

ANNEXURE "B"

ADJUSTMENTS TO BUDGET RELATED POLICIES

Annexure "B"**OVERVIEW OF BUDGET RELATED POLICIES**

The following existing policies were reviewed to achieve Council's strategic goals. It will be available for public scrutiny at the Ceres, Paarl, Robertson, Stellenbosch and Worcester offices of Council on 26 March 2020. The above mentioned policies are available on the Municipalities website, use the following route: *Information Library/Financial Information and Reports/Budget Related Policies*

Existing Policies

Budget Policy
Cash Management and Investment Policy
Implementation of the Expanded Public Works Program (EPWP) Policy
Funding and Reserves Policy
Appointment of Consultants Policy
Mobile Device Policy
Official Vehicles and Fleet Management Policy
Virement Policy
Branding Policy
Leave and Unpaid Leave Policy
Asset Management Policy
Private Work: Declaration of Interest; Code of Conduct for Supply Chain Management Practitioners and Role Players
Petty Cash Policy
Community Support Policy
Corporate Gifts Policy
Expenditure Management Policy
Grant in Aid Policy
Implementation of the Expanded Public Works Program (EPWP) Policy
Internship Policy
Inventory and Stock Management Policy
Leave and Unpaid Leave Policy
Long Term Financial Planning and Implementation Policy
Cost Containment Policy
Supply Chain Management Policy
Maintenance Management Policy
Overtime Policy
Unauthorized, Irregular, Fruitless and Wasteful Expenditure Policy
Unforeseen and Unavoidable Expenditure Policy

Adjusted policies are:

Cash Management and Investment Policy;
Supply Chain Management Policy; and
Virement Policy

The changes are highlighted in the attached policies.



VIREMENT POLICY

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1. Definitions

- 1.1. **"Accounting officer"** ~~The municipal manager of a municipality is the accounting officer of the municipality in terms of section 60 of the MFMA.~~ means the municipal official referred to in section 60 of the MFMA and includes a person acting as the accounting officer;
- 1.2. **"Approved budget"** means an annual budget approved by a municipal council.
- 1.3. **"Budget-related policy"** means a policy of a municipality affecting or affected by the annual budget of the municipality.
- 1.4. **"Chief Financial Officer"** ~~means a person designated in terms of the MFMA who performs such budgeting and other duties as may in terms of section 79 of the MFMA be delegated by the accounting officer to the Chief Financial Officer.~~ means a person designated in terms of section 80(2)(a) of the MFMA.
- 1.5. **"Senior Manager"** means...
- 1.6. **"Capital Budget"** This is the estimated amount for capital items in a given fiscal period. Capital items are fixed assets such as facilities and equipment, the cost of which is normally written off over a number of fiscal periods.
- 1.7. **"Council"** means the council of a municipality referred to in section 18 of the Municipal Structures Act.
- 1.8. **"Financial year"** means a 12-month year ending on 30 June.
- 1.9. **"Line Item"** an appropriation that is itemized on a separate line in a budget adopted with the idea of greater control over expenditures.
- 1.10. **"Operating Budget"** The Entity's financial plan, which outlines proposed expenditures for the coming financial year and estimates the revenues used to finance them.
- 1.11. **"Ring Fenced"** an exclusive combination of line items grouped for specific purposes for instance salaries and wages.

1.12. **"Service delivery and budget implementation plan"** means a detailed plan approved by the mayor of a municipality in terms of section 53(1) (c) (ii) for implementing the municipality's delivery of municipal services and its annual budget.

1.13. **"Virement"** is the process of transferring an approved budget allocation from one operating line item within a Vote (Strategic Objective) or capital item to another, with the approval of the relevant Manager and Council Accounting Officer to enable budget managers to amend budgets in the light of experience or to reflect anticipated changes.

1.14. **"Vote" (strategic objective)** means one of the main segments into which a budget of a municipality is divided for the appropriation of funds for the different departments or functional areas of the municipality; and which specifies the total amount that is appropriated for the purposes of the department or functional area concerned [See annexure "A" for current Vote structure].

1.15. **"Cost center"** means the lowest level in a Vote (strategic objective) at which a transaction is recorded.

2. Abbreviations

2.1. **CFO** – Chief Financial Officer

2.2. **IDP** – Integrated Development Plan

2.3. **MFMA** – Municipal Finance Management Act No. 56 of 2003

2.4. **SDBIP** - Service delivery and budget implementation plan

2.5. **CM** – Council Minute/s

3. Objective

This policy aims to provide guidelines to senior management in the use of virements as a mechanism in their day-to-day management of their budgets. In addition, it specifically aims to empower senior managers with an efficient financial – and budgetary system to ensure optimum service delivery within the current legislative framework of the MFMA and the Municipality's system of delegations. It allows limited flexibility in the use of budgeted funds to enable management to act on

occasions such as disasters, unforeseen expenditure or savings, etc. as they arise to accelerate service delivery in a financially responsible manner.

4. ~~Virement Clarification~~

~~Virement is the process of transferring budgeted funds from one line item number to another, with the approval of the Accounting Officer, Director (DP, Performance & Risk Management), the relevant Senior Manager and CFO, to enable budget managers to amend budgets in the light of experience or to reflect anticipated changes (Section 28(2)(c) MFMA).~~

5. Financial Responsibilities

Strict budgetary control must be maintained throughout the financial year in order for potential overspending and / or income under-recovery within individual vote departments are identified at the earliest possible opportunity (Section 100 of the MFMA). The Chief Financial Officer Accounting Officer has a statutory duty to ensure that adequate policies and procedures are in place to ensure an effective system of financial control. The budget virement process is one of these controls (Section 27(4) of the MFMA). It is the responsibility of each manager or head of a department or activity Senior Manager and official, exercising financial management responsibilities within their respective areas of responsibility, to which funds are allocated, to plan and conduct assigned operations to ensure that expenditure incurred does not exceed the allocated budget amount ~~so as not to expend more funds than budgeted~~. In addition, they have the responsibility to identify and report any unauthorised, irregular or fruitless and wasteful expenditure in terms of the MFMA sections 78 and 102.

6. MFMA Regulation on Budget versus Expenditure

6.1 The MFMA regulates as follows regarding the incurring of expenditure against budgetary provisions.

6.1.1 Section 15 – Appropriation of funds for expenditure

"A Municipality may, except where otherwise provided in this Act, incur expenditure only-

a) In terms of an approved budget; and

- b) *Within the limits of the amounts appropriated for the different votes in an approved budget."*

6.1.2 Unauthorized Expenditure (MFMA Definition)

"In relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with section 15 or 11(3), and includes-

- a) *Overspending of the total amount appropriated in the municipality's approved budget;*
- b) *Overspending of the total amount appropriated for a vote in the approved budget;*
- c) *Expenditure from a vote unrelated to the department or functional area covered by the vote;*
- d) *Expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;*
- e) *Spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of "allocation" otherwise than in accordance with any conditions of the allocation; or*
- f) *A grant by the municipality otherwise than in accordance with this Act;"*

6.1.3 Overspending (MFMA Definition)

- a) *In relation to the budget of a municipality, means causing the operational or capital expenditure incurred by the municipality during a financial year to exceed the total amount appropriated in that year's budget for its operational or capital expenditure, as the case may be;*
- b) *In relation to a vote, means causing expenditure under the vote to exceed the amount appropriated for that vote; or*
- c) *In relation to expenditure under section 26, means causing expenditure under that section to exceed the limits allowed in subsection (5) of that section;"*

~~6.1.4 Section 71(1)(g)(iii) states inter alia "(1) The accounting officer of a municipality must by no later than 10 working days after the end of each month submit to the mayor of the municipality and the relevant provincial treasury a statement in the prescribed format on the state of the municipality's budget reflecting the following particulars for~~

~~that month and for the financial year up to the end of that month; (g) when necessary, an explanation of; (iii) any remedial or corrective steps taken or to be taken to ensure that projected revenue and expenditure remain within the municipality's approved budget...."~~

7. Virement Restrictions

- 7.1 No funds may be viremented between votes (strategic objectives) without approval of Council during an Adjustments Budget process.
- 7.2 No funds may be viremented between functional areas votes (strategic objectives) as per Annexure A, except for the expenditure pertaining to provisions for employee benefits and depreciation which can only be done by the CFO Accounting Officer. ~~Virements may not exceed a maximum of 5% of the total approved operating expenditure budget, except with the approval of Council.~~
- 7.3 In terms of Section 17 of the MFMA a municipality's budget is divided into an operating and capital budget and consequently no virements are permitted between Operating and Capital Budgets. A virement may not create new policy, significantly vary current policy, or alter the approved outcomes / outputs as approved in the IDP for the current or subsequent years (Section 19 and 21 of the MFMA).
- 7.4 Virements resulting in adjustments to the approved SDBIP need to be submitted with an adjustments budget to the Council with altered outputs and measurements for approval (MFMA Circular 13 page 3 paragraph 3).
- ~~7.5 No virement may commit the Municipality to increase recurrent expenditure, which commits the Council's resources in the following financial year, without the prior approval of the Mayoral Committee.~~
 - ~~7.5.1 This refers to expenditures such as entering into agreements into lease or rental agreements such as vehicles, photocopiers or fax machines~~
- 7.6 No virement may be made where it would result in over expenditure (Section 32 of the MFMA).
- 7.7 No virement shall add to the staff establishment of the Municipality without the approval of ~~Municipal Manager~~ Accounting Officer.

- 7.8 If the virement relates to an increase in the ~~work-force~~ establishment—staff establishment, then the Council's existing recruitment policies and procedures will apply.
- 7.9 Virements may not be made in respect of ring-fenced allocations.
- 7.10 Virements are not allowed from and to Interdepartmental costs, Capital financing, Depreciation and Amorisation, Contributions to provisions, Income Foregone and Expenditure funded by grants, except for virements done at year end.
- 7.11 Budget allocations may not be transferred to and from Employee related costs and Remuneration to Councillors to any other expenditure category, except for virements done at year end, on recommendation of the Chief Financial Officer.
- 7.12 Virements in Capital budget allocations are only permitted within specified action plans and not across funding sources and must in addition have comparable asset lifespan classifications, except for virements done at year end, on recommendation of the Chief Financial Officer.
- 7.13 Virement amounts may not be rolled over to subsequent years, or create expectations on following budgets (Section 30 of the MFMA).
- 7.14 An approved virement does not give expenditure authority and all expenditure resulting from approved virements must still be subject to the Supply Chain Management Policy of the Municipality as periodically reviewed.
- 7.15 Virements may not be made between Expenditure and Income unless there is a change in accounting policies which reclassify items.

8. Virement Procedure

- 8.1 All virement proposals must be submitted to the Budget and Treasury Office for verification after authorisation by the Municipal Manager relevant Senior Manager. Thereafter, ~~and the Director:~~ IDP, Performance & Risk Management and CFO recommends ~~before it is submitted to the~~ to the Accounting Officer for approval.
- 8.2 The request for a virement should be completed on the prescribed ~~in the form of an item disclosing~~ and must contain the following information:
 - 8.2.1 A sound motivation why a virement is necessary.

8.2.2 Current budget amount of the transferring line item as well as the new budget amount should the transfer be approved.

8.2.3 Current budget amount of the receiving line item as well as the new budget amount should the transfer be approved.

~~8.3~~ The Director IDP and Performance Management must sign off be informed of on all approved virements.

~~9. Process and Accountability~~

~~9.1~~ Accountability to ensure that virement applications are completed in accordance with the Municipality's Virement Policy and are not in conflict with the relevant directorate's strategic objectives manifest with the head of the relevant department.

~~9.2~~ Completed virement documentation is to be effected by the Deputy Director Budget and Management Information.

~~9.3~~ Virements approved and processed will be reported for information to the Executive Mayor as part of the Section 71 and Financial Management Report on a monthly basis.

10. Sources

10.1 Local Government: Municipal Finance Management Act, 2003 (Act No. of 2003)

10.2 MFMA Circular No.13 - Service Delivery and Budget Implementation Plan

10.3 Mark Pearson National Treasury Advisor

10.4 Airedale Primary Care Trust Budget Virement Policy: 2004-5 UK

10.5 George Mason University Virginia USA

Annexure "A"

Vote Structure/ Strategic Objective

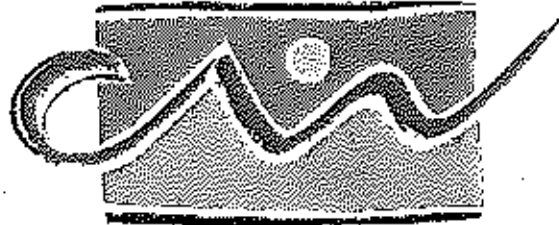
Vote	Cost Centre	
	Code	Description
1. Community Development and Planning Services:		
	1004	Local Economic Development
	1103	Tourism
	1521	Land-use and Spatial Planning
	1522	Environmental Planning
	1404	Management: Community and Developmental Services
	1441	Municipal Health Services
	1610	Disaster Management
	1620	Fire Services
	1475	Social Development
	1476	Safe House
	1477	Rural Development
	1478	Management: Rural and Social Development
2. Technical Services:		
	1165	Buildings : Maintenance
	1301	Management: Engineering-Engineering- & Infrastructure Services : Management
	1330	Projects and Housing
	1210	Information Technology
	1215	Telecommunication Services
	1334	Working for Water (DWAF)
	1334	Working for Water (WGRG)
	1327	Technical Support Services
	1615	Public Transport Regulation
	1360	Roads Main/Division Direct
	1361	Roads Main/Division Indirect
	1362	Management: Roads Roads Management

	1363	Roads: Workshop
	1364	Roads: Plant
3. Financial and Strategic Services:		
	1102	Administration Support Services
	1010	Public Relations*
	1110	Human Resources Management
	1164	Property Management
	1166	Communication / Telephone
	1310	Transport Pool
	1210	Information Technology
	1001	Office of the Municipal Manager*
	1104	Secor 2010
	1020	Internal Audit*
	1021	Risk Management*
	1511	Performance Management*
	1512	IDP*
	1513	Shared Service Center
	1000	Expenditure of the Council
	1002	Sundry Expenditure of the Council
	1003	Office of the Mayor
	1005	Office of the Speaker
	1101	Councilor Support
	1201	Finance Department - Management and Finance Management: Financial Services
	1202	Financial Management Grant
	1205	Budget and Treasury Office & Financial Service
	1225	Income and Collection of Levies
	1235	Procurement
	1238	Expenditure

**Cost centres of the Office of the Municipal Manager is within the Vote (Strategic Objective) Financial and Strategic Support Services.*

CURRENT SUPPLY CHAIN
MANAGEMENT POLICY

**CAPE WINELANDS
DISTRICT MUNICIPALITY**



SUPPLY CHAIN MANAGEMENT POLICY

THIS POLICY CONSISTS OF FIVE PARTS:

- PART 1: SCM POLICY FOR GOODS AND SERVICES**
- PART 2: PREFERENTIAL PROCUREMENT POLICY FRAMEWORK**
- PART 3: INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT**
- PART 4: GENERAL CONDITIONS OF CONTRACT**
- PART 5: CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS**

The Council resolved (C.15.1 on 25 May 2017) in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the CAPE WINELANDS DISTRICT MUNICIPALITY.

PART 1:**SCM POLICY FOR GOODS AND SERVICES**

The objective of this policy is to provide a policy framework within which the municipal manager and chief financial officer can institute and maintain a supply chain management system which is transparent, efficient, equitable, competitive, which ensures best value for money for the municipality, applies the highest possible ethical standards, and promotes local economic development.

The aim of this policy is to enhance procurement and provisioning practises into an integrated SCM function and to ensure that SCM forms an integral part of the financial management system of the Cape Winelands District Municipality. This policy further aims to promote consistency in respect of supply chain management policy and other related policy initiatives in Government as well as aligning with global trends and ensure that South Africa adheres to international best practices.

PART 2:**PREFERENTIAL PROCUREMENT POLICY FRAMEWORK**

The Preferential Procurement Regulations 2017 stipulates the 80/20 preference point system for the procurement of goods and services with a rand value of R50 million, and a 90/10 preference point system for the procurement of goods and services with a rand value of above R50 million, to strengthen the contribution of small, medium and micro-sized enterprises (SMMEs). It further stipulates that when government assesses contracts, it must take into account a preference point system which prescribes functionality, price and reconstruction development programme (RDP) goals.

Section 217 of the Constitution of the Republic of South Africa states that when an organ of state in the National, Provincial or Local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective. Furthermore, it stipulates the need to implement a Procurement Policy that will provide for categories of preference in the allocation of contracts; and the protection or advancement of persons, or categories of persons disadvantaged by unfair discrimination.

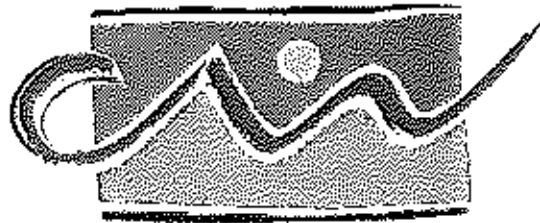
PART 3:**INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT**

In October 2015 via NT circular 77, the National Treasury issued a Supply Chain Management Model Policy for Infrastructure Procurement and Delivery Management, in terms of Section 168 of the Municipal Finance Management Act of 2003 (Act 56 of 2003) In reference to SCM Regulation 3(2), this model policy prescribes the standards and gateways system requirements and principles which municipalities and municipal entities must adhere to when procuring infrastructure related services linking to CIDB and ISO standards and ethos, therefore this policy for infrastructure Delivery and procurement serves must serve as a conduit for the alignment between CIDB Act and supply chain management systems.

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

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

**CAPE WINELANDS
DISTRICT MUNICIPALITY**



PART 1:

**SUPPLY CHAIN MANAGEMENT POLICY
FOR GOODS AND SERVICES**

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CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

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1. Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

- "competitive bidding process"** means a competitive bidding process referred to in paragraph 12(1) of this Policy;
- "competitive bid"** means a bid in terms of a competitive bidding process;
- "Council"** means the elected Council of the Cape Winelands District Municipality;
- "emergency"** An emergency is considered an unforeseeable and sudden event with materially harmful or potentially materially harmful consequences for the municipality which requires urgent action to address.
- "final award"**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;
- "formal written price quotation"** means three quotations for procurement above R 10,000 and must be advertised. Refer to paragraph 12(1) and 18(b) of this Policy;
- "in the service of the state"** means to be –
- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
 - (b) a member of the board of directors of any municipal entity;
 - (c) an official of any municipality or municipal entity;
 - (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - (e) a member of the accounting authority of any national or provincial public entity; or
 - (f) an employee of Parliament or a provincial legislature;
- "long term contract"** means a contract with a duration period exceeding one year;
- "list of accredited prospective providers"** means the list of accredited prospective providers which the Cape Winelands District Municipality must keep in terms of paragraph 14 of this policy;
- "manager"** an official directly accountable to the chief financial officer or a senior manager (par. 5(2)(c)(iii));
- "other applicable legislation"** means any other legislation applicable to municipal supply chain management, including –
- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
 - (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
 - (c) the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);
- "senior manager"** means a manager referred to in section 56 of the Municipal Systems Act and who is directly accountable to the municipal manager (Executive Director);
- "Treasury guidelines"** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
- "the Act"** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- "the Regulations"** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
- "written quotations"** means three quotations for procurement of R 2,000 and above but not exceeding R10,000 as referred to in paragraph 12(1) & 18(a) of this Policy.

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy

- (1) All officials and other role players in the supply chain management system of the Cape Winelands District Municipality must implement this Policy in a way that –
- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the Cape Winelands District Municipality –
- (a) procures goods or services;
 - (b) disposes goods no longer needed;
 - (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
- (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. Amendment of the supply chain management policy

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

4. Delegation of supply chain management powers and duties

- (1) The Council hereby delegate such additional powers and duties to the accounting officer so as to enable the accounting officer –
 - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 of the Act; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

- (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) The Council hereby specifically delegate to the following Officials the power to make a final award, **not exceeding** the amount of R200,000-00 (VAT included). Provided that at least three (3) of the Officials, but not more than one (1) per Department, jointly makes the award: –
- (a) Chief Financial Officer;
 - (b) Executive Directors;
 - (c) Directors; and
 - (d) Deputy Directors.
- (3) The Council hereby specifically delegate the power to make a final award - **not exceeding** the following amounts (VAT included);
- (a) R 80,000-00 to the Chief Financial Officer;
 - (b) R 80,000-00 to the Director: Budget & Treasury Office;
 - (c) R 80,000-00 to the Deputy Director: Supply Chain Management;
 - (d) R 30,000-00 to the Manager: Supply Chain Management;
 - (e) R 30,000-00 to the Senior Buyer;
 - (f) R 30,000-00 to the Senior Accountant: Expenditure;
 - (g) R 10,000-00 to the Senior Storekeeper/Buyer; and
 - (h) R 2,000-00 to the Storekeeper/Buyer.
- (4) Sections 79 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (5) The accounting officer may not sub delegate any supply chain management powers or duties to a person who is not an official of Cape Winelands District Municipality or to a committee which is not exclusively composed of officials of the Cape Winelands District Municipality;
- (6) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. Subdelegations

- (1) The accounting officer may in terms of section 79 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be sub delegated by the accounting officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member.
 - (c) not exceeding R2 million (VAT included) may be sub delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager;
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
 - (iv) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
- (a) the amount of the award; NBI See MFMA Circular No.34 - Reporting on amounts > R 100,000.00
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;

- (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
- (i) a manager referred to in subparagraph (2)(c)(iii); or
 - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. Oversight role of council

- (1) The Cape Winelands District Municipality reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must –
- (a) (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy to the council of the municipality; and
 - (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the council.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. Supply chain management unit

- (1) A supply chain management unit is hereby established to implement this Policy.

(2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

(3) The procurement section is responsible for the co-ordination and oversight of the supply chain management function. It is headed by a Procurement Manager and comes under the management of the municipality's Chief Financial Officer.

8. Training of supply chain management officials

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

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system

This Policy provides systems for –

- (i) demand management;
- (ii) acquisition management;
- (iii) logistics management;
- (iv) disposal management;
- (v) risk management; and
- (vi) performance management.

Part 1: Demand management

10. System of demand management

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

Part 2: Acquisition management

11. System of acquisition management

- (1) This policy provides for an effective system of acquisition management to ensure that—
- (a) goods and services are procured by the Cape Winelands District Municipality in accordance with authorised processes only;
 - (b) expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) the threshold values for the different procurement processes are complied with;
 - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) any Treasury guidelines on acquisition management are properly taken into account.
- (2) This Policy, except where provided otherwise in the Policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (3) When procuring goods or services through another organ of state as contemplated in section 110(2) of the Act, the municipality must make public the fact that such goods or services are procured otherwise than through the Cape Winelands District Municipality supply chain management system, including –
- (a) the kind of goods or services; and
 - (b) the name of the supplier.
- (4) All requests for the procurement of goods and services shall be submitted to the Procurement Manager within the Financial Services Department and must be:
- (a) in writing, clearly specifying the nature and quantity/duration of the goods and services required. Preparation of specifications aimed at procuring goods or services of specific suppliers and brand names should be avoided.
 - (b) certified by a senior official or person with delegated authority in the Finance Department, that:-

- (i) there is sufficient provision in the relevant budget for the procurement;
 - (ii) the correct vote was used.
- (5) If the procurement is for a capital project, Section 19 of the MFMA regarding budgeting and costing of capital projects must also be complied with.
- (6) Where the procurement will have budgetary implications for future years (depreciation; contracts longer than one year, etc.), Section 33 of the MFMA regarding contracts must be complied with.

12. Range of procurement processes

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

Value of purchase (VAT Inclusive)	Cape Winelands District Municipality RANGE OF PROCUREMENT PROCESSES	Delegated authority
0 – R 2,000	Petty Cash purchases (Refer to Policy) Ad-Hock fuel replenishment (Bank/Fleet Card to be used if issued to the driver)	Municipal Manager Chief Financial Officer Driver authorised to use the specific vehicle
0 – R 300	Day-to-Day Petty Cash (Refer to Policy)	As per CFO sub delegation
R 0 – R 2,000	Direct purchases – no quotations needed (Order to be obtained & Invoice to be submitted)	Storekeeper/Buyer
R 2,001 up to R 10,000	Three written quotations	Senior Storekeeper/Buyer
R 10,001 up to R 30,000	Three formal written price quotations	Deputy Director: SCM & Manager: SCM Senior Accountant: Expenditure
R 30,001 up to R 80,000	Three formal written price quotations and; (i) complying with the PPPFA and Regulations; (ii) TAX Clearance – (a) SCM Regulation. 43 (b) MFMA Circular No. 29	Chief Financial Officer Director: Budget & Treasury Office Deputy Director: SCM Manager: SCM
R 80,001 up to R 200,000	(ii) suppliers to be used on a rotational basis; and (iii) advertised for 7 (seven) days on notice boards and website of council.	Any three (3) but not more than one (1) per Dept: CFO /Executive Directors / Directors / Dep. Directors
R 200,001 up to R 10 million	A competitive bidding process:- (i) advertised for 14 (fourteen) days on notice boards and website of council; and (ii) advertised for 14 (fourteen) days in news-papers commonly circulating locally but not limited thereto.	Bid Adjudication Committee

Value of purchase (VAT inclusive)	Cape Winelands District Municipality RANGE OF PROCUREMENT PROCESSES	Delegated authority
Above R 10 million and Long term contracts.	A competitive bidding process:- (i) advertised for 30 (thirty) days on notice boards and website of council; and (ii) advertised for 30 (thirty) days in newspapers commonly circulating locally but not limited thereto.	Accounting Officer and Bid Adjudication Committee for Long term contracts up to R 10 million

- (2) The accounting officer may, in writing, lower but not increase, the different threshold values in subparagraph (1) as specified in regulation 12 (1).
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
- (4) Transferring of municipal funds to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction must comply with Sec.67 of the MFMA (Act No.56 of 2003) and be in accordance with Council's Community Support Policy. In terms of Sec.67(4) Council determined a prescribed limit of R30,000-00 (Approved as per point C.14.2 dated 29 September 2005).

13. General preconditions for consideration of written quotations or bids

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

- (a) has furnished that provider's –
- (i) full name and address;
 - (ii) identification number or company- or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the Cape Winelands District Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

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

14. Lists of accredited prospective providers

- (1) The accounting officer must –
 - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written quotations and formal written price quotations; and
 - (b) at least once a year through newspapers commonly circulating locally, but not limited thereto, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) specify the listing criteria for accredited prospective providers; and
 - (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list should be used to promote participation of Black-owned Small, Medium and Micro Enterprises (SMMEs). The prescripts of the Preferential Procurement Policy Framework Act, Act No.5 of 2000 will be applied for procurement requirements above R30 000.
- (4) Once a list has been compiled per commodity and per type of service, price quotations will be invited from the suppliers in a manner that promotes ongoing competition, including on a rotation basis, up to R 30,000 to be prepared by the Procurement Manager and approved by the senior manager on an annual basis.
- (5) The inclusion of any supplier in the database of suppliers does not exempt the supplier from the obligation to respond in the prescribed manner to notices of the municipality's supply chain management requirements.
- (6) Suppliers who wish to be included in the list of accredited suppliers without waiting for the next invitation may approach the Procurement Section for inclusion, provided that they supply the necessary documentation and information for evaluation. Once

these requirements have been satisfied, the Procurement Section will ensure that the prospective supplier is evaluated and will provide a response as to approval or not within 14 days. Prospective suppliers will not be eligible to provide quotations until they have been approved as an accredited supplier, except where the prospective supplier provides a type of commodity or service for which no supplier is available from the list of accredited suppliers.

- (7) The list must be compiled per commodity and per type of service.
- (8) Suppliers who intend to do business with this municipality MUST provide its Central Supplier Database (CSD) Registration Number "MAAA"

15. Petty cash purchases

Where there is a need to purchase any goods or services using a petty cash system, which involves an amount of less than or equal to R300 (three hundred rand), the Procedures and Guidelines for Petty Cash Purchases must be adhered to.

16. Written quotations

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

- (a) Quotations must be obtained from at least **three** different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Cape Winelands District Municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
- (b) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (c) the names of the potential providers requested to provide such quotations, with their quoted prices, must be recorded.

17. Formal written price quotations

- (1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:
 - (a) quotations must be obtained in writing from at least **three** different providers whose names appear on the list of accredited prospective providers of the Cape Winelands District Municipality. All quotations must be inclusive of carriage/freight costs.

- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
 - (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
 - (d) the accounting officer must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

18. Procedures for procuring goods or services through written quotations and formal written price quotations

- (1) The procedure for the procurement of goods or services through written quotations or formal written price quotations, is as follows:
- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
 - (b) all requirements in excess of R30,000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least *seven days* on the website and an official notice board of the Cape Winelands District Municipality;
 - (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
 - (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
 - (e) offers below R30,000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
 - (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
 - (g) the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused.

(h) the supply chain management unit is responsible for proper record keeping and all

- (2) Notwithstanding the above requirements for consideration, quotations not to specification may not be accepted.
- (3) All quotations above the value of R 2,000 and up to R 30,000 shall be adjudicated by the relevant senior manager or his approved delegate,
- (4) Only quotations complying with the specifications will be considered to be accepted, provided that there are sufficient funds within the appropriate budget.
- (5) Where no quotation complies with the specification, as determined by the senior manager, the senior manager must recall for quotations.
- (6) Where the relevant senior manager has a direct or indirect interest in the procurement requirements, another senior manager must adjudicate in the manner specified above. An interest is where the relevant senior manager has direct or indirect personal advantage in the specific procurement of goods or services.

19. Competitive bids

- (1) Goods or services above a transaction value of R200,000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) The bid documentation will be prepared by the Procurement Manager in consultation with the relevant department and displayed on notice boards, placed on the council's website, and advertised in commonly circulated local newspapers, but not limited thereto, with a closing date of at least 14 after the date that the advertisement first appears.
- (3) No requirement for goods or services above an estimated transaction value of R200,000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

20. Process for competitive bidding

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

- (a) Compilation of bidding documentation as detailed in paragraph 21;
- (b) Public invitation of bids as detailed in paragraph 22;
- (c) Site meetings or briefing sessions as detailed in paragraph 22;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts;
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping;
 - (i) Original / legal copies of written contract agreements should be kept in a secure place for reference purposes.

21. Bid documentation for competitive bids

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

- (a) take into account –
 - (i) the general conditions of contract (**PART 4**) and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (d) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (e) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;

- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
- (f) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.
- (g) a requirement to supply tax references, tax clearance certificates, VAT registration numbers and identification or registration numbers;
- (h) details of any contracts above R200,000 carried out on behalf of the municipality within the last five years;
- (i) A contract management processes and procedures including provision for the Accounting Officer to cancel the contract on the grounds of unsatisfactory performance;
- (j) any other matters as required by the MFMA and the Supply Chain Management Regulations;
- (k) performance guarantees and retention.

22. Public invitation for competitive bids

- (1) The procedure for the invitation of competitive bids, is as follows:
- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, but not limited thereto, the website of the Cape Winelands District Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
 - (b) the information contained in a public advertisement, must include –
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2);

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

(ii) date, time and venue of any proposed site meetings or briefing sessions.

- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box of the Cape Winelands District Municipality.
- (5) The council may charge a non-refundable deposit for provision of bid documents. This is subject to annual review. Values of the deposits will be determined annually and included in the official lists of tariffs.
- (6) The Chief Financial Officer or delegated official will ensure that tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- (7) At the advertised time, the tender box will be unlocked and opened by three officials – one from the Financial Services Department and one from Corporate Services and, where possible, an officer from the relevant Department for which the bid is being made. This will be done in public i.e. in the presence of the bidders or other interested parties. A Supply Chain Management official will open bid documents (usually in the council chamber or committee room) in the presence of an officer from Corporate Services, the relevant Department, and any other interested parties. The tender box can be opened without any members of public being present provided that the appropriate procedure for advertising the time and venue has been followed. Unmarked or incorrectly marked tenders will not be opened.
- (8) The names and total bid amounts will be read out and recorded in the tender register, which will be available for public inspection on request. A copy of the record must be kept in the Procurement Manager's office and the original must be retained by Corporate Services in Council's official filing system. In instances of bulk tender amounts that are too time-consuming to read out, only those requested by bidders will be read, and a complete schedule provided as soon as is practical. Bid results will be published on the municipality's web site.
- (9) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

23. Procedure for handling, opening and recording of bids

The procedures for the handling, opening and recording of bids, are as follows:

(a) Bids—

- (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer must —
- (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

24. Negotiations with preferred bidders

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

25. Two-stage bidding process

- (1) A two-stage bidding process is allowed for —
- (a) large complex projects;
 - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or

- (c) long term projects with a duration period exceeding three years.
- (2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- (3) In the second stage final technical proposals and priced bids should be invited.

26. Committee system for competitive bids

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

27. Bid specification committees

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the Cape Winelands District Municipality.
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited

or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2017; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

(3) The bid specification committee must be composed of the following members:

Standing members

- Two members from within the relevant department;

Other members

- professionals with required technical expertise from the department for whom the goods or services are to be procured, as may be required for each committee meeting
- external specialists (consulting engineers, architects, etc.) as deemed necessary, provided that no person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- Statutory compliance officer of the Cape Winelands district municipality.

(4) The quorum for each meeting of the specification committee is two standing members.

(5) A member of the specification committee can also be a member of either the bid evaluation or bid adjudication committee, but not both committees, that considers any of the bids for the same goods or services

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

(7) The specifications must be approved by the Accounting Officer, or the official

delegated by the Accounting Officer, prior to advertisement of the bid. In the absence of the Accounting Officer this may be delegated to the Acting Municipal Manager or the Chief Financial Officer.

28. Bid evaluation committees

(1) A bid evaluation committee must –

(a) evaluate bids in accordance with –

- (i) the specifications for a specific procurement;
- (ii) compliant with requirements of the Supply Chain Management Framework including the supplier being up to date with all fees and charges due to the district municipality;
- (iii) in accordance with the best value for money to the municipality; and
- (iv) the points system set out in terms of paragraph 27(2)(f).

(b) evaluate each bidder's ability to execute the contract and consider the prescripts of the Broad-Based Black Economic Empowerment Act;

(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

(d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) The bid evaluation committee must as far as possible be composed of –

Standing members;

- two officials from the relevant department requiring the goods or services;
- At least one supply chain management practitioner.

Other members;

- One technical expert, consultant or advisor, provided that these experts can only actively contribute to discussions, and not vote on the items evaluated.
- Statutory compliance officer of the Cape Winelands District Municipality.

(3) The chairmanship of the bid evaluation committee is to be rotated as agreed by the standing members.

(4) The quorum for each meeting of the bid evaluation committee is two standing members, provided that one is the supply chain management practitioner.

- (5) Members cannot serve on any adjudication committee(s) that adjudicates on any of the same items that they have considered on the evaluation committee(s).
- (6) Notwithstanding the above requirements for consideration, bids not to specification may not be accepted and the evaluation committee must recall for tenders.
- (7) All bid documents must be submitted before closure of tender.

29. Bid adjudication committees

(1) A bid adjudication committee must –

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

(2) The committee shall be composed of the following members:

Standing members;

- the chief financial officer or, if the chief financial officer is not available, another official in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer;
- At least one senior supply chain management practitioner who is an official of the municipality;
- Managers appointed by the Accounting Officer.

Other members

- any technical experts in the relevant field, when deemed necessary by the chairperson provided that these experts can only actively contribute to discussions, and not vote on the items being adjudicated.
- Statutory compliance officer of the Cape Winelands District Municipality.

The quorum for each meeting of the bid adjudication committee is:

- 4 standing members

(3) Members of the adjudication committee(s) cannot be members on the evaluation committee(s) that consider any of the same items to be adjudicated on. This includes any members who are appointed by nomination or delegation.

- (4) Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties. However, such members will not have any voting power on the Bid Adjudication Committee.
- (5) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (6) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (7) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid-
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.(b) The accounting officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (8) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (9) The accounting officer must comply with section 114 of the Act (Approval of tenders not recommended) within 10 working days.
- (10) Preference points will be allocated as per PART 2, paragraphs 6 and 7.
- (11) Bid invitations may be cancelled in terms of PART 2, paragraph 13.
- (12) All approved bids will be listed on the municipality's website and on the official notice board in the week following their approval, for a period of 7 days.

30. Procurement of banking services

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 of the Act; and

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

- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. Procurement of IT related goods or services

- (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if:
 - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the Cape Winelands District 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.

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

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

(2) Subparagraphs (1)(c) and (d) do not apply if –

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

33. Procurement of goods necessitating special safety arrangements

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

34. Proudly SA Campaign

The Cape Winelands District Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- Firstly – suppliers and businesses within the municipality or district;
- Secondly – suppliers and businesses within the relevant province;
- Thirdly – suppliers and businesses within the Republic.

35. Appointment of consultants

- (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made. (Detailed guidelines are available in the National Treasury's Supply Chain Management Office, Practice Note Number SCM 3 of 2003. This incorporates the provision to establish a panel of consultants/list of approved service providers for the rendering of services required on a recurring basis. This panel should be reviewed at least every two years). Chapter 5: "A Guide for Accounting Officers of Municipalities" issued by National Treasury (Circular 25 – October 2005).
- (2) Consultancy services must be procured through competitive bids if –
 - (a) the value of the contract exceeds R200,000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.

- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Cape Winelands District Municipality.
- (5) The appointment of advisors must also follow the same competitive bidding process as set out in this Policy.
- (6) No advisor will take any part in the final decision-making process regarding the award of bids.
- (7) No decision-making authority can be delegated to an advisor.

36. Deviation from, and ratification of minor breaches of, procurement processes

- (1) The accounting officer may –
 - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) Where the accounting officer determines that it is impractical to invite competitive bids for specific procurement such as urgent or emergency cases, or in the case of a sole supplier, he may in consultation with the Chief Financial Officer procure the goods or services by other means such as price quotations or negotiations, or reduce the required advertising period from 14 days to an appropriately deemed period. The reasons for deviation from inviting competitive bids must be recorded and approved by the Accounting Officer.
 - (iii) Where it can be demonstrated that only one service provider can supply a particular service then a contract can be awarded by the Accounting Officer to that service provider subject to approval by the Bid Adjudication Committee
 - (iv) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (v) acquisition of animals for zoos and/or nature and game reserves; or

- (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

37. Unsolicited bids

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
 - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
 - (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Cape Winelands District Municipality to the bid may be entered into or signed within 30 days of the submission.

38. Combating of abuse of supply chain management system

- (1) The accounting officer must–
 - (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Cape Winelands District Municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Cape Winelands District Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the Cape Winelands District Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (h) No person placing a procurement requisition for goods or services shall understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. Procurement is limited to R 200,000 per commodity type per month unless a competitive bidding process has been undertaken. The Municipal Manager shall promptly institute disciplinary action against any person infringing this requirement.
 - (i) No official shall engage in contact with a prospective supplier in respect of a quotation or tender which the supplier intends to submit except where clarification of requirements is required from either party, or where the accounting officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management

The accounting officer must establish and implement an effective system of logistics management, which must include -

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

40. Disposal management

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, and council's GRAP policy and procedures.
- (2) Assets may be disposed of by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset.

- (3) The accounting officer must ensure that –
- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
 - (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- (4) In disposing of movable assets the adjudication committee will determine the most advantageous method for sale and adhere to the communication requirements prescribed for quotations. If deemed necessary notification may also be by advertisement in a widely circulated local newspaper, but not limited thereto. In sales by private treaty the adjudication committee will adjudicate and approve quotations received. Adjudication will include provision for the Preferential Procurement Points as per the attached scorecard for assets with a value greater than R30 000. The adjudication committee reserves the right not to accept any bids offered.

41. Risk management

- (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
- (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. Performance management

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

Part 4: Other matters

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

- (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order. (NT Circular No.29 shall apply)
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order. The municipality shall apply the "eFiling-System" of SARS.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

44. Prohibition on awards to persons in the service of the state

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

- (a) who is in the service of the state; (PART 2 paragraph (2).)
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with the Cape Winelands District Municipality.

45. Awards to close family members of persons in the service of the state

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

46. Ethical standards

(1) A code of ethical standards as set out in subparagraph (2) is hereby established for officials and other role players in the supply chain management system of the Cape Winelands District Municipality in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) An official or other role player involved in the implementation of this Policy –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Cape Winelands District Municipality;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

- (g) must be scrupulous in his or her use of property belonging to Cape Winelands District Municipality;
 - (h) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.
 - (i) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) by the accounting officer must be made to the Mayor of the Cape Winelands District Municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct (**PART 5**) must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
- (a) in the case of an employee, in terms of the disciplinary procedures of the Cape Winelands District Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

47. Inducements, rewards, gifts and favours to the Cape Winelands District Municipality, officials and other role players

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - (a) any inducement or reward to the Cape Winelands District Municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

48. Sponsorships

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

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

49. Objections and complaints

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

50. Resolution of disputes, objections, complaints and queries

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
 - (a) to assist in the resolution of disputes between the Cape Winelands District Municipality and other persons regarding -

- (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (c) 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.
- (d) If the appeal is based on a technically complex matter, the Accounting Officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.
- (e) The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay.
- (f) When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
- (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

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

51. Contracts providing for compensation based on turnover

If a service provider acts on behalf of the Cape Winelands District 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 Cape Winelands District Municipality must stipulate –

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

52. Commencement

This Policy takes effect on 1st April 2017.

53. Relevant sections from the MFMA

The following sections form part of this policy and must be applied directly from the Act.

- (a) SECTION 33: CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS
- (b) SECTION 116: CONTRACTS AND CONTRACT MANAGEMENT

54. Adoption of National Treasury / MFMA Circulars

By adopting this policy, Council acknowledge the adoption of the following Circulars;

MFMA Circular No. 29 - Supply Chain Management Issues

MFMA Circular No. 62 - SCM: Enhancing Compliance and Accountability

MFMA Circular No. 77 - Model SCM Policy for Infrastructure Procurement and Delivery Management

MFMA Circular No. 81 - Web Based Central Supplier Database (CSD)

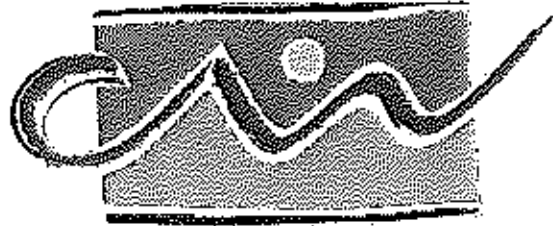
[View all MFMA Circulars](#)

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**CAPE WINELANDS
DISTRICT MUNICIPALITY**



PART 2:

**PREFERENTIAL PROCUREMENT POLICY
FRAMEWORK**

This policy regulates the Preferential Procurement Regulations, 2017 as promulgated by the Minister of Finance, in terms of section 5 of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
(Government Gazette: No. 40553 (R.32) dated 20 January 2017)

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1. **Definitions** - In this policy, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

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

"B-BBEE status level of contributor" means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

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

"black people" has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

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

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

"designated group" means-

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

"designated sector" means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a);

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

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

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

"National Treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

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

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

"proof of B-BBEE status level of contributor" means-

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

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

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

“**rural area**” means-

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

“**stipulated minimum threshold**” means the minimum threshold stipulated in terms of regulation 8(1)(b);

“**the Act**” means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

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

“**treasury**” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

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

2. Application – This policy applies to the municipality as envisaged in the definition of organ of state in section 1 of the Act. ni.;

The definition of “organ of state” in section 1 of the Act in paragraph (a) to (e) includes-

- a national or provincial department as defined in the Public Finance Management Act, 1999;
- a municipality as contemplated in the Constitution;
- a constitutional institution as defined in the Public Finance Management Act;
- Parliament;
- a provincial legislature.

Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognised by the Minister by notice in the *Government Gazette* as an institution or category of institutions to which the Act

applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.

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

The municipality must-

- (a) determine and stipulate in the tender documents-
 - (i) the preference point system applicable to the tender as envisaged in regulation 6 or 7; or
 - (ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
- (b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;
- (c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;
- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

4. Pre-qualification criteria for preferential procurement

- (1) If the municipality decides to apply pre-qualifying criteria to advance certain designated groups, that municipality must advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-
 - (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
 - (b) an EME or QSE;
 - (c) a tenderer subcontracting a minimum of 30% to-
 - (i) an EME or QSE which is at least 51% owned by black people;
 - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
 - (iii) an EME or QSE which is at least 51% owned by black people who are women;
 - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (vi) a cooperative which is at least 51% owned by black people;

- (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
 - (viii) an EME or QSE.
- (2) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

5. Tenders to be evaluated on functionality

- (1) An must state in the tender documents if the tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.
- (3) The tender documents must specify-
 - (a) the evaluation criteria for measuring functionality;
 - (b) the points for each criteria and, if any, each sub-criterion; and
 - (c) the minimum qualifying score for functionality.
- (4) The minimum qualifying score for functionality for a tender to be considered further-
 - (a) must be determined separately for each tender; and
 - (b) may not be so-
 - (i) low that it may jeopardise the quality of the required goods or services; or
 - (ii) high that it is unreasonably restrictive.
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
- (7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in paragraph 11.

6. 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million

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

Where-

$$P_s = 80 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{min} = Price of lowest acceptable tender.

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

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

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contributor or is a non-compliant contributor to B-BBEE may not be disqualified, but-
 - (a) may only score points out of 80 for price; and
 - (b) scores 0 points out of 20 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (6) The points scored by a tenderer for B-BBEE in terms of subregulation (2) must be added to the points scored for price under subregulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.
- (9) (a) If the price offered by a tenderer scoring the highest points is not market related, the municipality may not award the contract to that tenderer.
 - (b) The organs of state may-
 - (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
 - (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

7. 90/10 preference point system for acquisition of goods or services with Rand value above R50 million

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

Where-

$$P_s = 90 \left(1 - \frac{P_t - P_{min}}{P_{min}} \right)$$

P_s = Points scored for price of tender under consideration;

P_t = Price of tender under consideration; and

P_{min} = Price of lowest acceptable tender.

(2) The following table must be used to calculate the points out of 10 for BBBEE

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

- (3) A tenderer must submit proof of its B-BBEE status level of contributor.
- (4) A tenderer failing to submit proof of B-BBEE status level of contribution or is a non-compliant contributor to B-BBEE may not be disqualified, but-
 - (a) may only score points out of 90 for price; and
 - (b) scores 0 points out of 10 for B-BBEE.
- (5) A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
- (6) The points scored by a tenderer for B-BBEE contribution in terms of subregulation (2) must be added to the points scored for price under subregulation (1).
- (7) The points scored must be rounded off to the nearest two decimal places.
- (8) Subject to subregulation (9) and regulation 11, the contract must be awarded to the tenderer scoring the highest points.

- (9) (a) If the price offered by a tenderer scoring the highest points is not market-related, the municipality may not award the contract to that tenderer.
- (b) The organs of state may-
- (i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
 - (ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
 - (iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

8. Local production and content

- (1) The Department of Trade and Industry may, in consultation with the National Treasury-
- (a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
 - (b) stipulate a minimum threshold for local production and content.
- (2) An organ of state must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
- (3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.
- (4) (a) If there is no designated sector, the municipality may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- (b) The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.
- (5) A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

9. Subcontracting as condition of tender

- (1) If feasible to subcontract for a contract above R30 million, an organ of state must apply subcontracting to advance designated groups.

- (2) If the municipality applies subcontracting as contemplated in subregulation (1), the organ of state must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
- (a) an EME or QSE;
 - (b) an EME or QSE which is at least 51% owned by black people;
 - (c) an EME or QSE which is at least 51% owned by black people who are youth;
 - (d) an EME or QSE which is at least 51% owned by black people who are women;
 - (e) an EME or QSE which is at least 51% owned by black people with disabilities;
 - (f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - (g) a cooperative which is at least 51% owned by black people;
 - (h) an EME or QSE which is at least 51% owned by black people who are military veterans; or
 - (i) more than one of the categories referred to in paragraphs (a) to (h).
- (3) The organ of state must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in subregulation (2) from which the tenderer must select a supplier.

10. Criteria for breaking deadlock in scoring

- (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for B-BBEE.
- (2) If functionality is part of the evaluation process and two or more tenderers score equal total points and equal preference points for B-BBEE, the contract must be awarded to the tenderer that scored the highest points for functionality.
- (3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

11. Award of contracts to tenderers not scoring highest points

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

12. Subcontracting after award of tender

- (1) A person awarded a contract may only enter into a subcontracting arrangement with the approval of the organ of state.
- (2) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

- (3) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level of contributor than the person concerned, unless the contract is subcontracted to an EME that has the capability and ability to execute the subcontract.

13. Cancellation of tender

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

14. Remedies

- (1) Upon detecting that a tenderer submitted false information regarding its BBEE status level of contributor, local production and content, or any other matter required in terms of these Regulations which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-
 - (a) inform the tenderer accordingly;
 - (b) give the tenderer an opportunity to make representations within 14 days as to why-
 - (i) the tender submitted should not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part;
 - (ii) if the successful tenderer subcontracted a portion of the tender to another person without disclosing it, the tenderer should not be penalised up to 10 percent of the value of the contract; and
 - (iii) the tenderer should not be restricted by the National Treasury from conducting any business for a period not exceeding 10 years with any organ of state; and
 - (c) if it concludes, after considering the representations referred to in subregulation (1)(b), that-
 - (i) such false information was submitted by the tenderer-
 - (aa) disqualify the tenderer or terminate the contract in whole or in part; and
 - (bb) if applicable, claim damages from the tenderer; or
 - (ii) the successful tenderer subcontracted a portion of the tender to another person without disclosing, penalise the tenderer up to 10 percent of the value of the contract.

- (2) (a) The municipality must-
- (i) inform the National Treasury, in writing, of any actions taken in terms of subregulation (1);
 - (ii) provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
 - (iii) submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.
- (b) The National Treasury may request the municipality to submit further information pertaining to subregulation (1) within a specified period.
- (3) The National Treasury must-
- (a) after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years; and
 - (b) maintain and publish on its official website a list of restricted suppliers.

15. Circulars and guidelines

The National Treasury may issue-

- (a) a circular to inform municipalities of any matter pertaining to this policy; or
- (b) a guideline to assist municipalities with the implementation of any provision of this policy.

16. Repeal of policy

- (1) Subject to this policy and the Preferential Procurement Regulations, 2011, published in Government Notice No R. 502 of 8 June 2011, and any reference thereto in the Cape Winelands District Municipality's Supply Chain Management Policy, as adopted on 23 January 2006, (C.14.3), are hereby repealed with effect from the date referred to in paragraph 17.
- (2) Any sector designated and minimum threshold determined for local production and content for purposes of regulation 9 of the Preferential Procurement Regulations, 2011, and in force immediately before the repeal of said Regulations, are regarded as having been done under paragraph 8(1) of this policy.
- (3) Any tender advertised before the date referred to in paragraph 17 must be dealt with in terms of the Preferential Procurement Regulations, 2011 Regulations.

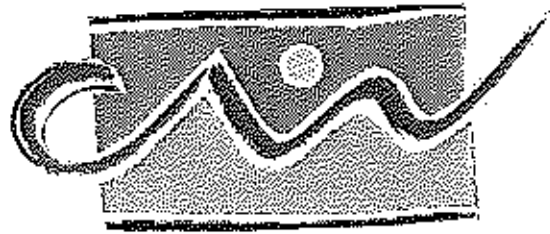
17. Commencement

This Preferential Procurement Policy Framework will take effect on 1 April 2017.

Notes:

Series of horizontal dotted lines for notes.

**CAPE WINELANDS
DISTRICT MUNICIPALITY**



PART 3:

**SUPPLY CHAIN MANAGEMENT POLICY
FOR INFRASTRUCTURE PROCUREMENT AND
DELIVERY MANAGEMENT**

This policy is in terms of National Treasury Circular No.77 dated 26 October 2015

and

Instruction Note 4 dated 6 November 2015

It must be read with;

National Treasury: Standard for Infrastructure Procurement and Delivery
Management. (SIPDM)

Focus on: National Treasury Standard for Infrastructure Procurement and Delivery
Management. (First edition – October 2015)

GIDB: Standard for Uniformity in Construction Procurement
(July 2015)

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1 Scope

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

- a) the storage of goods and equipment following their delivery 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 organisation that is not an employee of the municipality that acts on the municipality's behalf in the application of this document.

authorised person: The municipal manager or 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 organisation 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 organisation which employs that employee.

contract manager: A 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.

designated person: A designated person in this policy is an official of the municipality appointed by the Accounting Officer to manage and conclude a specific contract and/or activity related to a specific contract.

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

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

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

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

gratification: An inducement to perform an improper act.

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

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

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

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

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

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

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

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

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

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

2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

3 General requirements

3.1 Delegations

3.1.1 The Council of the Cape Winelands District Municipality hereby delegates all powers and duties to the Accounting Officer which are necessary to enable him/her to: -

- a) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 or 10 of the Local Government Municipal Finance Management Act of 2003 and this policy;
- b) maximise administrative and operational efficiency in the implementation of this policy;
- c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this policy; and
- d) comply with his/her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003.

3.1.2 No departure shall be made from the provisions of this policy without the approval of the Accounting Officer of the Cape Winelands District Municipality.¹

3.1.3 The Accounting Officer shall for oversight purposes: -

- a) within 30 days of the end of each financial year submit a report on the implementation of this policy to the council;
- b) whenever there are serious and material problems in the implementation of this policy, the Accounting Officer must immediately submit a report to the Council;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the Executive Mayor; and
- d) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management

3.2.1 Infrastructure procurement and delivery management shall be undertaken in accordance with all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.²

3.2.2 Pre-feasibility and feasibility reports may be required/ not be required in terms of Sub-clause 4.1.1.4 c) of the standard.

¹ SCM Regulation 36 of the MFMA permits deviations from, and ratification of minor breaches of procurement processes.

² Any deviation to the provisions of this standard must be reported to National Treasury and the relevant treasury.

3.2.3 Stage 3 to 7 may be required/ not be required in terms of Sub-clause 4.1.1.1 of the standard.

3.3 Supervision of the infrastructure delivery management unit³

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

3.4 Objections and complaints⁴

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 queries⁵

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

- a) any decisions or actions taken in the implementation of the supply chain management system;
- b) any matter arising from a contract awarded within the municipality's infrastructure delivery management system; or
- c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

3.5.2 The Chief Financial Officer shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

3.5.3 The person appointed in terms of 3.5.1 shall: -

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

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

³ SCM Regulation 7 which is issued in terms of the MFMA requires each municipality to establish a supply chain management unit to implement its supply chain management policy, which where possible, should operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of Section 82 of the MFMA. There are benefits in establishing SCM units for general goods and services and infrastructure and to delegate the supervision to a person other than the chief financial officer.

⁴ This clause aligns with SCM Regulation 49 issued in terms of the MFMA.

⁵ This clause aligns with SCM Regulation 50 issued in terms of the MFMA.

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

3.5.5 If the Provincial Treasury of the Western Cape 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 ⁶

4.1 Assignment of responsibilities for approving or accepting end of stage deliverables ⁷

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

4.2 Additional gates

Additional gates may be applicable to specific works and be added in terms of Sub-clause 4.1.1.7 of the standard.

4.3 Additional requirements

Any additional requirements of the stages may be included in terms of Sub-clause 4.1.1.4 of the standard.

4.4 Gateway reviews

All major capital projects having an estimated capital expenditure equal to or above the threshold established in Table 2 of the standard shall have a gateway review of the end-of-stage 4 deliverable, prior to the acceptance of such deliverable.

4.4.1 Gateway reviews for major capital projects above a threshold

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

4.4.1.2 Additional gateway review requirements may be set above those contained in section 4.1.13 of the standard.

⁶ This clause is required to ensure compliance with the requirements of the standard. (Figure 1 in the Standard)

⁷ The terms "approve" and "accept" have the meanings "officially agree to" and "receive as adequate, valid, or suitable give an affirmative answer to a proposal", respectively. Approvals will typically take place at a senior management level whilst acceptances can be made at a lower level. Approvals and acceptances can be granted by individuals or committees.

Where a municipality or municipal entity implements a project on behalf of an organ of state, acceptance / approval of end of stage deliverables may have to be granted in consultation with such an organisation. Alternatively, it may be assigned to a party to an agency agreement developed in accordance with the provisions of clauses 5.2 of the standard. As a result, Table 1 may have to differentiate between own Infrastructure and client institution's infrastructure. It may also have to differentiate between the value and type of projects.

4.4.2 Elective gateway reviews

Elective gateway reviews may be undertaken by a gateway review team of the deliverables associated with any of the gates in the control framework. Such reviews should preferably take place at gates 4, 5 or 8. They can also be conducted on a random sample basis after the end of stage deliverable has been accepted. Such reviews can capture lessons learned and in so doing improve the quality of future deliverables.

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

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name	
0	Project initiation	<i>A designated person accepts the initiation report</i>
1	Infrastructure planning	<i>A designated person approves the infrastructure plan</i>
2	Strategic resourcing	<i>A designated person approves the delivery and / or procurement strategy</i>
3	Pre-feasibility	<i>A designated person accepts the pre-feasibility report</i>
	Preparation and briefing	<i>A designated person accepts the strategic brief</i>
4	Feasibility	<i>A designated person accepts the feasibility report</i>
	Concept and viability	<i>A designated person accepts the concept report</i>
5	Design development	<i>A designated person accepts the design development report</i>
6	Design documentation	6A Production information <i>A designated person accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance</i>
		6B Manufacture, fabrication & construction information <i>The contract manager accepts the manufacture, fabrication and construction information</i>
7	Works	<i>The contract manager certifies completion of the works or the delivery of goods and associated services</i>
8	Handover	<i>The owner or end user accepts liability for the works</i>
9	Package completion	<i>The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract. The contract manager certifies final completion in accordance with the provisions of the contract</i> <i>A designated person accepts the close out report</i>

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.

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

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

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

Table 2 (continued)

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

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) The Chief Financial Officer shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;
- b) The Head of relevant Department may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard.

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

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

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

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

Activity (FG - Framework agreement Gate)	Key action	Person/ Section 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	Designated person
3 FG2	Obtain approval for procurement documents	Designated person
4 FG3	Confirm that budgets are in place	Budget Office
6 FG4	Authorise the issuing of the order	Head of relevant Department

6 Infrastructure delivery management requirements

6.1 Institutional arrangements

6.1.1 Committee system for procurement⁹

6.1.1.1 General

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

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

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

⁹ SCM Regulation 26 of the MFMA requires that a committee system be established for procurement above the threshold for quotations. A municipality of a municipal entity may require that the tender committee (bid adjudication committee) also deal with quotations. The principle of segregation (an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task) is dealt with the committee system in the standard as follows:

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

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 procurement documentation, evaluation or 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 Procurement documentation committee

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

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

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

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

6.1.1.3 Evaluation committee

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

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

6.1.1.3.2 The evaluation committee shall comprise of not less than three people. The chairperson shall be an employee of the municipality with requisite skills. Other members shall include a supply chain management practitioner ¹⁰ and, where relevant, include an official from the department requiring infrastructure delivery.

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

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

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

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

6.1.1.4 Adjudication committee

6.1.1.4.1 The adjudication committee shall encompass as per paragraph 29(2) of the Supply Chain Management Policy.

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

6.1.1.4.3 The adjudication committee shall: -

- a) consider the report and recommendations of the evaluation committee and: -
 - 1) verify that the procurement process which was followed complies with the provisions of this document;
 - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;

¹⁰ A supply chain management practitioner in the context of infrastructure delivery includes a built environment professional

- 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
 - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- b) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.
- 6.1.1.4.4** The 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 adjudication committee shall consider the merits of an unsolicited offer and make a recommendation to the Accounting Officer.
- 6.1.1.4.6** The adjudication committee shall report to the Accounting Officer any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.
- 6.1.1.4.7** The 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 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 of the Western Cape shall be informed where such tenderers are disregarded.

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

6.1.2.1 Award of a contract

- 6.1.2.1** The authorised person shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the evaluation committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the *designated person*, and either:
- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or

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

6.1.2.2 The authorised person shall immediately notify the *designated person* if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and Provincial Treasury of the Western Cape, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

6.1.2.3 Issuing of an order

The authorised person shall, if the value of an order issued in terms of a framework contract, is within his or her delegation, consider the recommendation of the evaluation committee or the *designated person*, as relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.2.5 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 ¹¹

6.1.3.1 General requirements

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

- 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 the 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;

¹¹ Sub clause 5.1 d) of the standard requires that the municipality's or municipal entity's policy establish ethical standards for those involved in the procurement and delivery of infrastructure. This clause is aligned with the provisions of SCM Regulation 46 (Ethical standards) issued in terms of the MFMA and National Treasury's Code of Conduct for Supply Chain Management Practitioners

- 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 the 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 the 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 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 the municipality's proprietary information.

6.1.3.2.2 The employees and agents of the municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict,

and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

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

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

6.1.3.3 Evaluation of submissions received from respondents and tenderers

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

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

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

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 the municipality's confidential information and interests.

6.1.3.5 Gratifications, hospitality and gifts

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

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

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

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

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

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

6.1.3.6 Reporting of breaches

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

6.1.4 Measures to prevent abuse of the infrastructure delivery system ¹²

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

- a) take steps against an employee or role player and inform the National Treasury and the Provincial Treasury of the Western Cape 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 ¹³

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

¹² The requirement to prevent abuse of the supply chain management system is aligned with the provisions of SCM Regulation 38 issued in terms of the MFMA.

¹³ The clause aligns with SCM Regulation 44 issued in terms of the MFMA.

- 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 ¹⁴

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 ¹⁵

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

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

¹⁴ The standard requires the inclusion of the Compulsory Declaration in all procurement documents. This sub-clause aligns with SCM Regulation 44 issued in terms of the MFMA and SANS 10845-3 which is incorporated by reference in the standard.

¹⁵ This sub-clause is aligned with the requirements of SCM Regulation 38 issued in terms of the MFMA.

A designated person shall prepare a report on the matter and make a recommendation to the Accounting Officer for placing the contractor or any of its principals under restrictions from doing business with the municipality.

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

6.1.7.3 The Head of Supply Chain Management shall:-

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

6.1.8 Complaints

6.1.8.1 All complaints regarding the municipality's infrastructure delivery management system shall be addressed to the Head of Supply Chain Management. Such complaints shall be in writing.

