5, 27 & 29

1.9.3.1 Specialist advisors may assist in the execution of the SCM function.

1.9.3.2 The services must be obtained through the SCM System.

1.9.3.3 No advisor may form part of the final decision-making process regarding bids.

1.9.3.4 No decision-making authority can be delegated to an advisor.

PRINCIPLES

1.9.3.5 The use of specialist advisors for any SCM function is allowed except from making final decisions relating to a bid, which function only Municipal officials must perform.

PART 1.10: ROLES AND RESPONSIBILITIES

1.10.1 SCM FOCUS

Refer to section 117 of the MFMA and SCM TR 6

1.10.1.1 The roles and responsibilities of all the structures hereunder are to be defined only from the perspective of SCM and as prescribed.

1.10.2 MUNICIPAL COUNCIL

Refer to section 117 of the MFMA and SCM TR 6

1.10.2.1 Without interfering in the actual procurement processes, to ensure that the Municipality has and maintains:

- An appropriate SCM system, which is fair, equitable, transparent, competitive and cost-effective.
- Effective, efficient and transparent systems of financial and risk management and internal control.

1.10.2.2 To act with fidelity, honesty, integrity and in the best interest of the Municipality in managing its financial affairs, including the avoidance of conflict of interest and provision of safeguards against favoritism, improper practices and opportunities for fraud, theft and corruption.

1.10.2.3 To prevent any prejudice to the financial interests of the Municipality or the State.

1.10.2.4 To take effective and appropriate steps to prevent irregular expenditure, fruitless and wasteful expenditure, losses as a result of criminal conduct and expenditure not complying with the operational policies of the Municipality.

1.10.2.5 To ensure that expenditure of Municipality related to SCM is in accordance with the approved budget.

1.10.2.6 To delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution and the MFMA, to the Accounting Officer.

1.10.2.7 To approve the allocation of funds to strategic goals of the Municipality.

1.10.2.8 To oversee the implementation of the SCMPPOS.

1.10.3 ACCOUNTING OFFICER

Refer to sections 60, 79 & 115 of the MFMA and SCM TR 3, 5, 29, 48 & 50

1.10.3.1 To advise on the establishment of strategies in compliance with the legislation.

1.10.3.2 To act as a sounding board for the Council on the translation of the SCM strategy into business objectives and operational plans.

1.10.3.3 To grant final approval of certain bids not delegated to any other official or structure and bids subject to certain conditions.

1.10.3.4 To delegate or sub-delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution and the MFMA, to the CFO.

1.10.3.5 To manage SCM processes in the event of uncertainty or dispute between different award structures.



1.10.4 CHIEF FINANCIAL OFFICER

Refer to sections 80, 81 & 82 of the MFMA and SCM TR 7

- 1.10.4.1 To advise on the establishment of strategies in compliance with the legislation.
- 1.10.4.2 To act as a sounding board for the Council on the translation of the SCM strategy into business objectives and operational plans.
- 1.10.4.3 To provide guidance on the establishment of proposals, policies and the operational budget.
- 1.10.4.4 To provide guidance and options in terms of operational expenditure.
- 1.10.4.5 To establish and maintain the Municipal SCMPPOS.
- 1.10.4.6 To establish and maintain the Municipal SCMU.
- 1.10.4.7 To take all reasonable steps to ensure that proper mechanisms and separation of duties in the SCMPPOS are in place to minimize the likelihood of fraud, corruption, favoritism and unfair and irregular practices.
- 1.10.4.8 To sub-delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution, MSA and the MFMA, to an official in the Office of the CFO.

1.10.5 LINE FUNCTION/USERS

Refer to section 79 of the MFMA and SCM TR 2, 12, 26, 38, 44, 45, 46 & 47

- 1.10.5.1 To link the operational budget with SCM planning.
- 1.10.5.2 To manage SCM activities in so far as it impacts on the budget holder's expenditure items.
- 1.10.5.3 To establish and maintain user and/or supplier specifications and requirements in relation to SCM within its area of responsibility.
- 1.10.5.4 To establish and maintain contract management and project management activities in relation to SCM within its area of responsibility.
- 1.10.5.5 To take all reasonable steps to ensure that proper mechanisms and separation of duties between the SCMU and line function unit to minimize the likelihood of fraud, corruption, favoritism and unfair and irregular practices.
- 1.10.5.6 To sub-delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution and the MFMA, to an official in the relevant line-function unit.



1.10.6 SCMU

Refer to section 79 of the MFMA and SCM TR 7

- 1.10.6.1 To develop and implement strategies to ensure optimization of the supply chain management unit's service delivery, resource utilization and client satisfaction
- 1.10.6.2 Develop necessary policies such as petty cash policy, etc or other procedures required to enhance the implementation of supply chain management
- 1.10.6.3 Provide strategic direction and operational planning for the SCMU
- 1.10.6.4 Manage provisioning, procurement, logistics, risk and performance management
- 1.10.6.5 Co-ordinate and oversee the functions of demand, acquisitions, logistics, risks and performance management
- 1.10.6.6 Responsible for SCM including evaluation and adjudication as delegated, research and adherence to supply chain management policy, compilation of reports as required, auditing of supply chain allocation, ensure proper statistical and administration and cost and management accounting
- 1.10.6.7 Liaise with external auditors and attend to audit queries and address them accordingly
- 1.10.6.8 Advise the bid committees on procurement processes and prescripts
- 1.10.6.9 Approves and sign letters of acceptance to prospective bidders
- 1.10.6.10 Develop a delegation schedule for SCMU
- 1.10.6.11 Facilitate training needs for all SCM practitioners and ensure that each official is trained accordingly
- 1.10.6.12 Assist the AO and CFO to at least annually review the SCMPPOS

PART 1.11: SCM GOVERNANCE

1.11.1 ETHICS

Refer to section 118 of the MFMA and SCM TR 46

- 1.11.1.1 The Municipality commits itself to a policy of fair dealing and integrity in conducting its SCM activities.
- 1.11.1.2 All SCM practitioners and role players in the SCMPPOS are required to promote mutual trust and respect and an environment where business can be conducted in a fair, reasonable and transparent manner with integrity.
- 1.11.1.3 All SCM practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations.
- 1.11.1.4 The Code of Conduct for SCM practitioners as contained in National Treasury's Practice Note Number SCM 4 of 2003 will be maintained on an annual basis and shall direct all

SCM practitioners and role players in their conduct within and with the Municipality.

Non-compliance shall be subject to the appropriate disciplinary action.

1.11.1.5 The AO shall take all reasonable steps to prevent abuse of the SCMPPOS.

1.11.1.6 Anyone who becomes aware of a breach of or failure to comply with any aspect of the SCMPPOS, must immediately report the breach or failure to the AO or his/her delegated authority in writing.

1.11.1.7 All allegations against a practitioner or any other role player, of corruption, improper conduct or compliance failure with the SCMPPOS shall be investigated by the AO or his/her delegated authority who will, when justified:

- Take steps against such official or other role player and inform the relevant Treasury of such steps.
- Report any conduct that may constitute an offence to the SAPS.

PRINCIPLES

1.11.1.8 The AO or his/her delegated authority shall take all reasonable steps to prevent abuse, corruption and collusion through regular internal audit reviews, and external audit as well as risk assessments in the supply chain environment.

1.11.1.9 The AO or his/her delegated authority shall ensure that the Municipality considers all complaints received and shall respond thereto in a timely manner.

1.11.2 DECLARATION OF INTEREST

Refer to sections 112 (1)(j), 117 & 118 of the MFMA and SCM TR 44, 45, 46 & 47

1.11.2.1 If a SCM practitioner or other role player, or close family member, partner or associate of such practitioner or other role player, has any private or business interest in any contract to be awarded, that practitioner or other role player must:

1.11.2.2 Disclose that interest.

1.11.2.3 Withdraw from participating in any manner whatsoever in the process relating to the contract.

1.11.2.4 A SCM practitioner must recognize and disclose any conflict of interest that may arise.

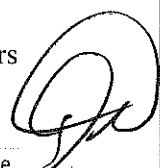
PRINCIPLES

1.11.2.5 The AO or his/her delegated authority shall determine whether the interest declared, constitutes a conflict of interest in circumstances where it is not clear that it presents a conflict.

1.11.2.6 SCM TR 44 must be maintained at all times.

1.11.3 EQUAL TREATMENT

1.11.3.1 All SCM practitioners and other role players must treat all suppliers and potential suppliers



equitably.

PRINCIPLES

1.11.3.2 All Municipal officials associated with SCM, particularly those dealing directly with service providers/suppliers or potential service providers/suppliers are required to:

- Provide all assistance in the elimination of fraud and corruption.
- Be fair, efficient, firm and courteous.
- Achieve the highest professional standards in the adjudication of contracts

1.11.4 ACCOUNTABILITY

1.11.4.1 A SCM practitioner and other role players must be scrupulous in their use of public property

PRINCIPLES

1.11.4.2 The Accounting Officer or his/her delegated authority is fully responsible and should be held accountable for any expenditures relating to SCM within their area of responsibility as well as such powers or duties assigned or delegated.

1.11.5 OPENNESS

1.11.5.1 Practitioners should give reasons for their decisions and actions, subject to the provisions of PAIA.

1.11.6 CONFIDENTIALITY

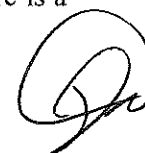
1.11.6.1 Any information that is the property of the Municipality or its suppliers/service providers should be protected at all times.

1.11.6.2 No information regarding any bid/contract/bidder/contractor may be revealed as such an action will infringe on the relevant bidder's/contractors personal rights as per the provision of PAIA.

1.11.7 INDEPENDENCE

1.11.7.1 All SCM practitioners and role players may not use their position for private gain or to improperly benefit another person.

1.11.7.2 If a SCM practitioner's or other role player's family member, partner or associate of such official or role player, has any private or business interest in any bid to be submitted or to be adjudicated, such interest must be disclosed and recorded and the party with the interest must withdraw from participating in the evaluation process relating to the bid if there is a conflict of interest.



1.11.8 GIFTS AND HOSPITALITY

Refer to SCM TR 47

1.11.8.1 SCM practitioners, municipal officials and role players must ensure that no-one compromises the credibility or integrity of the SCM system through the acceptance of any inducement or reward for or in connection with the award of the contract, or any reward, gift, favour or hospitality. The AO must promptly report any alleged contravention to the NT for consideration whether the offering person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the NT's database of persons prohibited from doing business with the public sector.

1.11.8.2 The Municipality shall maintain a gift register at the Legal and Compliance Section in the Office of the AO.

PRINCIPLES

1.11.8.3 The Municipality shall maintain a gift register in which gifts as well as hospitality received must be recorded in line with the Municipal policy and practice.

1.11.8.4 The current practice states that all gifts and hospitality valued at below R350 should be entered into the gift register.

1.11.8.5 No gifts or hospitality valued at more than R 350 may be accepted.

1.11.9 FRAUD AND CORRUPTION

Refer to SCM TR 38

1.11.9.1 The provisions of the Prevention and Combating of Corrupt Activities Act, 2004 shall be adhered to.

1.11.9.2 The SCMU must ensure that all officials, clients and other stakeholders (including providers) are made aware of the implications of the Prevention and Combating of Corrupt Activities Act.

1.11.9.3 Fraud prevention and anti-corruption plans shall be instituted.

1.11.9.4 A SCM practitioner or other role player must assist the AO or his/her delegated authority in combating corruption and fraud in the SCMPPOS.

1.11.9.5 The AO or his/her delegated authority must reject a proposal for adjudication if he/she determines that the supplier/service provider recommended for adjudication, has engaged in corrupt or fraudulent activities in competing for the contract in question.

PRINCIPLES

1.11.9.6 The Constitution and recent legislation dealing with transparency and anti-corruption

measures strengthen Government's ability to combat corruption and also protects employees from making disclosures against their employers in both the public and private sectors.

1.11.9.7 The AO or his/her delegated authority, may, when applicable, include a provision in the contract agreement, requiring contractors to permit the AO or his/her delegated authority to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the AO in order to monitor and prevent corrupt activities.

1.11.9.8 Contractors shall observe the highest standard of ethics during the selection and execution of the contract.

1.11.9.9 Contractors must assist in combating corruption in SCM in line with the Prevention and Combating of Corrupt Activities Act, by not giving, receiving or soliciting any item of value to influence the action of an official dealing with SCM.

1.11.10 COMBATIVE PRACTICES

Refer to section 112 of the MFMA and SCM TR 38

1.11.10.1 The use of combative practices shall not be allowed.

PRINCIPLES

1.11.10.2 Combative practices are unethical, illegal and prohibited and be avoided at all cost.

They include but are not limited to:

- Suggestions of fictitious lower quotations.
- Reference to non-existent competition.
- Exploiting errors in bids.
- Soliciting bids from bidders whose names appear on the list of restricted bidders/suppliers/persons.
-

1.11.11 INTERNAL ABUSE OF THE PPPFA

Refer to section 112(1)(n) of the MFMA and SCM TR 38

1.11.11.1 The AO or his/her delegated authority shall ensure that the SCMPPOS is not abused for any purpose, neither for the benefit of the Municipality nor for the benefit of any potential provider/contractor or individual.

1.11.11.2 All conducts, dealings and actions are to be *bona fide*.

1.11.11.3 Any employee suspected of acting contrary to this policy, will be dealt with in terms of the disciplinary code of the Municipality

PRINCIPLES



1.11.11.4 No official of the Municipality should be involved in or promote the abuse of the preferential procurement system.

1.11.11.5 Internal control mechanisms should have as objective to at least try and avoid abuse of the system internally.

1.11.12 EXTERNAL ABUSE OF PPPFA

1.11.12.1 The Municipality shall vigorously pursue all legal remedies available in the event that the SCMPPPOS is abused, particularly through for example, but not limited to the following ways:

- That a provider or contractor is suspected of contravening the PPPFA.
- Has promised, offered or given a bribe during the bidding process and/or after conclusion of the contract.
- Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract.
- That an agreement was entered into with the contractor on the strength of information furnished by him, and it became apparent after conclusion of such agreement that the information provided was incorrect.

1.11.12.2 To protect both parties to an agreement, potential providers, contractors and Municipal officials must be made aware of the implications of any contraventions via the special conditions of contract and the applicable paragraphs in the GCC or CIDBA contract, in the case of construction or infrastructure procurement.

1.11.13 FRONTING

PPPFA Regulations, 2017

1.11.13.1 The Municipality shall ensure that, where possible, fronting is identified before a contract is awarded.

1.11.13.2 Where, after award of a contract it becomes evident that the award made to the organisation based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available as well as the provisions of the PPPFA are adhered to.

PRINCIPLES

1.11.13.3 Fronting is inseparably linked to equity and therefore largely finds its application in those particular circumstances.

1.11.13.4 Where, after award of a contract it becomes evident that the award made to the organisation based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available, especially the Prevention

and Combating of Corrupt Activities Act, Act No 12 of 2004, the Promotion of Administrative Justice Act, Act No 3 of 2000 as well as Regulation 13 of the PPPFA is adhered to i.e. equity ownership, active management and active control.

1.11.13.5 Where the Municipality becomes aware of a possible fronting case, the following process, should be followed as a starting point:

- (i) The Municipality must inform the bidder/contractor of the alleged/suspected offence, i.e.
 - *That he is suspected of contravening the provisions of the PPPFA or;*
 - *Has promised, offered or given a bribe during the bidding process and/or after conclusion of contract; or*
 - *Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of contract; or*
 - *That an agreement was entered into with the contractor on the strength of information furnished by him, and it became apparent after conclusion of such agreement that the information provided was incorrect.*
- (ii) The bidder/contractor must be informed of the recourse sought.
- (iii) The bidder/contractor must also be afforded an opportunity to state their case. This is the application of the principles of natural justice, with particular reference to the *audi alteram partem* rule.
- (iv) The Municipality must follow the requirements for procedural fairness as outlined in Section 3 of the Promotion of Administrative Justice Act, 3 of 2000. Briefly it states:
 - *An administrator (AO or his/her delegated authority) must give a person adequate notice of the nature and purpose of the proposed administrative action.*
 - *A reasonable opportunity to make representations.*
 - *A clear statement of the administrative action.*
 - *Adequate notice of any right of review or internal appeal, where applicable.*
 - *Adequate notice of the right to request reasons in terms of Section 5 of PAJA.*

1.11.14 SCM ABUSE

Refer to SCM TR 38, 49 and 50 and MFMA circular 68/2013

1.11.14.1 The Municipality must establish a mechanism to receive and consider complaints regarding alleged non-compliance with the prescribed norms and standards; and

1.11.14.2 To make recommendations for remedial actions to be taken if non-compliance of any norms and standards is established, including recommendations of criminal steps to be taken in the case of corruption, fraud or other criminal offences.

1.11.14.3 The AO must reject the bid of any bidder if that bidder or any of its directors has been convicted for fraud or corruption during the past 5 years.

PRINCIPLES

1.11.14.4 The CFO must issue a standard operating procedure to –

- a) Establish an independent and impartial point of access for the:
 - (i) Reporting, investigation, determination and treatment of SCMPPPOS abuse, - disputes, -objections, -complaints or –queries.
 - (ii) Measuring of performance output of the SCMU.
- b) Identify an independent Committee/Person to promote, monitor, report and advise the AO or delegated authority on the fairness, equitability, transparency, competitiveness and cost-effectiveness of the SCMPPPOS whilst achieving the following:
 - (i) Identify and manage fronting.
 - (ii) Monitor and prevent SCMPPPOS abuse.
 - (iii) Receive, investigate and rule on complaints, objections, enquiries or disputes.
 - (iv) Instill SCM best practice.
 - (v) Prevent and treat fraudulent activities.
 - (vi) Prevent and treat irregular expenditure.
 - (vii) Strengthen the control environment.
 - (viii) Prevent the undermining of the financial management system.
 - (ix) Assist management to appropriately act on SCMPPPOS abuse and complaints incidents.
 - (x) To strengthen the ability to manage the SCMPPPOS.
- c) Establish a mechanism to independently review and advise the AO or delegated authority on the determination of ‘*Liability in Law*’ of any perpetrator abusing the SCMPPPOS.

1.11.14.5 In the case of SCMPPPOS abuse, where appropriate, the:

- Bidder or person will be disqualified from the bidding process;
- Municipality will recover all costs, losses, or damages it has suffered as a result of the person’s conduct;
- Municipality will cancel the contract and claim any damages which has have suffered as a result of having to make less favorable arrangements due to such cancellations;
- Municipality will restrict the bidder/contractor, and shareholders and directors, or only shareholder and directors who acted on fraudulent basis.
- Matter will be forwarded for criminal prosecution.

1.11.14.6 Detail of any restrictions imposed on bidders of contractors must be forwarded to National Treasury for inclusion in the centralized database of restricted suppliers.

1.11.14.7 Follow due process before bidder is listed on National Treasury’s database for restricted suppliers.

1.11.14.8 Give cognizance of “listen to other side” rule (audi alterem partem).

1.11.14.9 Once the above mentioned has been followed the bidder must be afforded sufficient

opportunity to correct any transgressions or remedy any breaches.

1.11.15 DISPUTES, COMPLAINTS, ENQUIRIES AND OBJECTIONS MECHANISM

Refer SCM TR 21(e), 49 & 50 and MFMA circular 68/2013

1.11.15.1 Bidders are allowed the opportunity to lodge an objection or complaint against the decisions of the Municipality within a period of 14 (*working*) days of the Municipal decision or action.

1.11.15.2 This process does not constitute an APPEAL and the provisions of SCM TR 50 must be adhered to in order to respond to objections or complaints received in this regard.

1.11.15.3 The AO may appoint an independent and impartial person, not directly involved in the SCM processes:

- To assist in the resolution of disputes between the Municipality and other persons regarding –
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- Suppliers must provide details of the reasons for their appeal including any non-compliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant and endeavour to finalise 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.
- 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.
- 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.

1.11.15.4 When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.

1.11.15.5 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.

1.11.15.6 The person appointed must –

- strive to resolve promptly all disputes, objections, complaints or queries received; and
- submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

1.11.15.7 A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if –

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

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

1.11.15.9 This paragraph must not be read as affecting a person's rights to approach a court at any time.

PRINCIPLES

1.11.15.10 The CFO must develop and maintain a Complaints Mechanism Standard Operating Procedure as referred to in Part 1.11.14 above

1.11.16 SCM RELATED APPEALS

SCM TR 21(e), 49 & 50 and MSA 62

1.11.16.1 Bidders are allowed to appeal against a decision or action of the Municipality, but only after exhausting the provisions of SCM TR 21(e), 49 and 50.

1.11.16.2 In strict legal terms the nature of an appeal has a specific meaning in relation to administrative actions, only allowing for a review of the processes followed by the administrator but not the merit of the discretionary decision taken by them. If the decision of the Municipality is taken on appeal, it means that the Municipality should show cause that it followed due process in awarding the tender.

1.11.16.3 The administrator will not have to defend the merits of any discretionary decisions taken subject to such decisions being reached following due process. In practical terms, it means that the Municipality will have to confirm that:

- Due process was followed in awarding the tender, i.e. all relevant legal prescripts were complied with; and
- The discretionary decision made to award the tender was reached having followed such due process.

1.11.16.4 If an application for appeal is upheld, the only sanction could be that the tender evaluation and/or adjudication process must be re-constituted following due process.

An administrative appeal does not allow the making of an alternative decision, but only to refer a matter back to follow due process.

1.11.16.5 Since the AO and/or members of the Adjudication Committee are in most instances involved in the final decision making as per the MFMA, they cannot be an Appeal Authority as foreseen in section 62 of the MSA¹ and therefore appeals may also be considered through a court of law process or as per SCM TR 50(1).

1.11.16.6 From the above as well as the interpretation allowed thereto by recent case law², it is evident that the MSA and MFMA in its application seems to contradict each other, which results in confusion, delays and costly legal representation and all efforts must be made to protect both the suppliers and Municipality against the aforementioned actions.

PRINCIPLES

1.11.16.7 In order to ensure an efficient SCM related appeals administration process, management should adopt an appeals mechanism that as its main objective establish an administrative process that:

- is clear;
- is linked to reasonable time frames;
- has clear roles and responsibilities assigned to the different role players;
- is administratively just;
- can be applied, with minimal variation, to other appeal processes managed by the Municipality;
- would improve efficiency;
- would adequately provide for separation of powers;
- would secure the Municipalities independence and objectivity; and
- would ensure adequate opportunity for the Appeal Authority to access and optimise the Municipal knowledge and expertise without compromising the other objectives.

1.11.16.8 Experience and recent case law has taught that SCM related appeals submitted to Municipalities vary in complexity, nature and volume. The complexity of SCM related appeals further dictates the work to be done to consider and decide on the matter. SCM

¹ MSA 62 stipulates that:

- (1) *A person whose rights are affected by a decision taken by a political structure, political office bearer, councilor or staff member of a Municipality in terms of a power or duty delegated or sub-delegated by a delegating authority to the political structure, political office bearer, councilor or staff member, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal manager within 21 days of the date of the notification of the decision.*
- (2) *The Municipal manager must promptly submit the appeal to the appropriate appeal authority mentioned in subsection (4).*
- (3) *The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.*
- (4) *When the appeal is against a decision taken by-(a) a staff member other than the Municipal manager, the Municipal manager is the appeal authority"*

²CC Groenewald v M5 Developments (283/09) [2010] ZASCA 47 [31 March 2010]; Loghdey v Advanced Parking Solutions CC Unreported, Case No. 20766/2008 (W) [25 February 2009]; Lohan Civil-Tebogo Joint Venture v Mangaung Plaaslike Munisipaliteit Unreported, Case No. 508/2009 (O) [27 February 2009]

related appeals can generally be divided into three categories, namely:

- Simple, predictable or non-technical SCM related appeals;
- SCM related appeals of medium complexity; and
- Complex SCM related appeals.

1.11.16.9 It should be noted that SCM related appeals from numerous parties can be received on a single decision and can vary in complexity. If this is the case, the process prescribed for the most complex of the SCM related appeals received will be followed. It should further be noted that in a single SCM related appeal, or if received from one party, could contain mostly issues falling in one category (see criteria below) but one or more issues may be raised that fall within a more complex category. Again, the more rigorous process prescribed for the more complex SCM related appeal will be followed.

1.11.16.10 The potential categories of SCM related appeals are unpacked below:

Category 1: Simple, predictable or non-technical SCM related appeals

1.11.16.11 SCM related appeals that fall in this category do not justify the constitution of a formal appeal panel or extensive external review and can be dealt with administratively. These are typically related to general SCM matters falling outside the ambit of a specific tender. Criteria to be used to place a SCM related appeal in this category include:

- (a) The grounds of SCM related appeal relate to matters where precedent has been set before on the applicability of the issue in the tender process. This precedent may be due to the fact that the matter is adequately covered by means of other processes or a court ruling designated it as falling outside of the ambit of the tender. The PPPFA Regulations case in Limpopo, 20093, would be an example of such a precedent.
- (b) No substantial reasons / grounds were provided.
- (c) The SCM related appeal is based on procedural rather than technical grounds.
- (d) The grounds of the SCM related appeal have been raised and adequately addressed during the Tender process.
- (e) The SCM related appeal is based on practical issues such as execution of conditions.
- (f) The SCM related appeal is based on clear errors contained in the decision.
- (g) The Municipal Manager was not involved in the SCM process.
- (h) The value of the relevant Bid is less than R 200 000.