6.1.8.2 The Head of Supply Chain Management shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Accounting Officer who will decide on what action to take.

6.2 Acquisition management

6.2.1 Unsolicited proposal¹⁶

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

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;
- c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for the municipality;
- d) the offer is in writing and clearly sets out the proposed cost;

¹⁶ The clause aligns with SCM Regulation 37 issued in terms of the MFMA.

- e) the person who made the offer is the sole provider of the goods or service; and
- f) the Accounting Officer finds the reasons for not going through a normal tender processes to be sound.

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

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

6.2.1.3 The Accounting officer shall, within 7 working days after the decision to award the unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the Provincial Treasury of the Western Cape 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 compliance¹⁷

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 or if not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

6.2.2.1.2 In the case of a partnership, each partner shall comply with the requirements of clause 6.

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

¹⁷ This sub-clause aligns with the provisions of SCM Regulation 43 issued in terms of the MFMA.

6.2.2.1.4 Notwithstanding the requirements of 6.2.2.1 and 6.2.2.3 the following shall apply, unless a person who is not tax compliant indicates to the *designated person* that it intends challenging its tax compliance status with SARS,

- a) a contract may be awarded to a non-compliant tenderer if such a tenderer is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- b) an order may be awarded to a non-compliant contractor if such a contractor is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- c) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
- d) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor; and
- e) 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 The municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4e).

6.2.2.2 Municipal rates and taxes ¹⁸

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

6.2.3 Declarations of interest

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

- a) are an employee of the 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

¹⁸ This subclause aligns with the provisions of SCM Regulation 38 Issued in terms of the MFMA.

expressions of interest shall be advertised on the municipality's website and on the National Treasury eTender Publication Portal.¹⁹ Advertisements shall be placed by the municipality's Supply Chain Management 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 municipality's Supply Chain Management Unit.

6.2.4.3 Where deemed appropriate 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 municipality's Supply Chain Management Unit.

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

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

6.2.5 Publication of submissions received and the award of contracts²⁰

6.2.5.1 The municipality 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 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 municipality shall publish within 7 working days of the award of a contract the following on the 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

¹⁹ This subclause aligns with National Treasury Instruction No 1 of 2015/2016 – Advertisement of bids and the publication of awards on the eTender Publication Portal.

²⁰ This subclause aligns with National Treasury Instruction No 1 of 2015/2016 – Advertisement of bids and the publication of awards on the eTender Publication Portal.

g) brand names, if applicable.

6.2.5.3 The municipality 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 placed by the municipality's Supply Chain Management Unit.

6.2.6 Disposal committee

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

6.2.6.2 The disposal panel shall comprise of not less than three people. The chairperson shall be an employee of the municipality.

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

6.3 Reporting of infrastructure delivery management information

The *designated person* shall submit any reports required in terms of the standard to the National Treasury or the Provincial Treasury of the Western Cape.

6.31 The implementer shall report to the relevant treasury within one month of the award of a contract or the issuing of an order, all engineering and construction, supply, service and professional service contracts that are awarded, or orders that are issued, should the total of prices including VAT exceed the following thresholds

Value of contract or order including VAT			
Services contract	Professional services	Supply	Engineering and construction works
R 25 million	R 25 million	R 50 million	R 50 million

7 Infrastructure procurement

7.1 Usage of procurement procedures

The municipality shall use all applicable Supply Chain Management / Procurement administrative and compliance procedures that may be applicable to infrastructure procurement.

7.2 Procurement documents

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

Applicable contracts listed in Table 10 of the Standard for Infrastructure Procurement and Delivery Management (SIPDM) may be made use of.

7.2.2 The municipality's preapproved templates for (SANS 10845-1 - Part C1 Agreements and contract data) 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 Accounting Officer prior to being issued for tender purposes.

7.2.3 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.²¹

7.2.4 Additional requirements not stated or included in the standard templates, if any, must be added; e.g. use of standard access specifications, health and safety specifications, etc.

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

- a) consultancy services;²² and
- b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.²³

7.3 Developmental procurement policy

If the specific contract qualifies for any goals that has been set in Council's approved IDP, it must be stated upfront in the specifications, for that contract.

7.4 Payment of contractors²⁴

The 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 procedures²⁵

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 Adjudication committee shall authorise the use of the negotiated procedure above the thresholds provided in the standard.

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

²² The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.

²³ The clause aligns with SCM Regulation 35(3) Issued in terms of the MFMA.

²⁴ The Section 65 of the MFMA requires municipal manager or chief executives to settle all contractual obligations and pay all money owing within 30 days of receiving the relevant statement or invoice.

²⁵ This clause is necessary to enable the standard to be implemented.

- b) the Adjudication committee 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) procedure for the proposal may utilise the two-envelope system or the competitive negotiations procedure.

7.5.2 The Accounting Officer must nominate and authorise a person to pursue a negotiated procedure in case of an emergency.

7.6 Receipt and safeguarding of submissions

Where not clearly stipulated in current standing operating procedures of the municipality, the following steps must be taken;

- 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 remain locked at all times and the keys shall be under the control of the Supply Chain Management 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 of two people from the Supply Chain Management 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) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) stamp each returnable document in each tender submission.

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

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 ²⁶

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

7.9 Insurances ²⁷

7.9.1 Contractors shall be required to take out all insurances required in terms of the specific 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 below, unless otherwise directed by the Accounting Officer.

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

²⁶ This clause aligns with SCM Regulation 32 issued in terms of the MFMA and clause 7.3 of the Standard.

²⁷ Cover may differ from contract to contract but must be in line with the manner in which the municipality wishes to manage its risk.

Table 4: Minimum insurance cover

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract.	Not less than R20 million
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: R 5,0 million electrical, mechanical and engineering: R 3,0 million architectural: R 5,0 million other: R 3,0 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 Accounting Officer.

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

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

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

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

7.10 Written reasons for actions taken

7.10.1 Written reasons for actions taken shall be provided by a *designated person*.

7.10.2 The written reasons for actions taken shall be as brief as possible and shall as fair 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 the municipality's Information Manual which establishes the procedures to be followed and the criteria that have to be met for the "requester" to request access to records in the possession or under the control of the municipality.

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.

8 Commencement

This Policy takes effect on 1st July 2017.

PART 4:

GENERAL CONDITIONS OF CONTRACT



THE NATIONAL TREASURY
Republic of South Africa

GOVERNMENT PROCUREMENT:
GENERAL CONDITIONS OF CONTRACT

July 2010

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f. Definitions

1. The following terms shall be interpreted as indicated:
 - 1.1 **"Closing time"** means the date and hour specified in the bidding documents for the receipt of bids.
 - 1.2 **"Contract"** means the written agreement entered into between the purchaser and the supplier, as recorded in the contract form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
 - 1.3 **"Contract price"** means the price payable to the supplier under the contract for the full and proper performance of his contractual obligations.
 - 1.4 **"Corrupt practice"** means the offering, giving, receiving, or soliciting of any thing of value to influence the action of a public official in the procurement process or in contract execution.
 - 1.5 **"Countervailing duties"** are imposed in cases where an enterprise abroad is subsidized by its government and encouraged to market its products internationally.
 - 1.6 **"Country of origin"** means the place where the goods were mined, grown or produced or from which the services are supplied. Goods are produced when, through manufacturing, processing or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components.
 - 1.7 **"Day"** means calendar day.
 - 1.8 **"Delivery"** means delivery in compliance of the conditions of the contract or order.
 - 1.9 **"Delivery ex stock"** means immediate delivery directly from stock actually on hand.
 - 1.10 **"Delivery into consignees store or to his site"** means delivered and unloaded in the specified store or depot or on the specified site in compliance with the conditions of the contract or order, the supplier bearing all risks and charges involved until the goods are so delivered and a valid receipt is obtained.
 - 1.11 **"Dumping"** occurs when a private enterprise abroad markets its goods on own initiative in the RSA at lower prices than that of the country of origin and which have the potential to harm the local industries in the RSA. supply of the goods, such as transportation and any other incidental services, such as installation, commissioning, provision of technical assistance, training, catering, gardening, security, maintenance and other such obligations of the supplier covered under the contract.
 - 1.12 **"Force majeure"** means an event beyond the control of the supplier and not involving the supplier's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
 - 1.13 **"Fraudulent practice"** means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of any bidder, and includes collusive practice among bidders (prior to or after bid submission) designed to establish bid prices at artificial non-competitive levels and to deprive the bidder of the benefits of free and open competition.
 - 1.14 **"GCC"** means the General Conditions of Contract.
 - 1.15 **"Goods"** means all of the equipment, machinery, and/or other materials that the supplier is required to supply to the purchaser under the contract.
 - 1.16 **"Imported content"** means that portion of the bidding price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or his subcontractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African place of entry as well as transportation and handling charges to the factory in the Republic where the goods covered by the bid will be manufactured.
 - 1.17 **"Local content"** means that portion of the bidding price, which is not included in the imported content provided that local manufacture does take place.
 - 1.18 **"Manufacture"** means the production of products in a factory using labour, materials, components and machinery and includes other related value-adding activities.

- 1.19 "Order" means an official written order issued for the supply of goods or works or the rendering of a service.
- 1.20 "Project site", where applicable, means the place indicated in bidding documents.
- 1.21 "Purchaser" means the organization purchasing the goods.
- 1.22 "Republic" means the Republic of South Africa.
- 1.23 "SCC" means the Special Conditions of Contract.
- 1.24 "Services" means those functional services ancillary to the
- 1.25 "Supplier" means the successful bidder who is awarded the contract to maintain and administer the required and specified service(s) to the State.
- 1.26 "Tort" means in breach of contract.
- 1.27 "Turnkey" means a procurement process where one service provider assumes total responsibility for all aspects of the project and delivers the full end product / service required by the contract.
- 1.28 "Written" or "In writing" means hand-written in ink or any form of electronic or mechanical writing.

2. Application

- 2.1 These general conditions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- 2.2 Where applicable, special conditions of contract are also laid down to cover specific goods, services or works.
- 2.3 Where such special conditions of contract are in conflict with these general conditions, the special conditions shall apply.

3. General

- 3.1 Unless otherwise indicated in the bidding documents, the purchaser shall not be liable for any expense incurred in the preparation and submission of a bid. Where applicable a non-refundable fee for documents may be charged.
- 3.2 Invitations to bid are usually published in locally distributed news media and on the municipality/municipal entity website.

4. Standards

- 4.1 The goods supplied shall conform to the standards mentioned in the bidding documents and specifications.

5. Use of contract documents and Information inspection

- 5.1 The supplier shall not, without the purchaser's prior written consent, disclose the contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the purchaser in connection therewith, to any person other than a person employed by the supplier in the performance of the contract. Disclosure to any such employed person shall be made in confidence and shall extend only so far as may be necessary for purposes of such performance.
- 5.2 The supplier shall not, without the purchaser's prior written consent, make use of any document or information mentioned in GCC clause 5.1 except for purposes of performing the contract.
- 5.3 Any document, other than the contract itself mentioned in GCC clause 5.1 shall remain the property of the purchaser and shall be returned (all copies) to the purchaser on completion of the supplier's performance under the contract if so required by the purchaser.
- 5.4 The supplier shall permit the purchaser to inspect the supplier's records relating to the performance of the supplier and to have them audited by auditors appointed by the purchaser, if so required by the purchaser.

6. Patent Rights

- 6.1 The supplier shall indemnify the purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof by the purchaser.

6.2 When a supplier developed documentation / projects for the municipality / municipal entity, the intellectual, copy and patent rights or ownership of such documents or projects will vest in the municipality / municipal entity.

7. Performance security

7.1 Within thirty (30) days of receipt of the notification of contract award, the successful bidder shall furnish to the purchaser the performance security of the amount specified in SCC.

7.2 The proceeds of the performance security shall be payable to the purchaser as compensation for any loss resulting from the supplier's failure to complete his obligations under the contract.

7.3 The performance security shall be denominated in the currency of the contract, or in a freely convertible currency acceptable to the purchaser and shall be in one of the following forms:

(a) a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in the purchaser's country or abroad, acceptable to the purchaser, in the form provided in the bidding documents or another form acceptable to the purchaser; or

(b) a cashier's or certified cheque.

7.4 The performance security will be discharged by the purchaser and returned to the supplier not later than thirty (30) days following the date of completion of the supplier's performance obligations under the contract, including any warranty obligations, unless otherwise specified.

8. Inspections, tests and analyses

8.1 All pre-bidding testing will be for the account of the bidder.

8.2 If it is a bid condition that goods to be produced or services to be rendered should at any stage be subject to inspections, tests and analyses, the bidder or contractor's premises shall be open, at all reasonable hours, for inspection by a representative of the purchaser or organization acting on behalf of the purchaser.

8.3 If there are no inspection requirements indicated in the bidding documents and no mention is made in the contract, but during the contract period it is decided that inspections shall be carried out, the purchaser shall itself make the necessary arrangements, including payment arrangements with the testing authority concerned.

8.4 If the inspections, tests and analyses referred to in clauses 8.2 and 8.3 show the goods to be in accordance with the contract requirements, the cost of the inspections, tests and analyses shall be defrayed by the purchaser.

8.5 Where the goods or services referred to in clauses 8.2 and 8.3 do not comply with the contract requirements, irrespective of whether such goods or services are accepted or not, the cost in connection with these inspections, tests or analyses shall be defrayed by the supplier.

8.6 Goods and services which are referred to in clauses 8.2 and 8.3 and which do not comply with the contract requirements may be rejected.

8.7 Any contract goods may on or after delivery be inspected, tested or analysed and may be rejected if found not to comply with the requirements of the contract. Such rejected goods shall be held at the cost and risk of the supplier who shall, when called upon, remove them immediately at his own cost and forthwith substitute them with goods, which do comply with the requirements of the contract. Failing such removal the rejected goods shall be returned at the suppliers cost and risk. Should the supplier fail to provide the substitute goods forthwith, the purchaser may, without giving the supplier further opportunity to substitute the rejected goods, purchase such goods as may be necessary at the expense of the supplier.

8.8 The provisions of clauses 8.4 to 8.7 shall not prejudice the right of the purchaser to cancel the contract on account of a breach of the conditions thereof, or to act in terms of Clause 22 of GCC.

9. Packing

9.1 The supplier shall provide such packing of the goods as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt and precipitation during transit, and open storage. Packing, case size weights shall take into consideration, where appropriate, the remoteness of the goods' final destination and the absence of heavy handling facilities at all points in transit.

9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the contract, including additional requirements, if any, and in any subsequent instructions ordered by the purchaser.

10. Delivery and documents
- 10.1 Delivery of the goods and arrangements for shipping and clearance obligations, shall be made by the supplier in accordance with the terms specified in the contract.
11. Insurance
- 11.1 The goods supplied under the contract shall be fully insured in a freely convertible currency against loss or damage incidental to manufacture or acquisition, transportation, storage and delivery in the manner specified.
12. Transportation
- 12.1 Should a price other than an all-inclusive delivered price be required, this shall be specified.
13. Incidental Services
- 13.1 The supplier may be required to provide any or all of the following services, including additional services, if any:
- (a) performance or supervision of on-site assembly and/or commissioning of the supplied goods;
 - (b) furnishing of tools required for assembly and/or maintenance of the supplied goods;
 - (c) furnishing of a detailed operations and maintenance manual for each appropriate unit of the supplied goods;
 - (d) performance or supervision or maintenance and/or repair of the supplied goods, for a period of time agreed by the parties, provided that this service shall not relieve the supplier of any warranty obligations under this contract; and
 - (e) training of the purchaser's personnel, at the supplier's plant and/or on-site, in assembly, start-up, operation, maintenance, and/or repair of the supplied goods.
- 13.2 Prices charged by the supplier for incidental services, if not included in the contract price for the goods, shall be agreed upon in advance by the parties and shall not exceed the prevailing rates charged to other parties by the supplier for similar services.
14. Spare parts
- 14.1 As specified, the supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the supplier:
- (a) such spare parts as the purchaser may elect to purchase from the supplier, provided that this election shall not relieve the supplier of any warranty obligations under the contract; and
 - (b) in the event of termination of production of the spare parts:
 - (i) advance notification to the purchaser of the pending termination, in sufficient time to permit the purchaser to procure needed requirements; and
 - (ii) following such termination, furnishing at no cost to the purchaser, the blueprints, drawings, and specifications of the spare parts, if requested.
15. Warranty
- 15.1 The supplier warrants that the goods supplied under the contract are new, unused, of the most recent or current models, and that they incorporate all recent improvements in design and materials unless provided otherwise in the contract. The supplier further warrants that all goods supplied under this contract shall have no defect, arising from design, materials, or workmanship (except when the design and/or material is required by the purchaser's specifications) or from any act or omission of the supplier, that may develop under normal use of the supplied goods in the conditions prevailing in the country of final destination.
- 15.2 This warranty shall remain valid for twelve (12) months after the goods, or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the contract, or for eighteen (18) months after the date of shipment from the port or place of loading in the source country, whichever period concludes earlier, unless specified otherwise.
- 15.3 The purchaser shall promptly notify the supplier in writing of any claims arising under this warranty.
- 15.4 Upon receipt of such notice, the supplier shall, within the period specified and with all reasonable speed, repair or replace the defective goods or parts thereof, without costs to the purchaser.
- 15.5 If the supplier, having been notified, fails to remedy the defect(s) within the period specified, the purchaser may proceed to take such remedial action as may be necessary, at the supplier's risk and expense and without prejudice to any other rights which the purchaser may have against the supplier under the contract.

16. Payment
- 16.1 The method and conditions of payment to be made to the supplier under this contract shall be specified.
- 16.2 The supplier shall furnish the purchaser with an invoice accompanied by a copy of the delivery note and upon fulfilment of other obligations stipulated in the contract.
- 16.3 Payments shall be made promptly by the purchaser, but in no case later than thirty (30) days after submission of an invoice or claim by the supplier.
- 16.4 Payment will be made in Rand unless otherwise stipulated.
17. Prices
- 17.1 Prices charged by the supplier for goods delivered and services performed under the contract shall not vary from the prices quoted by the supplier in his bid, with the exception of any price adjustments authorized or in the purchaser's request for bid validity extension, as the case may be.
18. Variation orders
- 18.1 In cases where the estimated value of the envisaged changes in purchase does not vary more than 15% of the total value of the original contract, the contractor may be instructed to deliver the goods or render the services as such. For construction related goods, services and/or infrastructure projects, contracts may be expanded or varied by not more than 20%. In cases of measurable quantities, the contractor may be approached to reduce the unit price, and such offers may be accepted provided that there is no escalation in price. (See MFMA: Circular 62 of 3 July 2013)
- Anything beyond the abovementioned thresholds must be reported to council and must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.
19. Assignment
- 19.1 The supplier shall not assign, in whole or in part, its obligations to perform under the contract, except with the purchaser's prior written consent.
20. Subcontracts
- 20.1 The supplier shall notify the purchaser in writing of all subcontracts awarded under this contract if not already specified in the bid. Such notification, in the original bid or later, shall not relieve the supplier from any liability or obligation under the contract. (See PPPFA Reg. 12 of 2017)
21. Delays in the supplier's performance
- 21.1 Delivery of the goods and performance of services shall be made by the supplier in accordance with the time schedule prescribed by the purchaser in the contract.
- 21.2 If at any time during performance of the contract, the supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the goods and performance of services, the supplier shall promptly notify the purchaser in writing of the fact of the delay, its likely duration and its cause(s). As soon as practicable after receipt of the supplier's notice, the purchaser shall evaluate the situation and may at his discretion extend the supplier's time for performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of contract.
- 21.3 The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier's point of supply is not situated at or near the place where the goods are required, or the supplier's services are not readily available.
- 21.4 Except as provided under GCC Clause 25, a delay by the supplier in the performance of its delivery obligations shall render the supplier liable to the imposition of penalties, pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Clause 22.2 without the application of penalties.
- 21.5 Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier.
22. Penalties
- 22.1 Subject to GCC Clause 25, if the supplier fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance. The purchaser may also consider termination of the contract pursuant to GCC Clause 23.

23. Termination for default
- 23.1 The purchaser, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier, may terminate this contract in whole or in part:
- (a) if the supplier fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the purchaser pursuant to GCC Clause 21.2;
 - (b) if the supplier fails to perform any other obligation(s) under the contract; or
 - (c) if the supplier, in the judgment of the purchaser, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- 23.2 In the event the purchaser terminates the contract in whole or in part, the purchaser may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier shall be liable to the purchaser for any excess costs for such similar goods, works or services. However, the supplier shall continue performance of the contract to the extent not terminated.
- 23.3 Where the purchaser terminates the contract in whole or in part, the purchaser may decide to impose a restriction penalty on the supplier by prohibiting such supplier from doing business with the public sector for a period not exceeding 10 years.
- 23.4 If a purchaser intends imposing a restriction on a supplier or any person associated with the supplier, the supplier will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier fail to respond within the stipulated fourteen (14) days the purchaser may regard the supplier as having no objection and proceed with the restriction.
- 23.5 Any restriction imposed on any person by the purchaser will, at the discretion of the purchaser, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the purchaser actively associated.
- 23.6 If a restriction is imposed, the purchaser must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (i) the name and address of the supplier and / or person restricted by the purchaser;
 - (ii) the date of commencement of the restriction;
 - (iii) the period of restriction; and
 - (iv) the reasons for the restriction.
- These details will be loaded in the National Treasury's central database of suppliers or persons prohibited from doing business with the public sector.
- 23.7 If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website
24. Anti-dumping and countervailing duties and rights
- 24.1 When, after the date of bid, provisional payments are required, or anti-dumping or countervailing duties are imposed, or the amount of a provisional payment or anti-dumping or countervailing right is increased in respect of any dumped or subsidized import, the State is not liable for any amount so required or imposed, or for the amount of any such increase. When, after the said date, such a provisional payment is no longer required or any such anti-dumping or countervailing right is abolished, or where the amount of such provisional payment or any such right is reduced, any such favourable difference shall on demand be paid forthwith by the supplier to the purchaser or the purchaser may deduct such amounts from moneys (if any) which may otherwise be due to the supplier in regard to goods or services which he delivered or rendered, or is to deliver or render in terms of the contract or any other contract or any other amount which may be due to him.
25. Force Majeure
- 25.1 Notwithstanding the provisions of GCC Clauses 22 and 23, the supplier shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his

delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

25.2 If a force majeure situation arises, the supplier shall promptly notify the purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the purchaser in writing, the supplier shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.

26. Termination for insolvency

26.1 The purchaser may at any time terminate the contract by giving written notice to the supplier if the supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the purchaser.

27. Settlement of Disputes

27.1 If any dispute or difference of any kind whatsoever arises between the purchaser and the supplier in connection with or arising out of the contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation.

27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the purchaser or the supplier may give notice to the other party of his intention to commence with mediation. No mediation in respect of this matter may be commenced unless such notice is given to the other party.

27.3 Should it not be possible to settle a dispute by means of mediation, it may be settled in a South African court of law.

27.4 Notwithstanding any reference to mediation and/or court proceedings herein,

(a) the parties shall continue to perform their respective obligations under the contract unless they otherwise agree; and

(b) the purchaser shall pay the supplier any monies due the supplier for goods delivered and / or services rendered according to the prescripts of the contract.

28. Limitation of Liability

28.1 Except in cases of criminal negligence or wilful misconduct, and in the case of infringement pursuant to Clause 6;

(a) the supplier shall not be liable to the purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the supplier to pay penalties and/or damages to the purchaser; and

(b) the aggregate liability of the supplier to the purchaser, whether under the contract, in tort or otherwise, shall not exceed the total contract price, provided that this limitation shall not apply to the cost of repairing or replacing defective equipment.

29. Governing language

29.1 The contract shall be written in English. All correspondence and other documents pertaining to the contract that is exchanged by the parties shall also be written in English.

30. Applicable law

30.1 The contract shall be interpreted in accordance with South African laws, unless otherwise specified.

31. Notices

31.1 Every written acceptance of a bid shall be posted to the supplier concerned by registered or certified mail and any other notice to him shall be posted by ordinary mail to the address furnished in his bid or to the address notified later by him in writing and such posting shall be deemed to be proper service of such notice.

31.2 The time mentioned in the contract documents for performing any act after such aforesaid notice has been given, shall be reckoned from the date of posting of such notice.

32. Taxes and duties

32.1 A foreign supplier shall be entirely responsible for all taxes, stamp duties, license fees, and other such levies imposed outside the purchaser's country.

32.2 A local supplier shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted goods to the purchaser.

32.3 No contract shall be concluded with any bidder whose tax matters are not in order. Prior to the award of a bid SARS must have certified that the tax matters of the preferred bidder are in order.

- 32.4 No contract shall be concluded with any bidder whose municipal rates and taxes and municipal services charges are in arrears.
- 33. Transfer of contracts
 - 33.1 The contractor shall not abandon, transfer, cede assign or sublet a contract or part thereof without the written permission of the purchaser
- 34. Amendment of contracts
 - 34.1 No agreement to amend or vary a contract or order or the conditions, stipulations or provisions thereof shall be valid and of any force unless such agreement to amend or vary is entered into in writing and signed by the contracting parties. Any waiver of the requirement that the agreement to amend or vary shall be in writing, shall also be in writing.
- 35. Prohibition of restrictive practices
 - 35.1 In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder(s) is / are or a contractor(s) was / were involved in collusive bidding.
 - 35.2 If a bidder(s) or contractor(s) based on reasonable grounds or evidence obtained by the purchaser has / have engaged in the restrictive practice referred to above, the purchaser may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No 89 Of 1998.
 - 35.3 If a bidder(s) or contractor(s) has / have been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid(s) for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder(s) or contractor(s) from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder(s) or contractor(s) concerned.

Revised July 2010

PART 5



THE NATIONAL TREASURY

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

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

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

1 General Principles

- 1.1 The municipality commits itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- 1.2 Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- 1.3 Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

2 Conflict of interest

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

- (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

3 Accountability

- 3.1 Practitioners are accountable for their decisions and actions to the public.
- 3.2 Practitioners should use public property scrupulously.
- 3.3 Only accounting officers or their delegates have the authority to commit the to any transaction for the procurement of goods and / or services.
- 3.4 All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 3.5 Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 3.6 Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
 - (iii) any alleged breach of this code of conduct.
- 3.7 Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor who must ensure that such declaration is recorded in the register.

4 Openness

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

5 Confidentiality

- 5.1 Any information that is the property of the municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.
- 5.2 Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

6 Bid Specification / Evaluation / Adjudication Committees

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

7 Combative Practices

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

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;

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

Standard for Infrastructure Procurement and Delivery Management

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REPUBLIC OF SOUTH AFRICA

INTRODUCTION

Public infrastructure

South African citizens are surrounded by public infrastructure. Offices and facilities provide places of work for officials. Schools, hospitals and clinics provide essential services. Roads and railways not only enable travel, but also distribute goods and services. Border posts, harbours and airports are the physical links with neighbouring countries and the world. Dams provide water for human consumption and agricultural and industrial purposes. Networks deliver water and electricity to consumers and convey industrial effluent, soilwater and wastewater to treatment works. Such infrastructure is foundational to a better life for all. However, investment in economic infrastructure will not necessarily lead to economic growth. Infrastructure which provides improvements or efficiencies in services, production or export capabilities, and which is delivered and maintained in a manner that minimises waste of materials, time and effort in order to generate the maximum possible amount of value, is most likely to contribute to economic growth.

Infrastructure is required by the state and state-owned businesses to deliver services to citizens. Each organ of state has a legislated mandate. Some organs of state generate revenue but require capital to expand their revenue generating services, while others are totally reliant on funding from the fiscus to satisfy their infrastructure needs. The fiscus has limited financial resources to fund infrastructure projects. New infrastructure projects need to be budgeted for, taking into account future operation and maintenance costs and current commitments. Accordingly, organs of state requiring funds for infrastructure projects compete for budget allocations. Projects need to be prioritised both within an organ of state and between organs of state. Such prioritisation is sometimes based on political prerogatives while at other times it is based on objective decision-making criteria, which take into account factors such as overarching government wide, long and medium-term policies and plans, including integrated sector plans and mandates.

The time taken between the submission of a project proposal and a final decision by an organ of state to implement a project can, depending upon the nature, complexity and size of a project and requirements for statutory approvals, take several years. Funding may also be required to develop project proposals so that informed decisions can be made regarding their implementation. In the first instance, initiation reports need to be developed to outline the business case. Should funding be made available to progress the proposal, a prefeasibility report is required on major capital projects to determine whether or not it is worthwhile to proceed to the feasibility stage where sufficient information is presented to enable a final decision to be made regarding the implementation of a project. On smaller projects of a routine nature, a strategic brief is required to brief the professional team so that they can develop a viable and integrated concept for the project. A final decision to proceed to implementation is based on a concept report.

The initiation reports and feasibility reports on major capital projects, above a threshold, other than those initiated by municipalities, require cabinet or executive council approval. This enables the inputs of other organs of state in the national and provincial spheres of government who may have competing projects, or projects which may be negatively impacted by the diversion of funds to such large projects, to make their inputs in the project approval process. Projects which are categorised as strategic integrated projects are given priority in planning, the obtaining of statutory approvals and implementation by the Presidential Coordinating Commission.

Procurement and supply chain management reform

The South African Planning Commission's National Development Plan 2030: *Our future – make it work* proposes that the following five areas be focused on in designing a procurement system that is better able to deliver value for money, while minimising the scope for corruption:

- differentiate between the different types of procurement which pose different challenges and require different skills sets;
- adopt a strategic approach to procurement above the project level to balance competing objectives and priorities rather than viewing each project in isolation;
- build relationships of trust and understanding with the private sector;
- develop professional supply chain management capacity through training and accreditation; and
- incorporate oversight functions to assess value for money.

National Treasury's 2015 Public Sector Supply Chain Management Review expresses the view that supply chain management (SCM) is one of the key mechanisms enabling government to implement policy which traditionally has been misunderstood and undervalued. This Review, which identified the need for SCM reform, suggests that if such reforms are implemented as envisaged in terms of section 217 of the Constitution, the benefits will be enormous, namely that:

- good-quality service delivery will be increasingly possible, with significant improvements in the welfare of South Africa's citizens, and especially the poor who rely heavily on government for support;
- the economy will grow as economic infrastructure is expanded and efficiently maintained;
- goods, services and infrastructure will be bought at lower costs;
- innovation will result in different approaches to the commodities used in some sectors; and
- for suppliers, the cost of doing business with the state should decrease substantially.

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

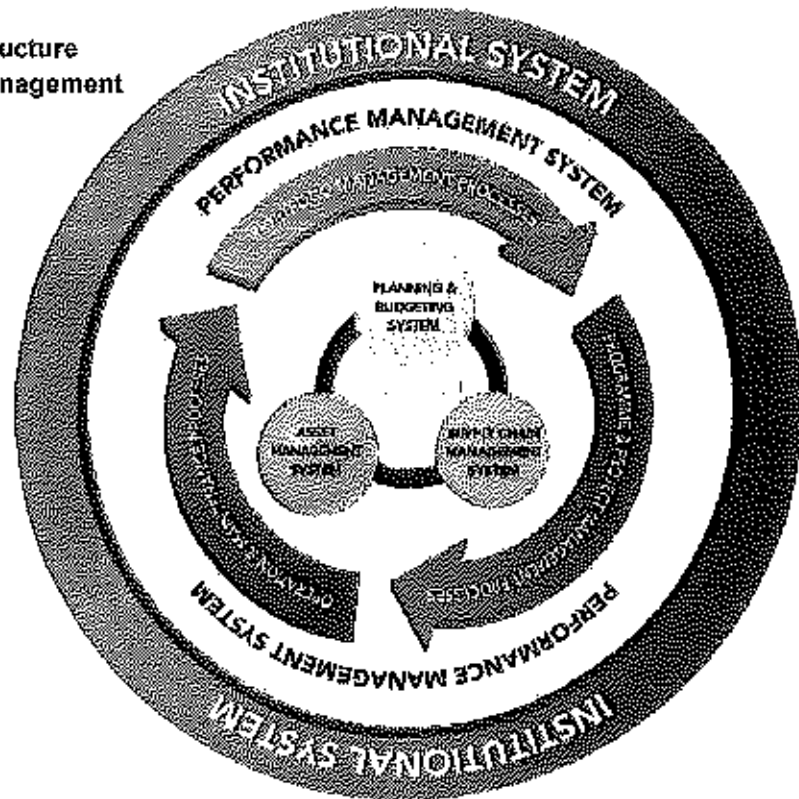
In contrast, procurement relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure covers a wide and diverse range of goods and services, which are required to provide or alter the condition of immovable assets on a site. Accordingly, the procurement process for the delivery of infrastructure involves the initial and subsequent recurring updating of planning processes at a portfolio level flowing out of an assessment of public sector service delivery requirements or business needs. Thereafter it involves planning at a project level, and the procurement and management of a network of suppliers, including subcontractors, to produce a product on a site. There is no need to store and issue materials or equipment unless these are issued to employees responsible for the maintenance or operation of infrastructure, or are issued free of charge to contractors for incorporation into the works.

Infrastructure delivery is the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure. There is an urgent need to separate supply chain management requirements for general goods and services from those for infrastructure delivery in order to improve project outcomes.

Government's Infrastructure Delivery Management System

Government's Infrastructure Delivery Management System (IDMS) comprises three core systems, namely, a planning and budgeting, a supply chain management and an asset management system, all of which have forward and backward linkages. These core systems are located within portfolio, programme and project management, and operation and maintenance processes. Collectively these processes and systems, together with a performance management system, establish the institutional system for infrastructure delivery as indicated in the following sketch.

**The Infrastructure
Delivery Management
System**



The IDMS is supported by legislation and performance monitoring. It has a strong focus on the effective and efficient functioning of the supply chain management system.

Standard for Infrastructure Procurement and Delivery Management

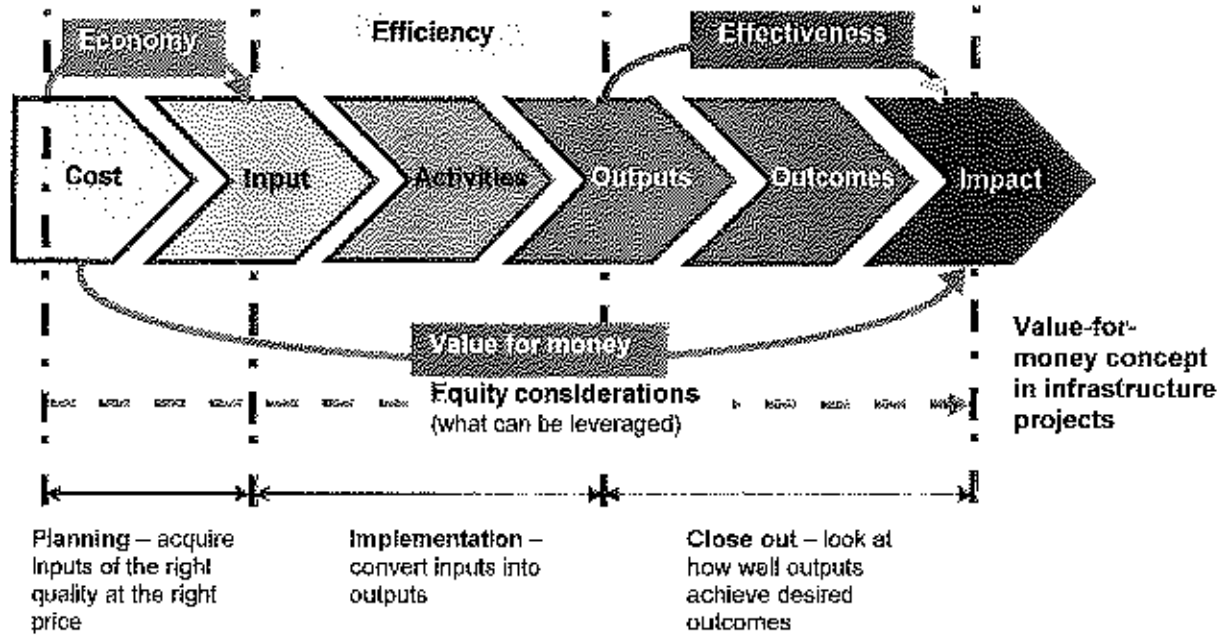
This Standard for Infrastructure Procurement and Delivery Management (SI-PDM) covers the supply chain management system for infrastructure delivery. It has been framed around the five focus areas proposed by the National Planning Commission for the design of a procurement system and draws upon the work of the 2015 Public Sector Supply Chain Management Review. It is issued as an instruction in terms of Section 76(4)(c) of the Public Finance Management Act of 1999 (Act No. 1 of 1999) and is applicable to the following organs of state:

- a) a national or provincial department as defined in the Public Finance Management Act;
- b) a constitutional institution entity as listed in schedule 1 of the Public Finance Management Act;
- c) a public entity as listed in schedules 2 and 3 of the Public Finance Management Act of 1999; and
- d) any organ of state which implements infrastructure delivery projects on behalf of another organ of state.

This standard also forms an integral part of the Model SCM Policy for Infrastructure Delivery Management which has been issued as a Treasury guideline determining a standard for municipal supply chain management policies in terms of Section 168 of the Municipal Finance Management Act of 2003 (Act No. 56 of 2003) in support of Regulation 3(2) of the Supply Chain Management Regulations. Accordingly, the standard applies to a municipality or municipal entity whose council or board of directors, respectively, adopts the aforementioned guideline standard.

Underlying this standard is the notion that the effective and efficient functioning of the supply chain management system for the procurement and delivery of infrastructure will realise value for money and good-quality service delivery. Value for money may be regarded as the optimal use of resources to

achieve the intended outcomes. Underlying value for money is an explicit commitment to ensure that the best results possible are obtained from the money spent, or maximum benefit is derived from the resources available. It is about striking the balance between the three "E's", namely, economy, efficiency and effectiveness, whilst being mindful of a fourth "E" -- equity -- as indicated in the diagram below.



The critical starting point in delivering value for money through infrastructure projects is, in the first instance, to align such projects with strategic objectives, priorities, budgets and plans, and thereafter, during the planning phase, to clearly define objectives and expected outcomes, as well as parameters such as the timelines, cost and levels of uncertainty. This frames the value-for-money proposition that needs to be implemented at the point in time that a decision is taken to proceed with a project, i.e. it establishes "economy" and identifies "equity". The end point is to compare the projected outcomes against the actual outcomes, i.e. to confirm the "effectiveness" of the project in delivering value for money.

Implementation sits between "economy" and "effectiveness" in the results chain framework. It needs to be executed "efficiently" in order to minimise time delays, scope creep and unproductive costs, and to mitigate the effects of uncertainty on objectives so as to maintain the value-for-money proposition formulated at the outset of the project. This necessitates that the implementer of an infrastructure project exercises due care and reasonableness during implementation. Failure to do so may result in substandard or unacceptable performance, which results in a gap between intended and achieved outcomes. This gap puts value for money for a project at risk and may result in unintended consequences, such as community instability and unrest.

Organs of state which are required to implement this standard need to establish a suitable supply chain management policy for infrastructure procurement and delivery management in order to do so.

Standard for Infrastructure Procurement and Delivery Management

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1 SCOPE

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- 1.1 This standard establishes a supply chain management system for infrastructure procurement and delivery management by organs of state which are subject to the Public Finance Management Act, the Local Government: Municipal Finance Management Act, or which implement infrastructure projects on behalf of another organ of state in terms of section 238 of the Constitution of the Republic of South Africa, 1996. This standard:
- a) provides a control framework for the planning, design and execution of infrastructure projects, the tracking of such projects and the monitoring of performance which:
 - 1) enables risks to be proactively managed;
 - 2) is capable of being audited;
 - 3) is aimed at ensuring that any infrastructure acquired or to be acquired:
 - is in accordance with the legal mandates and strategic priorities;
 - is delivered in the right quantity and quality, and at the right place and time;
 - is financially, economically and technically viable and offers value for money over its life cycle;
 - is affordable in terms of existing budget and future budgetary projections after taking into account life cycle costs;
 - is acquired in accordance with any required statutory permissions;
 - makes optimal utilisation of existing infrastructure as demand patterns change over time;
 - can be readily and economically maintained; and
 - is aligned between those who design and construct infrastructure, and those who subsequently occupy, use and manage the infrastructure;
 - b) provides a control framework for infrastructure procurement;
 - c) establishes requirements for the following matters as applied to infrastructure procurement and delivery management:
 - institutional arrangements;
 - demand management;
 - acquisition management;
 - contract management;
 - logistics management;
 - disposal management;
 - reporting of supply chain management information;
 - regular assessment of supply chain management performance;
 - risk management and internal control; and
 - d) establishes minimum requirements for infrastructure procurement.
- 1.2 This standard facilitates the allocation of clear responsibilities for performing activities and making decisions at gates.
- 1.3 The standard does not apply to:
- a) the storage of goods and equipment, following their delivery to an organ of state, which are stored and issued to contractors or to employees of that organ of state;
 - 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;

- e) public private partnerships; and
- f) the provision of municipal services by means of external mechanisms referred to in Chapter 8 of the Municipal Systems Act.

1.4 The standard includes the procurement of goods and services necessary for a new facility, as delivered to be occupied and used as a functional entity.

2 TERMS AND DEFINITIONS

2.1 For the purposes of this document, the definitions and terms given in SANS 10845-1, SANS 10845-2 and the following apply.

adjudication: a form of dispute resolution where, unlike other means of resolving disputes involving a third party intermediary, the outcome is a decision by a third party which is binding on the parties in dispute and is final unless and until reviewed by either arbitration or litigation

advance payment: sum of money paid to the contractor after the contract is signed but before work starts or goods or services or any combination thereof are supplied

alteration: changing, extending or modifying the character or condition of infrastructure

building: infrastructure that has the provision of shelter for its occupants or contents as one of its main purposes, usually partially or totally enclosed and designed to stand permanently in one place

building tuning: the review and fine-tuning of all the system settings made during the pre-occupation commissioning, so that the re-commissioning which takes place at the end of the 12-month tuning period results in settings which reflect how the occupants actually behave and the building responds to climatic conditions

construction: everything that is constructed or results from construction operations

control budget: the amount of money which is allocated or made available to deliver or maintain infrastructure associated with a project or package, including site costs, professional fees, all service and planning charges, applicable taxes, risk allowances and provision for price adjustment for inflation

contract management: applying the terms and conditions, including the agreed procedures for the administration thereof

contractor: person or organisation that contracts with the employer to provide goods or services or any combination thereof covered by the contract

defect: non-conformity of a part or component of the works to a requirement specified in terms of a contract

employer: organ of state intending to or entering into a contract with a contractor

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

infrastructure:

- a) immovable assets which are acquired, constructed or which result from construction operations; or
- b) movable assets which cannot function independently from purpose-built immovable assets

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

infrastructure procurement: the procurement of goods or services including any combination thereof associated with the acquisition, refurbishment, 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

major capital project: an infrastructure project or a series of interrelated infrastructure projects on a single site having an estimated cost, including those required for new facilities or systems to become fully operational, above a prescribed threshold

major public entity: a public entity included in the list in Schedule 2 to the Public Finance Management Act

metropolitan municipality: a Category A municipality as provided for in section 155 of the Constitution of the Republic of South Africa, 1996

national government business enterprise: a public entity included in the list in Schedule 3B to the Public Finance Management Act

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

operations and maintenance support plan: a plan which establishes the organisational structure required for the operation and maintenance of the works over its service life, and the office, stores, furniture, equipment, Information and Communications Technology (ICT), engineering infrastructure and staff training requirements

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

package: work which is grouped together for delivery under a single contract or an order

portfolio: collection of projects or programmes and other work that are grouped together to facilitate effective management of that work to meet a strategic objective

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

procurement strategy: selected packaging, contracting, pricing and targeting strategy and procurement procedure for a particular procurement

programme: the grouping of a set of related projects in order to deliver outcomes and benefits related to strategic objectives which would not have been achieved had the projects been managed independently

provincial government business enterprise: a public entity included in the list in Schedule 3D to the Public Finance Management Act

public private partnership: a commercial transaction between an organ of state and a private party in terms of which the private party:

- a) performs an institutional function on behalf of the organ of state or acquires the use of state property for its own commercial purposes; and
- b) assumes substantial financial, technical and operational risks in connection with the performance of the institutional function or use of state property; and
- c) receives a benefit for performing the institutional function or from utilising the state property, either by way of:

- 1) consideration to be paid by the organ of state which derives from a revenue fund or, where an organ of state is a national government business enterprise or a provincial government business enterprise, from the revenues of such institution; or
- 2) charges or fees to be collected by the private party from users or customers of a service provided to them; or
- 3) a combination of such consideration and such charges or fees

quality: totality of features and characteristics of a product or service that bears on the ability of the product or service to satisfy stated or implied needs

refurbishment: modification and improvements to existing infrastructure in order to bring it up to an acceptable condition

rehabilitation: extensive work to bring infrastructure back to acceptable functional conditions, often involving improvements

repair: physical action taken to restore the required function of a faulty item

retention sum: sum retained for a certain period to offset costs which may arise from the contractor's failure to comply fully with the contract

service delivery agreement: an agreement between two or more organs of state setting out the terms and conditions and roles and responsibilities regarding infrastructure delivery which promotes and facilitates inter-institutional relations and the principles of participation, cooperation and coordination

service life: the period of time after acquisition or construction during which the infrastructure or its parts meet or exceed the performance demanded or expected to be fulfilled

stage: a collection of logically related activities in the infrastructure delivery cycle that culminates in the completion of a major deliverable

statutory permission: any relevant approval, consent or permission in terms of any legislation required to plan and deliver the infrastructure

target contract: a cost reimbursement contract in which a preliminary target cost is estimated and on completion of the work the difference between the target cost and the actual cost is apportioned between the parties to the contract on an agreed basis.

value for money: the optimal use of resources to achieve intended outcomes

3 NORMATIVE REFERENCES

3.1 Acts of Parliament

The following referenced Acts of Parliament are indispensable for the application of this document:

- Architectural Profession Act, 2000 (Act No. 44 of 2000)
- Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)
- Constitution of the Republic of South Africa, 1996
- Construction Industry Development Board Act, 2000 (Act No. 38 of 2000)
- Engineering Profession Act, 2000 (Act No. 46 of 2000)
- Landscape Architectural Profession Act, 2000 (Act No. 45 of 2000)
- Local Government: Municipal Finance Management Act, 2003 (Act No.56 of 2003)
- Municipal Systems Act, 2000 (Act No. 32 of 2000)
- National Archives and Record Services of South Africa Act, 1996 (Act No. 43 of 1996)
- Occupational Health and Safety Act, 1993 (Act No. 85 of 1993)
- Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000)
- Project and Construction Management Professions Act, 2000 (Act No. 48 of 2000)
- Public Finance Management Act, 1999 (Act No. 1 of 1999)
- Quantity Surveying Profession Act of 2000 (Act No. 49 of 2000)
- South African Schools Act, 1996 (Act No. 84 of 1996)

3.2 Standards

The following referenced standards and the forms of contract identified in this standard are indispensable for the application of this document. For dated references, only the edition cited applies. For undated references, the latest edition of the referenced document (including any amendments) applies.

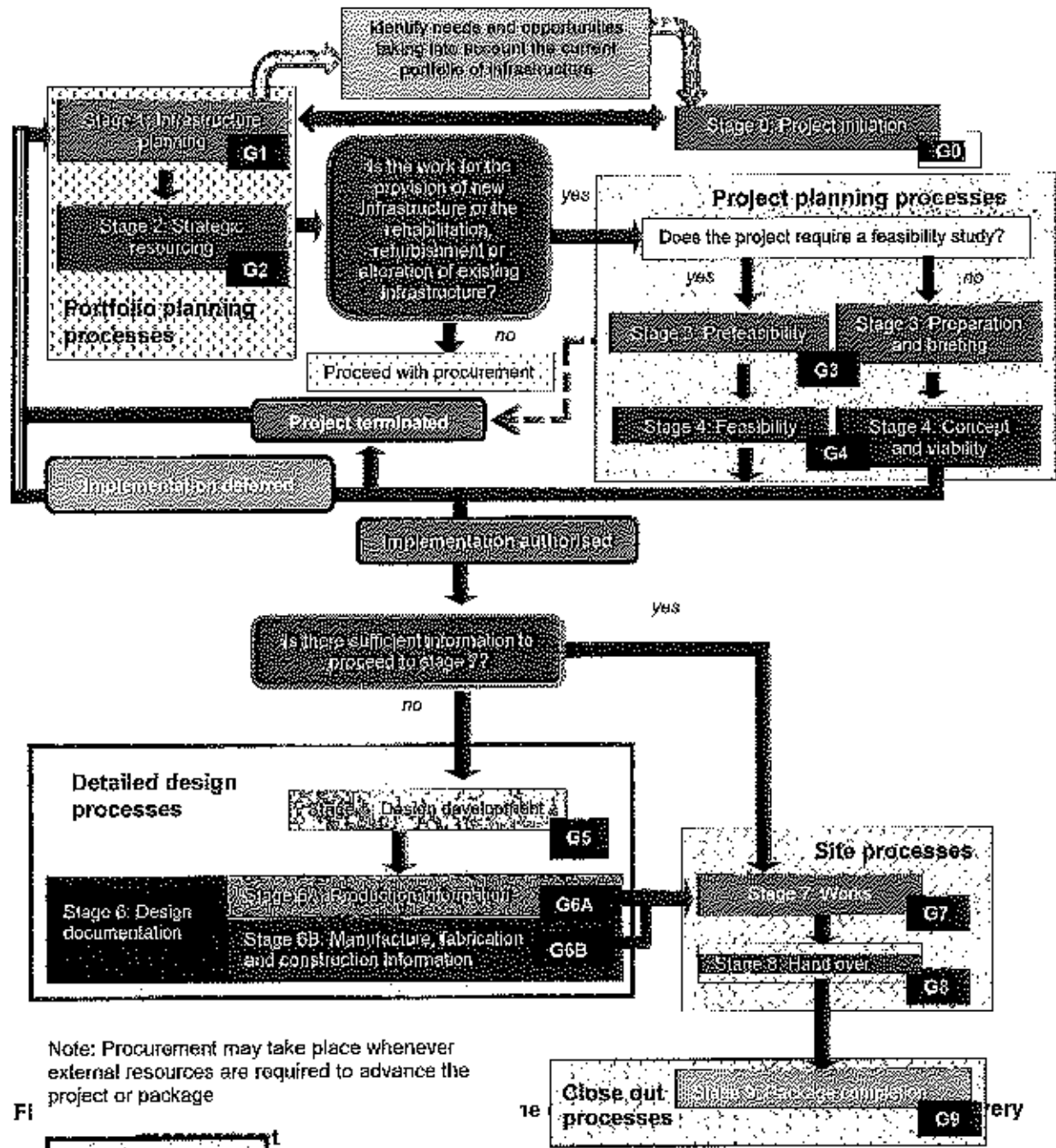
- South African Bureau of Standards, SANS 10845-1, *Construction procurement – Part 1: Processes, methods and procedures*
- South African Bureau of Standards, SANS 10845-2, *Construction procurement – Part 2: Formatting and compilation of procurement documentation*
- South African Bureau of Standards, SANS 10845-3, *Construction procurement – Part 3: Standard conditions of tender*
- South African Bureau of Standards, SANS 10845-4, *Construction procurement – Part 4: Standard conditions for the calling for expressions of interest*
- Standard for Uniformity in Construction Procurement, Construction Industry Development Board

4 CONTROL FRAMEWORKS

4.1 Control framework for infrastructure delivery management

4.1.1 General

- 4.1.1.1 The control framework for the management of infrastructure delivery shall comprise the applicable stages and gates as set out in Figure 1 and the key deliverables described in Table 1. Stages 3 to 9 may be omitted where the required work does not involve the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure. Stages 5 and 6 may be omitted if sufficient information to proceed to stage 7 is contained in the stage 4 deliverable. Decisions to proceed to the next stage shall at each gate, subject to the provisions of 4.1.1.2, be based on the acceptability or approval of the end-of-stage deliverable.
- 4.1.1.2 A stage shall only be complete when the deliverable has been approved or accepted by the person or persons designated in the institutional arrangements to do so. Activities associated with stages 5 to 9 may be undertaken in parallel or series, provided that each stage is completed in sequence.
- 4.1.1.3 The level of detail contained in a deliverable associated with the end of each stage shall be sufficient to enable informed decisions to be made to proceed to the next stage. In the case of stages 3 to 6, such detail shall, in addition, be sufficient to form the basis of the scope of work for taking the package forward in terms of the selected contracting strategy.
- 4.1.1.4 Prefeasibility and feasibility reports shall be required as end-of-stage deliverables for stages 3 and 4, respectively, where one or more of the following applies:
- a) the major capital project is required for:
 - 1) a major public enterprise where the total project capital expenditure exceeds R1,5 billion; or
 - 2) an organ of state subject to the Public Finance Management Act other than a major public enterprise where the total project capital expenditure exceeds R1,0 billion including VAT, or where the expenditure per year for a minimum of three years exceeds R250 million per annum including VAT;
 - b) the project is not:
 - 1) a building project with or without related site works; or
 - 2) a process-based, somewhat repetitive or relatively standardised project where the risk of failing to achieve time, cost and quality objectives is relatively low; or
 - c) the organ of state's infrastructure procurement and delivery supply chain management policy requires that prefeasibility and feasibility reports be produced during stages 3 and 4 respectively.
- 4.1.1.5 Stages 3 and 4 shall be repeated for each package if the acceptance at stage 4 is for the acceptance of a project comprising a number of packages which are to be delivered over time.



Note: Procurement may take place whenever external resources are required to advance the project or package

Legend
G1 to G9 are gates

Table 1: End-of-stage deliverables

Stage		End-of-stage deliverable	
No	Name		
0	Project initiation	An initiation report which outlines the high-level business case together with the estimated project cost and proposed schedule for a single project or a group of projects having a similar high-level scope	
1	Infrastructure planning	An infrastructure plan which identifies and prioritises projects and packages against a forecasted budget over a period of at least five years	
2	Strategic resourcing	A delivery and/or procurement strategy which, for a portfolio of projects, identifies the delivery strategy in respect of each project or package and, where needs are met through own procurement system, a procurement strategy	
3	Prefeasibility	A prefeasibility report which determines whether or not it is worthwhile to proceed to the feasibility stage	
	Preparation and briefing	A strategic brief which defines project objectives, needs, acceptance criteria and client priorities and aspirations, and which sets out the basis for the development of the concept report for one or more packages	
4	Feasibility	A feasibility report which presents sufficient information to determine whether or not the project should be implemented	
	Concept and viability	A concept report which establishes the detailed brief, scope, scale, form and control budget, and sets out the integrated concept for one or more packages	
5	Design development	A design development report which develops in detail the approved concept to finalise the design and definition criteria, sets out the integrated developed design, and contains the cost plan and schedule for one or more packages	
6	Design documentation	6A Production information	Production information which provides the detailing, performance definition, specification, sizing and positioning of all systems and components enabling either construction (where the constructor is able to build directly from the information prepared) or the production of manufacturing and installation information for construction
		6B Manufacture, fabrication and construction information	Manufacture, fabrication and construction information produced by or on behalf of the constructor, based on the production information provided for a package which enables manufacture, fabrication or construction to take place
7	Works	Completed works which are capable of being occupied or used	
8	Handover	Works which have been taken over by the user or owner complete with record information	
9	Package completion	Works with notified defects corrected, final account settled and the close out report issued	

- 4.1.1.6** The infrastructure plan (stage 1), which is informed by demand management requirements as set out in 6.2, initiation reports (stage 0), decisions made during stages 3 and 4 and work in progress in stages 5 to 9, and the procurement strategy (stage 2) shall be reviewed and updated at least once a year.
- 4.1.1.7** An organ of state may, if it deems it necessary, add additional gates to the control framework presented in Figure 1.
- 4.1.1.8** The approval of the infrastructure plan and the securing of the necessary budget shall be obtained prior to advancing to stage 3. All subsequent stages shall only be proceeded with if the necessary budget is in place.

4.1.1.9 The approvals or acceptances at each gate shall be retained for record purposes for a period of not less than five years of such acceptance or approval in a secured environment, unless otherwise determined in terms of the National Archives and Record Services of South Africa Act.

4.1.2 Stage 0: Project initiation

4.1.2.1 Projects, or groups of projects having a similar high-level scope, which are appraised, shall address particular strategic needs or business opportunities which fall within the organ of state's legislated or sanctioned mandate.

4.1.2.2 Objective decision-making criteria based on factors such as those relating to strategic objectives, national, provincial or regional priorities, the level of stakeholder support, legislative compliance, risk considerations and financial justification shall be used to motivate the acceptance of a project into the infrastructure plan.

4.1.2.3 The initiation report for a project shall as a minimum:

- a) provide a project description and high-level scope of work;
- b) outline key issues and solution options that were interrogated;
- c) outline options that were evaluated;
- d) indicate the high-level business case; and
- e) provide the estimated project cost and indicative high-level schedule.

4.1.2.4 The decision-making criteria, findings, assumptions and recommendations shall be documented in the initiation report.

4.1.2.5 Stage 0 is complete when the initiation report is accepted.

4.1.3 Stage 1: Infrastructure planning

4.1.3.1 The infrastructure plan for a portfolio of projects or packages which require implementation shall cover a period of not less than five years. Such a plan shall be:

- a) described by the high-level scope of work for each project, the proposed time schedule, the estimated total project cost and annual budget requirement, the geographical location, any known encumbrances and estimated timeframes for removing these encumbrances; and
- b) aligned with all prescribed planning, budgeting, monitoring and reporting requirements.

4.1.3.2 Stage 1 is complete when the infrastructure plan is approved.

4.1.4 Stage 2: Strategic resourcing

4.1.4.1 A delivery management strategy shall be developed following the conducting of a spend, organisational and market analysis. Such a strategy shall indicate how needs are to be met for each category of spend through one or more of the following:

- a) a public private partnership;
- b) another organ of state on an agency basis;
- c) another organ of state's framework agreement;
- d) own resources; or
- e) own procurement system.

4.1.4.2 A procurement strategy shall, based on the spend, organisational and market analysis, document the selected packaging, contracting, pricing and targeting strategy and procurement procedure for all required goods or services or any combination thereof including professional services.

4.1.4.3 The procurement strategy shall include the rationale for adopting a particular option.

4.1.4.4 Organs of state who engage another organ of state to provide agency services shall develop a delivery management and procurement strategy covering the projects which are subject to an agency agreement (see 5.2), in consultation with that organ of state.

4.1.4.5 Stage 2 is complete when the delivery and procurement strategy is approved.

4.1.5 Stage 3: Preparation and briefing or prefeasibility

4.1.5.1 The strategic brief shall as necessary:

- a) confirm the scope of the package and identify any constraints, including those relating to occupational health and safety;
- b) establish the project criteria, including the performance and reliability requirements, design life, service life of components, function, maintenance and replacement requirements, mix of uses, scale, location, quality, value, time, safety, health, environment and sustainability;
- c) identify procedures, organisational structure, key constraints, statutory permissions (e.g. environmental, heritage, social, planning, building control), and utility approvals, policies (e.g. environmental, developmental, social, maintenance or facilities management) and strategies to take the package forward;
- d) identify risks that need to be mitigated;
- e) identify interfaces between packages as necessary; and
- f) establish the control budget for the package, ownership costs and schedule for the package or series of packages.

4.1.5.2 The prefeasibility study shall as necessary:

- a) document the owner or user requirements specification;
- b) shortlist the options that were considered;
- c) provide a preliminary design for study options;
- d) provide preliminary capital estimate and the proposed schedule; and
- e) present the study outcomes.

4.1.5.3 Stage 3 is complete when the prefeasibility report or the strategic brief, as required, is accepted.

4.1.6 Stage 4: Concept and viability or feasibility

4.1.6.1 The concept report shall as necessary:

- a) document the initial design criteria and design options or the methods and procedures required to maintain the condition of infrastructure for the package;
- b) establish the detailed brief, scope, scale, form and cost plan for the package;
- c) provide an indicative schedule for documentation and construction or maintenance services associated with the package;
- d) contain a site development plan or other suitable schematic layouts of the works;
- e) describe the statutory permissions, funding approvals or utility approvals required to proceed with the works associated with the package;

- f) include a baseline risk assessment for the package, and a health and safety plan which is required in terms of the requirements of the Construction Regulations issued in terms of the Occupational Health and Safety Act;
- g) contain a risk report linked to the need for further surveys, tests, other investigations and consents and approvals, if any, during subsequent stages and identified health, safety and environmental risk;
- h) contain an operations and maintenance support plan which establishes the organisational structure required for the operation and maintenance of the works resulting from the package or series of packages over its service life, and the office, stores, furniture, equipment, Information and Communications Technology (ICT), engineering infrastructure and staff training requirements;
- i) confirm the financial sustainability of the project; and
- j) establish the feasibility of satisfying the strategic brief for the package or series of packages within the control budget established during stage 3 and, if not, motivate a revised control budget.

4.1.6.2 A feasibility report shall as a minimum provide the following:

- a) details regarding the preparatory work covering:
 - 1) a needs and demand analysis with output specifications; and
 - 2) an options analysis;
- b) a viability evaluation covering:
 - 1) a financial analysis; and
 - 2) an economic analysis, if necessary;
- c) a risk assessment and sensitivity analysis;
- d) a professional analysis covering:
 - 1) a technology options assessment;
 - 2) an environmental impact assessment; and
 - 3) a regulatory due diligence; and
- e) implementation readiness assessment covering:
 - 1) institutional capacity; and
 - 2) a procurement plan

4.1.6.3 Stage 4 is complete when the feasibility report or the concept report, as required, is accepted.

4.1.7 Stage 5: Design development

4.1.7.1 The design development report shall as necessary:

- a) develop in detail the accepted concept to finalise the design and definition criteria;
- b) establish the detailed form, character, function and costings;
- c) define all components in terms of overall size, typical detail, performance and outline specification;
- d) describe how infrastructure, or elements or components thereof, are to function, how they are to be safely constructed, how they are to be maintained and how they are to be commissioned; and
- e) confirm that the package or series of packages can be completed within the control budget or propose a revision to the control budget.

4.1.7.2 Outline specifications shall be in sufficient detail to enable a view to be taken on the operation and maintenance implications of the design and the compatibility with existing plant and equipment.