Category 2: SCM related appeal of medium complexity

1.11.16.12 SCM related appeals falling in this category are more technical in nature but the necessary expertise to respond to the issues raised is mainly available within the Municipality or obtainable from not more than 2 outside sources. It could also contain

³Sizabonke Civills CC vs Zululand District Municipality, KZN, 2009



- legal arguments that is general in nature and can be responded to by obtaining legal input. Criteria to be used to place an SCM related appeal in this category include:
- (a) The grounds of the SCM related appeal relate to matters where no precedent has been set before on the applicability of the issue in the tender process.
 - (b) The SCM related appeal was submitted on grounds of appeal and these grounds are technical of nature but not overly complex.
 - (c) The SCM related appeal is based on legal arguments related to general administrative law or general legal principles.
 - (d) The grounds of the SCM related appeal relate to general administrative, financial and/or technical management issues (and the relevant expertise exists within the Municipality to respond to the arguments raised).
 - (e) The Municipal Manager was not involved in the SCM process.
 - (f) The value of the Bid is below R 200 000.

Category 3: Complex SCM related appeals

1.11.16.13 SCM related appeals falling in this category contain technical or legal arguments that are specialised, highly complex and/or controversial. The technical or legal expertise required to respond to the issues are not available within the Municipality or alternatively, due to controversy surrounding the matter, the Municipality may want an external opinion. Criteria to be used to place the SCM related appeal in this category include:

- (a) The tender process was high profile and local, national and/or international organisations were involved.
- (b) The grounds of the SCM related appeal contain specialised technical arguments that require expert responses. (e.g. specialised water purification. etc.)
- (c) The grounds of the SCM related appeal contain technical and complex legal arguments that require expert responses (e.g. specialised administrative law, international law, constitutional law, etc.)
- (d) The grounds of the SCM related appeal include political arguments or relates to government policy.
- (e) The outcome of the SCM related appeal, if upheld, will result in an irregular expenditure as envisaged in the MFMA⁴ and will require a MFMA section 32 Committee intervention.
- (f) Municipal Manager was involved in the SCM process.

⁴MFMA section 1 – definition of irregular expenditure

1.11.17 COMPLIANCE

Refer to SCM TR 9

1.11.17.1 The SCMPPOS must describe in sufficient detail -:

1.11.17.2 The Supply Chain Management System that is to be implemented by the Municipality.

1.11.17.3 Effective systems for:

- Demand management
- Acquisition management
- Logistics management
- Disposal management
- Risk management
- Performance Management

1.11.18 ACCESS TO INFORMATION

Refer to section 32 of PAIA and SCM TR 11(3)

1.11.18.1 Everyone has the right of access to -:

- Any information held by the state;
- Any information that is held by another person and that is required for the exercise of any rights.

1.11.18.2 The objectives of this are to-:

- Give effect to the constitutional right of access to any information as stated above;
- Set out justifiable limitations on the right of access to information aimed at protecting people's privacy, confidential commercial information and ensuring effective, efficient and good governance;
- Balance the right of access to information with all the other rights in the constitution;
- Promote a culture of human rights and social justice;
- Establish mechanisms and procedures to enable persons to obtain access to records as swiftly, inexpensively and effortlessly as is reasonably possible;
- Promote transparency, accountability and effective governance;

1.11.18.3 Empower and educate everyone to:

- Understand their rights in terms of the Act;
- Understand the functions and operation of public bodies; and
- Effectively scrutinise and participate in decision-making by public bodies that affect their rights.

1.11.18.4 Therefore, it permits aggrieved bidders to challenge procurement decisions by allowing them access to information they might require whether their right have been infringed.

PART 1.12: COMMITTEE SYSTEM

1.12.1 COMMITTEE SYSTEM

MFMA s 117 and SCM TR 26-29

1.12.1.1A committee system for competitive bids is hereby established, consisting of the following committees for each Procurement or cluster of procurements with a value exceeding R200 000:

- A bid specification committee;
- A bid evaluation committee; and
- A bid adjudication committee;

1.12.1.2The committee system may be utilized for the procurement of complex goods, services and works greater than R30 000 should it be deemed necessary by the SCM Manager

1.12.1.3The AO or delegated authority appoints the members of each committee, taking into account section 117 of the Act.

1.12.1.4A neutral or independent observer must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

1.12.1.5The committee system must be consistent with –

- (a) Parts 12.2, 12.3 and 12.4 of this SCMPPOS; and
- (b) Any other applicable legislation.

1.12.1.6The AO or delegated authority may opt to apply the committee system to formal written price quotations

PRINCIPLES

1.12.1.7 APPOINTMENT OF MEMBERS

- The AO or delegated authority must appoint the members, their *secundis*, and from the members appointed also appoint the Chairperson and the Deputy Chairperson

1.12.1.8 TENURE

- The AO or delegated authority must appoint a member on an *ad hoc* basis or part time basis, where appropriate, for a term determined by the AO or delegated authority.
- A member may be eligible for the extension of the tenure for a period not exceeding two years, subject to such extension being granted by the AO or delegated authority prior to the expiry of the tenure without interruption in tenure.
- Notwithstanding the above, the consecutive tenure of a member must not exceed five years.

1.12.1.9 CO-OPTING OF MEMBERS

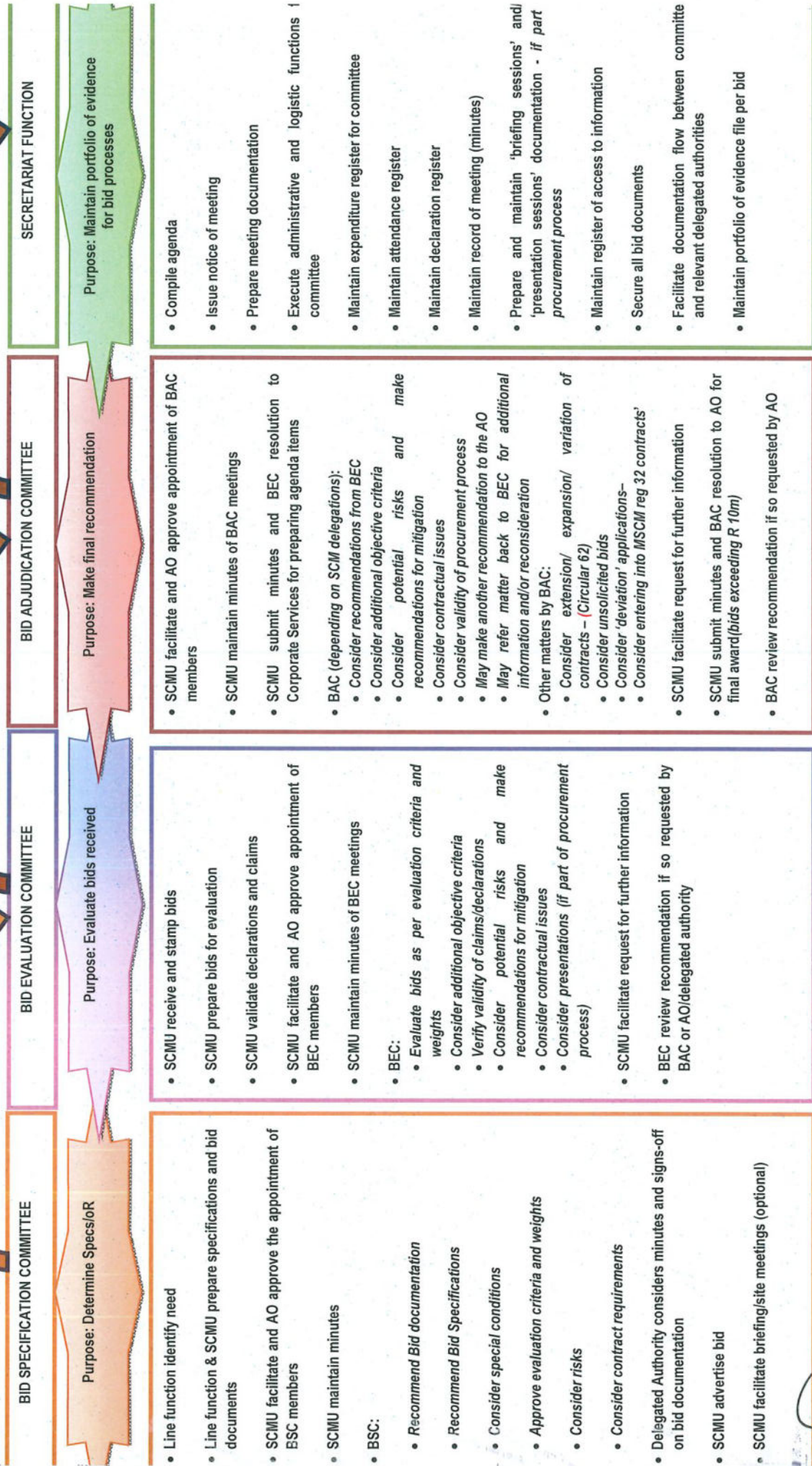
- The AO or delegated authority may, after consultation with the Chairperson of the Committee, co-opt any person who is able to assist the Committee or a sub-committee of the Committee in the consideration of a particular matter and more specifically to

investigate and report on any matter envisaged in SCM TR 50.

- A person co-opted shall not be entitled to vote at any meeting of the Committee or a sub-committee of the Committee.
- The remuneration of any person co-opted in terms of this section shall be determined by the AO or delegated authority.

A handwritten signature in black ink, consisting of a large, stylized capital letter 'D' followed by a cursive 'W'.

Figure 1.12.1: SCM Bid Committee System



1.12.2 BID SPECIFICATION COMMITTEE

1.12.2.1 ROLES AND RESPONSIBILITIES OF MEMBERS

Refer to sections 77 & 78 of the MFMA and SCM TR 27

- To compile specifications for bids at the Municipality in an unbiased manner to allow all potential bidders to offer their goods, and services.
- To identify and include the relevant evaluation criteria in the specifications as bids may only be evaluated according to the criteria stipulated in the bid documentation.
- To forward the final specification to the SCMU to facilitate final approval of the specification prior to the advertisement of bids.
- To consider and mitigate risks emanating from bids.
- To consider the contractual arrangements relevant to each bid.
- To ensure that the project is funded and budgeted for.

1.12.2.2 ESTABLISHMENT OF BID SPECIFICATIONS COMMITTEES

- The AO shall establish the Bid Specification Committee by identifying and appointing members for a specific period for the approval of specifications between R30 000 and R10 Million.
- The AO must appoint the chairperson of the committee.
- The Bid Specification Committee process must provide for final approval by:
 - (i) The Committee for awards up to R 10 m.
 - (ii) The AO for awards exceeding a value of R 10 m.
- The AO or delegated authority may utilise the services of any other institution's Committee if and when required.
- No person, advisor or corporate entity involved with the BSC, or director of such a corporate entity, may bid for any resulting contracts.

1.12.2.3 COMPOSITION OF BID SPECIFICATION COMMITTEES

- The AO must establish the Bid Specification Committee which will be composed of at least the following members:
 - Chairperson
 - 2 x members of which one is the official responsible for the project as well as at least one SCM official
- The quorum for each meeting of the specification committee is 50% plus 1. Either the chairperson or scm practitioner needs to be present to chair the meeting as well as the responsible official of the department concerned. Two standing members, one member from

the SCM Unit and one member of the directorate as minimum.

- A professional with required technical expertise from the department for whom the goods or services are to be procured, may also be appointed as may be required for each committee meeting.
- An external advisor may be appointed if deemed necessary, provided that the task is executed under the direction of the line function Senior Manager concerned.

1.12.3 BID EVALUATION COMMITTEE

1.12.3.1 ROLES AND RESPONSIBILITIES OF MEMBERS

Refer to sections 77 & 78 of the MFMA and SCM TR 28

- To evaluate all bids received from above the quotation threshold.
- May evaluate offers received within the quotation threshold where the requirement is technically complex and/or there are risks involved that warrant this process.
- To ensure that evaluation is done in accordance with the criteria specified in the bid documentation.
- To submit a report and recommendations regarding the award to the Bid Adjudication Committee for consideration and/or approval.
- To present their reports to the Bid Adjudication Committee to clarify uncertainties. Such members shall not have any voting power on the Bid Adjudication Committee.
- To check in respect of each bidder whether taxation matters are cleared by SARS.
- To check in respect of the recommended bidder whether Municipal Rates and taxes and Municipal service charges are not in arrears.

1.12.3.2 ESTABLISHMENT OF BID EVALUATION COMMITTEES

SCM TR 29, 44 & 46

- The AO must establish the Bid Evaluation Committees which will be composed of at least the following members:
 - Chairperson
 - 3 x members of which one is the official responsible for the project as well as at least one SCM official
 - Secretary (official from the SCM unit with no voting rights), as necessary per requirement.
- The quorum for each meeting of the evaluation committee is 50% plus 1. Either the chairperson or deputy chairperson needs to be present to chair the meeting as well as the responsible official of the department concerned. Two standing members. One member from the SCM Unit and one member of the directorate as minimum.
- Should a member declare a conflict of interest at any stage, the member may not be part of



- the Bid Evaluation Committee and must be replaced by a member of suitable expertise.
- An official may not be a member of the Bid Evaluation Committee and the Bid Adjudication Committee for the same bid.
- No person other than a member of the Bid Evaluation Committee or the official rendering the secretariat function is allowed to attend the meeting, unless formally co-opted as provided for.

1.12.4 ADJUDICATION COMMITTEE

1.12.4.1 ROLES AND RESPONSIBILITIES

Refer to sections 77 & 78 of the MFMA and SCM TR 29

- To consider the report and recommendations made by the Bid Evaluation Committee or the delegated official(s) who performed the evaluation.
- To assess the process followed in making the recommendation to ensure that the SCMPPOS have been complied with in full.
- To obtain clarity from members of the Bid Evaluation Committee if required.
- To make the final award in bids less than R 10 m and to comment on the recommendations made and forward it together with the report to the AO for bids in excess of R 10m.
- To refer the recommendation back to the Bid Evaluation Committee if they do not agree with the recommendation in order to endeavor to sort out the differences if they are process related.
- Should the Bid Adjudication Committee and/or the AO not agree with the recommendations made by the Bid Evaluation Committee, only the AO may make the final award, within 10 working days, subject to the provisions of section 114 of the MFMA.
- Meetings of the BAC may be open to the public.

1.12.4.2 ESTABLISHMENT OF BID ADJUDICATION COMMITTEE

SCM TR 29, 44 & 46

- The AO shall establish the Bid Adjudication Committee to perform the award/adjudication of bids.
- The AO must appoint the chairperson of the committee. The CFO will remain the chairperson of the BAC.
- The Bid Adjudication Committee process must provide for final approval by:
 - (i) The Committee for awards up to R 10 m.
 - (ii) The AO for awards exceeding a value of R 10 m.
- The adjudication for a bid cannot be conducted by an official who:
 - (i) Performed the evaluation or made a recommendation in respect of that bid.



(ii) Served on the Bid Evaluation Committee, which processed that bid.

- No advisor may form part of the final decision-making process regarding the award of bids.
- The AO may utilise the services of any other institution's Bid Adjudication Committee if and when required.

1.12.4.3 COMPOSITION OF BID ADJUDICATION COMMITTEE

- (i) The Bid Adjudication Committee shall be composed of at least four senior managers, and shall include:

Standing Members:

- (ii) The Chief Financial Officer, or a Manager sub-delegated by the Chief Financial Officers, which is the Chairperson
- (iii) At least one senior SCM practitioner who is an official of the Municipality;
- (iv) 3x officials in senior management positions employed by Beaufort West Municipality
- (v) Secretary (official from the SCMU with no voting rights);

1.12.5 INFRASTRUCTURE RELATED PROJECTS

Refer to CIDBA

1.12.5.1 For infrastructure and construction related procurement Volume 8 – Infrastructure and Construction will apply.

1.12.5.2 The provisions of the CIDBA will be adhered to, complementary to the SCMPPOS

1.12.5.3 Where relevant the EPWP principles and objectives will also be observed.

1.12.6 RESOLUTION OF COMMITTEE DISAGREEMENTS

Refer to MFMA section 114 and SCM TR 36

1.12.6.1 Where the Bid Adjudication Committee disagrees with the recommendation of the relevant Bid Evaluation Committee on the adjudication of a bid, it must refer the request together with its recommendations to the Bid Evaluation Committee for consideration.

1.12.6.2 Where the Bid Adjudication Committee still disagrees with the recommendation of the relevant Bid Evaluation Committee the commentary and reasons of the Bid Adjudication Committee is to be submitted to the AO for a final decision.

1.12.6.3 The AO may obtain advice as deemed necessary, including advice from outside the Municipality.

1.12.6.4 Should the AO decide to award a bid to a bidder other than the one recommended by the relevant Bid Committees, the Auditor-General, the National Treasury and the Provincial Treasury must be informed in writing within ten days of the reasons for such decision.

VOLUME2: DEMAND MANAGEMENT

PART 2.1: NEEDS ANALYSIS

2.1.1 SYSTEM OF DEMAND MANAGEMENT

Refer to SCM TR9(b)

2.1.1.1 The AO must establish and implement an appropriate system of demand management in order to ensure that the resources required to support its operational commitments and strategic goals outlined in the IDP are available.

PRINCIPLES

Line function must:

- 2.1.1.2 Include timely planning and management processes to ensure that all goods and services required by the Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost.
- 2.1.1.3 Take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature.
- 2.1.1.4 Provide for the compilation of the required specifications to ensure that its needs are met.
- 2.1.1.5 Undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

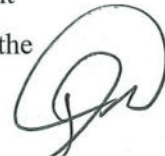
2.1.2 SDBIP

Refer to SCM TR 42 and Chapter 6 of the Municipal Systems Act, 2000

- 2.1.2.1 The SDBIP shall be produced per the MTEF cycle with a review every year during the planning and budgetary period.
- 2.1.2.2 The SDBIP is to set out the Council's strategic policy priorities and plans for the next three years. This document serves as a blueprint for what the Municipality plans to do for the remaining three-year period.
- 2.1.2.3 Should the Municipality produce this three-year plan for the current cycle, the SCMU must be involved to add value from a SCM perspective.

PRINCIPLES

- 2.1.2.4 The aim of producing a SDBIP is to detail the Municipality's strategic priorities.
- 2.1.2.5 The focus must therefore be on those issues that are strategically important. The resultant document must be clear, concise and coherent, focusing attention on the strategic issues the Municipality intends addressing or doing in the next three-year period.
- 2.1.2.6 Identifying strategic priorities of necessity entail making difficult choices between



different areas of possible focus and action. The SCMU involvement at this stage can be very useful in helping the end-users in identifying and determining strategic priorities.

2.1.3 ANNUAL PERFORMANCE PLANNING PROCESS

2.1.3.1 The SCM unit shall participate in the annual performance planning process.

2.1.3.2 Each user division shall perform an annual needs analysis of strategic objectives and programmes involving SCM, Human Resource Management and Finance to determine strategic sourcing that will ultimately provide best value for money.

PRINCIPLES

2.1.3.3 The annual performance plan is to set out what the Municipality intends doing in the upcoming financial year.

2.1.3.4 The purpose of the plan is to spell out what funds and resources the Municipality has allocated in order to deliver on the measurable objectives and service delivery targets set out in the SDBIP. In addition, the Municipality will be required to indicate their expected capital requirements, which may extend beyond one financial year.

2.1.3.5 Annual performance planning and prioritization is the starting point for preparation of the annual budget submissions as it guides reprioritization within the medium-term baseline allocations and provides the rationale for policy options regarding changes to baseline allocations over the next 3-year period.

2.1.3.6 The integration of SCM planning with the annual performance planning, budgeting and monitoring of service delivery performance, coupled with effective financial information and advice, will enhance the link between the services that the Municipality provide and the benefits and cost of such services.

2.1.3.7 The annual performance plan must:

- Provide for one financial year and indicative of the outer years to be consistent with the Municipality's medium term expenditure estimates and its adopted Integrated Development Plan (IDP).
- Provide for strategic objectives.
- Include the measurable objectives and outcomes for the Municipality's programmes.
- Provide for performance measures and targets, ensuring the specific outputs identified.
- Include details of proposed acquisitions of fixed or movable capital assets, planned capital investments and rehabilitation and maintenance (according to the Municipal asset management plan) of physical assets.
- Include multi-year projections of income and projected receipts from the sale of assets.

2.1.4 ASSESSMENT OF CURRENT AND FUTURE NEEDS

*Refer to SCM TR 10 & 39, the Annual Preparation Guide for AFS issued by the NT and NT
MFMA circular 62 of 2012*

- 2.1.4.1 The annual performance plan must be analysed in terms of goods, services and works required over the short and medium term.
- 2.1.4.2 The frequency of the needs and the critical delivery dates must be established to support the SCM process and the budgetary process.

2.1.5 ASSESSMENT OF AVAILABLE ASSETS

- 2.1.5.1 Determine details of available stock, goods in transit, redundant and obsolete assets and assets to be renewed.

2.1.6 ANALYSIS OF PAST EXPENDITURE

- 2.1.6.1 Analyse who were providers of goods and services and their locations.
- 2.1.6.2 Determine the prices paid.
- 2.1.6.3 Confirm the availability of relevant specifications/terms of reference.

2.1.7 ANNUAL OPERATIONAL PLAN

- 2.1.7.1 The SCMU must participate in the operational planning process.
- 2.1.7.2 The first year of the strategic plan is known as the operational plan. It must provide a sufficiently detailed quantification of outputs and resources, together with service delivery indicators. The operational plan must not be a wish list, but shall be flexible and adjustable while remaining within the MTEF allocation.

2.1.8 AD HOC NEEDS ANALYSIS

- 2.1.8.1 Over and above the planned needs analysis, an ad hoc needs analysis has to be done for unplanned activities during the financial year.
- 2.1.8.2 The relevant line function will perform a need analysis on a case-by-case basis as and when required in order to determine a sourcing strategy for the appropriate product or service that will ultimately provide best value for money.



PART 2.2: FUNDING

2.2.1 FUNDING PLAN FOR PROCUREMENT

NT MFMA Circular 62 of 2012

- 2.2.1.1 The line function will submit project plans aligned with the APP and SDBIP in a prescribed format.
- 2.2.1.2 The SCMU shall use the above to compile a SCM operational and funding plan for the next financial year.

PART 2.3: SPECIFICATIONS / TERMS OF REFERENCE

2.3.1 SCOPING THROUGH A REQUEST FOR INFORMATION (RFI)

- 2.3.1.1 If sufficient information is not readily available with which to draft terms of reference/specifications, a request for information (RFI) process may be followed in order to obtain more market information.
- 2.3.1.2 The information collected in this fashion may not lead to sourcing from one supplier only nor may it be used to write the ultimate specification/terms of reference around just one specific product.
- 2.3.1.3 It must be clearly stated in the RFI that the result of this process will not lead to an award and does not constitute a commitment.
- 2.3.1.4 When scoping for information it must be clearly stipulated how the suppliers whose information is substantially utilised will be treated, e.g.:
- The supplier will be compensated for the cost of the proposal development; or
 - The supplier will be the project manager to manage the project once commissioned;
- or
- The supplier will have the right of first refusal.

2.3.2 COMPILATION OF THE SPECIFICATIONS OR TERMS OF REFERENCE

- 2.3.2.1 The end user must draw up clear specifications and/or terms of reference.
- 2.3.2.2 Include clear evaluation criteria prior to the invitation of the quotation/bid as offers may only be evaluated according to the criteria stipulated in the quotation/bid document.

PRINCIPLES

- 2.3.2.3 It is the responsibility of the end user through the facilitation of the SCMU and the Bid Specification Committee to compile detailed, clear and unambiguous specifications with which to source proposals.

2.3.2.4 Specifications:

- i. Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods

- or services;
- ii. Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - iii. Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - iv. 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;
 - v. 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 words “equivalent”;
 - vi. Must indicate the points system to be used in terms of the Amended Preferential Procurement Regulations 2017; and
 - vii. Must be approved by the Accounting Officer or relevant delegated authority prior to publication of the invitation for bids.

2.3.2.5 Minimum specifications must include the following, where applicable:

- (i) Description of the requirement
- (ii) Background.
- (iii) Objective of the project, where applicable.
- (iv) Quantity/volume applicable.
- (v) Plans and drawings that reflect the text of the specification. *(Please note, that the order of precedence between the drawings and the specifications should be specified.)*
- (vi) Minimum performance requirements.
- (vii) Expected outcomes/deliverables.
- (viii) Evaluation criteria including the ratio of points as applicable and the quantification thereof.
- (ix) The particulars pertaining to the goal to be met, where applicable.
- (x) The delivery date(s), place(s) of delivery and/or the contract period applicable. In the case of period contracts a period of time for completion of the contract must always be prescribed in the relevant bid documents. This period of time must also be precisely stated, e.g. “contract period: 24 months”. Statements such as “within x months” or “before x months” must not be used.
- (xi) Schedule for service delivery or completion date.
- (xii) Shelf life, where applicable.
- (xiii) Packaging, where applicable.