4.1.7.3 Stage 5 is complete when the design development report is accepted.

4.1.8 Stage 6: Design documentation

4.1.8.1 Stage 6A (Production information) is complete when all the production information that is required to be accepted prior to being issued for construction, manufacturing or fabrication purposes has been accepted.

4.1.8.2 Stage 6B (Manufacture, fabrication and construction information) is complete when the manufacture, fabrication and construction information is accepted as being in accordance with the production information.

4.1.9 Stage 7: Works

Stage 7 is complete when:

- a) completion of the works is certified in accordance with the provisions of the contract; or
- b) the goods and associated services are certified as being delivered in accordance with the provisions of the contract.

4.1.10 Stage 8: Handover

4.1.10.1 The handover stage shall include as necessary the training of the end user's or the owner's staff in the operation of the delivered infrastructure.

4.1.10.2 The record information shall as relevant:

- a) accurately document the condition of the completed works associated with a package;
- b) accurately document the works as constructed or completed;
- c) contain information on the care and servicing requirements for the works or a portion thereof;
- d) contain information or instructions on the use of plant and equipment;
- e) confirm the performance requirements of the design development report and production information;
- f) contain certificates confirming compliance with legislation, statutory permissions and the like; and
- g) contain guarantees that extend beyond the defects liability period provided for in the package.

4.1.10.3 Record information shall, as relevant, provide those tasked with the operation and maintenance of infrastructure with the information necessary to:

- a) understand how the designers intended the works, systems, subsystems, assemblies and components to function;
- b) effectively operate, care for and maintain the works, systems, subsystems, assemblies and components to function;
- c) check, test or replace systems, subsystems, assemblies or components to ensure the satisfactory performance of works, systems, subsystems, assemblies and components over time;

- d) develop maintenance plans;
- e) determine stock levels for components and assemblies that need to be regularly replaced; and
- f) budget for the operation and maintenance of the works, systems, subsystems and components over time.

4.1.10.4 Arrangements shall be put in place to secure and safeguard the works from the time that the contractor's liabilities for damage to the works end until such time that the works are handed over to the end user or owner who shall accept such liabilities.

4.1.10.5 Stage 8 is complete when the end user or owner accepts liability for the works.

4.1.11 Stage 9: Close out

4.1.11.1 The close out report for the package shall outline what was achieved in terms of at least the following:

- a) the performance parameters outlined in f2;
- b) unit costs of completed work or major components thereof; and
- c) key performance indicators relating to developmental objectives.

4.1.11.2 The close out report shall make suggestions for improvements on future packages of a similar nature. Such a report should also comment on the performance of the contractor and, if relevant, include building tuning or similar reports.

4.1.11.3 Stage 9 is complete when, as relevant, defects certificates or certificates of final completion are issued in terms of the contract, the final amount due to the contractor in terms of the contract is certified and the close out report is accepted.

4.1.12 Approval of high-value national and provincial major capital projects

4.1.12.1 The approval process for major capital projects described in 4.1.12.2 to 4.1.12.6 shall apply to all national and provincial projects where the value of such projects including VAT exceeds:

- a) national and provincial departments and constitutional institutions: R7,5 billion
- b) major public enterprise, national government business enterprise, provincial government business enterprise and other public entities, the lessor of:
 - 1) R10 billion; or
 - 2) 4% of the organ of state's total assets or, if applicable, 2% of the organ of state's total revenue as reflected in its latest audited financial statements.

4.1.12.2 The end-of-stage deliverables for stage 0 (initiation report) and stage 4 (feasibility report) in the control framework for the management of infrastructure delivery (see Figure 1) shall, after taking into account the comments and recommendations of the relevant treasury, be approved by:

- a) cabinet, in the case of national departments, constitutional institutions and public entities listed in schedules 2, 3A and 3B of the Public Finance Management Act; or
- b) the executive council, in the case of provincial departments and public entities listed in schedules 3C and 3D of the Public Finance Management Act.

4.1.12.3 The end-of-stage deliverables for stage 3 (prefeasibility) shall, after taking into account the comments and recommendations of the relevant treasury, be approved by:

- a) the relevant member of the cabinet, in the case of national departments, constitutional institutions and public entities listed in schedules 2, 3A and 3B of the Public Finance Management Act; or
- b) the relevant member of the executive council, in the case of provincial departments and public entities listed in schedules 3C and 3D of the Public Finance Management Act.

4.1.12.4 The initiator of the inception, prefeasibility and feasibility reports shall submit such reports to the relevant treasury for comment prior to making a submission to cabinet, the relevant minister, executive council or relevant member of the executive council, as applicable. The relevant treasury shall within three weeks of receiving a report submit comments and recommendations to the initiator who may revise such reports in the light of the comments and recommendations made, and:

- a) request the relevant treasury to make comments and recommendations on the revised reports; or
- b) submit the report together with the latest version of the relevant treasury comments and recommendations for approval.

4.1.13 Gateway reviews

4.1.13.1 Gateway reviews for major capital projects above a threshold

4.1.13.1.1 All major capital projects having an estimated capital expenditure equal to or above the threshold established in Table 2 shall have a gateway review of the end-of-stage 4 deliverable, prior to the acceptance of such deliverable. The review shall be initiated by the organ of state which intends implementing the project. The focus of such a review shall in the first instance be on the quality of the documentation, and thereafter on:

- a) deliverability (the extent to which a project is deemed likely to deliver the expected benefits within the declared cost, time and performance envelope);
- b) affordability (the extent to which the level of expenditure and financial risk involved in a project can be taken up on, given the organisation's overall financial position, both singly and in the light of its other current and projected commitments); and
- c) value for money.

Table 2: Thresholds for gateway reviews of major capital projects

Organ of state	Estimated cost inclusive of VAT
National department	R100 million
Provincial department or metropolitan municipality	R100 million
Municipality other than a metropolitan municipality	R50 million
Major public entity	R500 million
National government business enterprise	R250 million
Provincial government business enterprise	R250 million
Other	R100 million

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

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

4.1.13.1.3 The relevant treasury shall be notified of a proposed gateway review for a major capital project, three weeks prior to the conducting of such a review. Such notification shall be accompanied by a brief outline of the proposed project or package, the names and qualifications of the reviewers and the timeframes for the review. The relevant treasury may nominate additional persons to serve on the review team.

4.1.13.1.4 The gateway review team shall base its findings primarily on:

- a) the information contained in the end-of-stage deliverables;
- b) supplementary documentation, if any, provided by key staff obtained during an interview process; and
- c) interviews with key staff members and stakeholders.

4.1.13.1.5 The gateway review team shall issue a report at the conclusion of a gateway review which indicates the team's assessment of the information at the end of a stage and provides findings or recommendations on areas where further work may be undertaken to improve such information.

4.1.13.1.6 Aspects in the report shall be flagged as being:

- a) code red: team considers the aspect to pose a significant risk to the project or package;
- b) code amber: team considers the aspects which indicate a minor risk to the project or package; or
- c) code green: team considers the aspect to have been given adequate consideration to the extent that it is unlikely to jeopardise the success of progressing to the next stage, or minor adjustments may be required before proceeding.

4.1.13.1.7 The contents of the gateway review report shall be taken into account when accepting the stage 4 deliverable. A stage 4 deliverable shall not be accepted until such time that all code red risks have been addressed in the stage 4 end-of-stage deliverable.

4.1.13.2 Gateway reviews initiated by the relevant treasury

4.1.13.2.1 A relevant treasury may at any time institute a gateway review of any of the end-of-stage deliverables associated with the control framework, irrespective of the estimated cost of a project. The focus of such a review shall be determined by the relevant treasury. The implementer of a project shall be notified of the review and its focus at least three weeks prior to the conducting of the review.

4.1.13.2.2 The implementer shall provide a person to lead the review and one other person to serve on the team, both of whom satisfy the requirements of 4.1.13.1.2.

4.1.13.2.3 The gateway review shall be conducted substantially in accordance with the provisions of 4.1.13.1.4 to 4.1.13.1.6.

4.2 Control framework for infrastructure procurement

4.2.1 General

4.2.1.1 Infrastructure procurement shall be implemented in accordance with the provisions of the control framework indicated in Figure 2 which contains:

- a) procurement gates;
- b) framework agreement gates;
- c) reporting points, where applicable, for interfacing with the Construction Industry Development Board's (CIDB) register of projects; and
- d) a gate relating to the interface with a financial management system.

4.2.1.2 The activities associated with the control framework indicated in Figure 2 are set out in Tables 3 and 4 whenever a negotiated, competitive selection or competitive negotiations procedure is applied, with the exception of the shopping procedure. Procurement Gates 6 and 7 may be combined in the case of the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure.

4.2.1.3 The level of detail contained in the documentation upon which a decision is made at a gate shall be sufficient to enable informed decisions to be made to proceed to the next activity or to undertake a particular procedure.

4.2.1.4 The approvals or acceptances at each gate shall be retained for record and audit purposes for a period of not less than five years of such acceptance or approval in a secured environment, unless otherwise determined in terms of the National Archives and Record Services of South Africa Act.

4.2.2 Specific requirements relating to the review of procurement documents

4.2.2.1 The approval of procurement documents at Procurement Gate 3 or Framework Agreement Gate 2 shall be based on the contents of a procurement documentation review report. Where the procurement relates to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure, such a report shall be prepared by one or more persons who participated in the review and who are registered as:

- a) a professional architect or professional senior architectural technologist in terms of the Architectural Profession Act or a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
- b) a professional engineer or professional engineering technologist in terms of the Engineering Profession Act; or
- c) a professional quantity surveyor in terms of the Quantity Surveying Professions Act.

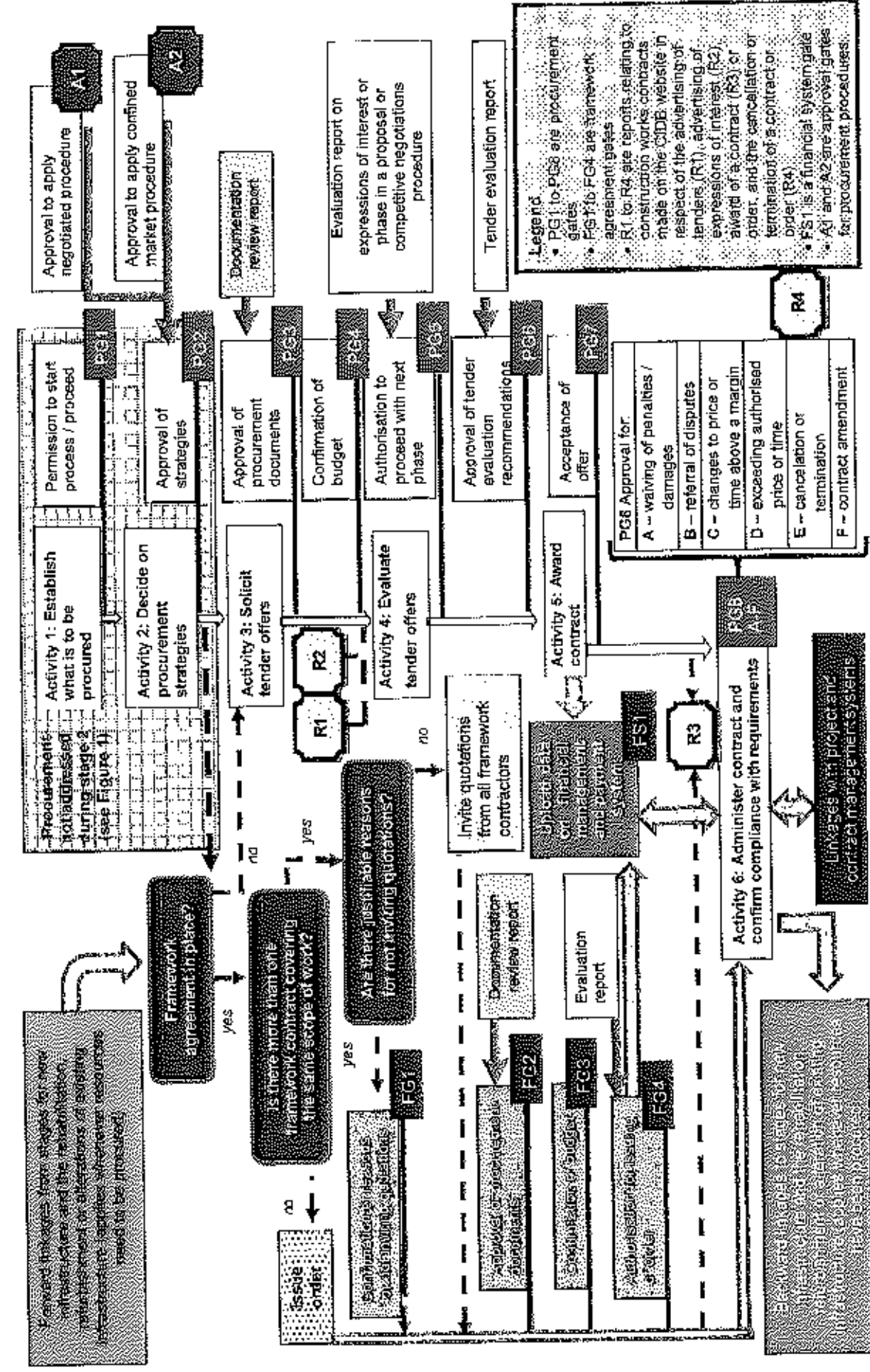


Figure 2: Control framework for procurement (acquisition and contract management) processes

Table 3: Procurement activities and gates associated with the formation and conclusion of contracts above the threshold for the quotation procedure

Activity		Sub-Activity ^a		
1	Establish what is to be procured (Applies only to goods and services not addressed in a procurement strategy developed in terms of 4.1)	1.1	Prepare broad scope of work for procurement	
		1.2	Estimate financial value of proposed procurement	
		1.3 PG1	Obtain permission to start with the procurement process	
2	Decide on procurement strategy (Applies only to goods or services not included in a procurement strategy developed in terms of 4.1)	2.1	Establish opportunities for using procurement to promote developmental procurement policies, if any	
		2.2	Establish contracting and pricing strategy	
		2.3	Establish targeting strategy	
		2.4	Establish procurement procedure	
		2.5 PG2	Obtain approval for procurement strategies that are to be adopted, including specific approvals to approach a confined market or the use of the negotiation procedure	
3	Solicit tender offers	3.1	Prepare procurement documents	
		3.2 PG3	Obtain approval for procurement documents	
		3.3 PG4	Confirm that budgets are in place	
		3.4	Invite: <ul style="list-style-type: none"> tender offers; or expressions of interest (qualified procedure or restricted competitive negotiations procedure) 	
		3.5	Receive submissions	
		3.6	Open and record submissions received	
4	Evaluate tender offers	4.1	Qualified procedure, proposal procedure or competitive negotiations procedure only	Evaluate and prepare evaluation report on submissions received
		4.2 PG5		Obtain authorisation to proceed with next phase of tender process
		4.3		Invite tender offers from qualified respondents or selected tenderers
		4.4		Open and record submissions received and, if necessary, repeat 4.1 to 4.4
		4.5		Evaluate tender offers and prepare a tender evaluation report
		4.6 PG6		Confirm recommendations contained in the tender evaluation report
5	Award contract	5.1	Notify unsuccessful tenderers of outcome	
		5.2	Compile contract document	
		5.3 PG7	Award contract	
		5.4	Capture contract award data on management systems	
		5.5 GF1	Upload data in financial management and payment system	

Table 3 (concluded)

Activity	Sub-Activity*	
6 Administer contracts and confirm compliance with requirements	6.1	Administer contract in accordance with the terms and provisions of the contract
	6.2	Confirm compliance with requirements
	6.3	Capture contract completion / termination data
	6.4 PG8A	Obtain approval to waive penalties or low performance damages
	6.5 PG8B	Obtain approval to notify and refer a dispute to an adjudicator, or for final settlement to an arbitrator or court of law
	6.6 PG8C	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage
	6.7 PG8D	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 20% and 30%, respectively
	6.8 PG8E	Obtain approval to cancel or terminate a contract
	6.9 PG8F	Obtain approval to amend a contract
	6.10	Close out the contract

* Shaded cells indicate the presence of a procurement gate

Table 4: Procurement activities and gates associated with the issuing of an order in terms of a framework agreement

Activity*	
1 PG	Confirm that there are no reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work
2	Prepare procurement documents
3 PG	Obtain approval for procurement documents
4 PG	Confirm that budgets are in place
5	Quotations amongst framework contractors not invited: Issue draft order documentation and consult with contractor and prepare evaluation report Quotations amongst framework contractors invited: Invite quotations from all framework contractors participating in the agreement, receive and evaluate submissions and prepare evaluation report
6 PG	Authorise the issuing of the order
7	Log order onto management system
8	Issue order to contractor
9	Notify issuing of order to oversight person
10	Administer orders in accordance with contract and confirm compliance with requirements

* Shaded cells indicate the presence of a framework gate

4.2.2.2 The review of procurement documents associated with the negotiation, competitive selection or competitive negotiation procedure shall confirm that:

- a) the procurement documents have been formatted and compiled in accordance with the requirements of SANS 10845-2, this standard and, where applicable, the CIDB Standard for Uniformity in Construction Procurement, and are aligned with the approved procurement strategy;

- b) appropriate prompts for judgement are included in procurement documents in accordance with the requirements of SANS 10845-1 whenever quality is evaluated and scored in the evaluation of calls for expressions of interest or tender offers;
- c) the selected form of contract in the case of a tender that is solicited is in accordance with the requirements of 14.5.3 and any standard templates required by the organ of state have been correctly applied;
- d) the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract, conditions of tender or conditions for the calling for expressions of interest, as relevant, not provided for in the organ of state's approved templates;
- e) the selected submission data in the case of a call for an expression of interest, or tender data and contract data options in the case of a tender, are likely to yield best value outcomes;
- f) the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided, and satisfies the drafting requirements of SANS 10845-1;
- g) the submission or returnable documents are necessary and will enable submissions to be evaluated fairly and efficiently; and
- h) the risk allocations in the contract and pricing data are appropriate.

4.2.2.3 The review of procurement documentation associated with the issuing of an order shall confirm that:

- a) any standard templates required by the organ of state have been correctly applied;
- b) the necessary approval has been obtained for additional clauses or variations to the standard clauses in the conditions of contract not provided in the organ of state's approved templates or the contract;
- c) the scope of work adequately establishes what is required and the constraints to the manner in which the contract work is to be provided;
- d) the provisions for competition amongst framework contractors, if relevant, and the selected options are likely to yield best value outcomes; and
- e) the risk allocations are appropriate.

4.2.2.4 The review conducted to confirm the provisions of 4.2.2.2 and 4.2.2.3 shall identify sections, if any, which require amendments or improvements.

4.2.2.5 The documentation review report shall:

- a) list the names and qualifications of the team members;
- b) confirm that the documents are in accordance with the requirements of this standard;
- c) capture any comments or opinions which the team may wish to express; and
- d) recommend that the procurement documents be accepted with or without modifications.

4.2.3 Specific requirements relating to the evaluation of submissions

4.2.3.1 The authorisation to proceed with the next phase (Procurement Gate 5), the approval of tender evaluation recommendations (Procurement Gate 6) and the authorisation for the issuing of an order (Framework Agreement Gate 4) shall be based on the contents of an evaluation report.

4.2.3.2 The evaluation report shall be prepared by one or more persons who are conversant with the nature and subject matter of the procurement documents or the framework contract, and who are registered as:

- a) a professional architect or professional senior architectural technologist in terms of the Architectural Profession Act;
- b) a professional engineer or professional engineering technologist in terms of the Engineering Profession Act;
- c) a professional landscape architect or a professional landscape technologist in terms of the Landscape Architectural Profession;
- d) a professional project manager or a professional construction manager in terms of the Project and Construction Management Professions Act; or
- e) a professional quantity surveyor in terms of the Quantity Surveying Profession Act.

4.2.3.3 All communications with respondents and tenderers during the procurement process to obtain information and clarifications shall be made in writing through the employer's agent named in the submission or tender data. Records of all communications in this regard shall be made and retained for auditing purposes.

4.2.3.4 Submissions shall be evaluated strictly in accordance with the provisions of the procurement documents (see Annex C of SANS 10845-3 and Annex C of SANS 10845-4, as relevant). Where quality is evaluated, at least three persons who satisfy the requirements of 4.2.3.2 shall undertake such evaluation. Quality shall be scored in terms of the prompts for judgement, with fixed scores assigned to each prompt, either individually and averaged or collectively, as appropriate.

4.2.3.5 Those involved in the evaluation of submissions shall record their scores for quality against each of the criteria during the process of evaluation, preferably with notes to substantiate the scores. Individuals should record their own markings on a separate sheet. These documents shall be placed on file as an audit trail and may form the basis of any debriefing that takes place.

4.2.3.6 Evaluation reports shall be prepared in accordance with the content headings and relevant guidelines contained in Tables 5 or 6, with modifications as necessary where a two-envelope, two-stage process or competitive negotiation procedure is followed. Such reports shall contain extracts from the procurement documents which are linked to the evaluation of submissions, such as eligibility criteria, criteria associated with evaluation methods, preferencing, quality criteria (including prompts for judgement), the method by which tenders are reduced to a common base and lists of returnable documents. Such references shall enable those who are tasked with making decisions based on these documents to do so without having to refer back to submissions in order to understand the content of the report.

4.2.3.7 An evaluation report which recommends the award of a contract shall contain in annexures the reports, if any, of prior processes, e.g. a call for an expression of interest, a round in a competitive negotiation procedure or a stage in a competitive selection procedure.

4.2.3.8 An evaluation report covering the application of the negotiated procedure for the award of a contract or the issuing of an order, shall confirm that the negotiated amounts are market-related and represent value for money. Where the total of the prices associated with a target cost contract is negotiated, the total of prices shall be certified as being fair and reasonable by a professional quantity surveyor registered in terms of the Quantity Surveying Profession Act or a professional engineer registered in terms of the Engineering Profession Act.

Table 5: Content of an evaluation report relating to an expression of interest

Section heading	Subsection heading	Guidelines for the preparation of content
1 Summary	-	<p>Provide an overview of the parameters associated with the expression of interest, preferably in tabular form, including the following as relevant:</p> <ul style="list-style-type: none"> • Contract / project no and contract / project description • Purpose of the expression of interest • Media in which advertisement was placed • Advertisement date(s) • Estimated value of contract or orders which are likely to be awarded during the term of the contract, if applicable • Date from which documents were available • Number and title of addenda issued • Closing date • Details of clarification meeting, including date and place, if any • Number of submissions made • Number of responsive submissions received • Recommended outcomes of the process
2 An overview of the evaluation process	-	<p>Provide an overview of the procurement process, indicating the eligibility criteria that were applied. State points relating to evaluation criteria, prompts for judgement and weightings relating thereto. Reproduce the list of returnable documents. Provide, if applicable, an overview as to how the quality aspects of the submissions were scored.</p> <p>Record that those involved in the evaluation of tenders have no conflicts of interest or have declared any conflict of interest that they may have, and the nature of such conflict.</p>
3 Evaluation process	3.1 Submissions received	<p>List the submissions that were received.</p> <p>Describe any noteworthy events regarding the opening of submissions, e.g. the returning of late submissions.</p>
	3.2 Completeness of submissions received	<p>Compare submissions received against the list of returnable documents. State if any submissions were incomplete and outline how clarifications were obtained.</p> <p>Confirm if respondents took into account addenda, if any, in their submission.</p>
	3.3 Responsiveness of respondents	<p>Identify which of the submissions received were non-responsive and provide clear reasons for declaring respondents to be non-responsive.</p>
	3.4 Evaluation of submissions	<p>Record the manner in which submissions were evaluated.</p> <p>Record, where relevant, and preferably in a tabular form, the scores for each of the evaluation criteria and the total score (excluding those who failed to score above a threshold, if any).</p>
	3.5 Reasons for disqualification on the grounds of corrupt or fraudulent practice	<p>State reasons if applicable.</p>
	3.6 Compliance with legal requirements	<p>Confirm as relevant that respondents are not barred from participation, tax matters are in order, are registered, etc.</p>
4 Tender recommendation	-	<p>Make a recommendation for the outcome of the process, e.g. admit to a database or prequalify / shortlist respondent to be invited to submit tender offers.</p> <p>Record the names and qualifications of those who performed the evaluation.</p>
5 Confirmation of recommendations	-	<p>Make provision for the confirmation or amendment of the recommended action.</p>

Table 6: Content of an evaluation report relating to the solicitation of tender offers

Section heading	Subsection heading		Guidelines for the preparation of content
1 Summary	-	-	<p>Provide an overview of the parameters associated with the solicitation of the tender, preferably in tabular form, including the following as relevant:</p> <ul style="list-style-type: none"> • Contract / Project / Tender number • Contract description • Contract duration • Purpose of tender • Contracting strategy, pricing strategy, form of contract and targeting strategy • Procurement procedure and method of tender evaluation • Tender validity expiry date • Alternative tenders (not permitted or state conditions under which permitted) • Media in which advertisement was placed, if not a nominated or qualified competitive selection procedure or a restricted competitive negotiations procedure • Date of advertisement(s) • Date from which documents were available • Details of clarification meeting, including date and place, if any • Tender closing date • Number and title of addenda issued • Number of tenders received • Number of responsive tenders • Recommended tender(s) • Cost estimate (budget), unless a framework contract • Lowest responsive and realistic tender used for comparative purposes (tender price, specific goals, etc.)
2 An overview of the tender evaluation process	-	-	<p>Provide an overview of the procurement process, indicating the eligibility criteria that were applied and the evaluation criteria. State specific goals and points relating to preferences, as well as any quality evaluation criteria, prompts for judgement and weightings relating thereto.</p> <p>Reproduce the list of returnable documents.</p> <p>Provide an overview as to how the quality aspects of the tender were scored.</p> <p>Record that those involved in the evaluation of tenders have no conflicts of interest or have declared any conflict of interest that they may have, and the nature of such conflict.</p>
3 Tender evaluation process	3.1	Tender offers received	<p>List the tender offers that were received.</p> <p>Describe any noteworthy events regarding the opening of submissions, e.g. the returning of late tenders and the declaring of submissions non-responsive on the grounds that they were not received in the prescribed manner.</p>
	3.2	Completeness of tenders received	<p>Compare tender submissions received against list of returnable documents. State if any tender submissions received were incomplete and indicate what was not complete. Indicate what steps were taken to make incomplete tenders complete, only where this does not affect the competitive position of the tenderer in question. List all communications with tenderers.</p> <p>Confirm if tenderers took into account addenda, if any, in their tender submission.</p>
	3.3	Responsiveness of tenderers	<p>Identify which of the tenders received were non-responsive and provide clear reasons for declaring such tenders to be non-responsive.</p>

Table 6 (concluded)

Section heading	Subsection heading	Guidelines for the preparation of content
3 Tender evaluation process (continued)	3.4 Evaluation of tender offers	Record the manner in which tenderers were reduced to a common basis: Record preferably in a tabular form: <ul style="list-style-type: none"> • the scores for each of the evaluation criteria; • the total score (excluding those who failed to score above a threshold); • the pricing parameters that were tendered to enable compensation events to be evaluated of contractors to be paid in cost reimbursable or target cost contract. Provide reasons for not granting a preference or considering a financial offer to be unrealistically low.
	3.5 Reasons for disqualification on the grounds of corrupt or fraudulent practice	State reasons if applicable.
	3.6 Compliance with legal requirements	Confirm as relevant that tenderers are not barred from participation, tax matters are in order, are registered, etc.
	3.7 Acceptability of preferred tenderer	State any reasons why the tenderer with the highest points should not be considered for the award of the tender, e.g. commercial risk, restrictions, lack of capability and capacity, legal impediments, etc. Also state any arithmetical corrections that have been made.
4 Outcome of the evaluation	-	Make a recommendation for the award of the tender and state any qualifications / conditions associated with such an award. Record the names and qualifications of those who performed the evaluation.
5 Confirmation of recommendations	-	Make provision for the recommendations for the award of the tender to be confirmed or amended.

4.2.4 Authorisation to proceed with the next phase of the procurement process

The person authorised to enable a procurement process to progress to the next phase of the process shall review the evaluation report and either refer the report back to those responsible for such a report or authorise the procurement process to proceed to the next phase after:

- confirming that the report is complete and addresses all considerations necessary to make a decision;
- confirming the validity and reasonableness of reasons provided for the elimination of tenderers or respondents; and
- considering commercial risks and identifying any risks that have been overlooked which warrant investigation prior to taking a final decision.

4.2.5 Authorisation for issuing of an order

The person responsible for authorising an order shall, prior to authorising the issuing of an order:

- confirm that the required goods or services, or any combination thereof, are within the scope of work associated with the relevant framework contract; and
- consider the recommendations of the evaluation report where competition amongst framework contracts takes place (see 14.3.6) or a significant proportion of the total of the prices is negotiated, based on the financial parameter contained in the framework contract, and either

confirm the reasonableness of such recommendations and sign the acceptance of the order, or refer the evaluation report and recommendation back to those who prepared it.

5 INSTITUTIONAL ARRANGEMENTS

- 5.1 Organs of state who are responsible for infrastructure delivery shall establish a suitable infrastructure procurement and delivery supply chain management policy to implement this standard. Such a policy shall as a minimum:
- a) assign responsibilities for approving or accepting deliverables associated with a gate in the control framework or authorising a procurement process or procedure;
 - b) establish committees which are required by law, or equivalent quality management and governance arrangements;
 - c) establish delegations for the awarding of a contract or the issuing of an order; and
 - d) establish ethical standards for those involved in the procurement and delivery of infrastructure.
- 5.2 An agency agreement shall be entered into between organs of state where responsibilities for implementation are delegated or assigned, or with a school governing body, established in terms of section 16 of the South African Schools Act, that makes a substantial financial contribution to a project. Such an agreement shall:
- a) establish principles and requirements relating to the recovery of cost associated with the rendering of the service, claims for payments made on an agency basis including the release of retention sums, the settling of claims for payment and the documentation required to accompany such claims; and
 - b) include a service delivery agreement which as relevant sets out at least the following:
 - 1) overall aims, objectives and priorities;
 - 2) governance structures;
 - 3) reporting requirements;
 - 4) the scope of the services to be performed by the implementer during each financial year;
 - 5) the projects and packages which are included in the infrastructure plan and which are to be delivered, and the timeframes for doing so;
 - 6) the roles and responsibilities of the parties to the agreement, including requirements for the engagement and management of stakeholders;
 - 7) delegations to the implementer to accept end-of-stage deliverables on an agency basis;
 - 8) contributing resources, including human resources; and
 - 9) dispute resolution procedures.
- 5.3 The agency agreement shall be reviewed annually and amended or revised as necessary.
- 5.4 The implementer's supply chain management system shall be used to procure goods or services, or any combination thereof, for infrastructure covered by the agency agreement referred to in 5.2.

6 DEMAND MANAGEMENT

6.1 The demand management system shall be aimed at ensuring that goods and services, and any combination thereof required to support strategic and operational commitments, are delivered at the right price, time and place, and that the quality and quantity of such goods or services satisfy needs.