- (xiv) Whether installation/erection is required and if affirmative, an indication of the place/address where the installation/erection is to take place.
- (xv) Whether demonstration/training is required and if affirmative, an indication of the place/address where the demonstration/training is to take place.
- (xvi) Whether a performance guarantee is required. Full particulars, amount and reasons must be given. Performance guarantees should be commensurate with the degree of contractual risk to which the Municipality is exposed and are normally applicable to large and complex contracts. Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all Municipal costs relating to such failure are likely to be recovered.
- (xvii) The warrantee requirement and period applicable (time period, parts and labor, onsite service and repair, extended warranty)
- (xviii) Whether samples must be submitted and whether the samples must be tested before the award of the contract. Reasons for testing should be given.
- (xix) Where samples are to be submitted, the special conditions should state that samples must be submitted not later than the closing time or the date and time specified in the bidding documents.
- (xx) Indicate inspection, testing, analysis, standards or method requirements, where applicable. Where tests, inspections and analyses are a bid condition, the bid documents should specify that the premises of the bidder should be open at all reasonable hours for inspection by a representative of the Municipality acting on behalf of the Municipality.
- (xxi) Price particulars applicable.
- (xxii) The most common types of contracts provide for payments on the basis of lump sum prices, unit prices, reimbursable cost plus fees, deposits required, establishment costs required or combinations thereof. For infrastructure or construction tenders – a bill of quantities will be required.
- (xxiii) Reimbursable cost contracts should be acceptable only in exceptional circumstances, such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts should include appropriate incentives to limit costs and may only be concluded subject to the approval of the Accounting Officer. It is advisable that the reasons and formal approval for following the reimbursable route are recorded for auditing purposes.
- (xxiv) Indicate in the case of capital goods, whether foreign export credit facilities should be utilised.
- (xxv) Competency and expertise requirements.
- (xxvi) Reporting requirements, where applicable.
- (xxvii) Available documentation pertaining to the specific project, where applicable.
- (xxviii) Detailed product requirements (materials used, color, horsepower, minimum and



- maximum parameters)
- (xxix) Detailed service requirements (what must be provided, what service performed)
- (xxx) Performance requirements (what must it do, how is the work performed)
- (xxxi) Product certifications, professional licenses or required training
- (xxxii) "Build inspection" at manufacture's facility during production
- (xxxiii) Any space or weight restrictions
- (xxxiv) Who handles the installation
- (xxxv) What utilities are available
- (xxxvi) Training requirements, instructional and maintenance materials such as manuals or DVD's
- (xxxvii) Delivery instructions
- (xxxviii) When and where is it needed
- (xxxix) Responsibilities (who hooks up the utilities, removes debris, disposes of the old equipment)

PART 2.4: DATABASE FOR SUPPLIERS

2.4.1 ESTABLISHMENT OF THE LIST OF PROSPECTIVE PROVIDERS PER COMMODITY

Refer to SCM TR 14, 43, 44 & 45

- 2.4.1.1 The Municipality shall establish and maintain a list of prospective providers per commodity for the purpose of obtaining quotations. To ensure compliance with this requirement the municipality will make use of the Central Supplier Database (CSD)
- 2.4.1.2 The prospective provider list shall be used effectively to promote B-BBEE as well as the participation of Small, Medium and Micro Enterprises (SMMEs).
- 2.4.1.3 The prospective provider list must be re-advertised at least every year.
- 2.4.1.4 Prospective providers will be assessed in terms of predetermined evaluation criteria established in terms of the CSD.

PRINCIPLES

- 2.4.1.5 The Municipality shall, at least every year, through an advertisement placed in the local representative newspaper and/or the Government Tender Bulletin, invite prospective providers to apply for evaluation and registration in different commodities and categories, as a prospective provider on the CSD
- 2.4.1.6 The Municipality needs to compile the list per commodity, categories, subcategories and if required, monetary categories to provide for capacity. If one list is compiled without differentiation between categories, it will not be possible to efficiently administer the list.
- 2.4.1.7 For construction related projects the CIDB listing can be applied.



2.4.2 UPDATING OF THE LIST

2.4.2.1 The prospective provider list must be updated on an continuous basis as per CSD prescripts in order to accommodate additional providers, newly established providers and for adding or amending categories of requirements.

2.4.3 UTILISATION PROCEDURE

2.4.6.1 Up to the quotation threshold, the Municipality shall invite prospective providers (in the relevant commodity), featured on the prospective provider list, to submit a quote.

2.4.6.2 The invitation of price quotations from the provider list shall be done in such a manner that ongoing competition amongst providers is promoted.

2.4.6.3 The SCMU may request quotations from community based suppliers in a specific area or community within the municipality's area of jurisdiction for the procurement of goods, services and construction works amounting to less than R30 000 (VAT incl.)

2.4.4 REMOVAL FROM THE PROSPECTIVE PROVIDER LIST

2.4.4.1 Prospective providers may be removed from the list on request or for non-compliance with relevant legislation, proven non-delivery and proven fraud and/or corruption.

PRINCIPLES

2.4.4.2 A provider will be removed from the provider list under the following circumstances:

2.4.4.3 The entity ceases to exist.

2.4.4.4 Sole proprietor dies.

2.4.4.5 Liquidation/sequestration of the entity.

2.4.4.6 Continual proven non-delivery (two and more times) or unable to meet minimum specification continuously.

2.4.4.7 Non-compliance with legislation or statutory requirement e.g. its tax status.

2.4.4.8 Proven fraud and/or corruption.

2.4.4.9 On provider's request.

2.4.4.10 By mutual agreement, in writing.

2.4.4.11 Where required, due legal processes must be followed to deal with providers fairly in executing this process.

PART 2.5: SOURCING SUPPLIERS

2.5.1 ANALYSIS OF SUPPLY INDUSTRY

- Determine names of suppliers/service providers for a specific commodity or groups of commodities.
- Evaluate the available specifications/terms of reference.
- Determine the location of goods as well as lead and delivery times.

PART 2.5.2. STRATEGIC SOURCING

2.5.2.1 The sourcing strategy shall determine where the goods and services can be obtained and through which selection mechanism.

2.5.2.2 The sourcing strategy shall address value for money principles.

PRINCIPLES

2.5.2.3 All possible methods of obtaining the requirements should be investigated, such as:

- Obtaining the goods and/or services by means of a transversal term contract;
- Could other institutions satisfy the requirements at a better price;
- Are the requirements available on the list of redundant/obsolete material/goods from other institutions.

2.5.2.4 The optimum sourcing strategy and technique should be used, taking due cognizance of the nature of the commodity or service required, the conditions of delivery, among others, just-in-time-delivery, the prospective suppliers and the goals to be promoted as contemplated in the PPPFA.

2.5.2.5 Sourcing strategies might include:

- Utilising transversal term contracts;
- Local versus international sourcing;
- Utilising a paper-based bidding system, which may include obtaining quotations, inviting competitive bids, pre-qualification of bidders and two-stage bidding;
- Utilising E-procurement; and
- Negotiations.



VOLUME3: ACQUISITION MANAGEMENT

PART 3.1: ACQUISITION MANAGEMENT SYSTEM

3.1.1 ACQUISITION MANAGEMENT SYSTEM

3.1.1.1 THE ACQUISITION SYSTEM

Refer to SCM TR Part 2

- Goods and services must only be procured in accordance with an authorised procurement processes.
- Procurement of goods and services, either through quotations or through a bidding process, must be within the threshold values as determined by National Treasury.
- Expenditure on goods and services may only be incurred in terms of an approved budget and within the limits of the amounts appropriated for the different main divisions within an approved budget.
- Take into account any Treasury guidelines on acquisition management.
- 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 MFMA, including water from the Department of Water Affairs or a public entity, another Municipality or a Municipal entity, and electricity from Eskom or another public entity, another Municipality or a Municipal entity.

PRINCIPLES

- Acquisition Management is the process and management of procuring goods, services or works.
- Following the system of acquisition management shall ensure avoidance of unauthorised, irregular, fruitless and wasteful expenditure.

3.1.1.2 TYPES OF PROCUREMENT

- When a requirement becomes known, the noted hierarchy for satisfying requirements shall apply starting first with the hierarchy of processes of obtaining stock from internal resources and then only applying the hierarchy of processes of satisfying requirements from external sources.
- Liaise and obtain permission from relevant treasury to commence with establishment and maintenance of an E-procurement system in order to ensure compatibility with other electronic systems utilised by Government.

PRINCIPLES

- Obtaining goods and services does not mean that these requirements should only be procured from outside sources.
- As part of acquisition management, all possible methods of obtaining requirements should be considered. This starts first with satisfying requirements from internal sources.
- Hereafter a hierarchy for satisfying requirements from external sources must be applied.

- Together with this, the specific rules pertaining to specific products and circumstances such as PPPs and Information Technology must be taken into account.

3.1.1.3 PRE-ESTABLISHED SOURCES

PRINCIPLES

- There are a number of pre-established sources that may be considered. Goods or services may also be available from other government institutions.
- Items in stock - Obtain from stock according to the prescribed process. An example of this may be stationery.
- Items on pre-established Municipal contracts - Investigate whether the requirements are available on an existing contract arranged by the Municipality. If the requirement is then available on contract, order accordingly. The non-utilization of a contract could be regarded as breach of contract and will be regarded as breach of procedure.
- List of redundant, obsolete materials and supplies, if established - Divisions within the Municipality must ensure that the requirement is not available on the internal redundant or obsolete materials list if there was a need to establish such a list, before enquiring whether the requirements are available from other government institutions' list of redundant, obsolete materials or supplies, if feasible.
- Sourcing from other government institutions - Services and goods that are the core function of a specific government institution may be sourced from or through the auspices of such an institution. However, should the government institution not be able to assist the Municipality, the normal acquisitioning procedures should apply.
- Contracts **arranged by other organs of state** - The Accounting Officer may participate in any contract arranged by means of a competitive bidding process by any other organ of state, but only if:
 - i. The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
 - ii. There is no reason to believe that such contract was not validly procured;
 - iii. There are demonstrable discounts or benefits to do so; and
 - iv. That other organs of state and the provider have consented to such procurement in writing.

(iii and iv do not apply if a Municipal entity procures goods or services through a contract secured by its parent Municipality or a Municipality procures goods or services through a contract secured by a Municipal entity of which it is the parent Municipality)



3.1.1.4 DIRECTIVES FOR SPECIFIC TYPES OF REQUIREMENTS

- For the following cognisance should also be taken of additional specific prescripts, rules and thresholds guiding specific circumstances and products:

- (i) E-commerce
- (ii) Public Private Partnerships
- (iii) Building, Engineering and Construction Works

(i) E-COMMERCE

- The AO may not acquire new information technology support for the implementation of the new SCM function without consulting SITA.

(ii) PUBLIC PRIVATE PARTNERSHIPS

Refer to section 120 of the MFMA and relevant PPP Regulations

- The Municipality shall ensure that the provisions of section 120 of the MFMA as well as the issued Regulations are complied with when goods or services are procured through public private partnerships or as part of a public private partnership.

PRINCIPLES

- A PPP shall be dealt with strictly in terms of section 120 of the MFMA and the guidelines issued by National Treasury's SCM Office from time to time.

(iii) BUILDING, ENGINEERING OR CONSTRUCTION WORKS

Refer to the CIDBA Act, Regulations and Standards

- The Municipality shall ensure that, in the case of a bid relating to the construction industry, the relevant prescripts of the Construction Industry Development Board pertaining to bid documentation and general conditions of contract are taken into consideration additionally.

PRINCIPLES

- Government has established the Construction Industry Development Board (CIDB) to ensure the uniform application of policy in the construction industry. Therefore the Municipality must ensure that the General Conditions of Contract and Standard Bidding Documents for Construction Projects issued by the CIDB are used for all building, engineering and construction related bids, if required and applicable to the Municipality.

3.1.2 COMPILATION OF BID DOCUMENTS

3.1.2.1 BID DOCUMENTS FOR BIDS

Refer to SCM TR 15-21

- The criteria to which bid documentation for a competitive bidding process must comply, must:
- (i) Take into account:
 - *The general conditions of a contract and any special conditions of contract, if specified;*
 - *Any treasury guidelines on bid documentation; and*
 - *The requirements of the CIDB, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;*
 - (ii) Include the preference point 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;
 - (iii) Include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (iv) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (v) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish:
 - If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements
 - *For the past three years;*
 - *Since the establishment, if established during the past three years;*
 - A certificate signed by the bidder, certifying that the bidder has no undisputed commitments for Municipal services towards a Municipality or other service provider in respect of which payment is overdue for more than thirty (30) days;
 - Particulars of any contract awarded to the bidder by the Municipality during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract.
 - A statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so what portion and whether any portion of payment from the Municipality is expected to be transferred out of the Republic; and
 - (vi) 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;
 - (vii) Require supplier to supply tax references, tax clearance certificates, VAT registration numbers and identification or registration numbers;
 - (viii) Details of any contracts above R200 000 carried out on behalf of the Municipality within

- the last five years;
- (ix) Contract management processes and procedures including provision for the AO to cancel the contract on ground of unsatisfactory performance;
 - (x) Any other matters as required by the MFMA and the SCM Regulations;
 - (xi) Performance guarantees and retention.

3.1.2.2 LANGUAGE OF QUOTATION / BID DOCUMENTS

- The Municipality shall compile all documentation in at least English.
- Bidding documents may be compiled in other languages as well, subject to stipulated circumstances.

PRINCIPLES

- Bidding documents should be worded such that they permit and encourage competition.
- Should bidding documents be compiled in an additional language, the Municipality must ensure that officials with the required language skills are available to review proposals, conduct the evaluation and award process as well as any other communication that may be required during the acquisitioning process.

3.1.2.3 CALLING FOR BIDS

- Bids must be invited by the SCMU unless other divisions/components have been delegated to do so.

3.1.2.4 ADVERTISING OF BIDS

Refer to SCM TR 22

- All bids must at least be advertised in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin)
- The specifications must be approved by the AO, or the official delegated by the AO, prior to advertisement of the bid. In the absence of the AO this may be delegated to the acting MM or the CFO.
- The relevant media shall be considered to ensure that the target market is reached. Cost must be a consideration.
- Bids must be advertised for at least 14 days before closing time, except in urgent cases when bids may be advertised for such shorter period as the AO may determine. In the case of transactions over R10 million or which are of a long term nature the closure date for the submission of bids may not be less than 30 days.
- No bids may be advertised or close between 15 and 31 December as most firms are closed

during this period and advantageous bid can therefore not be ensured. However, if circumstances requires otherwise, a submission for approval must be made to the AO or the delegated authority in this regard

3.1.2.5 CLOSING TIME OF BIDS

- Closing time means the latest date and hour specified in the bid documents for the receipt of bids.
- Bids of the Municipality close at **14:00** on the day indicated in the bid documents.
- The closing of bids must be strictly observed.

3.1.2.6 DETERMINING THE CLOSING PERIOD

- The normal closing period is not less than 14 days from the date of the publication of the invitation to bid.
- As a minimum requirement, where goods are to be imported, bids will close at least 5 weeks from the date of the publication.
- The principle of allowing bidders enough time to prepare comprehensive bids must be observed.
- Approval for the shortening or lengthening of the closing period must be obtained in accordance with the AO's delegated powers. Reasons for the deviation must be documented and fully motivated.
- Where a shorter period is involved, care must be taken that a reasonable time, normally not less than 14 days, is allowed for the preparation of the bidder's offer.

PRINCIPLES

- A longer closing period may be necessary where a product is to be imported or a complex response is required from bidders. Where complex supply contracts, particularly those requiring refurbishing of existing works, items or equipment are involved, this period should generally not be less than twelve weeks to enable bidders to conduct investigations before submitting their bids. In such cases, pre-bid information meetings for the bidders to seek clarifications and site visits may be necessary. The Municipality should provide reasonable access to project sites for such visits.
- In justifiable cases bids may be advertised for a shorter period as the Accounting Officer or the delegated authority may determine. A shorter closing period should allow adequate time for responses to be prepared and submitted and should not disadvantage any prospective bidder from bidding. This shorter closing period should not be shorter than 14 calendar days unless the Municipality is certain that all prospective bidders are able to deliver a response in a shorter time.



3.1.2.7 DETERMINING THE VALIDITY PERIOD

- The validity period should allow the Municipality sufficient time to finalise the evaluation and award of the quotation/bid.
- The period for which the bids are to remain valid, irrevocable and open for acceptance must be indicated in the bid documents.
- Bids shall remain valid for acceptance for a period of twelve (12) months after the expiry of the original validity period, unless the municipality is notified in writing of anything to the contrary by the bidder.
- The validity of bids may be further extended by a period of not more than six months subject to mutual agreement and administration processes and upon approval by the Accounting Officer.

3.1.2.8 AVAILABILITY OF BID DOCUMENTS

- Bid documents must be ready and available before the requirement is advertised.
- Bid documents may be collected by or may be e-mailed or posted to prospective bidders.
- Where bid documents are posted to prospective bidders, the bidder will be responsible for the postage or courier charges and collection at the municipal offices.

3.1.2.9 SALE OF BID DOCUMENTS

- The Municipality shall make bid documents for procuring of goods and services available on their website and E-Tender free of charge. These documents can be downloaded by interested bidders.
- Tender documents for construction projects and consultancy services shall be purchased by interested bidders.
- In the event that bid documents are being sold, the costs thereof must only be to cover actual preparation cost and not for the purpose of making a profit. For bids exceeding R200 000 in value, a nominal fee will be determined after consultation with relevant stake holders In the case of CIDB related bid documents the price for the sale of these documents will be determined on a case by case basis
- The fee should not be so high as to discourage prospective bidders.

PRINCIPLES

- The Council charges a non-refundable deposit for provision of bid documents.
- This is subject to annual review.




- Values of the deposits will be determined annually

3.1.2.10 ELEMENTS FOR INCLUSION IN BID DOCUMENTS

- The Municipality's bid documents shall promote uniformity through standardised bid documents, where possible.
- Bid documentation, evaluation and adjudication criteria, and general conditions of contract shall be in accordance with the instructions of National Treasury and in accordance with any applicable legislation.
- Bidders shall all receive the same information in documentation and should be assured of an equal opportunity to obtain additional information on a timely basis to ensure fairness.
- Where feasible, promote subcontracting and joint ventures with SMME's.
- Bid documentation shall include evaluation and adjudication criteria, including the criteria prescribed in the PPPFA and the B-BBEE Act.
- Clearly stipulate in bid documents that suppliers must submit B-BBEE status level verification certificates or certified copies thereof with bids.

3.1.2.11 BIDS BASED ON FUNCTIONALITY

PRINCIPLES

- Not all bids should be invited on the basis of functionality as a criteria
 - A need to invite bids on the basis of functionality as a criterion depends on the nature of the required commodity or service taken into account quality, reliability, viability and durability of a service and the bidders technical capacity and ability to execute a contract.
 - When an institution invites a bid that will also be evaluated on the basis of functionality as a criterion, the AO must clearly specify the following aspects in the bid documents:
 - Evaluation criteria for measuring functionality
 - (i) May include criteria such as the consultant's relevant experience for the assignment, the quality of the methodology;
 - (ii) The qualification of key personnel;
 - (iii) Transfer of knowledge etc.
 - Weight of each criteria
 - (i) The weight that is allocated to each criterion should not be generic but should be determined separately for each bid on a case-by-case basis.
 - Applicable value
 - (i) The applicable value that will be utilized when scoring each criterion should be objective.
 - (ii) As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilized determine by user-departments.
- 

- Minimum qualification score for functionality
 - (i) The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. Should be determined separately for each bid on a case-by-case basis. The minimum qualifying score must not be prescribed so low that it may jeopardize the quality of the service required nor so high that it may be restrictive to the extent that it jeopardized the fairness of the SCM system.

3.1.2.12 BID DOCUMENTATION PACK

PRINCIPLES

- The General Conditions of Contract (GCC) are applicable to all bids with the exception of bids pertaining to the building, engineering and construction industry for which the CIDBA provisions will apply.
- The standard wording of the GCC may not be amended, but may be supplemented by special conditions, thus covering any aspect not covered by the GCC if necessary. Should the special conditions be in conflict with the GCC, the provisions of the special conditions will prevail.
- The one condition that must be covered by special conditions is payment terms.

3.1.2.13 PRE-BID INFORMATION/SITE MEETINGS

- Minutes of the meeting should be provided to all prospective bidders.
- Any additional information, minutes of meetings, clarification, correction of errors, or modifications of bid documents should be sent to each recipient of the original bid documents at least 10 calendar days before the closing date and time for receipt of bids to enable bidders to take appropriate actions.

3.1.2.14 CHANGING INFORMATION BEFORE CLOSING TIME

POLICY

- It is preferable to cancel a bidding invitation and to invite fresh bids if conditions or the specification or any other information have to be materially changed before the closing time or if mistakes are discovered in the documents before the closing time.
- In this regard also adhere to the provisions of the PPPFA Regulations where all bids received are above or below the stipulated preference scoring.

PRINCIPLES

- Where the information that has to change is not material or will not have a material influence on the bidders proposals, all prospective bidders must be informed before the closing date of the bid and in time to take the information into consideration.
- Where the information that has to change is material or will have a material influence of the crafting of the bidders' proposals, the bid must rather be cancelled and fresh bids invited with

the amended information

3.1.2.15 POSTPONEMENT OF CLOSING DATE

POLICY

- The closing date may be postponed only if all prospective bidders can be advised of the postponed date in writing before the original closing date and in the case of an advertised bid invitation, the closing date may be postponed only if the postponed date can be timely advertised, before the original closing date.

PRINCIPLES

- The closing date may only be postponed if there is a valid reason for the postponement and if there is not sufficient time to advertise the postponement, the cancellation of the bid must be considered and fresh bids must be invited.

3.1.3 RECEIPT AND OPENING OF BIDS PETTY CASH PROCEDURE

3.1.3.1 ANALYSIS OF PROCUREMENT REQUESTS

- **Receiving and opening procedures for quotations from R 301 up to R2 000**

Refer to SCM TR 16

POLICY

- (i) A fair and transparent process shall be followed for the closing, receiving, opening and processing of quotations.
- (ii) Verbal quotations may be obtained, but the quotation of the preferred supplier must be in writing

- **Quotations received for small contractors above R2000 up to R30 000**

POLICY

- (i) Quotations must be submitted in writing preferably by hand or per mail, but may also be e-mailed.
- (ii) Bid box procedures may be used where the circumstances so require.

- **Quotations above R2000 up to R30 000**

Refer to SCM TR 16

POLICY

- (i) Quotations accepted must be submitted in writing preferably by hand or per mail, but may also be faxed or e-mailed.
- (ii) Bid box procedures may be used where the circumstances so require.



➤ **Formal Written Price Quotations above R30 000**

Refer to SCM TR 17 and 18

POLICY

- (i) A fair and transparent process shall be followed for the closing, receiving, opening and processing of formal written price quotations
- (ii) When procuring goods, services and works of a complex nature, the formal or competitive bidding process may be utilized at the discretion of the Head: SCM.
- (iii) Quotations must be obtained in writing from at least three different providers whose names appear on list of accredited prospective service providers
- (iv) Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria prescribed in this policy
- (v) Where it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer (CFO) or an official designated by the CFO
- (vi) The names of the potential providers and their written quotations must be recorded.
- (vii) **Formal written price quotations must be advertised for at least seven (7) days on the website and official notice board/s of the municipality. It may also be advertised in the local and or provincial newspapers if deemed necessary.**
- (viii) Formal written quotations may be submitted by hand or courier.
- (ix) A bid box shall be visibly provided on the premises of the Municipality and maybe utilised for the submission of formal written price quotations.
- (x) A formal written price quotation may not be considered unless the provider has furnished the following information:
 - *Full name;*
 - *Identification number or company or other registration number;*
 - *Tax reference number and VAT registration number, if any;*
 - *Has authorized the Municipality to obtain a tax clearance from SARS that the provider's tax matters are in order; and*
 - *Has indicated;*
 - a) *Whether he or she is in the service of the state, or has been in the service of the state in the previous 12 months;*
 - b) *If the provider is not a natural person, whether any of its directors, managers, principle shareholders or stakeholder is in the service of the state; or has been in the service of the state in the previous 12 months; or*
 - c) *Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder is in the service of the state or has been in the service of the state in the previous 12 months.*
- (xi) In the event of procuring goods, services and works of a complex nature, the bid documentation pack for formal tenders maybe utilised and should consist of the

following:

- Covering letter, which should at least include the bid number, description of the requirement, name of the organization by whom it is required and the closing date and time.
- (xii) Use standard bid documents that include, but are not limited to the following:
- *Invitation to Bid that is the bidders' consent if signed to enter into a contract under the conditions specified in the bid documents, should the offer be accepted.*
 - *Tax Clearance requirements.*
 - *Relevant pricing schedule.*
 - *Declaration of interest.*
 - *Relevant preference points claim form.*
 - Specification/Terms of reference.
 - Evaluation criteria.
 - General conditions of contract.
 - Special contract conditions.
 - Copy of the formal contract or service level agreement (SLA) where applicable.
 - Adjudication and evaluation criteria and scores.

➤ **Admission of bids above R200 000**

POLICY

- (i) Bids received by e-mail, post or similar media do not meet the requirements and must be rejected.
- (ii) Only original bid documents, which are submitted in the prescribed manner and where all essential forms are originally signed in ink before submission, may be accepted as valid.
- (iii) Bidders shall be allowed to submit bids by mail, by courier or by hand into the bid box or at the physical address of the Municipality (reception, over the counter at the SCMU as applicable) before the closing time of the bids.
- (iv) All bids will then be kept unopened in safe custody until the closing date and time of the bids.

➤ **Confidentiality**

POLICY

- (i) After public opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards should not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award.

➤ **Bids received late**

POLICY

- (i) Bids are late if they are received at the address indicated in the bid documents after closing date and time.
- (ii) Bids received late shall not be considered and shall be returned unopened to the bidder.
- (iii) Where no bid or no acceptable bid has been received, the bid has to be re-advertised.

3.1.4 EVALUATION AND ADJUDICATION OF BIDS

POLICY

- 3.1.4.1 All bids duly lodged shall be taken into consideration and evaluated.
- 3.1.4.2 For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official bid box located at the SCM office situated at the 112 Donkin street, Sanlam Building, SCM Unit, Beaufort West Municipality, Beaufort West, 6970.
- 3.1.4.3 The Municipality shall base its evaluation solely on an examination of the relevant statutory and/or predetermined evaluation criteria.
- 3.1.4.4 Evaluation criteria shall promote the areas of finance (commerce), technical compliance/ability, functional requirements and preferential procurement.
- 3.1.4.5 Members involved in the evaluation process shall be honest, fair, impartial, and transparent.
- 3.1.4.6 Bid Evaluation Committee(s) should be familiar with and adhere to prescribed legislation, directives and procedures in respect of SCM.
- 3.1.4.7 No person should interfere with the SCM system of the Municipality; or amend or tamper with any bid after its receipt.

3.1.5 REASONS FOR REJECTION

POLICY

- 3.1.5.1 The Municipality must reject a proposal for the award of a contract if the recommended bidder has committed a proven corrupt or fraudulent act in competing for the particular contract.
- 3.1.5.2 The Municipality may disregard the bid of any bidder if that bidder, or any of its directors:
 - Have abused the SCM system of the Municipality.
 - Have committed proven fraud or any other improper conduct in relation to such system.
 - Have failed to perform on any previous contract and the proof exists.
- 3.1.5.3 Such actions must be communicated to the National Treasury.



3.1.6 SIGNING OF BIDS

POLICY

3.1.6.1 In order to avoid confusion regarding precisely what must be signed for a valid bid, the Invitation to Bid or photocopy thereof must be signed in ink.

3.1.6.2 All declarations must also be signed to qualify as valid claims.

PRINCIPLES

3.1.6.3 Bids not accompanied by an Invitation to Bid, or where the form is not signed, but otherwise complies with all the bid requirements and is recommended in terms of the delegated powers, may be considered and finalised by the Bid Adjudication Committee, the Accounting Officer or delegated authority.

3.1.6.4 If such an unsigned bid is declared to be valid, the bidder must sign it in ink, before the parties sign the contract form.

3.1.6.5 Copies of bids, which have been submitted in the prescribed manner and where the Invitation to Bid or equivalent has been signed in ink before submission, are accepted as the official bids. No other document received in confirmation thereof is thereafter accepted as the official bid even if it is the original of the facsimile copy and is also signed in ink.

3.1.7 AUTHORITY TO SIGN BID DOCUMENTS

POLICY

3.1.7.1 The Invitation to Bid must make provision for the signatory to indicate that he or she is duly authorized to sign the bid documentation. A duly authorized person must sign the bid document.

3.1.8 TAX CLEARANCE CERTIFICATES

*Refer to SCM TR 43 and PPPFA Regulations, 2011 MFMA CIRCULAR 91 TAX CLEARANCE
CERTIFICATE*

POLICY

3.1.8.1 As per SCM TR 43, the Municipality must reject any bid from a supplier who fails to provide written proof from SARS that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations. As proof that there are no outstanding tax obligations, a valid Tax Clearance Certificate must be submitted in the original.

3.1.8.2 In all cases where the bidder did not submit the Certificate by the closing time, or the certificate is not in the original or not valid, the bidder must be afforded an opportunity and be requested to submit the Certificate by the date and time as determined by the Bid Evaluation Committee. Recommendations with regard to such matters must be submitted to the relevant evaluation and award structures.

3.1.8.3 Where the Municipality is in possession of a valid tax clearance certificate from a bidder, i.e. due to its previous application as member on the list of prospective suppliers, the SCM Unit must make a

note to such effect on the bid.

3.1.8.4 No contracts may, however, be awarded to bidders who have failed to submit the original Tax Clearance Certificate within the relevant period and they must be reported to SARS.

3.1.9 SUBMISSION AND SIGNING OF CERTIFICATES

POLICY

3.1.9.1 In all cases where the relevant preference claim form has to be submitted and a provider had the intention to claim as evidenced by the fact that he did fill in the preference form or gave other indications of wishing to claim preference, the bidder must be allowed to complete and/or sign the declaration.

3.1.9.2 Recommendations with regard to such matters must be submitted to the relevant Bid Evaluation Committee or relevant delegated authority

PRINCIPLES

3.1.9.3 If the potential provider is a supplier but not the actual manufacturer and will be sourcing the product(s) from another company, a letter from that company(s)/supplier(s) confirming firm supply arrangement(s) in this regard, has to accompany the bid and failure to submit the document may invalidate the bid.

3.1.9.4 The aforementioned statement is to be included in the relevant bid documents as a special condition.

3.1.9.5 The said company/supplier must confirm that it has familiarised itself with the item description, specifications and conditions and if the quotation/bid consist of more than one item, it should be clearly indicated in respect of which item(s) the supportive letter has been issued.

3.1.10 DECLARATION OF INTEREST

POLICY

3.1.10.1 A form for the declaration of a provider's position and interest must be included with the bid documents.

3.1.10.2 An official who is involved in the evaluation and recommendation process, or who is in any way involved with the procurement process, shall also certify, as part of the recommendation that he/she complies with The Prevention and Combating of Corrupt Activities Act.

3.1.10.3 All officials who can influence the award of a quotation/bid, are seen as officials who are involved in the recommendation process.

3.1.10.4 The register of attendance of the members of the Bid Evaluation Committee and the Bid Adjudication Committee must contain the following:

"I, the undersigned,(full name and surname)

- *Declare that I did not purposefully unlawfully favor or prejudice anyone in the decision making process in the recommendation and award of the quotation/bid.*



- *Declare that neither I nor, as far as I am aware, any member of my organisation or my immediate family have any interests (pecuniary or otherwise) which could possibly be construed as having any influence on the proper and objective performance by me of my duties in relation to the investigation and any activities relating thereto nor to unduly influence anyone in this matter.*

**Declaration if any:*

-
- *Agree to keep all information and documents relating to this matter confidential and not disclose or communicate the same to any person or persons without the prior written consent of the Municipality.*
 - *Agree to keep the results of any processes in relation to the investigation confidential.*
 - *Acknowledge receipt of confidential information and documentation from the Municipality and agree not to make any copies of, or take any extracts from them except as may be necessary and essential for the due and proper performance of my duties towards the Municipality.*
 - *Acknowledge that conflicts of interests, breach of confidentiality and unauthorised disclosure are subject to the provisions and penalties contained in the Municipal Financial Management Act, 2003 (Act 56 of 2003) and relevant regulations.*
 - *Agree to immediately and truthfully declare to the Municipality any changes, which may occur that relate to the matters stated in Clause 1 of this declaration during the rendering of the Services*

3.1.10.5 All officials who are involved in the decision making process must sign a similar affidavit.

3.1.11 PROVIDERS OWN CONDITIONS

POLICY

3.1.11.1 The conditions as contained in the quotation/bid documents enjoy precedence.

3.1.11.2 All providers must accept these conditions.

3.1.11.3 However, it sometimes happens that providers set their own conditions, which might be in conflict with the quotation/bid conditions. Such own conditions set by providers can be recommended for acceptance where it is in the interest of the Municipality to do so and where the interests of other providers are not prejudiced.

3.1.11.4 Where the providers' own conditions are not in the best interest of the Municipality, the provider must be requested to withdraw his conditions.

3.1.11.5 If providers are not prepared to withdraw unacceptable or conflicting conditions, reasons why such conditions must be accepted must be submitted to the relevant Bid Evaluation Committee for approval or alternatively the quotation/bid may be passed over.

PRINCIPLES

3.1.11.6 A provider must not automatically be requested to withdraw his own conditions since such conditions are not necessarily unacceptable.

3.1.11.7 A recommendation by the relevant delegated authority that such a request should be made to the provider concerned must be submitted to the relevant Bid Evaluation Committee for the necessary consideration or for passing over due to it being unacceptable.

3.1.11.8 When advance payments are required in a quotation/bid, this must be identified as a conflicting condition and a motivated recommendation must be submitted to the relevant award structure. Normally such a condition is accepted only if a counter offer that will eliminate the risk, such as a bank/performance guarantee, is made.



3.1.12 EVALUATION AND AWARD FROM R30 000 AND UP TO R200 000

3.1.12.1 EVALUATION FROM R30 000 AND UP TO R200 000

POLICY

- For formal written price quotations from R30 000 and up to R200 000, where the requirement is not technically complex and where there are no major risks involved, the delegated authority shall evaluate bids received and submit a recommendation regarding the award of the bids to the CFO or Delegated Official (preferably the Manager: SCM or other senior official within the SCM unit).
- The procurement of goods, services and works of a complex nature maybe tabled for evaluation by the Bid Evaluation Committee
- The evaluator and awarder should consist of different members to ensure that a transparent review of the evaluation is undertaken.
- Bids are to be evaluated against the predetermined criteria in the bid document. The criteria to be taken into account, are inter alia:
 - (i) *Compliance with the legality and special conditions.*
 - (ii) *Specifications/terms of reference evaluation = functionality*
 - (iii) *Preferential procurement:*
 - *Price*
 - *Preference*
 - (iv) *Capability / ability of the bidder to execute the contract and other latent factors.*

3.1.12.2 AWARD STRUCTURES UP TO R200 000

Refer to SCM TR 26

POLICY

- The delegated authority assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the deal is acceptable and, in the Municipality's, best interest, and then approves/rejects the recommendation.
- In the event of procuring goods, services and works of a complex nature, such matters maybe referred to the Bid Adjudication Committee to make the award
- The function must be carried out in line with the award functions stipulated under the roles and responsibilities section.
- Any decision regarding the adjudication and award of a contract is final.

3.1.13 EVALUATION AND AWARD FOR PROCUREMENT ABOVE R200 000

3.1.13.1 BID EVALUATION COMMITTEE FOR PROCUREMENT ABOVE R200 000

POLICY

- Above R200 000, a Bid Evaluation Committee shall evaluate bids received and submit a

recommendation regarding the award of the bids to the Bid Adjudication Committee.

- Bids are to be evaluated against the predetermined criteria in the bid document. The criteria to be taken into account, are *inter alia*:
 - (i) *Legal compliance and compliance with special conditions*
 - (ii) *Evaluation of specifications/terms of reference/functionality (within threshold values set).*
 - (iii) *Preferential procurement:*
 - *Price*
 - *B-BBEE certificates*
 - (iv) *Latent factors or other additional objective factors:*
 - *Capability/ability of the bidder to execute the contract.*
- National Industrial Participation Programme requirements.
- CIDBA requirements for infrastructure or construction procurement.

3.1.13.2 AWARD STRUCTURE ABOVE R200 000

Refer to SCM TR 29

POLICY

- The Bid Adjudication Committee shall consider and recommend the awarding of bids above the monetary value of R200 000 and up to R 10 million to the relevant delegated authority.
- The Bid Adjudication Committee shall consider and recommend the awarding of bids above the monetary value of R 10 million to the AO who will make the final award.
- The function must be carried out in line with the functions stipulated under the roles and responsibilities section.
- The Bid Adjudication Committee assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the deal is acceptable and in the Municipality's best interest, and then approves/rejects the recommendation or make a final recommendation to the AO for final award.
- Where the Bid Adjudication Committee finds that the recommendation is not correct or not in the Municipality's best interest, the reasons for not supporting the review is:
 - i. *Firstly returned to the Bid Evaluation Committee for reconsideration, then*
 - ii. *Submitted to the AO for final award.*
- Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties.
- The Bid Adjudication Committee and the AO has the power to amend or cancel concluded agreements if delivered goods and services do not conform to specifications.
- Any decision regarding the adjudication of a contract is final.

PRINCIPLES

- In the event that the AO makes an alternative decision than the recommendation submitted by



the Bid Adjudication Committee after returning the matter back to the Bid Adjudication Committee for reconsideration, within 10 working days, the provisions of section 114 of the MFMA and SCM TR 29 will apply.

**3.1.15 CONSIDERATION OF ADDITIONAL INFORMATION
POLICY**

3.1.15.1 Information received after the closing date, may only be taken into consideration if it would not influence the original recommendation made, which must be based on the original information received from providers.

3.1.15.2 During the consideration of quotations/bids, communication by the Municipality with providers may take place only with the express prior approval of the relevant award structure.

PRINCIPLES

3.1.15.3 Should a discount for instance be offered, it could be taken into account when the contract has been awarded, but not beforehand.

3.1.15.4 The Municipality must communicate with providers where bid information is incomplete or the quotation/bid document is not completed in full, in order to obtain the necessary information.

3.1.15.5 Communication with bidders after the closing period but before the bid is awarded, must be done in an open and transparent manner. All bidders who submitted bid documents must be provided with the same communiqué.

3.1.15.6 During the period of time between the closing time of a bid and the date of notice of acceptance to the successful bidder, communication regarding matters in connection with the quotation/bid, between any official or a representative of a properly appointed testing organisation or a person acting in an advisory capacity for the Municipality and a member of the public, should take place only with the express prior approval of the relevant delegated authority.

**3.1.16 CANCELLATION OF QUOTATIONS/BIDS
POLICY**

3.1.16.1 Should it be determined through the evaluation process that no acceptable quotations/bids were received; a recommendation to cancel the quotation/bid must be submitted for approval as part of the evaluation report.

3.1.16.2 The reasons why no acceptable quotations/bids were received by the closing date and time must be investigated before a decision is made what alternative process must be followed to satisfy the requirements.

3.1.16.3 The requirement may be re-advertised / re-invited or a specific number of pre-identified service providers may be targeted. Cognizance should be taken with regards to the CIDBA

pertaining to the re-advertising / re-inviting of bids.

3.1.16.4 The evaluation report must contain the request for cancellation accompanied by the perceived reasons determined through the investigation as well as a recommendation on the alternative process to be followed to satisfy the requirements.

3.1.16.5 The relevant delegated authority shall approve all cases where quotations/bids:

- *Are to be cancelled.*
- *New quotations/bids are to be solicited because of the cancellation.*
- *Negotiations with the preferred bidder are to take place to determine a reduction in the scope and/or a reallocation of risk and responsibility.*
- *A substantial reduction in the scope or modification to the bidding documents may require re-bidding.*

3.1.16.6 Where bids are to be cancelled all bidders must be informed in writing of the cancellation.

3.1.17 DISCUSSIONS WITH BIDDERS

Refer to SCM TR 24

POLICY

3.1.17.1 Without the prior approval of the delegated authority no discussions may be conducted with any bidders regarding any aspect, which might in any way affect the prices, i.e. which may change the order in which quotes/bids will be ranked.

3.1.17.2 Where such discussions are authorised, the delegated authority must ensure that the discussions take place at least at the middle management level and that the outcome of such discussions, must be placed on record in writing and comply with the provisions of SCM TR 24.

3.1.18 PREFERENTIAL PROCUREMENT

3.1.18.1 Preference point system

Refer to provisions of the PPPFA, its Regulations and the Municipal PPPFA Policy

POLICY

- The application of preferential procurement and broad based black economic empowerment must be consistent with:
 - (i) The Preferential Procurement Policy Framework Act and its Regulations.
 - (ii) The Broad Based Black Economic Empowerment Act.
- The Municipality shall set itself a target that it wishes to achieve through preferential procurement, preferably through the adoption of a Municipal Preferential Procurement Policy as provided for in section 2 of the PPPFA.

- The Municipality shall stipulate the preference point system in bid documents to be applied in adjudication.
- No system has to be applied in respect of acquisitioning with a Rand value of less than R30 000 per case.
- The relevant preference point formula as per the PPPFA must be used to calculate the points for price in respect of acquisitioning with a Rand value equal to, or above R30 000.
- The maximum score must be allocated to the lowest priced acceptable bid/quote. Any other acceptable quotations/bids, which are higher in price, must score fewer points on a *pro rata* basis, calculated on their prices in relation to the lowest acceptable quotation/bid in accordance with a prescribed formula.
- The contract must be awarded to the bidder who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another bidder.

PRINCIPLES

- In the acquisitioning of local goods and services or sale and letting of assets, categories of preference shall be used in the allocation of contracts and the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination.
- Bids must include criteria for the evaluation of quotations/bids to identify the quotation/bid that represents the best value for money.

3.1.18.2 Broad Based Black Economic Empowerment Status Level Certificate

POLICY

- B-BBEE status level attained by bidder must be used to determine the number of points scored out of 10 or 20 by a bidder for B-BBEE contribution.

3.1.18.3 Local production and content

Refer to PPPFA Regulation 9(1), Municipal PPPFA policy and relevant NT and DTI circulars

POLICY

- In the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids must be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with stipulated minimum threshold for local production and content will be considered.
- Designated sectors have been identified as being:
 - (i) *Textile, clothing, leather and footwear*
 - (ii) *Steel and power pylons*
 - (iii) *Rolling stocks*
 - (iv) *Canned/processed vegetables*
 - (v) *Buses (bus body)*

- Specifications of stipulated minimum threshold percentages and requirements for local production and content must be provided for the Municipal PPPFA Policy.
- The AO must stipulate in bid invitations that the exchange rate to be used for the calculation of local production and content must be the exchange rate published by the SARB at 12:00 on the date of advertisement of the bid.
- Only the South African Bureau of Standards approved technical specification number SATS 1286:2011 must be used to calculate local content.
- The AO must stipulate in the bid documentation that:
 - (i) *The Declaration Certificate for Local Production and Content (MBD 6.2) together with the Annex C (Local Content Declaration: Summary Schedule) must be complete, duly signed and submitted by the bidder at the closing date and time of the bid; and*
 - (ii) *The rates of exchange quoted by the bidder 4.1 of the Declaration Certificate will be verified for accuracy.*

PRINCIPLES

- Management must ensure that reasonable or market related prices are secured for, taking into account factors such as benchmark prices, value of money and economies of scale. The AO may approach the DTI to assist, where possible, with benchmark prices that have been designated for local production and content.
- A two stage evaluation process may be followed to evaluate the bids received -:
 - Stage 1: Evaluation in terms of stipulated minimum threshold for local production and content***
 - The declarations made by the bidder in the MBD 6.2 forms and Annex C must be used for this purpose. If the bid is for more than one product, the local content percentages for each product contained in Declaration C must be used. No amendments of the stipulated minimum threshold for local production and content are allowed. The Accounting Officer is responsible to ensure that required bid documentation are submitted and he/she must also verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (MBD 6.2)*
 - Stage 2: Evaluation in terms of the 80/20 or 90/10 preference point systems (refer to paragraph 17.4.15) - The Accounting Officer must ensure that contracts are awarded at prices that are market related taking into account, among others, benchmark prices, value for money and economies of scale.***
- Prices may be negotiated with short listed or preferred bidders. Such negotiations must not prejudice any other bidders.

3.1.18.4 Application of preferences

POLICY

- Preference calculations or decisions, made during evaluations, shall be clear and



documented.

- Including when appointing consultants, the point's allocation for price may only be for price and not functionality, which should be clearly stipulated in the TOR. This is in adherence to the PPPFA Regulations that functionality should be separately evaluated and scored.
- If all bids received, exceed the estimated Rand value linked to the preference point system applied, the bid invitation must be cancelled and re-invited stating the correct preference point system.

PRINCIPLES

- Critical factors (criteria) are the essential characteristics that the offer pertaining to the goods/services/works must possess. If an offer does not satisfy any of the critical factors (criteria), then it can immediately be rejected. This can also be referred to as minimum requirements or specification.
- Functionality on the other hand provides for factors that, when scored, compares the capacity and ability of each bid to successfully complete a contract. Functionality must be identified, together with its scoring, weights as well as the minimum threshold, as provided for in the PPPFA Regulations. Non-adherence to functionality does not mean a bid is non-responsive, the bidder will just receive a '0' at the scoring column.
- Specific preference goals must not be confused with critical factors. If a critical factor (special condition) is set which is inclusive of a preferential goal, care must be taken that it is not also set as a preference goal as it may be regarded as double preference or double discrimination being granted. Preferential goals must form part of the Municipal PPPFA Policy and becomes a special condition of tender.

3.1.18.5 VERIFYING PREFERENCES

SCM TR 43, PPPFA and PPPFA Regulations, 2011

POLICY

- Verification is required whenever it is clear that the claimed preference is incorrect or when reasonable doubt exists that the bidder is entitled to the preference in any way at all.

PRINCIPLES

- Where, as a result of a query, there is a change in the percentage preference claimed which affects the ranking of quotations/bids for award, a motivated recommendation must be submitted to the relevant delegated authority for consideration.

3.1.18.6 AMENDMENT OF PRICES PRIOR TO LAPSE OF VALIDITY

POLICY

- An amendment of a quoted price during the validity period is not allowed.



3.1.18.7 EXTENSION OF VALIDITY PERIOD

POLICY

- Extension of validity must be finalised while the quotations/bids are still valid.
- If a bidder should reduce his quoted price as a result hereof, the reduction may be considered only if the provider would have been the successful contractor irrespective of the reduction. In other words, the case is evaluated at the original quoted price and if successful, it is accepted at the reduced price.
- In cases where the quoted price is increased when the validity period expires and the quotation/bid concerned is either no longer recommended for acceptance or is recommended for acceptance at the higher price, the disadvantageous or incremental costs must be reported to the delegated authority.

3.1.18.8 NEW AND UNPROVEN PRODUCTS

POLICY

- A bid may not be rejected summarily simply because the bidder or the product which he offers is unknown

3.1.18.9 COUNTRY OF ORIGIN

POLICY

- There is currently no embargo on the purchase of products from any foreign market, subject to the PPPFA provisions related to local content and the proudly South-Africa principles.

3.1.18.10 DEVIATIONS FROM SPECIFICATION

POLICY

- Quotations/bids with acceptable deviations from specification may be recommended for acceptance, provided that the competitiveness of another provider is not adversely affected and the deviation is not regarded as a material defect.

3.1.18.11 ALTERNATIVE OFFERS

POLICY

- Regardless of whether the provider also submits offers conforming strictly to specification, alternative offers may be considered and accepted provided that the other providers are not prejudiced and alternative offers are not expressly excluded in the tender documentation.
- If the alternative offer does not meet the specification requirements, in that it is lower than the specified requirements and the deviations are acceptable, the other providers must be approached in cases where they might possibly be prejudiced, with a view to obtaining offers for the delivery of a product or service with the same or similar acceptable deviations.
- Such cases must be submitted to the relevant Bid Adjudication Committee for

consideration and the relevant delegated authority for approval.

3.1.18.12 IMPROVEMENT OF SPECIFICATION

POLICY

- A quotation/bid received which offers an improvement on the specification may be accepted provided that the other providers are not prejudiced.

PRINCIPLES

- A quotation/bid which is the highest scorer and which represents an improvement on the requirements of the specification may be recommended for acceptance.
- A quotation/bid which is not the highest scorer and which represents an improvement on the requirements of the specification may be recommended for acceptance by the relevant Bid Evaluation Committee provided that all competitive providers are approached beforehand but are not able to offer such an improved product at a lower price.
- Each case is considered on its merits but it can be accepted as a general guideline that such an improvement must exceed the specified minimum requirements. The reason why the improvement is deemed to be an absolute necessity must be motivated and the additional costs must be justifiable.
- If the improvement can be regarded as a unique property of the particular product, the case is regarded as a significant amendment of the specification and an explanation must be provided of why these unique properties are essential and the reasonableness of the price will have to be substantiated.
- It must also be motivated why it would not be better to cancel and re-invite the bid.