6.2 The demand for infrastructure delivery shall be managed through:

- a) the service life plans which;
 - 1) are based on:
 - an assessment of current performance against desired levels of service or functionality; and
 - a needs analysis informed by factors such as policies, norms and standards, condition assessments, functional performance, demographic trends, current and forecasted levels of optimisation; and
 - 2) reflect a cost estimate for the life cycle activities comprising acquisition, operations, maintenance, refurbishment, rehabilitation or alteration as relevant, over a minimum period of five years; and
- b) infrastructure plans which, as a minimum, summarise the service life plans and provide a credible forecast of current and net demand for services or requirements for functionality over a period of not less than ten years.

6.3 Consideration shall, where appropriate, be given to:

- a) alternative service delivery methods or means of satisfying needs which do not require infrastructure to implement or reduce the demand for infrastructure; and
- b) the disposal of infrastructure that is surplus to requirements.

6.4 Projects shall, wherever possible, be delivered in accordance with established norms and standards which are designed to yield value for money.

6.5 Identified projects shall be prioritised and budgeted for in an infrastructure plan (see 4.1.2.2).

6.6 Costs shall be proactively managed through the setting and proactive monitoring of control budgets for projects through the project planning, detailed design and site processes indicated in Figure 1.

7 ACQUISITION MANAGEMENT

7.1 Procurement of new infrastructure and the rehabilitation, refurbishment or alteration of existing infrastructure

- 7.1.1 Budgets submission for budget approval to advance a project or package relating to the delivery or planned maintenance of infrastructure in a financial year shall be broken down into the stages (see Figure 1) which have been completed.
- 7.1.2 Implementation plans relating to new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure which are aligned with the accepted delivery and procurement strategy, shall be developed for each project or package which is to be delivered in a financial year. Such a plan shall as necessary:
- a) identify the objectives of each project or programme of projects;
 - b) identify the scope, budget and schedule for each project or package;
 - c) outline the procurement strategy in respect of each project or package;
 - d) provide a time management plan for each project, i.e. the baseline against which progress towards the attainment of milestone (key deliverables) target dates can be measured;
 - e) provide the projected budget and cash flows which will enable planned and actual expenditure to be compared and revisions to the budget to be approved, and multiple project budgets to be managed;
 - f) document the key success factors and the key performance indicators which need to be measured, monitored and evaluated;
 - g) contain a procurement plan which indicates the timeline for advertising and closing of tenders, and the obtaining of gate approvals leading up to the award of the contract or the issuing of an order;
 - h) identify the major risks and how such risks are to be mitigated or managed;
 - i) indicate how quality requirements and expectations are to be met and managed;
 - j) outline the controls and measures which will address health, safety, socio-economic or environmental risks;
 - k) provide a communication plan which determines the lines of communication and the key activities associated therewith; and
 - l) indicate the assigned internal and external resources with implementation responsibilities.
- 7.1.3 Financial data shall be gathered to enable a financial report to be generated at regular intervals which:
- a) lists the packages which have completed stage 7 (works) together with actual expenditure;
 - b) indicates the following for packages which have advanced beyond stage 4 (concept and viability or feasibility) but have not yet completed stage 7 (works):
 - 1) budget for the financial year;
 - 2) actual expenditure to date;
 - 3) remaining budget for the year;
 - 4) forecast expenditure for the remainder of the year; and
 - 5) forecast over/under expenditure for the year;
 - c) indicates professional fees associated with a project or package; and
 - d) enables "actual" versus "planned" expenditure to be compared.

7.2 Procurement other than new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure

7.2.1 Annual procurement plans shall be prepared to cover the procurement of goods or services, or any combination other than that relating to new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure which exceed the threshold for quotations.

7.2.2 Annual procurement plans required in accordance with 7.2.1 shall contain the following information for all proposed tenders for a financial year where the proposed procurement is estimated to equal or exceed the threshold for quotations.

- a) a description of the goods, services or works;
- b) the estimated value of such goods, services or works, including all applicable taxes;
- c) the envisaged date of advertisement;
- d) the envisaged closing date for tenders; and
- e) the envisaged date of award.

7.3 Use of an organ of state's framework agreement by another organ of state

7.3.1 An organ of state may request in writing to make use of one or more framework contracts entered into by another organ of state. Such a request, signed by the accounting officer or accounting authority of that organ of state, shall:

- a) outline the scope and anticipated quantum of work associated with the work that is required;
- b) provide a motivation for the use of the framework agreement; and
- c) detail the benefit for the state to be derived from making use of the framework agreement.

7.3.2 The accounting officer or accounting authority may approve a request made in terms of 7.3.1 to make use of the organ of state's framework contract, conditionally or unconditionally, if:

- a) the framework agreement was put in place following a competitive tender process;
- b) confirmation is obtained that the framework contract is suitable for the intended use, and the required goods, services and works fall within the scope of such contract;
- c) the framework contractor agrees in writing to accept an order from that organ of state;
- d) the organ of state undertakes to pay the contractor in accordance with the terms and conditions of the agreement; and
- e) the term of the framework agreement does not expire before the issuing of the required orders.

8 CONTRACT MANAGEMENT

- 8.1 The person responsible for the administration of the contract or an order on behalf of the employer shall:
- a) act as stated in the contract that is entered into, subject to any constraints that may be imposed by the employer or the employer's supply chain management policy for infrastructure procurement and delivery management, using any standard templates that are provided for communications required in terms of the contract;
 - b) provide at least the following data within two weeks of the award of a contract or an order for capture on a contract management system:
 - 1) name and contract particulars;
 - 2) the programme or project number, as relevant;
 - 3) the contractual dates associated with the contract or order;
 - 4) except in the case of very low value goods or services contracts, a cash flow forecast;
 - 5) the agreed total of prices or forecasted total of prices; and
 - 6) where applicable, whether or not provision is made for price adjustment for inflation, delay damages, performance bond and retention, and if so, what the quantum or estimated quantum of such provisions is;
 - c) retain on a contract file, copies of certificates of insurances, bonds and the like;
 - d) make an assessment of the amount due to the contractor where required in terms of the contract, or review the contractor's assessment of the amount due and timeously certify payment;
 - e) revise the estimates for price adjustment for inflation where provided for, prepare an updated cash flow for the remainder of the contract based on the contractor's schedule, and capture these amounts together with the amounts due to the contractor and the retention amounts, if relevant, on a monthly basis;
 - f) provide the revised total of the prices or completion date or delivery date for the contract, or an order, within one week of a contractor revising a forecast of the total of prices, or an event being implemented, which in terms of the contract increases the total of prices or delays delivery or completion, for capture on a contract management system;
 - g) manage, if relevant, the interface between the contractor and those responsible for providing client inputs where a management, design and construct or develop and construct contracting strategy is utilised;
 - h) develop and maintain a contract risk register;
 - i) provide a monthly report on events which, in terms of the contract, cause the total of prices to increase or the contract completion date to be changed;
 - j) report all insurance claims made within one week of the claim being lodged; and
 - k) make inputs, if applicable, to the close out report in stage 9, including those relating to cost norms, contractor performance and the attainment, or not, of projective objectives.
- 8.2 The person responsible for administering the contract shall as necessary report on a monthly basis on the following:
- a) the attainment of key performance indicators, if any, provided for in the contract or required by the sponsor of the project or in terms of legislation;
 - b) the number of improvement, contravention and prohibition notices issued by the health and safety agent; and
 - c) incidents reportable in terms of the Construction Regulations issued in terms of the Occupational Health and Safety Act, briefly indicating the nature of the incident.

8.3 The person responsible for the administration of a contract or order relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure, shall be registered in a professional category of registration in terms of the Architectural Profession Act, the Engineering Profession Act, Landscape Architectural Profession Act, the Project and Construction Management Professions Act or Quantity Surveying Profession Act.

9 LOGISTICS MANAGEMENT

- 9.1 Materials, equipment and plant may be procured and issued free of charge to a contractor for incorporation into the works. Care shall be taken to ensure that suitable arrangements or measures are in place to minimise:
- a) loss or damage to such items until the contractor has received and accepted them; and
 - b) delays in supply which can result in increases in the contractor's prices for providing the works.
- 9.2 Procurement processes associated with long lead items of plant, equipment and materials may be initiated before the conclusion of stage 4 (concept and viability or feasibility). No contract may be entered into following such processes until stage 4 has been concluded and the budgets are in place to proceed.

10 DISPOSAL MANAGEMENT

- 10.1 A disposal committee shall decide how best to undertake disposals relating to the demolition or dismantling of infrastructure or parts thereof, and the disposal of unwanted, redundant or surplus materials, plant and equipment.
- 10.2 Disposals shall be proceeded with only after the feasibility and desirability of using one or more of the following alternative disposal strategies have been considered:
- a) transfer to another organ of state, business unit or a charitable organisation at market-related value or free of charge;
 - b) recycling or re-use of component materials; or
 - c) disposal by means of dumping at an authorised dump site, burning or demolition.
- 10.3 The reasons for adopting a disposal strategy shall be recorded prior to proceeding with such disposal.

11 REPORTING OF SUPPLY CHAIN MANAGEMENT INFORMATION

11.1 The implementer shall report to the relevant treasury within one month of the award of a contract or the issuing of an order, all engineering and construction, supply, service and professional service contracts that are awarded, or orders that are issued, should the total of prices, including VAT, exceed the thresholds contained in Table 7. Such a report shall indicate the following:

- a) the title and number of the contract or order;
- b) a brief outline of the scope;
- c) the total of the prices at the time that a contract is concluded or an order issued;
- d) the time for completion or delivery; and
- e) the procurement procedure that was used to put the contract in place, or in the case of a framework agreement, whether or not competition amongst framework contractors was reopened.

Table 7: Thresholds, including VAT, for reporting the award of a contract or an order to the relevant treasury

Organ of state	Value of contract or order including VAT			
	Services contract	Professional services	Supply	Engineering and construction works
National department	R75 million	R75 million	R100 million	R100 million
Provincial department or metropolitan municipality	R50 million	R50 million	R100 million	R100 million
Municipality other than a metropolitan municipality	R25 million	R25 million	R50 million	R50 million
Major public entity	R250 million	R250 million	R500 million	R500 million
National government business enterprise	R125 million	R125 million	R250 million	R250 million
Provincial government business enterprise				
Other	R50 million	R50 million	R100 million	R100 million

11.2 Organs of state other than major public entities, national government business enterprises and provincial business enterprises shall report to the relevant treasury where a contract was awarded to a tenderer other than the tenderer recommended by a committee, giving reasons for such award.

11.3 The implementer shall prepare an annual report which contains the following in respect of a financial year and submit such report to the relevant treasury within two months after the financial year end:

- a) the information contained in the performance report prepared in accordance with section 12 of this standard;
- b) a brief progress report which reflects progress in terms of time and cost in relation to the time for completion or delivery and the total of prices at the award of the contract or the issuing of an order, and, if relevant, stages completed, on all contracts and orders above the threshold stated in Table 7;
- c) an outline of the scope, value and duration of all contracts which were awarded as a result of unsolicited proposals, together with a brief motivation for such award;
- d) particulars relating to:
 - 1) the cancellation or termination of contracts, together with the reasons therefore;

- 2) the use of a negotiated or confined market procurement procedure to enter into a supply, services, professional services or engineering and construction contract in excess of R10,0 million, including VAT, together with a brief motivation for doing so;
- 3) the evoking of the emergency procurement procedures where the value of the ensuing transaction exceeded R10,0 million, including VAT, together with a brief overview of the emergency and the outcomes of the procurement;
- 4) disputes arising from contracts which have been referred to arbitration or a court of law for settlement; and
- 5) contracts where the approval has been granted to increase the total of the prices or the time for completion at Procurement Gate 8D (see Figure 2 and Table 3).

12 ASSESSMENT OF SUPPLY CHAIN MANAGEMENT PERFORMANCE

An annual performance report shall be prepared for each portfolio of projects involving infrastructure delivery within two months of the financial year end which reflects performance in relation to at least the following:

- a) expenditure incurred in infrastructure delivery for the financial year, against the budget made available to cover such expenditure at the start of the year;
- b) the average variance between planned and achieved completion of stages of all packages and projects;
- c) an overview of all packages where stage 7 was completed within the financial year and the total of the prices and the time for completion at the start of the contract or when the order was issued exceed 20%, together with a brief explanation as to why such increases occurred;
- d) the average time taken to award a contract, measured from the closing date for tender submission or the final submission made in terms of a proposal or competitive negotiations procedure to a decision being taken to award the contract;
- e) the average time taken, in respect of all packages covered in the report, to complete stage 8 measured from the time that stage 7 is completed;
- f) the average difference between the total of the prices in the payment certificate that was issued following the completion of stage 7, and the total of the prices at the end of stage 9;
- g) the average time taken to award a contract above the threshold for quotations, measured from the closing date for tender submission or the final submission made in terms of a proposal or competitive negotiations procedure, to the acceptance of the tender evaluation report; and
- h) the average number of days that payment is later than that required under the terms of a contract.

13 RISK MANAGEMENT AND INTERNAL CONTROL

13.1 Risk management

13.1.1 Risk registers shall be established and maintained to enable risk mitigation relating to infrastructure procurement and delivery management to be proactively managed at a portfolio, programme, project and contract level. Such registers shall as a minimum contain:

- a) the entry date of the risk;
- b) a description of the risk, i.e. risk event, cause and possible outcome;
- c) the measures and action to mitigate risk, i.e. a description of the action, responsibility for action and timetable for implementation;
- d) action status, i.e. actioned, take no action, monitor and review or to be actioned.

13.1.2 Those responsible for establishing and maintaining risk registers shall issue risk reports when called upon to do so.

13.2 Internal control measures

13.2.1 The gates in the control frameworks provided in section 4 shall be used, as appropriate, to:

- a) authorise the proceeding with an activity within a process, or commencing with the next process;
- b) confirm conformity with requirements; or
- c) provide information which creates an opportunity for corrective action to be taken.

13.2.2 Suitable templates shall be used to record the approval or acceptance of documents at the gates provided in the control framework established in section 4.

14 INFRASTRUCTURE PROCUREMENT REQUIREMENTS

14.1 General

14.1.1 Procurement shall be undertaken in accordance with all applicable legislation and;

- a) the relevant requirements of SANS 10845-1, SANS 10845-2, SANS 10845-3 and SANS 10845-4;
- b) the administrative procedures embedded in the approved standard forms of contract identified in this standard; and
- c) the provisions of this standard.

14.1.2 All contracts that are entered into with contractors following a procurement process shall be in writing.

14.1.3 Quality may be evaluated in tender submissions as other objective criteria as provided for in the Preferential Procurement Policy Framework Act in accordance with the provisions of SANS 10845-1.

14.1.4 The preference points system contained in the Preferential Procurement Policy Framework Act shall not be applied to disposals. An assumption shall be made in the case of tenders for framework agreements that the 90:10 preference points system applies.

14.1.5 All awards above the quotation threshold in competitive selection and competitive negotiation procurement processes shall be published at least on:

- a) the organ of state's or relevant treasury's website; or
- b) if required in terms of the Construction Industry Development Board Act, on the Construction Industry Development Board's website.

14.1.6 The publication of the award of a contract shall contain at least the following information:

- a) contract numbers and title;
- b) a brief description of goods, services or works; and
- c) the names of successful tenderers and their B-BBEE status level of contribution, and where practical, the total of the prices at award, the duration of the contract and the tender points scored during the tender evaluation process.

14.2 Usage of standard procedures

14.2.1 Goods or services or a combination thereof should generally be procured from the open market. Tenders may, however, be solicited from a confined market where:

- a) it is established with reasonable certainty that:
 - 1) only a sole contractor is able to provide the goods or services or any combination thereof;
 - 2) only a very limited number of contractors are able to provide goods, services or works which are not freely available in the market, or which are provided solely for the organ of state in accordance with unique requirements;
- b) there is justification for standardising goods or making use of manufacturer-accredited service providers;

- c) a change in product or manufacturer requires modifications to related equipment and fixtures, e.g. a replacement pump requires costly changes to mountings, pipework or electrical connections or the replacement of circuit breakers requires costly changes to mounting frames, face panels, busbars, wiring and the like; or
- d) a replacement model requires the holding of additional spares or maintenance personnel.

14.2.2 The standard procurement procedures identified in Table 8 shall be implemented under the stated conditions in accordance with the provisions of SANS 10845-1. Projects shall not be subdivided to reduce the estimated tender value to fall within a threshold applicable to a specific procurement procedure.

Table 8: Conditions under which procedures provided for in SANS 10845-1 may be utilised

Procedure	Conditions which need to be satisfied in order to utilise the procedure
Competitive selection procedure	
Nominated procedure	Any procurement, the estimated value of which does not exceed a threshold stated in Table 9.
Open procedure	Any procurement, except where the cost of advertising or the evaluation of a large number of tender submissions is disproportionate to the value of the work.
Qualified procedure	Any procurement where: <ol style="list-style-type: none"> 1) a contract requires for its execution a high degree of specialised input, or requires skills and expertise that are not readily available; 2) a contract requires for its execution exceptional management skills or quality; 3) a tender submission requires significant tenderer inputs in order to respond appropriately to requirements so that a financial offer may be determined; 4) it is desirable, in a large programme or project, to link packages of work to tenderers who have the appropriate capacity and capability to compete against one another; 5) the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement; 6) for practical reasons, it is necessary to limit the number of tender submissions that are received; or 7) the goods or services are not freely available in the market, or are manufactured solely for the organ of state in accordance with that organ of state's own specifications.
Quotation procedure	Any procurement where the estimated value does not exceed a threshold stated in Table 9.
Proposal procedure using the two-envelope system	Services where tenderers are required to develop and price proposals to satisfy a broad scope of work.
Proposal procedure using the two-stage system	Option 1 Any procurement in which tenderers are required to submit technical proposals and, if required, cost parameters around which a contract may be negotiated.
	Option 2 Any procurement in which tenderers are invited to submit technical proposals in the first stage and to submit tender offers based on procurement documents issued during the second stage.
Shopping procedure	Procurement which involves readily available goods and does not exceed the threshold value stated in Table 9.

Table 8 (concluded)

Procedure	Conditions which need to be satisfied in order to utilise the procedure
Restricted competitive negotiations	<p>As for open competitive negotiations, but where:</p> <ol style="list-style-type: none"> 1) a contract requires for its execution a high degree of specialised input, or requires skills and expertise that are not readily available; 2) a contract requires for its execution exceptional management skills or quality; 3) a tender submission requires significant tenderer inputs in order to respond appropriately to requirements so that a financial offer may be determined; 4) the time and cost required to examine and evaluate a large number of tender offers would be disproportionate to the procurement; 5) for practical reasons, it is necessary to limit the number of tender submissions that are received; or 6) a target price is tendered and finalised prior to the award of the contract.
Open competitive negotiations	<p>Any procurement where:</p> <ol style="list-style-type: none"> 1) it is not feasible to formulate detailed specifications for the work or to identify the characteristics of goods or works to obtain the most satisfactory solution to procurement needs; 2) there are various possible means of satisfying procurement needs; 3) the technical character of the goods or works, or the nature of the services, warrants the use of competitive negotiations to realise the most satisfactory solution to procurement needs; 4) the purpose of the contract is research, experimentation, study or development; or 5) all the tenders received in a competitive selection procedure are non-responsive and the calling for fresh tenders is likely to result in a similar outcome.
Negotiated procedure	
	<p>Any procurement where:</p> <ol style="list-style-type: none"> 1) a rapid response is required due to the presence of, or the imminent risk of, an extreme or emergency situation arising from: <ol style="list-style-type: none"> a) human injury or death; b) human suffering or deprivation of human rights; c) serious damage to property or financial loss; d) livestock or animal injury, suffering or death; e) serious environmental damage or degradation; or f) interruption of essential services; 2) the required goods, services or works cannot technically or economically be separated from another contract previously performed by a specific contractor; 3) only one contractor has been identified as possessing the necessary experience and qualifications or product to deliver value for money in relation to a particular need; 4) the services, goods or works do not exceed a threshold value stated in Table 9; 5) the service or works being procured are largely identical to work previously executed by that contractor and it is not in the interest of the public or the organ of state to solicit other tender offers; 6) a professional service contract does not exceed a threshold value stated in Table 9 and but can be based on time and proven cost; 7) the nature of the works, goods or services, or the risks attached thereto, do not permit prior overall pricing; or 8) only one responsive tender is received.

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

- a) the negotiated procedure above the thresholds identified in Tables 8 and 9; and
- b) 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 Table 8, and which can be dealt with, or the risks relating thereto arrested, within 48 hours.

14.2.4 Only a person authorised in terms of a policy developed in accordance with the provisions of section 5 may pursue a negotiated procedure in an emergency without the prior approval permitted in terms of 14.2.3.

14.2.5 Approval for the use of a confined market shall only be valid for a period not exceeding 18 months.

Table 9: Procurement thresholds

Procedure (see Table 8 and SANS 10845-1)	Conditions which need to be satisfied in order to utilise the procedure	Threshold (Rand including VAT)		
		Schedule 2 public enterprise	Department or a schedule 3 public enterprise	Municipality or a municipal entity
Negotiated	The services, goods or works have a value not exceeding a threshold	R125 000	R75 000	R75 000
	A professional service contract has a value not exceeding a threshold	R500 000	R350 000	R200 000
Nominated procedure	Any procurement not exceeding a threshold	R2 500 000	R1 500 000	R1 500 000
Quotation procedure	Any procurement where the estimated value does not exceed a threshold	R2 000 000	R1 000 000	R200 000
Shopping procedure	Supplies contract which involves readily available goods not exceeding a threshold	R50 000	R50 000	R10 000

14.3 Framework agreements

14.3.1 Framework agreements may be entered into with contractors by:

- a) inviting tender offers to enter into a suitable contract for the required work, using stringent eligibility and evaluation criteria to ensure that contracts are entered into with only those contractors who have the capability and capacity to provide the required goods, services or works; and
- b) entering into a limited number of contracts based on the projected demand and geographic location for such goods, services or works.

14.3.2 The term of a framework agreement shall not exceed:

- a) three years in the case of all organs of state other than a major public entity, a national government business enterprise or a provincial government business enterprise; or
- b) four years in the case of a major public entity, a national government business enterprise or provincial government business enterprise.

14.3.3 Framework agreements that are entered into shall not commit an organ of state to any quantum of work beyond the first order, or bind the employer to make use of such agreements to meet its needs.

The employer may approach the market for goods or services, or a combination thereof, whenever it considers that better value in terms of time, cost and the quality which may be obtained.

14.3.4 Orders:

- a) shall cover only goods or services, or any combination thereof, falling within the scope of work associated with the agreement which may not be amended for the duration of the contract;
- b) may not be issued after the expiry of the term of the framework agreement; and
- c) may be completed even if the completion of the order is after the expiry of the term.

14.3.5 The issuing of orders with a number of framework contractors covering the same scope of work may be made with and without requiring competition amongst framework contractors. Where competition is required amongst framework contractors, it shall be conducted in a non-discriminatory manner such that competition is not distorted.

14.3.6 Competition amongst framework contractors for orders shall take place where:

- a) there is no justifiable reason for issuing an order to a particular framework contractor, such as:
 - 1) the framework contractor provided the most economical transaction when the financial parameters included in the contract are applied, and has the capacity to deliver;
 - 2) the required goods, services or works cannot technically or economically be separated from another contract or order previously performed by a specific contractor;
 - 3) the service or works being instructed are largely identical to work previously executed by that contractor;
 - 4) the value of the order is less than the threshold for the quotation procedure;
 - 5) the schedule for delivery necessitates that each of the framework contractors be issued with orders on a continuous basis; or
 - 6) capacity to execute the order;
- b) the terms in the framework agreement are insufficiently precise or complete to cover the particular requirement, e.g. delivery time scales or time estimates to complete the order (productivity); or
- c) a better quality of service can be obtained through a competitive process.

14.4 Design competitions

14.4.1 A single- or two-stage design competition may be used as a means to identify one or more suitable contractors to provide design services. The conditions for a design competition shall clearly state the purpose of the competition and the intentions of the promoter, the nature of the problem that is to be solved and all the practical requirements to be met by the competitors.

14.4.2 A design competition shall be initiated following a call for an expression of interest. All respondents who satisfy the admission requirements for a design competition and complete an application form shall be admitted to the competition as participants.

14.4.3 A jury who is independent of participants in the competition shall be appointed to collectively decide on the outcome of the competition. Such a jury shall be autonomous in its decisions or opinions and endeavour, adopt decisions on each individual submission by consensus and record its decisions in writing. Not less than 50% of the members serving on the jury shall have relevant professional qualifications in the subject matter of the competition.

14.4.4 The design competition shall be conducted in such a manner that the identity of any particular participant during the process is not known to the jury until after competition winners are announced. The awarding of prizes and honoraria may be linked to such competitions.

14.4.5 A contract may be negotiated with the winner of the design competition. Where more than one contract is awarded to participants in a design competition, all competitors in the final stage of the competition shall be invited to submit tender offers. Tender offers shall be evaluated in terms of method 4 of SANS 10845-3, with the score for quality being based solely on the ranking of the competition jury.

14.5 Procurement documentation

14.5.1 General

14.5.1.1 Procurement documents shall be developed in accordance with the provisions of SANS 10845-1 and SANS 10845-2 and, where aspects of the national register of contractors or register of projects established in terms of the Construction Industry Development Board Act are implemented through procurement documents, the CIDB Standard for Uniformity in Construction Procurement.

14.5.1.2 The Form of Offer and Acceptance contained in Annex B of SANS 10845-2 shall be used, with minimal contract-specific amendments, to form the basis of agreement arising from the solicitation of tender offers.

14.5.1.3 The formation of a contract in the single volume approach (see SANS 10845-2) shall occur once:

- a) the schedule of deviations has been completed to reflect each and every amendment to the tender documents:
 - 1) made in terms of addenda issued prior to the close of tenders; and
 - 2) permitted in terms of the conditions of tender, and agreed to in the process of offer and acceptance; and
- b) the acceptance portion of the Form of Offer and Acceptance has been signed by the person authorised to do so.

14.5.1.4 The formation of the contract in the three-volume approach (see SANS 10845-2) shall take place after:

- a) each and every amendment to the tender documents made in terms of addenda issued prior to the close of tenders, and those permitted in terms of the conditions of tender and agreed to in the process of offer and acceptance have been incorporated into the final contract;
- b) a brief summary of the changes made in the final contract document is included in the schedule of deviations so as to allow the reader to understand the nature and extent of the changes; and
- c) the acceptance portion of the Form of Offer and Acceptance has been signed by the person authorised to do so.

14.5.1.5 A tenderer's covering letter shall not be included in the final contract document or referenced in the schedule of deviations. The agreed provisions of such a letter shall be stated in the schedule of deviations.

14.5.1.6 Standard returnable documents for infrastructure procurement contained in annexures A to E shall, where appropriate, form part of the Returnable Documents in procurement documents.

14.5.1.7 Standard documentation issued by a relevant treasury for non-infrastructure procurement shall not be included in infrastructure procurement documents unless they are found to be compatible, and

not in conflict with the provisions of a procurement document which complies with the provisions of this standard.

14.5.2 Tender, submission and auction data

14.5.2.1 The tender data shall reference the Standard Conditions of Tender contained in SANS 10845-3.

14.5.2.2 The tender offer validity period provided for in the tender data shall generally not exceed eight weeks, and in exceptional circumstances shall not exceed 12 weeks.

14.5.2.3 The tender data associated with Method 3 (financial offer and preference) shall be as follows:

5.11.4 The procedure for the evaluation of responsive tenders is Method 3.
The financial offer will be scored using the following formula:
$$A = (1 - \frac{P - P_m}{P_m})$$

The value of W_1 is:
1) 90 where the financial value, inclusive of VAT, of all responsive tenders received has a value in excess of R1 000 000; or
2) 80 where the financial value, inclusive of VAT, of one or more responsive tender offers has a value that equals or is less than R1 000 000.
Up to 100 minus W_1 tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.

14.5.2.4 The tender data associated with Method 4 (financial offer, quality and preferences) shall be as follows:

5.11.5 The procedure for the evaluation of responsive tenders is Method 4.
The total number of tender evaluation points (T_{EV}) shall be determined in accordance with the following formula:
$$T_{EV} = f_1(N_{FO} + N_P) + f_2N_Q$$

where f_1 and f_2 are fractions, f_1 equals 1 minus f_2 and f_2 equals
 N_{FO} is the number of tender evaluation points awarded for the financial offer made in accordance with 5.11.7 where the score for financial offer is calculated using the following formula
$$A = (1 - \frac{P - P_m}{P_m})$$

and W_1 equals:
1) 90 where the financial value, inclusive of VAT, of all responsive tenders received has a value in excess of R1 000 000; or
2) 80 where the financial value, inclusive of VAT, of one or more responsive tender offers has a value that equals or is less than R1 000 000.
 N_P is the number of tender evaluation points awarded for preferences claimed in accordance with the Preferencing Schedule.
 N_Q is the number of tender evaluation points awarded for quality offered in accordance with 5.11.9 where $W_2 = 100$.
Up to 100 minus W_1 tender evaluation points will be awarded to tenderers who complete the preferencing schedule and who are found to be eligible for the preference claimed.

14.5.2.5 The submission data shall reference the Standard Conditions for the Calling for Expressions of Interest contained in SANS 10845-4.

14.5.2.6 Auction data shall be based on the auction data contained in SANS 10845-1.

14.5.3 Standard forms of contract

14.5.3.1 The standard forms of contract shall be selected from, and be suitable for use under the conditions described in Table 10.

14.5.3.2 The standard forms of contract shall be used with minimal contract amendments which do not change their intended usage and shall only be amended when absolutely necessary to accommodate special needs.

14.5.3.3 Adjudication shall be used to resolve disputes arising during the performance of a contract prior to proceeding to either arbitration or litigation.

Table 10: Approved forms of contract related to the delivery and maintenance of infrastructure

Form of contract	Code	Intended usage
Construction Industry Development Board (CIDB)		
CIDB Standard Professional Service Contract	SPSC	Professional services
CIDB General Conditions of Purchase	-	An order form type of contract for low-value goods without any incidental work or services on or before a specified date being required.
CIDB Contract for the Supply and Delivery of Goods	-	Simple, regional purchase of readily available materials or commodities which require almost no management of the buying and delivery process, minimal testing, installation and commissioning on delivery.
CIDB General Conditions of Service	-	An order form type of contract where low-value services on or before a specified date are required.
International Federation of Consulting Engineers (FIDIC)		
FIDIC Short Form of Contract	Green Book	Building or engineering works of relatively small capital value, or for relatively simple or repetitive work, or for work of short duration. Use for design by employer- or contractor-designed works.
FIDIC Conditions of Contract for Construction for Building and Engineering Works designed by the Employer	Red Book	Building or engineering works designed by the employer. (The works may include some elements of contractor-designed works.)
FIDIC Conditions of Contract for plant and design-build for electrical and mechanical plant, and for building and engineering works, designed by the contractor	Yellow Book	The provision of electrical or mechanical plant and the design and construction of building or engineering works.
FIDIC Conditions of Contract for EPC Turnkey Projects	Silver Book	The provision on a design and construct (turnkey) basis of a process or power plant, of a factory or similar facility, or an infrastructure project or other type of development.
FIDIC Conditions of Contract for Design, Build and Operate Projects	Gold Book	"Green field" building or engineering works which are delivered in terms of a traditional design, build and operate sequence with a 20-year operation period. (The contractor has no responsibility for the financing of the project/package or its ultimate commercial success.)
South African Institution of Civil Engineering (SAICE)		
SAICE General Conditions of Contract for Construction Works	GCC	Engineering and construction, including any level of design responsibility.