3.1.18.13 EQUAL OFFERS

POLICY

- If functionality is part of the evaluation process and two or more bidders have scored equal points including equal points for B-BBEE and price, the successful bidder must be the one scoring the highest score for functionality.
- In the event that two or more tenders have scored equal total points, the successful tender must be the one scoring the highest number of preference points for specified B-BBEE.
- Should two or more offers still be equal in all respects, the award shall be decided by the drawing of lots in accordance with the delegated powers.
- Where bid prices for a portion of a series of sub-items are equal and it is necessary for these items to be obtained from the same bidder, then the lowest overall bid may be recommended for acceptance.

3.1.18.14 ADDITIONAL QUANTITIES

MFMA section 116 and NT MFMA CIRCULAR 62 of 2012

POLICY

- Before an award has been made, additional quantities may be accepted up to the maximum of 20 % and if it does not affect the preference goal of 80/20 or 90/10.
- All providers concerned must be approached for offers for the larger quantities.
- Where the additional quantities are more than 20%, a fresh or a supplementary bid must be invited, unless the provisions of MFMA section 116 and NT MFMA Circular 62 of 2012 has been complied with.

3.1.18.15 SAMPLES

POLICY

- Notwithstanding the requirement that samples must be submitted not later than the date and time specified in the bidding documents, samples may be received up to the time that they are required for evaluation. The recommendation of a bid must, however, not be delayed because a sample, which was received late, still has to be evaluated.

3.1.18.16 COMPARISON OF QUOTED PRICES

POLICY

- The quoted prices of all items must be brought to a comparative basis, where applicable, by deducting preferences and other benefits, and adding implied contract price adjustments in the case of non-firm prices and delivery and other costs where applicable.

3.1.18.17 COMPARATIVE PRICES: BIDS FOR CONTRACTS WITH A DURATION OF MORE THAN ONE YEAR

POLICY

- Where bids for contracts with a duration period of more than one year are received, comparative prices, where necessary, must be calculated on the basis of the discounted net present values of the various offers.
- A specific escalation rate determined by the market factors should form part of the bid.
- This rate will then be used to calculate the tariffs for each of the future years.

3.1.18.18 CONFIDENTIALITY

POLICY

- After the public opening of bids, information relating to the evaluation process may not be disclosed to interested parties or other persons not officially concerned with the process, until the successful or preferred bidder is notified of the award.

3.1.18.19 SUBCONTRACTING AND JOINT VENTURES

POLICY

- It is incumbent upon the Municipality to take care that:
 - (i) Subcontractors and partners in joint ventures are engaged in fair and reasonable conditions of contract.
 - (ii) Contractors who contravene the contract conditions potentially be designated as restricted persons.
 - (iii) Secured payment options may only be considered where it can be justified.
- The Municipality does not accept any liability for the services rendered or goods provided by sub-contractors.
- In the event that a bidder wishes to sub-contract more than 25% of the value of the contract, such bidder must adhere to the provisions of the PPPFA Regulations 11(8) and (9).
- Where bidders submit tenders as a Consortium or Joint Venture the contract that will guide the relationship must be attached to the tender documentation and a separate B-BBEE – certificate for that specific Consortium or Joint Venture must be submitted

3.1.19 CLEARANCE OF PROVIDERS PRIOR TO THE AWARD OF A CONTRACT

3.1.19.1 RESTRICTED PERSONS

Refer to section 114 of the MFMA and SCM TR 29

POLICY

- The Municipality must check the National Treasury and CIDBA, where relevant, database prior to awarding any contract to ensure that no recommended bidder, nor any of its directors, is listed as companies, directors or persons prohibited from doing business with the public sector.
- This list of restricted persons is managed and maintained by the Office of SCM within the National Treasury.

PART 3.2: ACQUISITION MANAGEMENT PROCESS

3.2.1 RANGE OF PROCUREMENT PROCESSES AND THRESHOLDS

Refer to SCM TR 12

POLICY

- 3.2.1.1 Promote the principles of being fair, equitable, transparent, competitive and cost-effective through all procurement processes.
- 3.2.1.2 Subdivision of requirements to circumvent the Accounting Officer's delegated powers will not be tolerated.
- 3.2.1.3 The Accounting Officer may, in writing:



- Lower but not increase, the different threshold values
- Direct that:
 - (i) *Petty cash processes be obtained for any specific procurement of a transaction value lower than R300;*
 - (ii) *Verbal quotations be obtained for any specific procurement of a transaction value between R301 – R2000 of which the quotation of the successful bidder must be in writing*
 - (iii) *written price quotations be obtained for any specific procurement of a transaction value between R2 001 – R30 000;*
 - (iv) *Formal written price quotations be obtained for any specific procurement of a transaction value between R30 001 – R 200 000; or*
 - (v) *A competitive bidding process be followed for any specific procurement of a transaction value higher than R200 000 and the procurement of long term contracts (excluding normal rental/lease agreements regarding office equipment, IT equipment and software to a maximum of R200 000 over a three year period).*

3.2.1.4 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.

3.2.2 PETTY CASH TRANSACTIONS UP TO R300

Refer to SCM TR 15

POLICY

- 3.2.2.1 Within the petty cash monetary threshold, up to R300, satisfy the requirement according to the prescribed petty cash policy.
- 3.2.2.2 The Municipality shall ensure that a petty cash policy and procedures are in place.
- 3.2.2.3 The petty cash policy must stipulate for which items and under which circumstances petty cash may not be utilized.
- 3.2.2.4 The petty cash procedure may not be used for items available on contract.

3.2.3 WRITTEN OR VERBAL QUOTATIONS

R300 - R2 000

POLICY

- 3.2.3.1) All written and verbal quotations are to be obtained by the procurement section of the SCMU
- 3.2.3.2) Obtain at least three written or verbal quotations
- 3.2.3.3) If it is not possible to obtain at least three quotations, the reason must be recorded and approved by the AO or the delegated authority

3.2.3.4) In the event of quotations obtained by other officials, the procurement officials must verify that the suppliers are registered on the supplier database and if not such supplier adheres to the listing requirements

3.2.3.5) No quotations must be obtained or accepted from supplier not registered on the supplier database or whom does not at least adhere to the listing requirements

3.2.3 WRITTEN PRICE QUOTATIONS

Above R2 000 and less than R30 000

Refer to SCM TR 16

POLICY

3.2.3.1 Requirements may be procured without inviting competitive bids or formal written quotations.

3.2.3.2 Obtain at least 3 written quotations from the list of prospective providers, where applicable.

3.2.3.3 Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that they adhere to the listing criteria as stipulated in this policy

3.2.3.4 If it is not possible to obtain at least three quotations, the reason must be recorded and approved by the AO or the delegated authority.

3.2.4 FORMAL WRITTEN PRICE QUOTATIONS

Above R30 000 and less than R200 000

Refer to SCM TR 17& 18

POLICY

3.2.4.1 Requirements may be procured by inviting written quotations from as many as possible providers on the prospective provider list.

3.2.4.2 Requirements for bids above R 30 000 and up to R 200 000 must be advertised for at least 7 days on the website and an official notice board of the Municipality and deposited in the bid box specified by the specified time on the due date accompanied by a valid tax clearance certificate issued by SARS.

3.2.4.3 Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list, provided that they adhere to the listing criteria as stipulated in this policy.

3.2.4.4 If it is not possible to receive at least 3 quotations, the reasons should be recorded and approved by the CFO or the delegated authority.

3.2.4.5 The AO must record the names of the potential providers and their written quotations

3.2.4.6 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.



3.2.4.7 The Municipality may apply the prescripts of the PPPFA for procurement in this category. This is however not compulsory.

PRINCIPLES

3.2.4.8 If deemed necessary, the AO or delegated authority may apply the prescripts of the PPPFA and its Regulations for procurement in this category. This is however not compulsory.

3.2.4.9 If it is not possible to obtain at least 3 quotations, the reasons should be recorded and approved by the AO or the delegated authority.

3.2.5 RANGE OF PROCUREMENT PROCESSES ABOVE R200 000

POLICY

3.2.5.1 A competitive bidding process shall be followed as far as possible.

3.2.5.2 If, in a specific case it is impracticable to invite competitive bids, the Municipality may procure the required goods or services by other means such as through limited bidding, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer or delegated authority prior to the award and promptly reported to the SCM Unit.

3.2.5.3 The Municipality may include an open and transparent, competitive pre-qualification bidding process in which only pre-qualified organisations may participate.

3.2.5.4 The prescripts of the PPPFA shall be adhered to.

3.2.5.5 Subdivision of requirements to circumvent the AO's delegated powers will not be tolerated.

3.2.6 COMPETITIVE BIDDING

Refer to SCM TR 19-20

POLICY

3.2.6.1 Competitive open bidding shall be applied as first preference.

3.2.6.2 Bids shall be advertised in appropriate media to reach the target market (including the *Government Tender Bulletin* if appropriate), should the AO or the delegated authority deem it necessary.

PRINCIPLES

3.2.6.3 Bid documentation will be prepared by SCM practitioners in consultation with the relevant directorate and displayed on notice boards, placed on the Council's website, and advertised in commonly circulated local and/or provincial newspapers with a closing date of at least 14 days after the date that the advertisement first appears.

3.2.6.4 No requirement for goods or services above an estimated transaction value of R200 000 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.

3.2.7 TWO-STAGE BIDDING

POLICY

3.2.7.1 A two-stage bidding process is allowed for:

- (i) Large complex projects;
- (ii) Projects where it may be undesirable to prepare complete detailed technical specifications; or
- (iii) Long term projects with a duration period exceeding three years.

PRINCIPLES

3.2.7.2 Subject to prior approval by the AO or delegated authority, the Municipality may engage in procurement by means of two-stage bidding, or request for proposals, in the following circumstances:

- (i) If it is not feasible for the Municipality to formulate detailed specifications for the goods or construction or, in the case of services, to identify their characteristics and, in order to obtain the most satisfactory solution to its procurement needs.
- (ii) If it seeks bids, proposals or offers as to various possible means of meeting its needs.
- (iii) When the Municipality seeks to enter into a contract for the purpose of research or study.

3.2.8 DEVIATIONS

SCM TR 36

POLICY

3.2.8.1 Deviations is only to be used if justification exists and the necessary approval has been obtained within the provisions of the Delegation Framework

3.2.8.2 The Municipality will use deviations only in the following exceptional circumstances:

- Where the Municipality applied the competitive (open) bidding process, but the bids received were all non-responsive or not acceptable, thus the time required to go out on the same process has elapsed.
- Where the Municipality can buy under exceptionally advantageous conditions that only arise in the very short term.
- In the event that a change of provider would compel the Municipality to obtain spare parts or additional equipment or services that are not compatible or interchangeable with existing equipment or services that were obtained from an original provider.
- The goods, services or works to be bought have to be designed by the provider.
- When goods, services or works can only be supplied or rendered by a particular provider and no reasonable alternative or substitute exists.
- There are legislative, technological or safety reasons to restrict purchases to providers who have proven their capability.

- In cases of urgency.
 - (i) In cases of emergency.
 - (ii) If such goods or services are procured or available from a single provider only
 - (iii) For the acquisition of special works of art or historical objects where specifications are difficult to compile
 - (iv) Acquisition of animals for zoos; or
 - (v) In any other exceptional case where it is impractical or impossible to follow the official procurement process; and

- (b) To 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

3.2.8.3 The reasons for employing deviations must be approved by the AO or delegated authority prior to an award being made.

3.2.9 TRANSVERSAL BIDS

POLICY

- 3.2.9.1 Transversal bids will only be relevant when the Municipality wishes to invite a tender/bid for itself and other Municipalities or wishes to participate in a tender together with other Municipalities or organs of state.
- 3.2.9.2 This form of bidding is different than when participating in a tender invited by another organ of state as referred to in SCM TR 32.
- 3.2.9.3 Council approval is required to participate in transversal bids.

PRINCIPLES

- 3.2.9.4 "Facilitation" means that the SCMU in the Office of the CFO will provide advice, assist and guide the transversal procurement process to ensure that the technical and governance requirements are met but will not actively participate in either the evaluation or adjudication process.
- 3.2.9.5 "Arranging" implies drawing up the business case, obtaining formal approval from affected Municipalities and the Council to proceed, the planning, organizing, logistical and bid administration requirements by the custodian Municipality.
- 3.2.9.6 Where the custodian Municipality has identified the need for a transversal tender, it must ensure that the procurement of goods or services or both for transversal use of Municipalities must be procured in terms of section 217 of the Constitution of the Republic of South Africa, 1996 and any other legislation and prescripts.
- 3.2.9.7 Where contemplated transversal tenders will result in lower unit costs/economies of scale or other corporate advantages as demonstrated by the required business case, the custodian Municipality must facilitate such transversal term contracts.
- 3.2.9.8 Contracts so procured must follow a strategic sourcing methodology and leverage buying

power to achieve economies of scale and will be governed by the current requirements for supply chain management as envisaged.

3.2.9.9 The custodian Municipality must obtain written consent from the other Accounting Officers to participate in the arrangement of the contemplated transversal contract and need to do so immediately after conclusion of the business case and before proceeding to any further phases of the procurement process. In the case of a custodian Municipality, prior approval from the Council is additionally required.

3.2.9.10 Where an Accounting Officer opts to participate in a transversal contract, the Accounting Officer may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.

3.2.9.11 The custodian Municipality will take full responsibility for the arrangement and conclusion of the bid process, inclusive of the formalization of the contracting arrangements noting that each participating Municipality, depending on the requirements and the nature of the contract, may have to sign a separate service level agreement with the selected service provider.

3.2.10 CONTRACTS SECURED BY OTHER ORGANS OF STATE

MFMA CIRCULAR 96 REGARDING SECTION 32 MUST APPLY-SCM TR 32 POLICY

3.2.10.1 the accounting officer to procure goods or services for the municipality under a contract secured by another organ of the 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) the municipality has no reason to believe that such contract was not validly procured;
- c) there are demonstrable discounts or benefits for the municipality to do so; and
- d) that other organ of state and the provider have consented to such procurement in writing.

3.2.10.2 Sub regulation (1)(c) and (d) do not apply if-

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

PRINCIPLES

3.2.10.3 The contract must be valid.

3.2.10.4 The municipality or municipal entity must confirm the duration of the contract between the service provider/s and the other organ of state and determine the remaining term of the contract

3.2.10.5 The participating municipality or municipal entity will procure the required goods or services under the same scope or specification, terms and conditions as provided for in the original contract

3.2.11 DIRECT NEGOTIATION

MSA 78-process and Municipal Land Disposal Policy

POLICY

3.2.11.1 Direct negotiations shall only be permitted after approval by the AO and shall be conducted in such a manner that limits disadvantage or prejudice to other stakeholders. Care should be taken to ensure that such a process does not allow the bidder concerned an unreasonable unfair opportunity.

3.2.11.2 Direct negotiations may only take place under the following circumstances:

- In cases of urgency due to unforeseen circumstances where lack of planning or negligence did not play a role and where following the standard competitive bidding process or the process prescribed for urgency would not be in the Municipality's best interest.
- Owing to a catastrophic event, there is an urgent need for the goods or services (an emergency), making it impractical to use other methods of procurement because of the time involved in using those methods.
- In cases where preferred bidders were identified through a competitive bidding process.
- In the case of competitive negotiation because of the technical character of the goods or construction, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or service providers. Thus in the aforementioned case the first round of the two-stage bidding process has taken place where *inter alia* capacity and acceptability was established.
- In the case where a Municipal Systems Act, section 78 process was followed.
- In the case of an unsolicited bid process.

3.2.11.3 The official that can contractually commit the Municipality in this regard must lead the negotiation and must be supported by the user division and the SCMU.

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

3.2.12 CONSULTANTS

Refer to SCM TR 35 and CCR 5

POLICY

3.2.12.1 The Municipality shall apply the National Treasury's instructions and Cost Containment Regulations in respect of the appointment of consultants.

3.2.12.2 Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the Accounting Officer cannot be

reasonably expected either to train or to recruit people in the time available.

3.2.12.3 Consultants are engaged principally for the following reasons:

- a) To provide specialized services for limited periods without any obligation of permanent employment;
- b) To benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing an assignment;
- c) To provide independent advice on the most suitable approaches, methodologies and solutions of projects.

3.2.12.4 Consultant services cannot be dealt with in the same manner as general procurement, as this type of procurement contains specialised types of services, therefore specific procedures and processes should be adopted and put in place.

3.2.12.5 These procedures and processes should be on a case-by-case basis depending on the nature and the type of consulting work under consideration.

3.2.12.6 Take into account production of documents where copy right, patents/ownership is concerned when drafting documentation of this nature.

3.2.12.7 In addition to any requirement prescribed by this policy for competitive bids, bidders must where applicable furnish particulars of:

- a) All consultancy services provided to the Municipality or any other municipality in the last 5 years

3.2.12.8 Any similar consultancy services provided to the Municipality or any other municipality in the last 5 years. The work undertaken by a consultant should be regulated by a contract. The Accounting Officer is, however, responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standard.

3.2.13.9 To set clear guidelines in the appointment of consultants and to ensure that consultants are paid within a regulated environment that is fair and equitable, thereby maximizing the value added to the municipality.

3.2.13.10 The Accounting Officer may approve the extension of employment contracts or agreements provided that:

- i. Sufficient funds are available;
- ii. The extension is required as a result of additional operational requirements or incompleteness of assignment in the original time frame;
- iii. The original terms of reference have not been deviated from;
- iv. Delivery has been satisfactory and in accordance with the terms of reference; and
- v. There must be skills transfer.

3.2.13 INFORMATION TECHNOLOGY

Refer to SCM TR 31

POLICY

3.2.14.1 The AO may request the State Information Technology Agency (SITA) to assist with the



acquisition of IT related goods or services through a competitive bidding process

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

3.2.14.3 The AO must notify SITA together with a motivation of the IT needs if:

- The transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
- The transaction value of contract to be procured whether for one or more years exceed R50 million (VAT included).

3.2.14.4 If SITA comments on the submission and the Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor-General.

3.2.15 BANKING SERVICES

Refer to SCM TR 30

POLICY

3.2.15.1 A contract for banking services:

- Must be procured through competitive bids;
- Must be consistent with section 7 or 85 of the MFMA; and
- May not be for a period of more than 5 years at a time.

3.2.15.2 The process for procuring a contract for banking services must commence at least 9 months before the end of an existing contract.

3.2.15.3 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. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act 94 of 1990).

3.2.16 GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

Refer to SCM TR 33

POLICY

3.2.16.1 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.

3.2.16.2 Where the storage of goods in bulk are 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.



3.2.17 PROCUREMENT FROM ABROAD

POLICY

3.2.17.1 The Municipality may procure from abroad if it can be certified in writing that:

- The product/service cannot be sourced locally or through local representatives and that no other similar product will serve the purpose.
- That a local sourcing process has been run without any success.
- The prices of the locally available supply/service are exorbitant.

3.2.17.2 For procurement outside the boundaries of South Africa, the same process is followed as for the procurement within South Africa, except for the following:

- Determining international advertising mechanisms.
- Determining the utilization of conditions applicable to foreign countries, such as Inco terms, if required.
- Determining if the price should be indicated in foreign currency, and if so, which currency.
- The estimated cost in foreign currency plus conversion factors.

3.2.17.3 The forward cover risk, must as far as feasible, be carried by the selected supplier.

3.2.18 ORGANS OF STATE

Refer to MFMA section 110(2) and SCM TR 32

POLICY

3.2.18.1 The AO may procure goods and services for the Municipality under a contract secured by another organ of state, but only if:

3.2.18.2 Contract was secured by that other organ of state by means of competitive bidding process applicable to that organ of state.

3.2.18.3 The Municipality has no reason to believe that such contract was not validly procured.

3.2.18.4 There are demonstrable discounts or benefits for the Municipality to do so.

3.2.18.5 That the other organ of state and the provider have consented to such procurement in writing.

3.2.18.6 However, the above do not apply if a Municipality procures goods or services through a contract secured by a Municipal entity of which it is the parent Municipality.

3.2.18.7 The AO must make public the fact that such goods or services are procured otherwise than through the Municipality's SCM system, including:

- The kind of goods or services; and
- The name of the supplier.

3.2.19 ROSTER

POLICY

3.2.19.1 A roster system may be applied for a list of pre-approved suppliers, subject to the development and adoption of a Roster System Policy containing the following:

- Roster scope for Professional Service Providers and consultants.
- Registration of service providers.
- Qualification to be registered on the Roster System database.
- Sequencing and ranking of service providers on the Roster System database.
- Selection of a service provider on the Roster System database.
- Appointment of a service provider.
- Roster System computer based.
- Rotation system for the repairs of vehicles or mechanical equipment including IT equipment

PRINCIPLES

3.2.19.2 Roster Scope for Professional Service Providers and Consultants

- The professionals and consultants that work on pre-determined tariffs are a subset of the Professional Service Provider collective. The key basis for this principle is that some professionals no longer issue or work on gazetted tariffs. Hence, The Roster System should only apply to Professional Service Providers with pre-determined and gazetted tariffs.
- In this context it may include but not be limited to the following list of Professional Service Providers or consultants:
 - (i) Architectural Services
 - (ii) Construction Services
 - (iii) Dispute Resolution Professionals
 - (iv) Engineering Services
 - Civil Engineering Services
 - Electrical Engineering
 - Geotechnical Engineering
 - Mechanical Engineering
 - Miscellaneous Engineering Services
 - Structural Engineering
 - (v) Environmental Impact Studies
 - (vi) Landscape Architectural Services
 - (vii) Management Services
 - (viii) Quantity Surveying Services
 - (ix) Land Surveying
 - (x) Transportation Planning
 - (xi) Town Planning
 - (xii) Property Valuations
 - (xiii) Arbitrations
- Guidelines tariffs that are issued by the National Department of Public Service and Administration determine hourly rates for consultants and could be adopted by the

Municipality. These fees are only applicable to consulting disciplines for which no such standardized rates have already been determined by professional institutes or associations established in terms of legislation

- Where no gazetted tariffs exist for a particular profession, it may, at the Municipality's discretion, be acceptable for a proposed schedule of tariffs to be submitted to the Council for approval on an annual basis. The duly approved tariffs should then be deemed to satisfy the requirement of "pre-determined tariffs" for that profession in terms of this policy. It should be noted that this avenue should only be acceptable for recognized professions providing Professional Services
- Professional Service Providers and consultant disciplines without a pre-determined tariff list should be sourced through existing agreed mechanisms (verbal quotations; three quotations; or competitive bids).
- The logic to not source Professional Service Providers (PSP's) who work on pre-determined tariffs via a competitive process (such as three quotations or bids) is that there is no sense in comparing multiple offers where they are all the same rate. This principle supports the "cost effective" principles in the section 217 of the Constitution.
- A tariff or rate is only one factor in a total cost equation. Other factors may include the scope and/or the time taken to fulfil a task or responsibility, such as:
 - (i) Where some factors are variable, then the competitive sourcing methods of quotations and bids should be used e.g. if one service provider may be able to complete the work more efficiently than another, then the Professional Service Provider should be sourced via a quotation or competitive bid and not via the Roster System.
 - (ii) Other total cost factors should all be constant or fixed (and not variable) before the Roster System is used for sourcing Pre-Determined Tariff PSPs i.e. the scope should be adequately defined and the time-period should also be firm (for example two months).

3.2.19.3 Registration of service providers

- Calls for Expressions of Interest for admission to the database in specified service disciplines should be made every two years in suitable media and in a manner that enables a wide spectrum of qualified respondents to respond to the call.
- Professional Service Providers should be requested to submit particulars sufficient for the Municipality to evaluate their eligibility and to establish their credentials and to assess their capabilities and capacities to perform work in service disciplines and sub disciplines.
- In order for the Professional Service Providers to be registered on the Roster System database they should also be registered on the Municipality's supplier database. The reason for this is that the Municipality already has a process and procedures in place

for registration and there is no sense in duplication

- All registrations on the Roster System database should be administered centrally by the Supply Chain Management Unit:
- Registration on the Roster System database should be valid for a period of two years or such period to be determined by the Supply Chain Management Unit.
- Professional Service Providers should be required to advise the administrator of the database of any changes that impact their registration status on the Roster System database.
- Renewal of Professional Service Providers registration on the Roster System database should be required every two years.
- Service providers should be allowed to register for admission to the Roster System database at any time.

3.2.19.4 Qualification to be registered on the Roster System database

- Qualification of a Professional Service Providers should typically be done when the supplier register's on the Roster System.
- This qualification can be updated as the Professional Service Provider progresses and acquires other capabilities and experience.
- Admission to the Roster System database requires service providers to submit particulars sufficient for the Municipality to evaluate their eligibility and to establish their credentials and to assess their capabilities and capacities to perform contracts envisaged by the Municipality.
- Service providers should be registered on the Roster System against the different service disciplines applied for and verified by the Municipality.
- Sequencing and Ranking of service providers on the Roster System database:
 - (i) A set of pre-defined weighted factors, where the weighting of these factors should be determined beforehand and should be transparent, should be used to determine initial ranking on the Roster System database per service discipline and sub-discipline.
 - (ii) Factors that should be taken into account in determining the positioning of service providers on the database (by service discipline) should include:
 - Value of successfully completed previous work conducted for the Municipality where value of the work should mean, value of all work a service provider has performed for the Municipality in the preceding year period.
 - The B-BBEEE status of the service provider.
 - When the amendments to the PPPFA is approved, the B-BBEE level of the service provider should be used
 - (iii) Performance of the service provider should not be a determinant of the sequencing of service providers on the Roster System. The rationale is that it may potentially impact on the Municipality's new service provider developmental initiatives and easily be

manipulated. Should a service provider have performed poorly to the point that it is blacklisted, then such service provider should be taken off the Roster System immediately.

- (iv) Service provider sequence and updates of sequence on the Roster System database should be triggered by the following events:
- Allocation of a new assignment to a service provider (new contract awarded).
 - Where the service provider declines such new assignment, the service providers' sequence should change to reflect as if the service provider had accepted.
 - Roster System database sequence updates should take place monthly.
 - After suppliers have been registered on the database.
 - Service providers should be removed from the Roster System database when such service provider no longer conducts business or is blacklisted due to default or misconduct by the Municipality.
- (v) Should there be service providers that are equal in value and B-BBEE level, then they should be sequenced according to a random number generator or date of registration on the Municipality's supplier register.

3.2.19.5 Selection of a Professional Service Provider on the Roster System database

- To limit risk and exposure to the Municipality, the sourcing of Professional Service Providers via the Roster System should be limited within an upper Rand value threshold of R200 000.
- (i) All projects exceeding this threshold should follow:
- The standard competitive quote and bidding process of the Municipality.
 - The limited quote and bidding process where appropriate.
- (ii) To limit the Municipal risk and exposure associated with project delays, the sourcing of service providers should be limited to pre-qualified service providers admitted to Roster System
- Where the assignment does not qualify as a Roster System appointment and a limited bid is required, the Roster System database should be used only for identification of the top listed service providers on the Roster System database that the bid would be limited to.
- Deviation appointments should follow the separate limited bidding process, as follows:
- (i) The Roster System database should be used to identify and select three service providers based on the following selection factors:
- Select three Professional Service Providers from the required service discipline or sub discipline and from the top of the list for that discipline.
 - The three service providers should meet selection criteria of location (if applicable) and qualification.
 - Qualification should always take preference where location criteria is not met

- (ii) Selection on the basis of quality should not necessarily mean the best quality available, but quality appropriate for the assignment.
- (iii) The Roster System selection process should always be executed by the Supply Chain Management Unit, who should recommend the selected service provider to the line management for appointment.
- (iv) Where a recommended service provider declines an assignment offered, that service provider should move to the bottom of the list, and the service provider next in line should be selected.
- (v) All correspondence relating to the Roster System and correspondence in this regard between Service Providers and the Municipality should be in writing.

3.2.19.6 Appointment of the Service Provider

- The final appointment of the service provider is either processed using mechanisms in the SCMPPOS or the line function with the appropriate delegated authority.

3.2.19.7 Roster System Computer Based

- The professional services supplier Roster should operate as a centralised database to be used by the Municipality.
- The system should preferably be an electronic system, due to:
 - (i) IT is a key enabler to compile and credibly implement the Roster System approach therefore the Roster System database should be populated with relevant data to enable the Roster System.
 - (ii) The Roster System should be programmed to determine various service discipline allocations, ranking and sequencing of service providers, and administrative activities.
 - (iii) Programmed electronic databases should provide integrity of the Roster System and remove subjectivity concerning Roster System activities.
 - (iv) Security of the system should be such that the Roster System cannot be unduly manipulated so as to influence service provider selection.
- The effectiveness of the Roster System should be evaluated using the monitoring mechanisms in the SCMPPOS; hence it should be necessary to record key performance indicators relating to time, cost and the attainment of specific goals associated with a service provider contract. All records of admissions, deletions and transactions on the database should be stored for a period of five years.

3.2.20 ROTATION SYSTEM FOR THE REPAIRS OF VEHICLES OR MECHANICAL EQUIPMENT; TYRE REPAIRS AND ICT EQUIPMENT

POLICY

3.2.20.1 Where it is difficult to ascertain the extent of damages or repairs to a mechanical part of a vehicle, mechanical equipment, tyres or IT equipment, such repairs should be done by means of a rotation process



- 3.2.20.2 In order to ensure fairness of this process, a dedicated official within the SCM unit will keep record of such transactions by capturing the information in a rotation register specifically devised for such purposes.
- 3.2.20.3 Only service providers that are registered on the Beaufort West Municipality supplier database, by virtue of them meeting the listing requirements, will be utilized on this basis.
- 3.2.20.4 In instances where the situation warrants that a service provider that do not meet the listing requirement must be utilized, a deviation process (section 3.2.9 of this policy) must be followed, stating the reason for the deviation
- 3.2.20.5. The list of service providers who can make repairs should be regularly updated by the SCM official in conjunction with the fleet manager and other user departments
- 3.2.20.6 No supplier may be contacted to affect repairs without consultation with the SCM official responsible for updating the register
- 3.2.20.7 The responsible SCM official must keep the affected departments informed of the eligible suppliers in the event that such a situation arise over weekends for example or any time where it is impractical or impossible to consult with the SCM official
- 3.2.20.8 A requisition completed by the user department must reach the SCM unit within two (2) work days from the date the supplier was informed to affect repairs with a quotation from the supplier so that a purchase order can be generated by the SCM unit
- 3.2.20.9 Where it is impractical or impossible for the supplier to submit a quotation within the two (2) working day period an estimated amount should be provided
- 3.2.20.10 The user department should at all times ensure that the price quoted and the quality of work is in line with industry standards to prevent abuse of this system
- 3.2.20.11 Where the amount for the repairs is less than R30 000 (VAT Incl.) compliance with MSCM regulations 16 (c) and 17 (c) must be adhered to
- 3.2.20.12 Where the amount for the repairs is more than R30 000 (VAT Incl.) compliance with MSCM regulation 36 (1) (a) must be adhered to.
- 3.2.20.13 On a quarterly and annual basis the register must be signed off by the SCM Official and fleet manager/responsible official and it should be endorsed by the Head: SCM

3.2.21 EMERGENCY POLICY

3.2.21.1 Irrespective of monetary value, an emergency procurement process will only apply in serious, unexpected and potentially dangerous circumstances which require immediate rectification:

- In the event of a threat or interruption in the Municipality's ability to execute its mandate or render its services.
- In the event of an immediate threat to the environment or human safety.

3.2.21.2 The standard procurement processes will be bypassed. The Municipality may dispense



with the invitation of bids and may obtain the requirement by means of quotations by preferably making use of the list of prospective providers or otherwise in any manner to the best interest of the Municipality.

3.2.21.3 The appropriate course of action for emergency shall be justifiable under the circumstances.

3.2.21.4 The nature of the emergency and the details of the justifiable procurement process followed will be recorded and reported.

3.2.22 UNSOLICITED BIDS

Refer to section 113 of the MFMA and SCM TR 37

POLICY

3.2.22.1 The Municipality is not obliged to consider unsolicited bids received outside a normal bidding process.

3.2.22.2 If the Accounting Officer decides to consider an unsolicited quotation/bid, he or she may do so only if:

- *It is in compliance with section 113 of the MFMA and SCM TR 37.*
- *The product or service offered in terms of the quote/bid is a unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the Municipality.*
- *The person who made the offer is the sole provider of the product or service.*

3.2.22.3 The need for the product or service by the Municipality has been established during its strategic planning and budgeting processes.

PRINCIPLES

3.2.22.4 The Municipality is not obliged to consider an unsolicited bid received outside its normal bidding process.

3.2.22.5 If the Municipality decides to consider an unsolicited bid received outside a normal bidding process, it may do so only in accordance with this framework.

3.2.22.6 This framework strictly regulates and limits the power of the Municipality to approve unsolicited bids received outside their normal tendering or other bidding processes and it may only do so if:

- The product or service offered in terms of the bid is a demonstrably or proven unique concept;
- The product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the Municipality or entity;
- The person who made the bid is the sole supplier of the product or service; and
- The reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.

3.2.22.7 If the Municipality decides to consider an unsolicited bid that complies with Municipal SCM regulation 37(2), the Municipality must make its decision public in accordance with

section 21 A of the Municipal Systems Act, together with:

- Its reasons as to why the bid should not be open to other competitors;
- An explanation of the potential benefits for the Municipality or entity were it to accept the unsolicited bid; and
- An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

3.2.22.8 Written comments, including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant Provincial Treasury for comment.

3.2.22.9 If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the AO must submit to the Auditor General, the relevant Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.

3.2.22.10 Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 30 days of the submission.

3.2.23 SPONSORSHIPS

Refer to SCM TR 48

POLICY

3.2.23.1 The Municipal Grant-in-Aid Policy guides the management of sponsorships as it provides for the opportunity for developing methods of joint funding strategies with outside agencies such as matching funding or sponsorship partnerships to meet the objectives of a developmental local government.

3.2.23.2 Reporting to the Provincial Treasury and National Treasury must promptly be executed as per TR 48.

3.2.23.3 The principles guiding the Grant-in-Aid Policy are to:

- Promote fairness, equitability and transparency in the process of granting aid funding.
- Support the poor, aged, youth, disabled and women.
- Promote sustainable solutions to serve the poor, marginalized or otherwise vulnerable.

3.2.23.4 Identify and develop sustainable matching funding or sponsorship partnerships to meet the objectives of a developmental local government.

PRINCIPLES

3.2.23.5 The AO must promptly disclose to the NT and relevant PT any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any 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.



**VOLUME 4: CONTRACT NEGOTIATIONS,
ADMINISTRATION, MANAGEMENT AND CONTRACT
RELATED RISK MANAGEMENT**

PART 4.1: CONTRACTUAL COMMITMENTS

4.1.1 CONCLUSION OF CONTRACTS

Refer to section 116 of the MFMA and SCM TR 51

POLICY

- 4.1.1.1 The SCM Unit must finalize the adjudication by issuing the letter of acceptance.
- 4.1.1.2 The acceptance of a successful bid must be in writing and must be sent by registered/certified mail/ email or as indicated in a special condition, the principle being that there must be a mechanism of proof of delivery.
- 4.1.1.3 The official with the necessary delegated authority to commit the Municipality, must be satisfied that all the necessary contractual conditions have been included prior to signing.
- 4.1.1.4 The Municipality's contract documents shall promote uniformity across the entity.
- 4.1.1.5 Both parties to the contract shall sign the contract form or formal contract.
- 4.1.1.6 Legal copies shall be kept in a safe place for judicial reference.

4.1.2 FORMAL CONTRACTS

POLICY

- 4.1.2.1 Where possible, the formal contract template must form part of the quotation/bid documents.
- 4.1.2.2 Formal contracts are concluded only where this is stated as a requirement in the quotation/bid document.
- 4.1.2.3 If a formal contract is concluded, an order must still be placed with the successful provider.

4.1.3 SERVICE LEVEL AGREEMENTS

POLICY

- 4.1.3.1 A service level agreement (SLA) may be compiled and signed if required.

4.1.4 TIME OF CONCLUSION

POLICY

- 4.1.4.1 The contract is concluded at the time that the letter of acceptance is posted even if the contract form and formal contract is only signed at a later date, unless stated otherwise in the quotation/bid documents.



PART 4.2: CONTRACT MANAGEMENT

4.2.1 GENERAL RESPONSIBLITY

Refer to section 65(2) and 116 of the MFMA as well as MFMA circular 62/2012

POLICY

4.2.1.1 The relevant user division takes responsibility for day-to-day management and monitoring of a contract in line with the contractual conditions.

4.2.2 MANAGING AND ADMINISTRATING THE CONTRACT

POLICY

4.2.2.1 The SCMU shall ensure that all reasonable steps are taken to properly enforce a contract.

4.2.3 CORRECTION OF INCORRECT ACCEPTANCE

POLICY

4.2.3.1 Mistakes in the letter of acceptance, contract form and/or formal contract must be reported immediately to the SCMU.

4.2.3.2 Every effort must be made without delay to recover the original letter of acceptance, contract form and/or formal contract from the contractor.

4.2.3.3 Where it is not possible to recover the original, all particulars of the incorrect acceptance must be reported to the AO or delegated authority together with a recommendation regarding the corrective steps that are envisaged.

4.2.4 PLACING ORDERS

POLICY

4.2.4.1 Placing orders is the sole responsibility of the SCMU.

4.2.4.2 Orders are to be placed in accordance with the contract and in accordance with the instructions of the financial policy.

4.2.5 PLACING ORDERS NEAR THE END OF THE CONTRACT PERIOD

POLICY

4.2.5.1 Placing orders near the end of the financial year in order to spend unused funds in the budgets are not allowed.

4.2.5.2 The obtaining of requirements must be restricted to what is absolutely necessary.

4.2.6 CONTRACT MONITORING

POLICY

4.2.6.1 Constant monitoring is essential to ensure that contractual obligations are met and that



contracts run with as little disruption as possible.

4.2.6.2 The SCMU is responsible for notifying the user division timely of term contract expiry that will allow the user division sufficient time to decide whether to renew the contract.

4.2.6.3 The user division must ensure that the contractor performs according to the stipulations of

4.2.6.4 the contract in delivering the goods or services on time, in the correct quantity and to the required standard and implement retention provisions where applicable.

4.2.6.5 Regular meetings with contractors to discuss progress, deliverables, foreseeable problems and/or amendments must be held during the contract period.

4.2.7 NON-CONTRACTUAL PURCHASES

POLICY

4.2.7.1 Small quantities of supplies or minor services may be procured outside of the contract in the following circumstances:

- In cases of emergency; or
- When the contractor's point of supply is not situated at or near the place where the supply or service is required; or
- If the contractor's supplies or services are not readily available; or
- As per the Municipal social relief policy.

4.2.7.2 Purchases outside the contract must be restricted to requirements that are absolutely necessary to satisfy the immediate requirement and the action must always be justifiable against the contract conditions.

4.2.7.3 Acquisitioning procedures must in all instances be followed when procuring outside of existing contracts.

4.2.8 PAYMENTS

MFMA section 65(2)

POLICY

4.2.8.1 Under normal circumstances payment is made for supplies in accordance with the contract conditions only after they have been delivered and, where applicable, installed, in good working order, within 30 days or such timeframe as contractually agreed.

PRINCIPLES

4.2.8.2 Sound cash management include avoiding pre-payment or advance payment for goods/services (i.e. payments in advance of the receipt of the goods/services), unless required by the contractual conditions.

4.2.8.3 Where a contractor requires an advance payment or a progress payment and this is not a contract condition, payment may be made only with the prior approval of AO.



4.2.8.4 The conditions for advance payment would normally have to include a letter of credit from the supplier as a counter commitment to the advance.

4.2.8.5 Payments must be made within 30-days after it is due as per section 65(2) of the MFMA

4.2.8.6 Consultants, including construction and infrastructure related services, must only be remunerated at the rates equal to or below those:

a) determined in the “Guidelines on fees for audits done on behalf of the Auditor-General South Africa”, issued by the South African Institute of Chartered Accountants (SAICA);

b) set out in the “Guide on Hourly Fee Rates for Consultants”, by the Department of Public Service and Administration (DPSA); or

c) Prescribed by the body regulating the profession of the consultant.

d) At a rate determined fair or equitable by the Accounting Officer and agreed upon by both parties.

Travelling and subsistence costs for the appointment of consultants must be in accordance with the travelling and subsistence policy of the municipality and the contract price should specify all travelling and subsistence costs.

4.2.1 OVER/UNDER DELIVERIES POLICY

4.2.1.1 Over- or under-deliveries may be accepted in accordance with the AO’s delegated powers

4.2.2 DISCOUNT ON INVOICES POLICY

4.2.2.1 In cases where a discount is not a contract condition and a contractor indicates a discount on his invoice, this discount must be utilized if possible, for instance by making payment within the time limit specified on the invoice. However, orders must at all times be placed in accordance with the contract conditions, i.e. non-contractual discounts must not be taken into consideration when placing orders.

4.2.3 INSOLVENCY, LIQUIDATION, DEATH, SEQUESTRATION OR JUDICIAL MANAGEMENT OF CONTRACTORS POLICY

4.2.3.1 In terms of paragraph 26 of the GCC, the Municipality has certain options, which it may exercise in the case of insolvency.

4.2.3.2 The risk to the Municipality is the determining factor and the choice with the smallest degree of risk is preferred.



4.2.4 TRANSFER OR CESSION OF CONTRACTS

POLICY

4.2.4.1 The contractual conditions should stipulate the conditions under which transfers/cessions shall be considered and the process to be followed in such circumstance.

4.2.5 TRANSFER OF CONTRACT PAYMENTS

POLICY

4.2.5.1 Transfer of payments may be considered in cases where a contractor makes application on an official letter signed by the CEO, or any other authorized person, for monies due to the contractor, to be paid to another person or organization, such as a bank or supplier of materials.

4.2.5.2 Contract payments may be transferred on the recommendation of the Municipality and with the relevant Accounting Officer's or delegated authority's approval only.

4.2.5.3 Written confirmation must be obtained from the contractor as requests for transfer of payment received from another person or organization cannot be considered favorably.

4.2.5.4 Every application must be dealt with on its own merits. Favorable consideration will result only where it is not to the detriment of the Municipality and will not result in an undue administrative burden for the Municipality.

4.2.6 CONTRACT VARIATIONS/AMENDMENTS

Refer to MFMA circular 62 of 2012

POLICY

4.2.6.1 Contracts may be amended/varied/modified according to the AO's delegated powers to achieve the original objective of the contract.

4.2.6.2 Amendments may not materially alter the original objective; as such amendments should form part of a new bid invitation.

4.2.6.3 All contractual parties must agree to the amendment in writing.

4.2.6.4 No contract can be amended after the original contract has ceased to exist.

4.2.6.5 The extension of a contract shall be finalized before the current expiry date of the contract.

4.2.6.6 Where prices are amended for the extended period, the reasonableness of the prices must be established.

4.2.7 EXTENSION OF DELIVERY PERIODS

POLICY

4.2.7.1 Delivery periods may be extended according to the AO's delegated powers.

4.2.8 AMENDMENT OF CONTRACT CONDITIONS

POLICY

4.2.8.1 Amendments may be considered on their merits bearing in mind the best interest of the Municipality.

4.2.8.2 Amendments, which prejudice the Municipality, can be agreed to only with the approval of the relevant delegated authority on recommendation of the Bid Adjudication Committee.

4.2.9 AMENDMENT OF SPECIFICATIONS

POLICY

4.2.9.1 Where a binding contract has been concluded, an amendment of the specification whether initiated by the contractor or by the Municipality, can be made only after negotiation between the contractor and the Municipality and through the facilitation of the SCMU.

4.2.10 CONTRACTUAL PRICE ADJUSTMENTS

POLICY

4.2.10.1 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.

4.2.10.2 In cases of term contracts, price adjustments shall be considered on a quarterly basis and this condition shall be indicated in the bid document.

4.2.10.3 No price adjustments should preferably be considered for a contract period less than twelve (12) months.

4.2.10.4 The prescribed formula will be used for adjustment of prices due to the fluctuation of the indices.

4.2.10.5 Indices compiled by Statistics South Africa will be used for price adjustments.

4.2.10.6 Rate of Exchange (ROE) fluctuations are only allowed on the imported content of the commodity.

4.2.10.6.1 NON-CONTRACTUAL ADJUSTMENT OF PRICES

POLICY

- Non-contractual adjustment of prices is normally not allowed.

4.2.10.6.2 REDUCTION OF PRICES

POLICY

- The Municipality must accept price reductions after award of a contract where this is advantageous to the Municipality, unless the acceptance of the price reduction amounts to

breach of contract.

**1.2.21 UNSATISFACTORY PERFORMANCE AND CONTRACT TERMINATION
POLICY**

1.2.21.1 The Municipality 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.

1.2.22 RESTRICTION

Refer to MFMA section 112 (1) (m&n) and SCM TR 43 & 44

POLICY

1.2.22.1 The Municipality may in terms of SCM Treasury Regulations 43 & 44.

1.2.22.2 Disregard the bid of any bidder if that bidder, or any of its directors-

- Have abused the Municipality's SCM system;
- Have committed fraud or any other improper conduct in relation to such system; or
- Have failed to perform on any previous contract; and
- Must inform the relevant Treasury of any action taken in terms of the aforementioned paragraph.

1.2.22.3 Irrespective of the procurement process followed, no award may be made to a person:

- Who is in the service of the state;
- 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
- A person who is an advisor or consultant contracted with the Municipality

1.2.22.4 The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous 12 months, including:

- The name of that person;
- The capacity in which that person is in the service of the state;
- The amount of the award.

PRINCIPLES

1.2.22.5 In terms of the Prevention and Combating of Corrupt Activities Act, only the National Treasury is empowered to impose restrictions on providers who were found guilty by a court of law for criminal offences related to public sector bids.

1.2.22.6 The Municipality may restrict or refuse bids as stated in the regulation above. The difference being that the restriction is not placed by a court of law.

1.2.22.7 When considering restriction, the Municipality must ensure that all the facts are made available to all role players and the National Treasury is fully informed of the person or organization's reactions to the warnings that must have been issued.

1.2.22.8 Furthermore, care must be taken that the prescribed procedures have been followed, since the court may find that an administrative action, such as the imposition of a restriction, is not valid in cases where the person or organization, for example, has not been given a reasonable time to put the other side of the case, or has not been fully informed of the results of his failure to react.

1.2.22.9 It is also possible that, where contradictions or ambiguities exist, the court will give the benefit of the doubt to the persons or organizations against whom a restriction has been imposed and may pass judgment in their favor.

1.2.22.10 The register of restricted persons or companies prohibited from doing business with the public sector, found guilty by a court of law is obtainable from the National Treasury's database.

1.2.22.11 The challenge of not being privy to a database of public officials as employed in terms of the PSA and the fact that there is no database in place in respect of officials employed by Municipalities in the National domain makes this requirement impractically and administratively burdens them.

1.2.23 CONTRACT TERMINATION POLICY

1.2.23.1 The Municipality must cancel a contract awarded to a supplier of goods or services:

- If the supplier committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract.
- If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.

1.2.23.2 Termination of a contract may be considered for a variety of reasons, as stipulated in paragraphs 21.6, 23 and 26 of the GCC, such as delayed deliveries, failing to perform any other contractual obligation or if the supplier has engaged in corrupt and fraudulent practices and insolvency.

1.2.23.3 Contract termination may be effected if allowed for in the contractual conditions and if both parties agree to the termination in writing.

1.2.24 CONTRACTS REPORTING QUESTIONNAIRE: NATIONAL TREASURY POLICY

1.2.24.1 The Municipality shall submit reports to National Treasury in respect of each contract concluded during that month within 15 days of the end of each month to enable the Minister of Finance to report to Cabinet and Parliament on progress made.

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a cursive 'a' and a flourish.


1.2.25 CONTRACTOR ASSESSMENT

PRINCIPLES

- 1.2.25.1 The Municipality must ensure that the performance of all contractors is assessed during the period of the contract.
- 1.2.25.2 At the completion stage of the project/contract, an assessment of the contractor shall be undertaken and this assessment should be available for future reference.
- 1.2.25.3 The reliability of the contractor should be monitored in terms of, among others:
- Capacity and capability to deliver (delivery periods).
 - Quality.
 - Quantity.
 - Attainment of objectives.
 - Other criteria determined by the Municipality (such as availability of facilities, reliability, flexibility, price, financial stability, response time, technical competence, creativity and innovation) should also be monitored.
- 1.2.25.4 Contractors shall be systematically monitored for performance against the same criteria as those used in the registration process for the provider list or the criteria set in the specification/terms of reference, where applicable. In other words was the contractor (chosen from a provider list or a bidding process) able to perform according to the contract conditions.
- 1.2.25.5 When contractors do not perform according to the contractual obligations and the Municipality does not address the matter during the execution of the contract, such non-performance cannot be deemed as sound reasoning for passing over the bid of such supplier/service provider when evaluating future bids.
- 1.2.25.6 It is important that all instances of breach of contract and the ensuing actions that were taken must be recorded in a prescribed format so that management information can be extracted for reporting purposes, as required.

1.2.26 CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

PRINCIPLES

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

VOLUME7: RISK AND PERFORMANCE MANAGEMENT

PART 7.1: RISK MANAGEMENT

7.1.1 RESPONSIBILITY FOR RISK MANAGEMENT

Refer to SCM TR 41

POLICY

7.1.1.1 The AO shall ensure that the Municipality has and maintains an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM system.

7.1.1.2 Aspects of risk management shall be allocated to the CFO, the SCM practitioners, the internal audit function and the Audit Committee, each of which shall ultimately be accountable to the AO for the discharge of their responsibilities.

PRINCIPLES

7.1.1.3 Risk management is a key responsibility of the AO.

7.1.1.4 The MFMA and relevant Treasury Regulations assign responsibilities for aspects of risk management to management, the CFO, the internal audit function and the Audit Committee, each at the appropriate level of execution.

7.1.1.5 Risk management is however a continuous and proactive process that relates to all organisational activities at all levels.

7.1.1.6 All SCM practitioners must have a thorough understanding of the risks involved in the activities under their control and actively work towards managing these risks.