Table 10 (concluded)

Joint Building Contracts Committee (JBCC)		
JBCC Principal Building Agreement	PBA	Buildings and related site works designed by the employer.
JBCC Minor Works Agreement	MWA	Buildings and related site works of simple content designed by the employer.
Institution of Civil Engineers (ICE)		
NEC3 Engineering and Construction Contract	ECC	Engineering and construction including any level of design responsibility.
NEC3 Engineering and Construction Short Contract	ECSC	Engineering and construction which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the employer and contractor.
NEC3 Professional Services Contract	PSC	Professional services, such as engineering, design or consultancy advice.
NEC3 Professional Services Short Contract	PSCC	Professional services which do not require sophisticated management techniques, comprise straightforward work and impose only low risks on both the client and consultant.
NEC3 Term Service Contract	TSC	Manage and provide a service over a period of time.
NEC3 Term Service Short Contract	TSSC	Manage and provide a service over a period of time, or provide a service which does not require sophisticated management techniques, comprises straightforward work and imposes only low risks on both the employer and contractor.
NEC3 Supply Contract	SC	Local and international procurement of high-value goods and related services, including design.
NEC3 Supply Short Contract	SSC	Local and international procurement of goods under a single order or on a batch order basis and is suitable for use with contracts which do not require sophisticated management techniques, and impose only low risks on both the purchaser and the supplier.

14.5.4 Tender assessment schedules

Tender assessment schedules shall be used to take account of all tendered financial parameters that have an impact upon the final value of the contract.

14.5.5 Guarantees

14.5.5.1 Bonds which guarantee performance with a stated financial benefit in the event of non-performance:

- a) should as a general rule not be required in service, professional service and supply contracts; and
- b) shall be between 5% and 12,5% of the contract or package order value, excluding VAT, and may be either a fixed or variable guarantee.

14.5.5.2 Advance payment, where required in engineering and construction and supply contracts and approved by the organ of state's chief financial officer, may only be made to contractors against the lodging of a suitable advance payment bond.

14.5.6 Retention monies

Retention monies that are held shall not exceed 10% of any amount due to a contractor. The total amount of retention monies held shall not exceed 5% of the contract or package order price.

14.5.7 Communications

All procurement documents and communications shall be in English.

14.5.8 Intellectual property rights

Organs of state shall as a general rule own the rights over the materials specifically prepared by a contractor in relation to a contract.

14.5.9 Budgetary items

14.5.9.1 Provision for budgetary items in procurement documents shall as far as possible be avoided. Assumptions should rather be stated in the pricing data so that they can be priced and adjusted in terms of the contract, should these assumptions be incorrect. Where unavoidable, estimates of the likely costs may be included in the contract to cover identified work or services to be performed by a subcontractor appointed in terms of the contract.

14.5.9.2 No provision for contingencies or price adjustment for inflation shall be made in the pricing data or included in the contract price at the time that the contract is awarded or an order is issued.

14.5.10 Professional indemnity insurance

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 of not less than R3 million in respect of each claim, without limit to the number of claims.

14.6 Developmental procurement policy**14.6.1 General**

14.6.1.1 Organs of state shall utilise procurement to promote Broad-Based Black Economic Empowerment in accordance with the provisions of the Broad-Based Black Economic Empowerment Act and, where appropriate, to promote:

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

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

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

14.6.2 Permitted targeted procurement procedures

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

- a) the granting of preferences;
- b) accelerated rotations on electronic databases, where appropriate;
- c) the granting of up to 10% of the total number of evaluation points used to short-list tenderers following a call for expressions of interest;
- d) financial incentives for the attainment of key performance indicators in the performance of the contract; and
- e) the creation of contractual obligations to engage target groups in the performance of the contract by establishing requirements for the tendering of subcontracts in terms of a specified procedure, or establishing obligations to attain contract participation goals in accordance with the relevant provisions of SANS 10845.

Annexure A: Record of Addenda to tender documents

We confirm that the following communications received from the Employer before the submission of this tender offer, amending the tender documents, have been taken into account in this tender offer:

	Date	Title or Details
1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		

Attach additional pages if more space is required.

Signed _____ Date _____

Name _____ Position _____

Tenderer _____

Annexure B: Proposed amendments and qualifications

The Tenderer should record any deviations or qualifications he may wish to make to the tender documents in this Returnable Schedule. Alternatively, a tenderer may state such deviations and qualifications in a covering letter to his tender and reference such letter in this schedule.

The Tenderer's attention is drawn to clause 5.8 of SANS 10845-3 regarding the employer's handling of material deviations and qualifications.

Page	Clause or item	Proposal

Signed _____ Date _____

Name _____ Position _____

Tenderer _____

Annexure C: Preferencing schedule: Broad-Based Black Economic Empowerment status

Preamble

Section 10(b) of the Broad-Based Black Economic Empowerment Act of 2003 (Act No. 53 of 2003) states that "Every organ of state and public entity must take into account and, as far as is reasonably possible, apply any **relevant code of good practice** issued in terms of this Act in developing and implementing a preferential procurement policy."

A number of codes of good practice have been issued in terms of Section 9(1) of the B-BBEE Act of 2003, including a generic code of good practice and various sector codes. The sector codes vary the metrics, weightings and targets used in the generic code of good practice to establish the overall performance of an entity and its B-BBEE status. The B-BBEE status needs to be assessed in accordance with the applicable code.

1 Conditions associated with the granting of preferences

Tenderers who claim a preference shall provide sufficient evidence of their B-BBEE status in accordance with the requirements of section 2 in respect of the applicable code as at the closing time for submissions, failing which their claims for preferences will be rejected.

2 Sufficient evidence of qualification

2.1 Exempted micro-enterprises

Sufficient evidence of qualification as an Exempted Micro-Enterprise is:

- a) a registered auditor's certificate or similar certificate issued by an accounting officer as contemplated in the Close Corporations Act of 1984 in respect of the entity's last financial year, or a 12-month period which overlaps with its current financial year; or
- b) a certificate issued by a verification agency and which is valid as at the closing date for submissions.

2.2 Enterprises other than micro-exempted enterprises

Sufficient evidence of B-BBEE status is an original or certified copy of the certificate issued by a verification agency accredited by the South African National Accreditation System (SANAS) or registered auditors approved by the Independent Regulatory Board for Auditors (IRBA) and which is valid as at the closing date for submissions.

3 Tender preferences claimed

The scoring shall be as follows:

B-BBEE status determined in accordance with the preferencing schedule for Broad-Based Black Economic Empowerment	% Maximum points for preference
Form not completed or no-complaint contributor	0
Level 8 contributor	10
Level 7 contributor	20
Level 6 contributor	30
Level 5 contributor	40
Level 4 contributor	50
Level 3 contributor	60
Level 2 contributor	90
Level 1 contributor	100

4 Declaration

The tenderer declares that

a) the tendering entity is a level contributor as stated in the submitted evidence of qualification as at the closing date for submissions

b) the tendering entity has been measured in terms of the following code (tick applicable box):

Generic code of good practice

Other – specify

c) the contents of the declarations made in terms of a) and b) above are within my personal knowledge and are to the best of my belief both true and correct

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the tenderer, confirms that he/she understands the conditions under which such preferences are granted and confirms that the tenderer satisfies the conditions pertaining to the granting of tender preferences.

Signature:

Name:

Duly authorised to sign on behalf of:

Telephone:

Fax: Date:

Name of witness: Signature of witness:

Notes: 1) Failure to complete the declaration will lead to the rejection of a claim for a preference.

2) Supporting documentation of the above-mentioned claim for a preference must be submitted with the tender submission to be eligible for a preference.

Annexure D: Compulsory Declaration

The following particulars must be furnished. In the case of a joint venture, separate declarations in respect of each partner must be completed and submitted.

Section 1: Enterprise details

Name of enterprise	
Contact person	
Email	
Telephone	
Cell	
Fax	
Physical address	
Postal address	

Section 2: Particulars of companies and close corporations

Company / Close Corporation registration number	
--	--

Section 3: SARS information

Tax reference number	
VAT registration number	(state Not Registered if not registered for VAT)

Section 4: CIDB registration number

CIDB Registration number (if applicable)	
---	--

Section 5: Particulars of principals

principal: means a natural person who is a partner in a partnership, a sole proprietor, a director of 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 Corporations Act, 1984, (Act No. 69 of 1984).

Full name of principal	Identity number	Personal tax reference number

Attach separate page if necessary

Section 6: Record in the service of the state

Indicate, by marking the relevant boxes with a cross, if any principal is currently or has been within the last 12 months in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Provinces
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act of 1999 (Act No. 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

If any of the above boxes are marked, disclose the following:

Name of principal	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Insert separate page if necessary

Section 7: Record of family member in the service of the state

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

Indicate, by marking the relevant boxes with a cross, if any family member of a principal as defined in section 5 is currently or has within the last 12 months been in the service of any of the following:

- a member of any municipal council
- a member of any provincial legislature
- a member of the National Assembly or the National Council of Provinces
- a member of the board of directors of any municipal entity
- an official of any municipality or municipal entity
- an employee of any provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act of 1999 (Act No. 1 of 1999)
- a member of an accounting authority of any national or provincial public entity
- an employee of Parliament or a provincial legislature

Name of family member	Name of institution, public office, board or organ of state and position held	Status of service (tick appropriate column)	
		Current	Within last 12 months

Insert separate page if necessary

Section 8: Record of termination of previous contracts with an organ of state

Was any contract between the tendering entity, including any of its joint venture partners, terminated during the past five years for reasons other than the employer no longer requiring such works or the employer failing to make payment in terms of the contract?

Yes No (tick appropriate box)

If yes, provide particulars (insert separate page if necessary)

Section 9: Declaration

The undersigned, who warrants that he/she is duly authorised to do so on behalf of the tendering entity, confirms that the contents of this Declaration are within my personal knowledge, save where stated otherwise in an attachment hereto, and to the best of my belief is both true and correct, and that:

- i) neither the name of the tendering entity, nor any of its principals, appears on:
 - a) the Register of Tender Defaulters established in terms of the Prevention and Combating of Corrupt Activities Act of 2004 (Act No. 12 of 2004); or
 - b) National Treasury's Database of Restricted Suppliers (see www.treasury.gov.za);
- ii) the tendering entity or any of its principals has not been convicted of fraud or corruption by a court of law (including a court outside of the Republic of South Africa) within the last five years;
- iii) any principal who is presently employed by the state has the necessary permission to undertake remunerative work outside such employment (attach permission to this declaration);
- iv) the tendering entity is not associated, linked or involved with any other tendering entities submitting tender offers;
- v) the tendering entity 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;
- vi) the tendering entity has no other relationship with any of the tenderers or those responsible for compiling the scope of work that could cause or be interpreted as a conflict of interest;
- vii) neither the tenderer nor any of its principals owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity, and are not in arrears for more than three months;
- viii) SARS may, on an on-going basis during the term of the contract, disclose the tenderer's tax compliance status to the Employer and, when called upon to do so, obtain the written consent of any subcontractors who are subcontracted to execute a portion of the contract that is entered into in excess of the threshold prescribed by National Treasury, for SARS to do likewise.

Signed _____

Date _____

Name _____

Position _____

Enterprise name _____

NOTE 1: The Standard Conditions of Tender contained in SANS 10845-3 prohibits anti-competitive practices (clause 3.1) and requires that tenderers avoid conflicts of interest, only submit a tender offer if the tenderer or any of his principals is not under any restriction to do business with the Employer (4.1.1) and submit only one tender either as a single tendering entity or as a member in a joint venture (clause 4.13.1). Clause 5.7 also empowers the Employer to disqualify any tenderer who engages in fraudulent and corrupt practice. Clause 3.1 also requires tenderers to comply with all legal obligations.

NOTE 2: Section 30(1) of the Public Service Act, 1994, prohibits an employee (person who is employed in posts on the establishment of departments) from performing or engaging remunerative work outside his or her employment in the relevant department, except with the written permission of the executive authority of the department. When in operation, Section 8(2) of the Public Administration Management Act, 2014, will prohibit an employee of the public administration (i.e. municipalities and all national departments, national government components listed in Part A of Schedule 3 to the Public Service Act, provincial departments including the office of the premier listed in Schedule 1 of the Public Service Act and provincial departments listed in schedule 2 of the Public Service Act, and provincial government components listed in Part B of schedule 3 of the Public Service Act) or persons contracted to executive authorities in accordance with the provisions of section 12A of the Public Service Act of 1994 or persons performing similar functions in municipalities, from conducting business with the State or to be a director of a

public or private company conducting business with the State. The offence for doing so is a fine or imprisonment for a period not exceeding five years, or both. It is also a serious misconduct which may result in the termination of employment by the employer.

NOTE 3: Regulation 44 of Supply Chain Management regulations issued in terms of the Municipal Finance Management Act of 2003 requires that municipalities and municipal entities should not award a contract to a person who is in the service of the State, a director, manager or principal shareholder in the service of the State or who has been in the service of the State in the previous twelve months.

NOTE 4: Regulation 45 of Supply Chain Management regulations requires a municipality or municipal entity to disclose in the notes to the annual statements particulars of any award made to a close family member in the service of the State.

NOTE 5: Corrupt activities which give rise to an offence in terms of the Prevention and Combating of Corrupt Activities Act of 2004, include improperly influencing in any way the procurement of any contract, the fixing of the price, consideration or other moneys stipulated or otherwise provided for in any contract, and the manipulating by any means of the award of a tender.

NOTE 6: Section 4 of the Competition Act of 1998 prohibits restrictive horizontal practice, including agreements between parties in a horizontal relationship, which have the effect of substantially preventing or lessening competition, directly or indirectly fixing prices or dividing markets or constituting collusive tendering. Section 5 also prohibits restrictive vertical practices. Any restrictive practices that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties.

Annexure E: Municipal declaration and returnable documents

The following particulars must be furnished in relation to tenders for municipalities and municipal entities:

- a) where consultancy services are required; and
- b) goods, services or a combination thereof, where the estimated total of the prices exceeds R10 million, including VAT.

In the case of a joint venture, separate municipal declarations and returnable documents shall be submitted in respect of each partner.

Section 1: Enterprise details

Name of enterprise	
Contact person	
Email	
Telephone	
Cell	
Fax	
Physical address	
Postal address	

Section 2: Declaration for consultancy services

The enterprise has been awarded the following consultancy services by an organ of state during the last five years:

Name of organ of state	Estimated number of contracts	Nature of service, e.g. quantity surveying	Service similar to required service (yes/no)?

Attach separate page as necessary

Section 3: Goods, services, or a combination thereof, where the estimated total of the prices exceeds R10 million, including VAT

I/we certify that

1) (tick one of the boxes):

- the enterprise is not required by law to prepare annual financial statements for auditing
- the enterprise is required by law to have audited annual financial statements (attached herewith for the past three financial years or the years for which the enterprise has been in operation)

2) the enterprise and its directors have no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days (i.e. all municipal accounts are paid up to date);

3) source of goods and/or services :

(tick one of the boxes and insert percentages if applicable)

- goods and/or services are sourced only from within the Republic of South Africa
- % of the total cost of goods and/or services will be sourced from outside the Republic of South Africa, and the percentage of payment from the municipality or municipal entity which is expected to be transferred out of the Republic is %

I furthermore confirm that the following contracts were awarded to the enterprise by an organ of state during the last five years and attached particulars of any material non-compliance or dispute concerning the execution of such contracts:

Name of organ of state	Estimated number of contracts	Nature of contracts

Attach separate page as necessary

I, the undersigned who warrants that I am duly authorised on behalf of the tendering entity, hereby declare that the contents of this Declaration are within my personal knowledge, and save where stated otherwise, are to the best of my belief both true and correct.

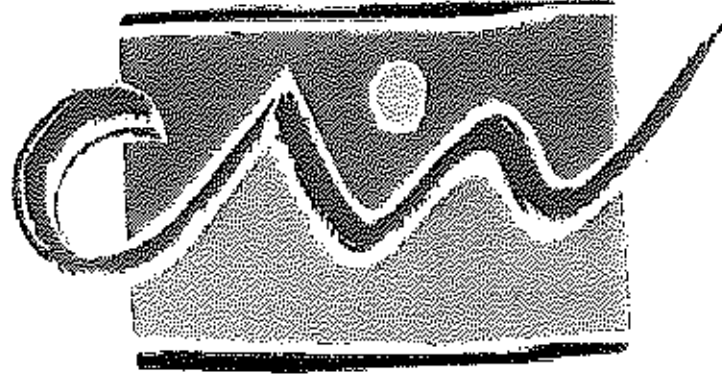
Signed _____ Date _____

Name _____ Position _____

Tenderer _____

REVIEWED SUPPLY CHAIN MANAGEMENT POLICY

CAPE WINELANDS DISTRICT MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

2020/2021

Adopted: 23 January 2006 (C.14.3)
1st amendment: 22 August 2006 (C.9.4)
2nd amendment: 27 March 2008 (C.14.5)
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4th amendment: 28 April 2016 (C.14.6)
5th amendment: 25 May 2017 (C.15.1)

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SUPPLY CHAIN MANAGEMENT SYSTEM

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1. Definitions

- 1.1. In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and
- 1.1.1. **"The Act"** means the Municipal Finance Management Act, No. 56 of 2003;
- 1.1.2. **"Bid"** means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of goods, services or construction works through price quotations, advertised competitive bidding process or proposals;
- 1.1.3. **"Bidder"** means any person submitting a competitive bid or a quotation;
- 1.1.4. **"Closing time"** means the time and day specified in the bid documents for the receipt of bids;
- 1.1.5. **"Competitive bidding process"** means a competitive bidding process referred to in paragraph 12(2)(b)(iii) of this Policy;
- 1.1.6. **"Competitive bid"** means a bid in terms of a competitive bidding process;
- 1.1.7. **"Contract"** means the agreement which is concluded when the municipality accepts, in writing, a competitive bid or quotation submitted by a supplier;
- 1.1.8. **"Contract manager"** means an official of the Municipality who is responsible for the planning for the planning and execution of a transaction involving the procurement of goods, services or works;
- 1.1.9. **"Contractor"** means any person or entity whose competitive bid or quotation has been accepted by the municipality;
- 1.1.10. **"Delegated authority"** means any person or committee delegated with authority by the municipality in terms of the provisions of the Municipal Finance Management Act;
- 1.1.11. **"Department"** means a section within a specific directorate in terms of the municipal organogram;
- 1.1.12. **"Electronic format"** means a bid submitted by a bidder via email or made available through a cloud storage services;
- 1.1.13. **"Emergency dispensation"** means emergency as referred to in paragraph 36(1)(a)(i) of this policy under which one or more of the following is in existence that warrants an emergency dispensation:
- (a) The possibility of human injury or death;
 - (b) The prevalence of human suffering or deprivation of rights;
 - (c) The possibility of damage to property, or suffering and death of livestock and animals;
 - (d) The interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the municipality as a whole;
 - (e) The possibility of serious damage occurring to the natural environment;
 - (f) The possibility that failure to take necessary action may result in the municipality not being able to render an essential community service;
 - (g) The possibility that the security of the state could be compromised; or

- (h) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.
- 1.1.14. **“Final award”**, in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote is accepted;
- 1.1.15. **“Formal written price quotation”** means quotations referred to in paragraph 12 (1) (d) of this Policy;
- 1.1.16. **“Green procurement”** means the procurement of environmentally friendly products and services;
- 1.1.17. **“In the service of the state”** means to be –
- (a) A member of –
 - (i) Any municipal council;
 - (ii) Any provincial legislature; or
 - (iii) The National Assembly or the National Council of Provinces;
 - (b) A member of the board of directors of any municipal entity;
 - (c) An official of any municipality or municipal entity;
 - (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the public Finance Management Act, 1999 (Act No.1 of 1999);
 - (e) A member of the accounting authority of any national or provincial public entity; or
 - (f) An employee of Parliament or a provincial legislature;
- 1.1.18. **“Long term contract”** means a contract with a duration period exceeding one year
- 1.1.19. **“List of accredited prospective providers”** means the list of accredited prospective providers which the Cape Winelands District Municipality must keep in terms of paragraph 14 of this policy;
- 1.1.20. **“Other applicable legislation”** means any other legislation applicable to municipal supply chain management, including but not limited to the following –
- (a) The Preferential Procurement Policy Framework Act;
 - (b) The Broad-Based Black Economic Empowerment Act; and
 - (c) The Construction Industry Development Board Act;
 - (d) The Local Government: Municipal Systems Act;
 - (e) The Competition Act; and
 - (f) The Promotion of Administrative Justice Act.
- 1.1.21. **“Policy”** means the Supply Chain Management Policy of the Cape Winelands District Municipality as amended from time to time;

- 1.1.22. **"Parent municipality"** has the meaning assigned to it in section 1 of the Municipal Systems Act;
- 1.1.23. **"Petty Cash"**, means the procurement of goods and services through the supply chain management requisition and order system by means of one verbal and written quotation below a determined amount in relation with the Petty Cash Policy;
- 1.1.24. **"Supplier database"** means the list of accredited prospective providers which the municipality or municipal entity must keep in terms of the Regulation 14 of the Supply Chain Management Regulations;
- 1.1.25. **"Treasury guidelines"** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;
- 1.1.26. **"Trust"** means the agreement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person;
- 1.1.27. **"Trustee"** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person;
- 1.1.28. **"The Regulations"** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
- 1.1.29. **"The PPPFA Regulations"** means Preferential Procurement Regulations, 2017 Published under Government Notice R32 in Government Gazette 40553 of 20 January 2017; and
- 1.1.30. **"Written or verbal quotations"** means quotations referred to in paragraph 12(1)(b) & (c) of this Policy.

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. SUPPLY CHAIN MANAGEMENT POLICY

- (1) All officials and other role players in the supply chain management system of the Cape Winelands District Municipality must implement this Policy in a way that –
- (a) Gives effect to –
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) Is fair, equitable, transparent, competitive and cost effective;
 - (c) Complies with –
 - (i) The Regulations; and
 - (ii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) Is consistent with other applicable legislation;
 - (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The municipal entity must, in addition to complying with subparagraph (1), apply this Policy, to the extent determined by the parent municipality, in a way that is consistent with the supply chain management policy of the parent municipality.
- (3) This Policy applies when the Cape Winelands District Municipality –
- (a) Procures goods or services;
 - (b) Disposes goods no longer needed;
 - (c) Selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) Selects external mechanisms referred to in section 80(1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (4) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) Water from the Department of Water Affairs or a public entity, another

- (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

3. AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

- (1) The Accounting Officer must –
 - (a) At least annually review the implementation of this Policy; and
 - (b) When the Accounting Officer considers it necessary, submit proposals for the amendment of this Policy to the Council of Cape Winelands District Municipality.
- (2) If the Accounting Officer submits proposed amendments to the Council of Cape Winelands District Municipality that differs from the model policy issued by the National Treasury, the Accounting Officer must –
 - (a) Ensure that such proposed amendments comply with the Regulations; and
 - (b) Report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The Council of Cape Winelands District Municipality hereby delegates all powers and duties to the Accounting Officer, which are necessary to enable the Accounting Officer –
 - (a) To discharge the supply chain management responsibilities conferred on Accounting Officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) This Policy;
 - (b) To maximize administrative and operational efficiency in the implementation of this Policy;
 - (c) To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an Accounting Officer in terms of subparagraph (1).
- (3) The Accounting Officer may not sub-delegate any supply chain management powers

or duties to a person who is not an official of Cape Winelands District Municipality or to a committee, which is not exclusively composed of officials of the Cape Winelands District Municipality.

- (4) This paragraph may not be read as permitting an official, to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. SUB-DELEGATIONS

- (1) The Accounting Officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
- (a) Above R 10 million (VAT included) may not be sub-delegated by the Accounting Officer;
- (b) Above R 200 000.00 (VAT included), but not exceeding R 10 million (VAT included), may be sub-delegated but only to –
- (i) the Bid Adjudication Committee of which the Chief Financial Officer or senior manager is a member
- (ii) Accounting Officer of the municipality, after due consideration of all facts was done; and
- (c) Below R 200,000 (VAT included) to delegated official(s) in accordance with approved delegations issued by the Accounting Officer.
- (3) The Bid Adjudication Committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including –
- (a) The amount of the award;
- (b) The name of the person to whom the award was made; and
- (c) The reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) To the Accounting Officer, in the case of an award by –
- (i) The Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member; or
- (b) To the Chief Financial Officer or the senior manager responsible for the relevant bid, in the case of an award by –
- (i) The Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is not a member.

- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.
- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF COUNCIL.

- (1) The Cape Winelands District Municipality's Council reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the Accounting Officer must –
 - (i) Within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
 - (ii) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.
- (3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Executive Mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. SUPPLY CHAIN MANAGEMENT UNIT

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

B. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

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

SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

(1) This Policy provides systems for –

- (i) Demand management;
- (ii) Acquisition management;
- (iii) Logistics management;
- (iv) Disposal management;
- (v) Risk management; and
- (vi) Performance management.

PART 1: DEMAND MANAGEMENT**10. SYSTEM OF DEMAND MANAGEMENT**

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

- (1) The Accounting Officer must establish and implement an appropriate demand management system in order to ensure that the resources required by Cape Winelands District Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
 - (a) Include timely planning and management processes to ensure that all goods and services required by Cape Winelands District 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;
 - (b) Take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
 - (c) Provide for the compilation of the required specifications to ensure that its needs are met; and
- (3) Green procurement must be incorporated as far as reasonably possible for all specifications of goods, services and construction works.
- (4) In the development of bid specifications, innovative mechanisms should be explored to render the service or product more resource and energy efficient.

PART 2: ACQUISITION MANAGEMENT

11. SYSTEM OF ACQUISITION MANAGEMENT 371

- (1) The Accounting Officer must implement the system of acquisition management set out in this Part in order to ensure –
 - (a) That goods and services are procured by Cape Winelands District Municipality in accordance with authorised processes only;
 - (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) That the threshold values for the different procurement processes are complied with;
 - (d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) That any Treasury guidelines on acquisition management are properly taken into account.
- (2) This Policy, except where provided otherwise in the Policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (3) When procuring goods or services through another organ of state as contemplated in section 110(2) of the Act, the municipality must make public the fact that such goods or services are procured otherwise than through the Cape Winelands District Municipality supply chain management system, including –
 - (a) the kind of goods or services; and
 - (b) the name of the supplier.
- (4) If the procurement is for a capital project, Section 19 of the MFMA regarding budgeting and costing of capital projects must also be complied with.
- (5) Unless otherwise indicated in the bid documents, the Municipality shall not be liable for any expenses incurred by prospective bidders in the preparation and / or submission of a bid or quotation.

12. RANGE OF PROCUREMENT PROCESSES

- (1) Goods and / or services may only be procured by way of –
 - (a) Cash purchases up to a transaction value as defined in Council's Petty Cash Policy
 - (b) Petty cash purchases through one verbal or written quotation for the procurement of goods and services up to a transaction value of R 2,000 (VAT included), including ad-hoc fuel replenishment by means of bank/fleet card.

- (c) Written or verbal quotations for procurement of goods and/or services of a transaction value between R 2,000 and R 10,000 (VAT included);
 - (d) Formal written quotations for procurement of goods and/or services of a transaction value between R 10,000 and R 200,000;
 - (e) Competitive bidding process for:
 - (i) Procurements above a transaction value of R 200,000 (VAT included); and
 - (ii) The procurement of long-term contracts.
- (2) The Accounting Officer may, in writing-
- (a) Lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) Direct that –
 - (i) Written quotations are obtained for any specific procurement of a transaction value lower than R 2,000;
 - (ii) Written price quotations be obtained for any specific procurement of a transaction value lower than R 10,000; or
 - (iii) A competitive bidding process be followed for any specific procurement of a transaction value lower than R 200,000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
- (4) Transferring of municipal funds to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction must comply with Sec.67 of the MFMA (Act No.56 of 2003). In terms of Sec.67 (4), Council approved a limit during the IDP Budget process.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

- (1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) Has furnished that provider's –
 - (i) Full name;
 - (ii) Identification number or company or other registration number; and
 - (iii) Tax reference number and VAT registration number, if any;
 - (b) Has authorised the Cape Winelands District Municipality to obtain a tax clearance, if applicable from the South African Revenue Services that the provider's tax matters are in order; and
 - (c) Has indicated –
 - (i) Whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

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

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS

- (1) The Accounting Officer must –
 - (a) Keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations;
 - (b) At least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
 - (c) Specify the listing criteria for accredited prospective providers as stated within the database registration forms; and
 - (d) Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
- (3) The list must be compiled per commodity and per type of service.
- (4) Suppliers who intend to do business with this municipality MUST provide its Central Supplier Database (CSD) Registration Number "MAAA....."

15. PETTY CASH PURCHASES

- (1) The Accounting Officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12(1)(a) of this Policy, which must include conditions –
 - (a) determining the terms on which a manager may delegate responsibility for cash purchases and petty cash purchases to an official reporting to the manager;
 - (b) limiting the maximum number of cash purchases and petty cash purchases or the maximum amounts per month for each manager;
 - (c) excluding any types of expenditure from cash purchases and petty cash purchases, where this is considered necessary;
 - (d) requiring a monthly reconciliation report from each manager to the Chief Financial Officer, including –

- (i) the total amount of petty cash purchases for that month; and
(ii) receipts and appropriate documents for each purchase; and

(e) any other conditions determined by the Chief Financial Officer.

- (2) Cash purchases up to a transaction value as defined in Council's Petty Cash Policy
- (3) Petty cash purchases with a value up to R 2000.00 including ad-hoc fuel replenishment by means of bank/fleet card will be dealt with in terms of the Supply Chain Management Policy of Council.

16. WRITTEN OR VERBAL QUOTATIONS

- (1) The conditions for the procurement of goods or services through written or verbal quotations are as follows –
- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the Cape Winelands District Municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(c) and (d) of this Policy;
- (b) To the extent feasible, providers must be requested to submit such quotations in writing;
- (c) If it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Accounting Officer or another official designated by the Accounting Officer;
- (d) The Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17. FORMAL WRITTEN PRICE QUOTATIONS

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:-
- (a) Quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the Cape Winelands District Municipality. Quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(c) and (d) of this Policy;
- (b) If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer;
- (c) The Accounting Officer must record the names of the potential providers and their written quotations; and
- (2) A designated official referred to in subparagraph (1)(c) must within three days of the

end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that subparagraph.

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

- (1) The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows –
- (a) All requirements in excess of R 30,000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph h 17, will be advertised for at least seven days on the website and an official notice board of the Cape Winelands District Municipality;
 - (b) When using the list of accredited prospective providers the Accounting Officer must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis;
 - (c) Offers received must be evaluated on a comparative basis taking into account unconditional discounts;
 - (d) The Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
 - (e) Offers below R 30,000 (VAT included) must be awarded based on compliance to specification and conditions of contract, ability and capability to deliver the goods and services and lowest price;
 - (f) Acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points; and
 - (g) Cape Winelands District Municipality will maintain a proper record keeping system.

19. COMPETITIVE BIDS

- (1) Goods or services above a transaction value of R 200,000 (VAT included) and long term contracts may only be procured through a competitive bidding process, in terms of section 11.
- (2) No requirement for goods or services above an estimated transaction value of R 200,000 (VAT included), may be deliberately 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.