7.1.1.7 Each practitioner has a responsibility toward risk management.

7.1.1.8 SCM related risk management must be applied complimentary to the Municipal risk management system.

7.1.2 ELEMENTS OF RISK MANAGEMENT

PRINCIPLES

7.1.2.1 Risk management is the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects. Risk management forms an integral part of the SCM process.

7.1.2.2 The elements of risk management therefore are:

- Assessing the nature and extent of the risks associated with the Municipality's operations.
- Deciding on an acceptable level of loss or degree of failure.
- Deciding how to manage (minimize) the risk.
- Monitoring, reporting and from time to time re-assessing the level and implications of the risk exposure.

7.1.3 APPLICATION OF RISK MANAGEMENT IN SCM

POLICY

7.1.3.1 The Municipality shall, where applicable, apply Treasury Guidelines on Risk Management.

7.1.4.1 The Accounting Officer or delegated authority shall determine the Municipality's risk appetite.

7.1.3.3 Risks shall be identified upfront on a case-by-case basis.

7.1.3.4 Risks shall be allocated to the party best able to manage such risk.

7.1.3.5 The Municipality must bear the cost of risks where the cost of transferring risk is greater than that of retaining such risk and it must transfer the risk where this is not the case.

7.1.3.6 Risks shall be managed in a pro-active manner and the provision of adequate cover for residual risks.

7.1.3.7 The bid and contract documentation must clearly state to whom the risk has been allocated and who should take responsibility for managing it.

PRINCIPLES

7.1.3.8 Risks must be identified and assessed together with the identification and crafting of the requirement and are essentially driven by the objectives that must be achieved.

7.1.3.9 Decisions must be taken with regard to minimising the Municipality's exposure to risk, as well as to the potential effects of the risks. The focus should be on an approach involving preventing risks from materialising, detecting the effects of risks as soon as possible and correcting or recovering from the consequences.

7.1.3.10 Risk management decisions must continuously involve a cost benefit analysis (considerations of economy). The cost of controlling (minimising) a risk must not exceed the benefits to the Municipality. Benefits can include the objective or subjective measurement of the cost to the Municipality if the particular risk should materialize. (If it is not controlled what is the potential cost to the Municipality?).

7.1.3.11 The identification, assessment and controlling of risks necessarily implies a specific management process including various stages and steps.

7.1.3.12 The controlling (minimizing) of identified risks essentially refers to the development and implementation of risk management techniques.

7.1.3.13 Risk management entails, inter alia, a management culture that accepts that all business opportunities entail risk taking. The trade-off between success and failure and to decide what is an acceptable risk (having regard to its cost and other social or political factors) that a programme might not achieve any or all of its objectives.

7.1.3.14 A major component of risk management is the establishment of a fraud prevention plan which aims to manage the risk of fraud through cost-effective use of the control environment, information systems, control procedures and an ethical culture within the

Municipality.

7.1.3.15 Risk must be identified on a case-by-case basis. It would however be good to build a list of potential risks over time that can be considered for each requirement.

7.1.3.16 Allocate the risk to the party best able to manage such risks.

7.1.3.17 The Municipality should bear the cost of risks where the costs of transferring risk is greater than that of retaining such risk and transfer to risk where this is not the case.

7.1.3.18 The exercise of risk management in a proactive manner and providing adequately for the cover of residual risks.

7.1.3.19 Bid and contract documentation must clearly and unambiguously assign relative risks to the relevant bidding and contracting parties.

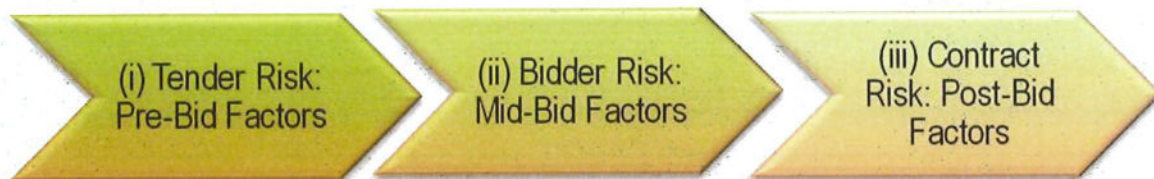
7.1.3.20 Risk management should form part of the business plan for the acquisition of all goods, services and works.

7.1.3.21 The Municipality should insure for procurement related physical risks, establish risk management programmes or make advance provision for losses associated with such risks. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of emerging small and micro enterprises.

7.1.3.22 Ensure adequate resources to support control risk mitigation and control measures are incorporated.

RISK MANAGEMENT PHASES

7.1.3.23 There are 3 distinct phases in any selection, appointment and delivery process of a bid that can be analyzed and the various risks assessed:



(i) BID RISK – PRE-BID FACTORS:

- Legislative/Legal requirements: There are a host of prescripts that govern the bid process as indicated above. Although designed to reduce subjectivity in the selection criteria, they can create a potential hazard due to the technical nature and legalities that govern the various SCM processes.
- Deliverables: The bid specifications are designed to guide the bidders in meeting the expectations of the bid requirements. Deliverables are to be clearly stipulated against timelines and monetary cost. SCM practitioners should be wary of bidders who have merely replicated the specifications of the bid without any apparent attempt to interpret or contextualize what the objectives of the bid are.
- Timeframes: The bid timeframes need to be realistic in what is expected of the bidder. Unfortunately the drafters of bids can be under budgetary or political pressure and may

question the viability of potentially setting up a bidder to fail or be forced to submit/deliver sub-standard work so as to meet these aggressive targets. In the bid the bidder should have a clear Gantt chart that specifies the entire project plan coupled with resourcing and milestone dates.

- Municipal resources:Of importance in the facilitation of the entire bid (as well as post-bid project roll-out) the department needs to ensure that there are sufficient capacitated Municipal resources to monitor the process throughout contracting and implementation.
- Costs:Pricing is a key selection criterion in all bids. Although it should not be a case of “cheapest bidder wins”, the justification of a more expensive bidder over another is the first criteria point that comes under scrutiny. Often the most contested issues between bidders is who was the cheapest. The pre-bid bid phase forces the department to consider what a realistic price is for the meeting of the deliverable. (Hint: if there is a very wide pricing discrepancy between the bidders – a variation of more than 100% - then it is possible that the bid specifications have not been clearly specified.)
- Political risk:Service delivery is ultimately linked to political promises and must be considered. However, NO political interference with SCM processes at any stage is allowed.

(ii) **BIDDER RISK – MID-BID FACTORS:**

- Profile – The profile of the bidder should be assessed against the core competencies of the company. In all construction or civil engineering related work, the CIDB grading must also be verified.
- Capacity/staff/size/location – During the Bid Specification process the Municipality must develop a full understanding of the bidder capabilities required in order to meet the demands of the project.
- Preferences/B-BBEE – the SCM practitioner is well guided here in terms of the PPPFA Regulations on how to measure and assess the preference status of a bidder. Because of its nature and the competitiveness between bidders, fronting is a reality that needs to be assessed and mitigated.
- Financial position – Ultimately the bidder needs to demonstrate that they are able to commence the project and have sufficient cash flow to ensure project floatation and reduce the risk of delay through strike action, inability to pay plant hire, liabilities and staff costs.
- Experience – the bidder will need to submit various references and articulate experience from similar projects. The bidders should have the following information included in the bid relating to their past experience:
 - Name of client
 - Nature of project



- Project dates
- Client reference name and title
- Client contact number (and e-mail address) and referrals.

(iii) **CONTRACT RISK – POST-BID FACTORS:**

- Project risks: The unique nature of each project will determine the nature of the project risks that can arise throughout the project lifespan. There are certain generic project management criteria that can serve as early warning signs that a project could start losing traction:
 - A high churn of project staff
 - Diluted progress reports
 - Minutes that appear repetitive
 - Progress reports that echo the last report
 - Scope creep at early stages of the project
 - Missing of project milestones
 - A lack of visible progress
 - An inability to engage meaningfully and contextually with department project managers
 - Invoices without detail
 - Poor quality products
 - An over- reliance on sub-contractors
- Contract administration and management risks - Risks related to the contract management and administration must be considered and managed. Some of the more common risks related to managing a contract include:
 - The failure of either party to fulfill the conditions of the contract.
 - Inadequately administering/managing the contract.
 - Unauthorized changes to the contract.
 - The failure to meet the strategic objectives of the bid/contract.
 - The loss of intellectual property.
 - Changing scope.
 - Changing technology.
 - Fraud.
 - The lack of properly maintained records.
 - Unethical behavior or conflicts of interest.
 - Changes or absences in key personnel.
 - New business processes do not integrate with existing processes.
 - People (in both organizations) fail to understand their obligations and responsibilities.

- Too many issues are escalated inappropriately.
- Progress is slow or there seems to be an inability to move forward.
- The intended benefits are not realized.
- Opportunities to improve value for money and performance are missed.
-
- Ultimately, the contract becomes unworkable.
- Poorly drafted contract.
- Inadequate resources are assigned to contract management.
- The customer team does not match the provider team in terms of either skills or experience (or both).
- The wrong people are put in place, leading to personality clashes.
- The context, complexities and dependencies of the contract are not well understood.
- There is a failure to check provider assumptions.
- Authorities or responsibilities relating to commercial decisions are not clear.
- Lack of performance measurement or benchmarking by the customer.
- Failure to monitor and manage retained risks (statutory, political and commercial).

PART 8.2: GUARANTEES

Refer to MFMA s50

POLICY

7.2.1 National and provincial guarantees

7.2.1.1 Neither the national nor a provincial government may guarantee the debt of a Municipality except to the extent that Chapter 8 of the Public Finance Management Act, 1999 provides for such guarantees.

7.2.1.2 “debt” means— (a) a monetary liability or obligation created by a financing agreement, note, debenture, bond or overdraft, or by the issuance of Municipal debt instruments; or (b) a contingent liability such as that created by guaranteeing a monetary liability or obligation of another;

7.2.2 Municipal guarantees

7.2.2.1 A Municipality may not issue any guarantee for any commitment or debt of any organ of state or person, except on the following conditions:

- The guarantee must be within limits specified in the Municipality’s approved budget;
- a Municipality may guarantee the debt of a Municipal entity under its sole control only if the guarantee is authorised by the council in the same manner and subject to the same conditions applicable to a Municipality in terms of this Chapter if it incurs debt;
- a Municipality may guarantee the debt of a Municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only

if—

- (i) the Municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or
- (ii) the Municipality purchases and maintains in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the Municipality's potential financial exposure as a result of such guarantee.

7.2.3 Guarantees, indemnities and securities by Councilors

7.2.3.1 A Councilor, with the written concurrence of the Executive Mayor (given either specifically in each case or generally with regard to a category of cases and subject to any conditions approved by the Executive Mayor), may issue a guarantee, indemnity or security which binds—

- the Municipal Revenue Fund in respect of a financial commitment incurred or to be incurred by the Councilor; or
- a Municipal entity in respect of a financial commitment incurred or to be incurred by that entity.

7.2.3.2 Any payment under a guarantee, indemnity or security issued in terms of—

- subsection (1)(a), is a direct charge against the Municipal Revenue Fund, and any such payment must in the first instance be defrayed from the funds budgeted for in the department that is concerned with the issue of the guarantee, indemnity or security in question; and
- subsection (1)(b), is a charge against the Municipal entity concerned.

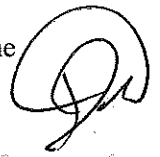
7.2.3.3 A Councilor who seeks the Executive Mayor's concurrence for the issue of a guarantee, indemnity or security in terms of subsection (1)(a) or (b), must provide the Mayor with all relevant information as the Mayor may require regarding the issue of such guarantee, indemnity or security and the relevant financial commitment. The responsible Councilor must at least annually report the circumstances relating to any payments under a guarantee, indemnity or security issued in terms of subsection (1)(a) or (b), to the Municipal Council.

PRINCIPLES

7.2.3.4 Performance guarantees should be commensurate with the degree of contractual risk to which the Municipality are exposed, but is required for projects exceeding R 10 m in value.

7.2.3.5 In cases of large and complex contracts, it is advisable to call for bid guarantees to prevent the submission of irresponsible bids.

7.2.3.6 Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all the Municipality's costs



relating to such failure are likely to be recovered.

PART 7.4: SCM PERFORMANCE REVIEW

7.3.1 DEFINING PERFORMANCE MANAGEMENT

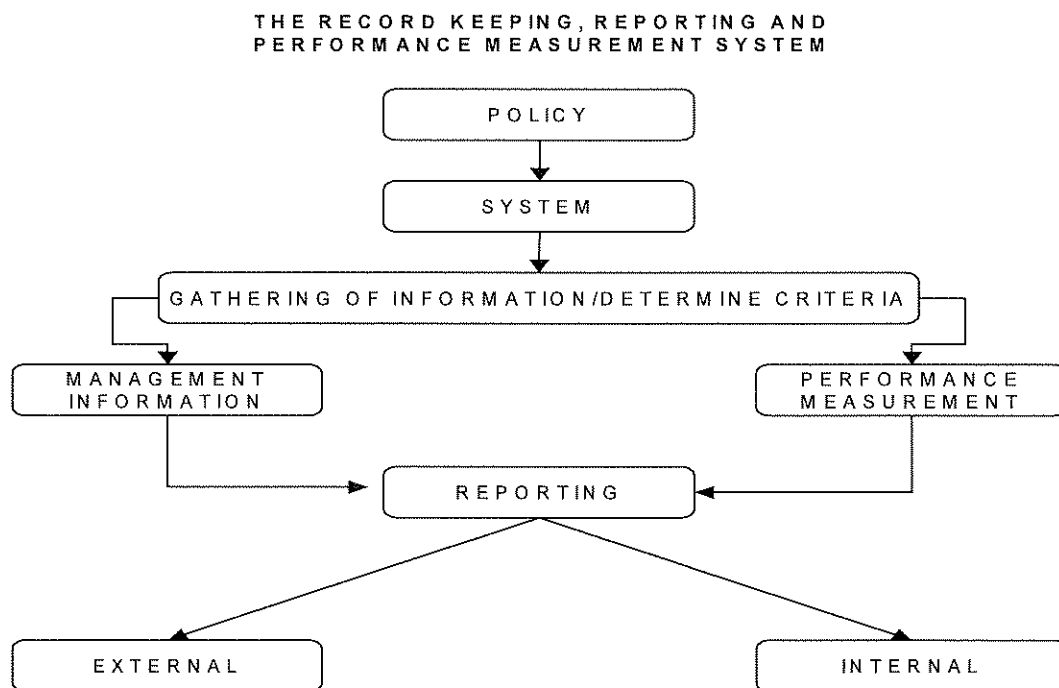
SCM TR 42

PRINCIPLES

7.3.1.1 Performance management is a pro-active and re-active (retrospective) process of determining whether objectives and Municipal strategic and operational goals are being met. As such it serves as a management tool.

7.3.1.2 Since the SCM System is an integral part in achieving these objectives, it is necessary that recording, reporting and performance measurement regarding the SCM system must take place.

7.3.1.3 It is therefore essential that the Municipality must establish a system as illustrated and explained in more detail hereunder:



7.3.1.4 Gathering of information/determining criteria

- The National Treasury has determined that they require certain information so as to determine the implementation and progress made by Institutions regarding the SCM system.
- The Municipality is therefore compelled to ensure the continuous gathering and recording of this information to satisfy the requirement. In certain cases, the criteria to be used in determining progress will have to be compiled and updated at regular intervals. Steps will then have to be taken within the Municipality to ensure that this system is implemented.

7.3.1.5 Management Information

- From the gathered information the prescribed external and internal management reports

must be compiled and distributed.

7.3.2 ASSESSMENT/MEASUREMENT OF SUPPLY CHAIN PERFORMANCE

POLICY

7.3.2.1 The Municipality shall measure and monitor the SCMPPOS and process through a performance measurement system to ascertain whether government's objectives and targets set have been achieved. In this regard complete records pertaining to SCM will be kept.

7.3.2.2 The Municipality shall monitor and assess the performance of all contractors during the contract period.

7.3.3 DEFINING SCM PERFORMANCE MEASUREMENT

PRINCIPLES

7.3.3.1 Supply chain performance is a monitoring process during which a retrospective analysis is undertaken to determine whether the prescribed SCM processes are being followed and whether the desired objectives are in the process of being achieved.

7.3.3.2 SCM performance can be broken down into two categories of performance measurement:

- Contractor assessment.
- Monitoring of the SCMPPOS and processes followed.

7.3.4 MONITORING OF THE SCMPPOS

PRINCIPLES

7.3.4.1 The AO must, within 30 days of the end of each financial year, submit a report on the implementation of this Policy of the Municipality and of any Municipal Entity under its sole or shared control, to the Council of the Municipality, and whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Council.

7.3.4.2 The AO must, within 10 days of the end of each quarter, submit a report on the implementation of the SCM Policy to the Mayor.

7.3.4.3 The reports must be made public in accordance with section 21A of the MSA. The AO will, within 60 days of the end of each financial year, submit to the PT any information concerning SCM in such format as the NT may determine.

7.3.4.4 The purpose of reporting is to effectively measure the achievement of government's as well as the Municipality's procurement objectives and targets set.

7.3.4.5 The AO, in consultation with the Council, must determine whether the proper process has been followed and whether the desired objectives and targets have been achieved. The Municipality must be able to extract accurate commercial and other relevant

information.

7.3.4.6 The use of a common scorecard by the Municipality will provide a basic framework against which to benchmark the same process. The scorecard also allows the Municipality to align its SCM practices and individual strategies. The scorecard facilitates the process of setting measurable targets for implementation plans and to highlight deficiencies to be attended to.

PART 7.4: REPORTING OF SCM INFORMATION

PRINCIPLES

7.4.1 The Municipality shall report quarterly to the Council on the following aspects:

- Total procurement spend.
- Percentage of total spend directed toward B-BBEE.
- Percentage of total spend directed toward Small Medium and Micro Enterprises (SMME's).
- Information required regarding urgent/emergency procurement processes followed.
- Process disputes.
- Instances of alleged and proven fraud or corruption.
- Information regarding deviation processes followed. Examples of such processes are:
 - Non-utilization of the provider list
 - Subdividing of total requirements
 - Unplanned spending and obtaining less than the required number of quotes.
 - In short any deviation from the Accounting Officer's delegated powers constitutes a deviation.

PART 87: OPTIMAL SYSTEM UTILISATION

POLICY

7.5.1 An electronic SCM system interfacing and integrating with the financial system of the Municipality may be instituted.

PRINCIPLES

7.5.2 Minimum user-criteria to include:

7.5.2.1 Parameters common to all SCM actions:

- Define prime parameters common to all SCM actions and allocate appropriately on the relevant electronic system.

7.5.2.2 User access to procurement processing:

- Restrict users to only certain actions or functionality depending on authority.
- Allocate dummy user ID to SCM-users in order to eliminate having to continually record the personal details of procurement applicants.
- Allocate proper logon to users who perform SCM management functions, or act as

superior in the authorisation process.

- Type of SCM user:
 - (i) **No Access:** Default
 - (ii) **Applicant:** May input a new request, change and view own requests only
 - (iii) **SCM Practitioner:** A delegated SCM official with authority to perform all procurement actions
 - (iv) **T-Storekeeper:** A delegated SCM practitioner with authority to perform procurement actions for either a named store or all stores only
- Optional post type may be used to identify specific types of user.
- Additional general security and authorisation particulars:
 - (i) Authorise expenditure to the value of R...
 - (ii) Superior users to which a request is to be forwarded for authorisation of expenditure if the user's limit is insufficient to cover total request value
 - (iii) Sub-delegated if the user is unable to fulfill functions these may be temporarily sub-delegated to another user
 - (iv) Temporarily sub-delegated to user who may also have a personal limit and own superior
 - (v) Sign-off procurement authorisation limited to a value of R...

7.5.2.3 User options defined by the individual SCM user:

- Build level of personal security into the system.
- Password valid for one month only – after which it must be changed by the user.
- Passwords must be rotated (the system will not allow the user to change the password to the same value as currently used or to any one of the previous number of passwords.
- Control the access/authorisation of users to the use of cost codes and the values which may be authorised for expenditure – this may differ from year to year and depend on the level of authority of the user.
- Nominate a list of cost codes for each user who may authorise expenditure.
- Limit users to the selection of only their personal list of cost codes – and be unable to select a total procurement amount in excess of the maximum value.

7.5.2.4 Updating of the registration details of existing creditors and/or suppliers:

- Update suppliers and existing creditors using the same input form.

7.5.2.5 Re-registration of suppliers/creditors:

- De-register all creditors at year-end and only re-register once they have supplied their latest information.

7.5.2.6 Archiving of supplier related documents:

- Scan and enter ID into system via supplier maintenance procedure with initial registration.

7.5.2.7 Input of a request for goods or services – reserving of finance:



- A request for goods and services may be entered by any user who has at least applicant user access to SCM.

7.5.2.8 Advertising of requirements:

- If advertising of requirements is a mandatory part of the procurement procedure, the SCM practitioners will be notified of which requests require an advertisement.
- The details of the advertisement depend on the needs of the user and the media to be used – and whether any correspondence is to be archived or not.

7.5.2.9 Approvals, requisitions and signatures:

- A quotation record must exist in the request history – otherwise the approval process can not proceed.

7.5.2.10 Changes to requests:

- Reasons to change a request after it has been submitted:
 - (i) The applicant has not supplied sufficient information or incorrect data was input
 - (ii) The selected cost codes are incorrect
 - (iii) The expected pricing differs marginally
 - (iv) The expected costs differ radically from the quotations which have been received
 - (v) As a result insufficient funds were reserved for the procurement

PART 7.6: SAFEGUARDING OF SCM INFORMATION

7.6.1 RECORD KEEPING

PRINCIPLES

7.6.1.1 ACHIEVING OF PREDETERMINED TARGETS

- The Municipality must gather as much information as possible on a continuous basis adapt to changing targets and Government's reporting requests pertaining to SCM.
- Keeping complete records pertaining to SCM will assist the Municipality in their performance monitoring and reporting role.
- Apart from records, the Municipality should also maintain a proper filing system per case.

7.6.1.2 RECORD KEEPING HAS TO BE STRUCTURED AS FOLLOWS:

- The necessary information, to satisfy the internal and external reporting requirements, has to be kept in an orderly manner. The gathering of information and recording system must provide for the type of information required, deadlines and the allocation of duties and responsibilities.
- Record keeping does not replace the normal filing system that contains the hard copy of each case.
- The necessary records can be maintained either manually or electronically and does not have to be a formal register. As such a list or spreadsheet will suffice. Information can

incorporated

into a single record where possible. The consolidation of the required returns and forwarding thereof has to be allocated to the responsible person or section.

7.6.1.3 THE FOLLOWING RECORDS SHOULD BE KEPT:

➤ **Record of gifts received per division**

- (i) Name of official that received the gift.
- (ii) Description of the gift.
- (iii) Estimated value of the gift.
- (iv) Name of person or organization that presented the gift.
- (v) Pages must be numbered.
- (vi) This record must preferably be in hard copy format.

➤ **Bid documents issued**

- (i) Bid reference number.
- (ii) Names of prospective bidders who requested documentation.
- (iii) All inscriptions must be numbered.

➤ **List of bids received**

- (i) Bid reference number.
- (ii) Closing date.
- (iii) Names of bids received.
- (iv) All inscriptions must be numbered.

➤ **Record of verbal and written quotations**

Verbal quotations:

- (i) Date of the request received by the SCM Unit.
- (ii) Particulars of end user, contact person and telephone number.
- (iii) Registration number of the provider where applicable.
- (iv) Names and contact details of prospective providers contacted.
- (v) Price of quotes received.
- (vi) Name of the successful provider.
- (vii) Date of approval and the name and rank of the person/s that granted the approval.
- (viii) Delegation number, if applicable.
- (ix) Satisfactory/non-satisfactory completion of the service or delivery of the goods.
- (x) Rotation indicator on prospective provider list.
- (xi) All inscriptions must be numbered.

Written quotations:

- (i) Date of the request received by the SCM Unit.
- (ii) Particulars of end user, contact person and telephone number.
- (iii) Acquisition number



- (iv) Description of the requirement.
- (v) Estimated value of the requirement.
- (vi) Registration number of the provider where applicable.
- (vii) Names and contact details of prospective providers contacted.
- (viii) Price of quotes received.
- (ix) Specification points, B-BBEE status, points for goals, and points for price are to be indicated separately.
- (x) Total points scored.
- (xi) Name of the successful provider.
- (xii) Date of approval and the name and rank of the persons/body that granted the approval.
- (xiii) Delegation number.
- (xiv) Satisfactory/non-satisfactory completion of the service or delivery of the supply.
- (xv) Rotation indicator on prospective provider list.
- (xvi) All inscriptions must be numbered.

➤ **Record of all competitive bids**

- (i) Date of the request received by the SCM Unit.
- (ii) Particulars of end user, contact person and telephone number.
- (iii) Requisition number.
- (iv) Description of the requirement.
- (v) Estimated value of the requirement.
- (vi) Registration number of the provider where applicable.
- (vii) Names and contact details of prospective providers contacted.
- (viii) Price of quotes received.
- (ix) Specification points, B-BBEE status, points for goals, and points for price are to be indicated separately.
- (x) Special conditions applicable
- (xi) Site meeting records (minutes and all communique)
- (xii) Total points scored.
- (xiii) Name of the successful provider.
- (xiv) Date of approval and the name and rank of the persons/body that granted the approval.
- (xv) Delegation number.
- (xvi) Negotiations
- (xvii) Contract administration file
- (xviii) Contract management file
- (xix) Satisfactory/non-satisfactory completion of the service or delivery of the supply.
- (xx) Rotation indicator on prospective provider list

(xxi) All inscriptions must be numbered.

➤ **Record of ad hoc bids and/or deviations**

- (i) Bid number.
- (ii) Description of the requirement.
- (iii) Particulars of end user, contract person and telephone number.
- (iv) Date of advertisement.
- (v) Date of advertisement for the extension of the closing date.
- (vi) Closing date.
- (vii) Extended closing date.
- (viii) Validity period.
- (ix) Extended validity period.
- (x) Total number of bids received.
- (xi) Late bids received, where applicable.
- (xii) Name of successful bidder.
- (xiii) Price of the successful bid.
- (xiv) Points of the successful bid, received for specifications, price, equity and goals are to be indicated separately.
- (xv) Total points scored by the successful bidder.
- (xvi) Date of approval and the name of the body that granted the approval.
- (xvii) Delegation number, if applicable.
- (xviii) Date contract form is signed.
- (xix) Satisfactory/non-satisfactory completion of the service or delivery of the goods.
- (xx) Cancellation of bid or the cancellation of contracts, where applicable. Particulars are to include the reason for the cancellation, the date of approval, the name and rank of the person/body that granted the approval and the delegation number.

(xxi) All inscriptions must be numbered.

➤ **Record of Specific Term Contracts**

- (i) Bid number.
- (ii) Description of the requirement.
- (iii) Contract term.
- (iv) Particulars of end user, contract person and telephone number.
- (v) Date of advertisement.
- (vi) Date of advertisement for the extension of the closing date.
- (vii) Closing date.
- (viii) Extended closing date.
- (ix) Validity period.
- (x) Extended validity period.



- (xi) Total of bids received.
- (xii) Late bids received, where applicable.
- (xiii) Name of successful bidder.
- (xiv) Price of the successful bid.
- (xv) Points of the successful bid, received for specifications, price, equity and goals are to be indicated separately.
- (xvi) Total points scored by the successful bidder.
- (xvii) Date of approval and the name of the body that granted the approval.
- (xviii) Delegation number.
- (xix) Date of contract form signed.
- (xx) Satisfactory/non-satisfactory completion of the service or delivery of the goods.
- (xxi) Cancellation of bid or the cancellation of contracts, where applicable. Particulars are to include the reason for the cancellation, the date of approval, the name and rank of the person/body that granted the approval and the delegation number.
- (xxii) All inscriptions must be numbered.

➤ **Record of urgency and emergency procurement**

- (i) Reference number.
- (ii) Description.
- (iii) Nature and the details of the urgency or emergency process followed.
- (iv) Particulars of person or body that granted the approval.
- (v) Date of approval.
- (vi) Delegation number.
- (vii) Financial implication.
- (viii) All inscriptions must be numbered.

➤ **Record of complaints received from bidders or contractors**

- (i) Date of complaint received.
- (ii) Name of company or person complaining.
- (iii) Reference of bid number.
- (iv) Description.
- (v) Details of complaint.
- (vi) Action taken including the relevant dates.
- (vii) Date of finalization.
- (viii) All inscriptions must be numbered.

➤ **Record of instances of fraud or corruption**

- (i) This record reflects the instances of fraud or corruption that occurred including fraud or corruption by government officials, prospective providers, contractors or any other legal person/entity. This record will reflect all actions taken in this regard.

(ii)

➤ **Record of irregular, fruitless and wasteful expenditure**

- (i) Date of request received.
- (ii) Description.
- (iii) Particulars of end user, contact person and telephone number.
- (iv) Details of irregular, fruitless and wasteful expenditure.
- (v) Action taken.
- (vi) Date finalized.
- (vii) Financial implication.
- (viii) All inscriptions must be numbered.

➤ **Record of SCM circulars distributed within the Municipality**

- (i) Circular number.
- (ii) Description.
- (iii) Date on which the circular was distributed to end users.
- (iv) Date of confirmation of receipt of the circular.
- (v) All inscriptions must be numbered.

PART 7.7: COMMENCEMENT

This Policy takes effect on the date on which it is adopted by Council.

VOLUME8: INFRASTRUCTURE AND CONSTRUCTION PROCUREMENT

VOLUME 8: INFRASTRUCTURE AND CONSTRUCTION PROCUREMENT

1 Scope

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

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

2 Terms, definitions and abbreviations

2.1 Terms and definitions

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

agent: person or organization that is not an employee of Beaufort West Municipality that acts on its behalf in the application of this document

authorised person: the municipal manager or chief executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

conflict of interest: any situation in which:

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

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

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

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

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

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

gratification: an inducement to perform an improper act

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

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

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

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

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

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

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

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

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

2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

3 General requirements

3.1 Delegations

3.1.1 The Council of Beaufort West Municipality hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager to:

- a) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 to 11 of the Local Government Municipal Finance Management Act of 2003 and this document;
- b) maximise administrative and operational efficiency in the implementation of this document;
- c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this document; and
- d) comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

3.1.2 No departure shall be made from the provisions of this policy without the approval of the Municipal Manager of Beaufort West Municipality

3.1.3 The Municipal Manager shall for oversight purposes:

- a) within 30 days of the end of each financial year, submit a report on the implementation of this the policy and the equivalent policy of any municipal entity under the sole or shared control of the Beaufort West Municipality, to the council of the Beaufort West Municipality³ / within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of directors, who must then submit the report to the municipal manager of Beaufort West Municipality for submission to the council;
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the Council, who must then submit the report to the municipal manager of Beaufort West Municipality for submission to the council;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the Mayor; and
- d) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

3.2 Implementation of the Local Government Framework for Infrastructure Delivery and Procurement Management

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

3.3 Supervision of the infrastructure delivery management unit

The Infrastructure Delivery Management Unit shall be directly supervised by the Chief Financial Officer.

3.4 Objections and complaints

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

3.5 Resolution of disputes, objections, complaints and queries

3.5.1 The Municipal Manager shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the Beaufort West Municipality and other persons regarding:

- a) any decisions or actions taken in the implementation of the supply chain management system;
- b) any matter arising from a contract awarded within the Beaufort West Municipality's

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

3.5.2 The Municipal Manager or Designated Person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

3.5.3 The person appointed in terms of 3.5.1 shall:

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

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

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

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

4 Control framework for infrastructure delivery management

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

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

4.2 Gateway reviews


4.2.1 Gateway reviews for major capital projects above a threshold

4.2.1.1 Municipal Manager shall appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

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

Stage		Person/Body assigned the responsibility for approving or accepting end of stage deliverables	Output	Project Value
No	Name			
1	Initiation	Council accepts the initiation report	Council	All major capital projects

				<i>Director: Infrastructure Services</i>	<i>Projects other than mayor projects</i>
2	Concept		<i>Municipal Manager</i>	accepts the feasibility report	<i>All major capital projects</i>
			<i>Director: Infrastructure Services</i>	Accepts the concept report	<i>Projects other than mayor projects</i>
3	Design Development		<i>Municipal Manager</i>	Accepts the design development report is accepted	<i>All major capital projects</i>
			<i>Director: Technical Services</i>		<i>Projects other than mayor projects</i>
4	Design Documentation		<i>Municipal Manger</i>	accepts the parts of the production information which	<i>All major capital projects</i>
		Production information	<i>Director: Infrastructure Services</i> are identified when the design development report is accepted as requiring acceptance	Detailed Design Report inclusive of all studies and surveys	<i>Projects other than mayor projects</i>

		<p>Manufacture, fabrication and construction information</p> <p><i>Municipal Manger:</i> The contract manager accepts the manufacture, fabrication and construction information</p> <p><i>Director: Infrastructure Services</i></p>	<p>Full Design including all construction drawings.</p>	<p><i>All major capital projects</i></p> <p><i>Projects other than mayor projects</i></p>
5	Works	<p><i>Municipal Manger:</i> The contract manager certifies completion of the works or the delivery of goods and associated services</p> <p><i>Director: Infrastructure Services</i></p>	<p>Project progress reports</p>	<p><i>All projects greater than R10 million</i></p> <p><i>All projects less than R 10 million</i></p>
6	Handover	<p><i>Municipal Manager:</i> The owner or end user accepts liability for the works</p> <p><i>Director: Infrastructure Services</i> Complete when the Handover/Record Information Report is approved.</p>	<p>Completion certification</p>	<p><i>All major capital projects</i></p> <p><i>Projects other than mayor projects</i></p>
7	Package completion	<p><i>Municipal Manager;</i> The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract</p> <p>The contract manager certifies</p>	<p>Project close out report</p>	<p><i>All major capital projects</i></p> 

	with the		
	provisions of the contract		
	<i>[Director: Infrastructure Services]</i> accepts the close out report		<i>Projects other than mayor projects</i>
	Complete when the Close-out Report is approved.		

5 Control framework for infrastructure procurement

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

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

- a) Infrastructure Bid specifications Committee shall grant approval for the issuing of the procurement documents, based on the, contents of a documentation review report developed in accordance with the provisions of the standard;
- b) the Infrastructure Bid adjudication Committee may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard or alternatively make a recommendation to the Municipal Manager to award if the value exceeds R10 million.

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

6 Infrastructure delivery management requirements

6.1 Institutional arrangements

6.1.1 Committee system for procurement

6.1.1.1 General

6.1.1.1.1 A committee system comprising the Infrastructure Bid Specification committee, Infrastructure Bid evaluation committee and Infrastructure Infrastructure Bid adjudication committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds R200 000 and to the putting in place of framework agreements.

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

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

6.1.1.1.4 No person who is a political officer bearer, a public office bearer including any councillor of a municipality, a political advisor or a person appointed in terms of section 12A of the Public Service Act

of 1994 or who has a conflict of interest shall be appointed to a Infrastructure Bid specification, Infrastructure Bid evaluation or Infrastructure Bid adjudication committee.

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

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

6.1.1.2 Infrastructure Bid Specification committee

6.1.1.2.1 The Municipal Manager shall appoint in writing a standing committee to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard.

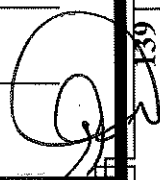
6.1.1.2.2 The Infrastructure Bid specification committee shall comprise of a Chairperson and three (3) members of which one (1) is the responsible official and one (1) is a SCM official. The chairperson shall be an employee of Beaufort West Municipality with requisite skills.

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

A handwritten signature or set of initials, possibly 'JW', written in dark ink. The signature is stylized and located in the lower right quadrant of the page.

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

Activity	Sub-Activity	Key action	Person assigned responsibility to perform key action
Establish what is to be procured	Obtain permission to start with the procurement Process PG1	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	Infrastructure Bid Specification committee
Decide on	Obtain approval for procurement strategies that	Confirm selection of strategies so that tender	Infrastructure Bid Specification committee



<p>2</p> <p>procurement strategy</p>	<p>PG2</p> <p>are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure</p>	<p>offers can be solicited</p> <p>a delegated person or body approves procurement strategies that are to be adopted.</p>	<p>Infrastructure Bid specification</p> <p>Committee</p> <p>Infrastructure Bid Specification committee</p>
<p>3</p> <p>Solicit tender offers</p>	<p>PG3</p> <p>Obtain approval for procurement documents</p> <p>Confirm sufficient cash flow to meet contractual obligations.</p>	<p>Grant approval for the issuing of the procurement documents</p> <p>A delegated person or body ensures that cash flow is sufficient for the procurement to take place.</p>	<p>Infrastructure Bid specification</p> <p>Committee</p> <p>Infrastructure Bid Specification committee</p>

	<i>Infrastructure Bid evaluation Committee</i>
	a delegated person or body ensures that all received tender offers are duly accounted for.
<p>Establish control measures for payment of contractors within the time period provided for in the contract.</p>	Solicit tender offers.
<p>PG4</p>	

<p>PG5</p>	<p>Invite tender offers. Receive tender offers. Record tender offers.</p>	<p>Infrastructure Bid adjudication Committee</p>
<p>Evaluate</p>	<p>Safeguard tender offers. Prepare a report on tender offers received.</p>	<p>Review recommendations of the bid evaluation</p>
<p>tender offers</p>	<p>Confirm recommendations contained in the tender evaluation report</p>	<p>committee and refer back to Infrastructure Bid evaluation</p>
<p>PG6</p>		

	committee for reconsideration or make recommendation for award		
<i>Accounting Officer</i>	Formally accept the tender offer in writing and issue the contractor with a signed copy of the Contract	Award contract	5 Award contract
	A delegated person captures contract	Capture contract award data	PG 7 PG 8



		<p>Administer contract in accordance with the terms and provisions of the contract.</p> <p>Ensure compliance with contractual requirements</p>	<p>completion/termination data.</p>
	<p>Upload data in financial management and payment system</p>	<p>Verify data and upload contractor's particulars and data associated with the contract or order</p>	<p>SCM</p>



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

Table 2 (concluded)

Activity	Sub-Activity	Key action	Person assigned responsibility to perform key action
	PG8A Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	Director: Infrastructure Services
	PG8B Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	Director: Infrastructure Services
Administer contracts and confirm	PG8C Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage ^{2,1}	Approve amount of time and cost overruns up to the threshold	Director: Infrastructure Services depending upon the value, a appropriately delegated authority /
6 compliance with requirements	PG8D Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion of a contract or the issuing of an order 20% and 30%, respectively at award of a by more than	Approve amount of time and cost overruns above a the threshold	[Municipal manager or, depending upon the value, a appropriately delegated authority /

	Obtain approval to cancel or terminate a contract		
PG8E			
	Obtain approval to amend a contract	Approve proposed amendment to contract	<i>[Municipal Manager; or delegated authority]</i>
PG8F			



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

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



6.1.1.3 Infrastructure Bid evaluation committee

6.1.1.3.1 The Municipal Manager shall appoint in writing:

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

6.1.1.3.2 The Infrastructure Bid evaluation committee shall comprise of a Chairperson and three (3) members of which one (1) is the responsible official and one (1) is a SCM official. The chairperson shall be an employee of Beaufort West Municipality with requisite skills.

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

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

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

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

6.1.1.4 Infrastructure Bid Adjudication Committee

6.1.1.4.1 The Infrastructure Bid adjudication committee shall comprise the following persons or their mandated delegate:

- a) the Chief Financial Officer;
- b) At least one senior SCM practitioner who is an official of the Municipality;
- c) 2 x officials in top management positions employed by Beaufort West Municipality
- d) Secretary (official from the SCMU with no voting rights);

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

6.1.1.4.3 The Infrastructure Bid adjudication committee shall:

- a) consider the report and recommendations of the Infrastructure Bid evaluation committee and:

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

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

6.1.1.4.5 The Infrastructure Bid adjudication committee shall consider the merits of an unsolicited offer and make a recommendation to the municipal manager.

6.1.1.4.6 The Infrastructure Bid adjudication committee shall report to the municipal manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.

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

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

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

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

6.1.2.1 Award of a contract

6.1.2.1 The municipal manager shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the Infrastructure Bid adjudication committee and either:

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

6.1.2.2 The municipal manager shall immediately notify the Infrastructure Bid adjudication committee if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and Western Cape Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

6.1.2.3 Issuing of an order

The authorised person shall, if the value of an order issued in terms of a framework contract, is within his relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or
- b) decide not to proceed or to start afresh with the process.

6.1.3 Conduct of those engaged in infrastructure delivery

6.1.3.1 General requirements

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

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

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

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) ensure that resources are administered responsibly;
- f) be fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;

- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist Beaufort West Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and
- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

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

6.1.3.2 Conflicts of interest

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

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

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

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

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

6.1.3.3 Evaluation of submissions received from respondents and tenderers

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

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

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

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

6.1.3.4 Non-disclosure agreements

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

6.1.3.5 Gratifications, hospitality and gifts

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

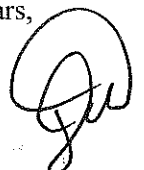
6.1.3.5.2 The employees and agents of Beaufort West Municipality as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

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

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

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

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;



- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and
- e) gifts in kind other than those listed in a) to d) which have an intrinsic value greater than R350 unless they have declared them to the Municipal Manager.

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

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

6.1.3.6 Reporting of breaches

Employees and agents of Beaufort West Municipality shall promptly report to the Municipal Manager any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

6.1.4 Measures to prevent abuse of the infrastructure delivery system²⁷

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

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

6.1.5 Awards to persons in the service of the state

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

- a) a member of any municipal council, any provincial legislature, or the National Assembly or the National Council of Provinces;
- b) a member of the board of directors of any municipal entity;
- c) an official of any municipality or municipal entity;

- d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- e) a member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature.

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

6.1.6 Collusive tendering

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

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

6.1.7 Placing of contractors under restrictions

The approved SCM Abuse and Blacklisting Policy will address contractor restrictions

6.1.8 Complaints

6.1.8.1 All complaints regarding the Beaufort West Municipality's infrastructure delivery management system shall be addressed to the Municipal Manager. Such complaints shall be in writing.

6.1.8.2 The Manager: Legal Services shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

6.2 Acquisition management

6.2.1 Unsolicited proposal

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

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;
- c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for Beaufort West Municipality;



- d) the offer is in writing and clearly sets out the proposed cost;
- e) the person who made the offer is the sole provider of the goods or service; and
- f) Beaufort West Municipality finds the reasons for not going through a normal tender processes to be sound.

6.2.1.2 The Municipal Manager may only accept an unsolicited offer and enter into a contract after considering the recommendations of the Infrastructure Bid adjudication committee if:

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

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

6.2.2 Tax and rates compliance

6.2.2.1 SARS tax clearance

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

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

6.2.2.1.3 No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. Supply Chain Management shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

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

- a) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;



- b) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- c) no payments may be released for any amounts due in terms of the contract due to a non-compliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

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

6.2.2.2 Municipal rates and taxes

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

6.2.3 Declarations of interest

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

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

6.2.4 Invitations to submit expressions of interest or tender offers

6.2.4.1 All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on Beaufort West Municipality's website and on the National Treasury eTender Publication Portal. Advertisements shall be placed by the delegated official within the SCM unit

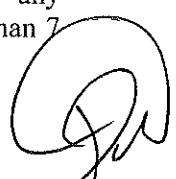
6.2.4.2 Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.4.1 be advertised on the CIDB website. Advertisements shall be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

6.2.4.3 Where deemed appropriate by the Manager: SCM, Assets & Insurance an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by the designated person within the SCM unit.

6.2.4.4 Such advertisements shall be advertised for a period of at least 14 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the Municipal Manager.

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

6.2.5 Publication of submissions received and the award of contracts³⁵



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

6.2.5.2 The designated official with the SCM unit shall publish within 30 working days of the award of a contract the following on Beaufort West Municipality's website

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

6.2.5.3 The designated official with the SCM unit shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders.

6.2.5.4 The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by the designated official with the SCM unit.

6.2.6 Disposal committee

The approved Asset Management Policy address disposal management

6.3 Reporting of infrastructure delivery management information

The Manager: SCM, Assets & Insurance shall submit any reports required in terms of the standard to the National Treasury or Western Cape Provincial Treasury.

7 Infrastructure procurement

7.1 Procurement documents

7.1.1 Beaufort West Municipality's preapproved templates for Part C1 (Agreements and contract data) of procurement documents shall be utilised to obviate the need for legal review prior to the awarding of a contract. All modifications to the standard templates shall be approved by the Municipal Manager prior to being issued for tender purposes.

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

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

- a) consultancy services; and



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

7.3 Developmental procurement

The approved Preferential Procurement Policy of Council will address developmental aspects

7.4 Payment of contractors

Beaufort West Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.

7.5 Approval to utilise specific procurement procedures

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

- a) The municipal manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) The Manager of the department shall authorise the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure⁴⁵.

7.5.2 The person authorised to pursue a negotiated procedure in an emergency is the Manager of the Department.

7.6 Receipt and safeguarding of submissions

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

7.6.2 The tender box shall be fitted with a lock and the key kept by a designated official within the SCM unit. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

7.7 Opening of submissions

7.7.1 Submissions shall be opened by an opening panel comprising at least two designated officials in the SCM unit who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

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

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

- 4) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;
- d) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) sign the entries into the register; and
- g) stamp each returnable document in each tender submission.

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

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

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

7.8 Use of another organ of state’s framework agreement

Beaufort West Municipality may make use of another organ of state’s framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so. The municipal manager shall make the necessary application to that organ of state to do so.

7.9 Insurances

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

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

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

Table 4: Minimum insurance cover⁵²

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract	Not less than R10 million

Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0 million electrical, mechanical and engineering: R3,0 million architectural : R5,0 million other R3,0 million

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

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

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

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

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

7.10 Written reasons for actions taken

7.10.1 Written reasons for actions taken shall be provided by the Chairperson of the Infrastructure Bid adjudication Committee.

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

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

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

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

tenderers.

7.11 Request for access to information

7.11.1 Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act

2 of 2000), the “requestor” should be referred to Beaufort West municipality’s Information Manual which establishes the procedures to be followed and the criteria that have to be met for the “requester” to request access to records in the possession or under the control of Beaufort West municipality.

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



ANNEXURE A: GAP ANALYSIS REPORT

BEAUFORT WEST

Munisipaliteit / Municipality



NEEDS ASSESSMENT REPORT

**To be completed before the appointment of a
consultant**

"In terme van Beaufort West Munisipaliteit se Anti-Korrupsie en koste besparings strategie en die implementering van Anti-Korrupsie prosedures in al die fasette van Administrasie is dit belangrik dat hierdie beleidsdokument aan die Raad se Anti-Korrupsie en koste besparings doelwitte voldoen en daarom vorm dit deel van die Beaufort West Munisipaliteit se Anti-Korrupsie beleid."

"In terms of Beaufort West Municipality's Anti-Corruption and Cost saving strategy and the implementation of the Anti-Corruption procedures in all the facets of Administration it is important that this policy document apply to the Council's Anti-Corruption aims and therefore form part of the Beaufort West Municipality's Anti-Corruption policy."

A handwritten signature in black ink, located in the bottom right corner of the page.

ANNEXURE A: NEEDS ASSESSMENT AND GAP ANALYSIS REPORT


BEAUFORT WEST MUNICIPALITY GAP ANALYSIS: PROCUREMENT OF CONSULTANCY SERVICES

Introduction:


In terms of Regulations 5 (1) of the Municipal Cost Containment Regulations, 2019 (hereinafter referred to as the Regulations), a municipality may only appoint a consultant if an assessment of the needs and requirements confirms that the municipality does not have the requisite skills or resources in its full time employ to perform the function. The department in need for the consulting services must familiarise themselves with the Regulations.

This Needs Assessment Report is to be used when procuring Consultancy Services through the Supply Chain Management Process and must be submitted together with the “Formal Request for Procurement” to the Supply Chain Management Unit, prior to commencement of the supply chain management process.

SECTION A: USER INFORMATION		
Directorate		
Department/ Section		
Project Name		
Name of Director		
Official requesting the appointment of a consultant:	Designation	
	Name and Surname	
Estimated Costs		
SECTION B: GAP ANALYSIS: DETAILS ON CONSULTING SERVICES REQUIRED		
Scope: Details on type of consulting services required.		



Intended Output	
Motivation & Identification of Gaps: (Reasons confirming that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required)	
Are there any legal requirements for consultants to be appointed	
Are the specialized consultant skills not ordinarily required (day-to-day operations) by municipality;	
Is it necessary to maintain these skills in-house i.e. a skills transfer programme applies or if the demands are a once-off or temporary basis (including intermittent service)	
Urgency, in terms of time-based demands, example reporting and specialists not on the municipality's payroll	



Professional services in terms of business, finance, advisory, infrastructure, planning, laboratories or veterinary	
Whether the consultant skills/service are appropriate as the service is linked to a professional indemnity requirement (outsourcing / transfer of risk)	
Whether the consultant skills/service are critical for service delivery and or for compliance (and if skills transfer will be required)	
Effect if Services are not procured	
Will there be transfer of skills? If yes, please elaborate. If no, please elaborate why not?	

SECTION C: RECOMMENDATION BY RELEVANT MANAGER

Based on the above reasons, I hereby confirm that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.

Name:	
Designation:	
Signature:	
Date:	



Recommendation
and additional
Comments:

SECTION D: RECOMMENDATION BY RELEVANT DIRECTOR

Based on the above reasons, I hereby confirm that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.

Name:

Designation:

Signature:

Date:

Recommendation
and additional
Comments:



Date of Approval

Approved by Council at SPECIAL COUNCIL meeting

On 6 MARCH 2023, ITEM 3

Signed at BEAUFORT WEST On the 6 day of JUNE 2023



Acting Municipal Manager