20. PROCESS FOR COMPETITIVE BIDDING

- (1) The procedures for the following stages of a competitive bidding process are as follows:-
- (a) Compilation of bidding documentation as detailed in paragraph 21;
 - (b) Public invitation of bids as detailed in paragraph 22;
 - (c) Site meetings or briefing sessions as detailed in paragraph 23;
 - (d) Handling of bids submitted in response to public invitation as detailed in

- paragraph 23;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts;
- (h) After approval of a bid, the Accounting Officer and the bidder must enter into a written agreement;
- (i) Proper record keeping; and
- (j) Original / legal copies of written contracts agreements must be kept in a secure place for reference purposes.

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

- (1) The criteria to which bid documentation for a competitive bidding process must comply, must –
 - (a) Take into account –
 - (i) The general conditions of contract and any special conditions of contract, if specified;
 - (ii) Any Treasury guidelines on bid documentation; and
 - (iii) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
 - (b) Include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (d) If the value of the transaction is expected to exceed R 10 million (VAT included), require bidders to furnish –
 - (i) If the bidder is required by law to prepare annual financial statements (AFS) for auditing, their audited AFS –
 - (aa) For the past three years; or
 - (bb) Since their establishment if established during the past three years;
 - (ii) A certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) Particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) A statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
 - (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
 - (f) The period for which bids are to remain valid and binding must be indicated in

22. PUBLIC INVITATION FOR COMPETITIVE BIDS

- (1) The procedure for the invitation of competitive bids is as follows –
 - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in a newspaper commonly circulating locally, the website of the Cape Winelands District Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and
 - (b) The information contained in a public advertisement, must at least include
 - (i) The closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy; and
 - (ii) A statement that bids may only be submitted on the bid documentation provided by the Cape Winelands District Municipality
 - (iii) Contact details for further enquiries.
- (2) The Accounting Officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed and must clearly indicate the bid number on the outside of the envelope for which the bid is being submitted.
- (4) For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box of the Cape Winelands District Municipality.
- (5) The council may charge a non-refundable deposit for provision of bid documents. This is subject to annual review. Values of the deposits will be determined annually and included in the official lists of tariffs.
- (6) The Chief Financial Officer or delegated official will ensure that tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- (7) Where bids are requested by the Municipality in electronic format, such bids must be supplemented by sealed hard copies.

23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

- (1) The procedures for the handling, opening and recording of bids are as follows
 - (a) Bids –
 - (i) Must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

- (iii) Received after the closing time should not be considered and returned unopened immediately; and
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award;
- (d) The Accounting Officer must –
 - (i) Record in a register all bids received in time;
 - (ii) Make the register available for public inspection; and
 - (iii) Publish the entries in the register and the bid results on the website.
- (f) Opening of bid procedures –
 - (i) At the specified closing time on the closing date the applicable bid box shall be closed;
 - (ii) The bid box shall be opened in public as soon as possible after the closing time by at least one official from the Supply Chain Management Unit and one official from Administrative Support Services;
 - (iii) It is the responsibility of the bidder to ensure that their bid is placed in the correct bid box. The municipality will not on its own initiative redirect any bid if it is placed in an incorrect bid box before the closing time of submissions.
 - (iv) Immediately after the opening of the bid box all bids shall be opened in public. Unmarked or incorrectly marked tenders will not be opened.
 - (v) At the official opening of the bids, the bids shall in all cases be read out in terms of the name of the bidder and, if practical, the amount of the bid;
 - (vi) As soon as a bid or technical proposal has been opened the bid / proposal shall be stamped with the official stamps, and endorsed with the opening officials' signatures;
 - (vii) The name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and The responsible officials who opened the bidding documentation received shall forthwith place their signatures on the bid opening record (register)
 - (ix) The bid opening record, indicating at least the bid price of each bidder and the B-BBEE status level contribution of each bidder must be published on the municipality's website.
- (g) Site Inspections / clarification meeting –
 - (i) Site inspections / clarifications meeting, where applicable, will be compulsory.

- (ii) If site inspections / clarification meeting are to be held, full details must be included in the bid notice.

(h) Bid validity periods

- (i) The validity period is calculated from the bid closure date and bids shall remain in force and binding for a period of ninety (90) days as indicated in the invitation to bid and the bid documents, subject to any other applicable legislation and instructions from the National Treasury for specific types of procurement.
- (ii) The period of validity may be extended by the SCM Department, provided that the original bid validity period has not expired and that all bidders are given an opportunity to extend such period.
- (iii) Any such extension shall be agreed to by a bidder in writing.

Bidders who fail to respond to such a request before the validity of their bid expires, or who decline such a request shall not be considered further in the bid evaluation process.
- (iv) All bidders who indicated the acceptance of the extension of the bid validity period, bids will be considered for evaluation purposes.
- (v) If the validity of all bids expired without it being awarded within the bid validity period, including any extensions thereof allowable in terms of applicable legislation, the bid must be cancelled and published in the same media in which the original bid invitation appeared.
- (vi) All bidders must be notified in writing of the cancellation of a bid.

(i) Bid Sum

- (i) A bid will not necessarily be invalidated if the amount in words and the amount in figures do not correspond, in which case the amount in words shall be read out at the bid opening.

24. NEGOTIATIONS WITH PREFERRED BIDDERS

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

25. TWO-STAGE BIDDING PROCESS

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

- (a) Large complex projects; → 380
- (b) Projects where it may be undesirable to prepare complete detailed technical specifications; or
- (c) Long term projects with a duration period exceeding three years.

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

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

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

(1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the Accounting Officer may determine as issued within the directive and stating the terms of reference of each bid committee –

- (a) A Bid Specifications Committee;
- (b) A Bid Evaluation Committee; and
- (c) A Bid Adjudication Committee.

(2) The Accounting Officer appoints the members and secundus of each committee, taking into account section 117 of the Act; and

(3) The committee system must be consistent with –

- (a) Paragraph 27, 28 and 29 of this Policy;
- (b) Any other applicable legislation; and
- (c) The Accounting Officer may apply the committee system to formal written price quotations.

(4) Secundus referred to in sub-paragraph (2) represents a specific standing member of that specific committee in the event that the standing member is not available. Secundus has the same powers and duties of the standing member.

27. BID SPECIFICATIONS COMMITTEES

(1) A Bid Specifications Committee must compile the specifications for each procurement of goods or services by the Cape Winelands District Municipality.

(2) Specifications –

- (a) Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) Must, where possible, be described in terms of performance required rather than

in terms of descriptive characteristics for design;

- (d) May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - (e) May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
 - (f) Must indicate the preference points system set out in the Preferential Procurement Regulations 2017;
 - (g) Must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy; and
- (3) A Bid Specifications Committee must be composed of one or more officials of the Cape Winelands District Municipality preferably the manager responsible for the function involved, and may, when appropriate, include external and / or internal specialist advisors.
 - (4) No person, advisor or corporate entity involved with the Bid Specifications Committee, or director of such a corporate entity, may bid for any resulting contracts.

28. BID EVALUATION COMMITTEES

- (1) A Bid Evaluation Committee must –
 - (a) Evaluate bids in accordance with –
 - (i) The specifications for a specific procurement; and
 - (ii) The points system set out in terms of paragraph 27(2)(f);
 - (b) Evaluate each bidder's ability to execute the contract;
 - (c) Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears; and
 - (d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A Bid Evaluation Committee must as far as possible be composed of
 - (a) Officials from departments requiring the goods or services; and
 - (b) At least one supply chain management practitioner of the Cape Winelands District Municipality.
- (3) The relevant user department's official shall carry out a preliminary evaluation of all valid bids received and shall submit a technical evaluation report to the Supply Chain Management unit to be included in the draft report for consideration by the Bid Evaluation Committee.
- (4) Any evaluation of a bid shall be in accordance with the evaluation criteria stipulated in

the bidding documents and shall note for inclusion in the evaluation report, a bidder –

- (a) Whose bid does not comply with the provisions of paragraph 38 of this Policy;
 - (b) Whose bid does not comply with the provisions of paragraph 13 of this Policy;
 - (c) Whose bid is not in compliance with the specifications;
 - (d) Whose bid is not in compliance with the terms and conditions of the bid documentation;
 - (e) Who is not registered, verified and accredited on the municipality's supplier database within seven days of the closing time for bids. In this regard bid documentation shall state that the responsibility for registration and verification rests solely with the bidder;
 - (f) Whose tax status are non-compliant and cannot be verified with the South African Revenue Services (SARS) certifying that the taxes of the bidder are in order, and
 - (g) Who fails to comply with any applicable Bargaining Council agreement.
- (5) Bids shall be evaluated according to the following as applicable –
- (i) Bid price (corrected if applicable and brought to a comparative level where necessary);
 - (ii) The unit rates and prices;
 - (iii) The bidder's ability to fulfil its obligations in terms of the bid documents;
 - (iv) Any qualifications to the bid;
 - (v) Preference points systems; and
 - (vi) Any other criteria specified in the bid documents.
- (6) The Bid Evaluation Committee shall check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.
- (7) Clarification in terms of uncertainties/ambiguities contained in bids submitted may be required from bidders.
- (8) If a bidder requests in writing, after the closing of bids, that his/her bid be withdrawn, then such a request may be considered and reported in the bid evaluation report.
- (10) If two or more bids score an equal total number of points in terms of the preference points system, regulation 10(1) of the Preferential Procurement Regulations of 2017 will apply.
- (11) If functionality is part of the evaluation process and two or more bids score an equal total number of points in terms of the preference points system, regulation 10(2) of the Preferential Procurement Regulations of 2017 will apply.
- (12) If two or more bids are equal in all respects, regulation 10(3) of the Preferential Procurement Regulations of 2017 will apply.

- (13) All disclosures of conflict of interest shall be considered by the Bid Evaluation Committee
- (14) The relevant Director in conjunction with the SCM Unit may, before the bid is considered by the Bid Evaluation Committee, provide a reasonable opportunity to a bidder who made an innocent error and / or omission in their bid document, to correct the innocent error and / or omission, provided that such opportunity will not unduly prejudice any of the other bidders.
- (15) In an event as described in sub-paragraph 14, bidders shall be afforded a minimum of two (2) working days up to a maximum of five (5) working days (on discretion of the relevant Director in conjunction with Supply Chain Management Unit) from time of notification to correct such innocent errors and / or omissions. If no response is received from such bidders at the deadline the bid may be deemed to be non-responsive.

29. BID ADJUDICATION COMMITTEES

- (1) A Bid Adjudication Committee must –
 - (a) Consider the report and recommendations of the Bid Evaluation Committee; and
 - (b) Either –
 - (i) Depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
 - (ii) Make another recommendation to the Accounting Officer how to proceed with the relevant procurement.
- (2) A Bid Adjudication Committee must consist of at least four senior managers of the Cape Winelands District Municipality, which must include –
 - (a) The Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer;
 - (b) At least one senior supply chain management practitioner who is an official of the Cape Winelands District Municipality; and
 - (c) A technical expert in the relevant field who is an official, if such an expert exists.
- (3) The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a Bid Evaluation Committee, nor an advisor or person assisting the evaluation committee, may be a member of a Bid Adjudication Committee.
- (5) Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties. However, such members will not have any voting power on the Bid Adjudication Committee.
- (6) (a) If the Bid Adjudication Committee decides to award a bid other than the one recommended by the Bid Evaluation Committee, the Bid Adjudication Committee

must prior to awarding the bid— 384

- (i) Check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
- (ii) Notify the Accounting Officer.

(b) The Accounting Officer may —

- (i) After due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in paragraph (a); and
- (ii) If the decision of the Bid Adjudication Committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

- (6) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The Accounting Officer must comply with section 114 of the Act within 10 working days

30. PROCUREMENT OF BANKING SERVICES

- (1) A contract for banking services —
 - (a) Must be procured through competitive bids;
 - (b) Must be consistent with section 7 or 85 of the Act; and
 - (c) May not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF IT RELATED GOODS OR SERVICES

- (1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by and the payments to be made to SITA.
- (3) The Accounting Officer must notify SITA together with a motivation of the IT needs if —

- (a) The transaction value of IT related goods or services required in any financial year will exceed R 50 million (VAT included); or
 - (b) The transaction value of a contract to be procured whether for one or more years exceeds R 50 million (VAT included).
- (4) If SITA's comments on the submission and the Cape Winelands District Municipality disagree 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.

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

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

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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

34. PROUDLY SA CAMPAIGN

- (1) Cape Winelands District Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from –
 - (a) Firstly: Suppliers and businesses within the municipality or district;
 - (b) Secondly: Suppliers and businesses within the relevant province; and

(c) Thirdly: Suppliers and businesses within the Republic.

35. APPOINTMENT OF CONSULTANTS

- (1) The Accounting Officer may procure consulting services provided that any Treasury guidelines in respect of consulting services, Construction Industry Development Board guidelines and Council's Cost-Containment Policy in respect of services related to the built environment and construction works are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if –
 - (a) The value of the contract exceeds R 200,000 (VAT included); or
 - (b) The duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) All consultancy services provided to an organ of state in the last five years; and
 - (b) Any similar consultancy services provided to an organ of state in the last five years.
- (4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Cape Winelands District Municipality .
- (5) Where the estimated value of fees is less than R 200,000 and the duration of the appointment is less than one year, any Treasury guidelines in respect of consulting services, Construction Industry Development Board guidelines and Council's Cost Containment Policy will be applicable.
- (6) No advisor will take any part in the final decision-making process regarding the award of bids
- (7) No decision-making authority can be delegated to an advisor.

36. DEVIATION FROM AND RATIFICATION OF MINOR BREACHES OF PROCUREMENT PROCESSES

- (1) The Accounting Officer may –
 - (a) Dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) In an emergency (as per definition);
 - (ii) If such goods or services are produced or available from a single source or sole provider only (as per definition);
 - (iii) For the acquisition of special works of art or historical objects where

specifications are difficult to compile;

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- (iv) Acquisition of animals for zoos and/or nature and game reserves; or
 - (v) In any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
- (b) Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties, which are purely of a technical nature.
- (2) The Accounting Officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

37. UNSOLICITED BIDS

- (1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
- (a) The product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) The product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) The person who made the bid is the sole provider of the product or service; and
 - (d) The reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- (3) If the Accounting Officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- (a) Reasons as to why the bid should not be open to other competitors;
 - (b) An explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) An invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The Accounting Officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to

the public.

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- (7) When considering the matter, the adjudication committee must take into account –
- (a) Any comments submitted by the public; and
 - (b) Any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Cape Winelands District Municipality to the bid may be entered into or signed within 30 days of the submission.

38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

- (1) The Accounting Officer must –
- (a) Take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) Take appropriate steps against such official or other role player; or
 - (ii) Report any alleged criminal conduct to the South African Police Service;
 - (c) Check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) Reject any bid from a bidder –
 - (i) If any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Cape Winelands District Municipality or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) Who during the last five years has failed to perform satisfactorily on a previous contract with the Cape Winelands District Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (e) Reject a recommendation for the award of a contract if the recommended bidder or any of its directors, or trust or its trustees has committed a corrupt or fraudulent act in competing for the particular contract;
 - (f) Cancel a contract awarded to a person if –

- (i) The person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) An official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) Reject the bid of any bidder if that bidder or any of its directors –
- (i) Has abused the supply chain management system of the Cape Winelands District Municipality or has committed any improper conduct in relation to such system;
 - (ii) Has been convicted for fraud or corruption during the past five years;
 - (iii) Has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) Has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this Policy.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT**39. LOGISTICS MANAGEMENT**

- (1) The Accounting Officer must establish and implement an effective system of logistics management, which must include –
- (a) The monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
 - (b) The setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
 - (c) The placing of manual or electronic orders for all acquisitions other than those from petty cash;
 - (d) Before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
 - (e) Appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
 - (f) Regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
 - (g) Monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

40. DISPOSAL MANAGEMENT

- (1) A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act
- (2) A supply chain management policy must specify the ways in which assets may be disposed of, including –
- (a) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (b) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (c) Selling the asset; and
 - (d) Destroying the asset.
- (3) The Accounting Officer must ensure that –
- (a) Immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

- (b) Movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- (d) Firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (e) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (f) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (g) Where assets are traded in for other assets, the highest possible trade-in price is negotiated.

41. RISK MANAGEMENT

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

42. PERFORMANCE MANAGEMENT

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

PART 4: OTHER MATTERS**43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER**

- (1) No award above R30 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order. (NT Circular No.29 shall apply)
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order. The municipality shall apply the "eFiling-System" of SARS.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
 - (a) Who is in the service of the state;
 - (b) If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) A person who is an advisor or consultant contracted with the Cape Winelands District Municipality.

45. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

- (1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R 2,000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
 - (a) The name of that person;
 - (b) The capacity in which that person is in the service of the state; and
 - (c) The amount of the award.

46. ETHICAL STANDARDS

- (1) A code of ethical standards as set out in [subparagraph (2) / the "National Treasury's code of conduct for supply chain management practitioners and other role players"] is hereby established for municipal officials and other role players in the supply chain management system of the Cape Winelands District Municipality in order to promote-
 - (a) Mutual trust and respect; and
 - (b) An environment where business can be conducted with integrity and in a fair and reasonable manner.

- (2) A municipal official or other role player involved in the implementation of this Policy—
- (a) Must treat all providers and potential providers equitably;
 - (b) May not use his or her position for private gain or to improperly benefit another person;
 - (c) May not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R 350;
 - (d) Notwithstanding subparagraph (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) Must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Cape Winelands District Municipality;
 - (f) Must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) Must be scrupulous in his or her use of property belonging to Cape Winelands District Municipality;
 - (h) Must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) Must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) Any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) Any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) Any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) –
- (a) Must be recorded in a register, which the Accounting Officer must keep for this purpose; and
 - (b) By the Accounting Officer must be made to the Executive Mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct and Schedule 2 of the Systems Act must be adhered to by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows –
- (a) In the case of an employee, in terms of the disciplinary procedures of the Cape Winelands District Municipality envisaged in section 67(1)(h) of the Municipal

Systems Act;

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- (b) In the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach;
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act; and
- (d) All cases of non-compliance to this Policy should be reported to the Accounting Officer.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES, OFFICIALS AND OTHER ROLE PLAYERS

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - (a) Any inducement or reward to the Cape Winelands District Municipality for or in connection with the award of a contract; or
 - (b) Any reward, gift, favour or hospitality to –
 - (i) Any official; or
 - (ii) Any other role player involved in the implementation of this Policy.
- (2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R 350 in value.

48. SPONSORSHIPS

- (1) The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
 - (a) A provider or prospective provider of goods or services; or
 - (b) A recipient or prospective recipient of goods disposed or to be disposed.

49. OBJECTIONS AND COMPLAINTS

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

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- (1) The Accounting Officer may, if deem so, appoint an independent and impartial person, not directly involved in the supply chain management processes –

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

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

- (1) If a service provider acts on behalf of a Cape Winelands District 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 Cape Winelands District Municipality must stipulate
 - (a) A cap on the compensation payable to the service provider; and
 - (b) That such compensation must be performance based.

53. CONTRACTS HAVING BUDGETARY IMPLICATIONS BEYOND THREE FINANCIAL YEARS

- (1) The Cape Winelands District Municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of Section 33 of Act have been fully complied with.

55. RIGHT OF APPEAL.

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- (1) In terms of Section 62 of the Municipal Systems Act (Act 32 of 2000 as amended), a person whose rights are affected by a decision taken by the Municipality, in terms of a delegated authority, in the implementation of its supply chain management system, 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) Notification of the decision in terms of sub-paragraph 55(1) of this policy must state that any appeal must be submitted in writing to the Municipal Manager and must at least contain the following information:
 - (a) The reasons and / or grounds for the appeal;
 - (b) The way in which the appellants rights have been affected; and
 - (c) The remedy sought by the appellant.
 - (3) No award, where a competitive bidding process was followed, shall be formally implemented until a ruling has been made on any appeal/s received. The Municipal Manager may however grant approval for the implementation of bid awards prior to the conclusion of the appeal process in respect of bids which in his / her opinion are deemed as urgent.
 - (4) The Appeal Authority will provide the service provider with copies of the Bid Committee minutes applicable to the specific tender on request within the 21 days period, of the service provider to enable him/her to motivate his/her appeal. Should the service provider request other documentation a PAIA application should be submitted.
 - (5) 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.

56. NOTIFICATION OF BID DECISIONS

- (1) The successful and unsuccessful bidders shall be notified in writing by the Supply Chain Management once a bid has been accepted.
- (2) The bidders shall, in addition, be advised of the 21 day appeal period in terms of section 62 of the Municipal Systems Act and be notified that no rights will accrue to him / her until the bid is formally accepted in writing.
- (3) Once the 21 day appeal period has lapsed and a decision has been made by the appeal authority, the appellant and the service provider who the tender was initially awarded will be notified in writing of the outcome thereof by the Supply Chain Management.
- (4) Every notification of decision shall be faxed or sent via electronic mail and ordinary mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification to be kept for record purposes.

58. SHORT TITLE

This policy is called the Cape Winelands District Municipality Supply Chain Management Policy.

59. COMMENCEMENT " 397

This Policy takes effect on 1st July 2020.

60. RELEVANT SECTIONS FROM THE MFMA

The following sections form part of this policy and must be applied directly from the Act.

(a) SECTION 33: CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS

(b) SECTION 116: CONTRACTS AND CONTRACT MANAGEMENT

61. ADOPTION OF NATIONAL TREASURY / MFMA CIRCULARS

By adopting this policy, Council acknowledge the adoption of the following Circulars;

MFMA Circular No. 29 - Supply Chain Management Issues

MFMA Circular No. 62 - SCM: Enhancing Compliance and Accountability

MFMA Circular No. 81 - Web Based Central Supplier Database (CSD)



CASH MANAGEMENT AND INVESTMENT POLICY

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1. Definitions

For the purpose of this policy-

"Accounting Officer" – means the person appointed by the Municipal Council as the Accounting officer for the municipality in terms of section 82 of the Local Government Municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person:

(a) to whom the Accounting officer has delegated a power, function or duty in respect of such a delegated power, function or duty.

"Council" shall mean the Council of the municipality, any committee or person to which or to whom an instruction has been given or any power has been delegated or sub-delegated in terms of, or as contemplated in, section 59 of the Local Government: Municipal Systems Act, 2000 or a service provider in respect of any power, function or duty of the Council.

"Councillor" shall mean a member of the municipal Council of the Cape Winelands District Municipality.

"Chief Financial Officer" shall mean the head of the Financial Services Department as contemplated in sec 80 of the MFMA.

"Investment" – means –

- (a) the placing on deposit of funds with a financial institution; or
- (b) the acquisition of monetary assets with funds not immediately required,
- (c) with the primary aim of preserving those funds.

"Investment manager" – means a natural person or or legal entity that is a portfolio manager registered in terms of the Financial Markets Control Act, 1989 (Act no 55 of 1989), and Stock Exchanges Control Act, 1985 (Act no 1 of 1985), contracted by a municipality or municipal entity to –

- (a) advise on investment;
- (b) manage investments on its behalf; or
- (c) and advise it on investments and manage investments on its behalf.

"Municipality" means the Cape Winelands District Municipality

"Official" shall mean all persons in the employment of the Cape Winelands District Municipality.

2. Compliance with laws and legislation

- 2.1 Section 13(1) and (2) of the Local Government Municipal Finance Management Act, 2003 (Act No. 56 of 2003) requires that a municipality establish an appropriate and effective cash management and investment policy within which the municipality must;
- 2.1.1 conduct its cash management and investments, and
 - 2.1.2 invest money not immediately required, in accordance with any framework which may be prescribed.
- 2.2 National Treasury has issued municipal investment regulations (No. R.308) dated 1st April 2005 (Government Gazette no. 27431) which sets out a framework within which, all municipalities shall conduct their cash management and investments.
- 2.3 All investments made by the municipality, or by an investments manager on behalf of the municipality, must be in accordance with the investment policy and any investment regulations promulgated by national government.

3 Objectives of the investment policy

- 3.1 To ensure compliance with the relevant legal and statutory requirements relating to cash management and investments;
- 3.2 To ensure that the council of the municipality who effectively are the custodians of the public revenues, which it collects, managed the cash resources effectively and efficiently.
- 3.3 The investment policy of the municipality is therefore aimed at gaining the optimal return on investments, without incurring undue risks, during those periods when cash revenues are not needed for capital or operational purposes.

- 3.4 The effectiveness of the investment policy is dependent on the accuracy of the municipality's cash management programme, which must identify the amounts surplus to the municipality's needs, as well as the time when and period for which such revenues are surplus.

4 Standards of ethics and judgement and due care

- 4.1 The accounting officer shall be responsible for investing the surplus revenues of the municipality, and shall manage such investments in consultation with the accounting officer or mayoral committee and in compliance with any policy directives formulated by the council and prescriptions made by the Minister of Finance.
- 4.2 All investments made, shall be in the name of the Cape Winelands District Municipality.
- 4.3 In making such investments the accounting officer, shall at all times have only the best considerations of the municipality in mind, and, except for the outcome of the consultation process with the executive mayor or mayoral committee, shall not accede to any influence by or interference from councillors, investment agents or institutions or any other outside parties.
- 4.4 The Accounting officer must at all times, when making an investment, consider:
- (a) The security of the investment.
 - (b) The liquidity needs of the Cape Winelands District Municipality.
 - (c) Probable income or return derived from the investment.
- 4.5 ~~Neither the accounting officer or chief financial officer nor members of the mayoral committee may accept any gift other than an item having such negligible value of not more than R 150.00 that it cannot possibly be construed as anything other than a token of goodwill by the donor from any investment agent or institution or any party with which the municipality has made or may potentially make an investment.~~

5 Underlying investment principles

5.1 Permitted Investments

5.1.1 The Accounting Officer must ensure that only the following investment types are utilized in terms of sec 6 of the Municipal Investment Regulations (No. R. 308) dated 1 April 2005:

- (a) Securities issued by national government.
- (b) Listed corporate bonds with an investment grade rating from a recognized credit rating agency.
- (c) Deposits with banks registered in terms of the Banks Act (Act 45 of 1984).
- (d) Deposits with the Public Investment Commissioners.
- (e) Deposits with the Corporation for Public Deposits.
- (f) Banker's acceptance certificate or negotiable certificates of deposits of registered banks.
- (g) Guaranteed endowment policies with the intention of establishing a sinking fund.
- (h) Repurchase agreements with registered banks.
- (i) Municipal bonds issued by a municipality.
- (j) Any other investment type as identified by the Minister of Finance in consultation with the Financial Services Board.

5.2 Limiting Exposure

5.2.1 The accounting officer shall ensure that the municipality diversifies its investment portfolio across institutions, types of investment and investment maturities in order to limit the risk exposure of the municipality.

5.3 Risk and Return

5.3.1 Although the objective of the accounting officer in making investments on behalf of the municipality shall always be to obtain the best interest rate on offer, this consideration must be tempered by the degree of risk involved in

regard to both the financial institution and the investment instrument concerned.

5.3.2 No investment shall be made with an institution where the degree of risk is perceived to be higher than the average risk associated with investment institutions. Deposits shall only be made with deposit-taking institutions registered in terms of the Banks Act (Act 45 of 1984).

5.3.3 No investment is allowed which is affected by fluctuations in the value of the Rand against any foreign currency.

5.4 *Payment of Commission*

5.4.1 Every financial institution with which the municipality makes an investment must issue a certificate to the accounting officer in regard to such investment, stating that such financial institution has not paid and will not pay any commission and has not and will not grant any other benefit to any party for obtaining such investment, including councilors, officials or related spouses or family members.

5.5 *Call Deposits and Fixed Deposits*

5.5.1 Before making any call or fixed deposits, the accounting officer, shall obtain quotations from at least three financial institutions.

5.5.2 Given the volatility of the money market, the accounting officer, shall, whenever necessary, request quotations telephonically, and shall record in an appropriate register the name of the institution, the name of the person contacted, and the relevant terms and rates offered by such institution, as well as any other information which may be relevant (for example, whether the interest is payable monthly or only on maturity, and so forth).

5.5.3 Once the best investment terms have been identified, written confirmation of the telephonic quotation must be immediately obtained (by facsimile, e-mail or any other expedient means).

5.5.4 Any monies paid over to the investing institution in terms of the agreed investment (other than monies paid over in terms of section 7 below) shall be paid over only to such institution itself and not to any agent or third party.

5.5.5 Once the investment has been made, the accounting officer shall ensure that the municipality receives a properly documented receipt or certificate for such investment, issued by the institution concerned in the name of the municipality.

5.6 *Restriction on Tenure of Investments*

5.6.1 No investment with a tenure exceeding twelve months shall be made without the prior approval of the executive mayor or the mayoral committee, as the case may be.

6 Control over investment portfolio

6.1 The accounting officer shall ensure that proper records are kept of all investments made by the municipality.

6.2 Such records shall indicate the date on which the investment is made, the institution with which the monies are invested, the amount of the investment, the interest rate applicable, and the maturity date.

6.3 If the investment is liquidated at a date other than the maturity date, such date shall be indicated.

6.4 The accounting officer shall ensure that all interest and capital properly due to the municipality are timeously received, and shall take appropriate steps or cause such appropriate steps to be taken if interest or capital is not fully or timeously received.

6.5 The accounting officer shall ensure that all investment documents and certificates are properly secured in a fireproof safe with segregated control over the access to such safe, or are otherwise lodged for safekeeping with the municipality's bankers or attorneys.

6.6 The municipality shall be permitted to employ investment manager to:

- (a) advise it on its investments; and/or
- (b) manage specific investments on its behalf.

Appointment of an investment manager shall be made in accordance with the municipality's supply chain management policy;

All investments made by an Investments manager must be in accordance with this policy;

Any fees and/or commissions paid to an Investee or an Investments manager must be declared disclosing all the particulars concerning any fees or commissions payable; and

Investments managers found guilty of non-compliance with this policy, as well as the National Treasury Investment Regulations, shall be held liable for any loss or penalty suffered by the municipality.

7 Reporting on investments

- 7.1 The Accounting officer must submit, as part of the Section 71 report of the Municipal Finance Management Act (Act 56 of 2003), a report to the Accounting Officer describing, in accordance with GRAP, the investment portfolio of the Cape Winelands District Municipality at the end of the month.
- 7.2 The monthly report on Investments must include:
- (a) Market value of each investment - beginning and end period.
 - (b) Any changes to the Investment portfolio.
 - (c) Accrued interest.
 - (d) Liquidated Investments that have no minimum acceptable credit rating.

8 Investment for the redemption of long-term loan

- 8.1 In managing the municipality's investments, the accounting officer shall ensure that, whenever a long-term (non-annuity) loan is raised by the municipality, an amount is invested at least annually equal to the principal sum divided by the period of the loan.
- 8.2 Such investment shall be made against the bank account maintained for the external finance fund, and shall be accumulated and used only for the redemption of such loan on due date.
- 8.3 The making of such investment shall be approved by the council at the time that the loan itself is approved.

- 8.4 If the loan raised is not a fixed term loan, but an annuity loan, the accounting officer shall ensure that sufficient resources are available in the account maintained for the external finance fund to repay the principal amounts due in respect of such loan on the respective due dates.

9 Interest on investments

- 9.1 The interest accrued on all the municipality's investments shall, in compliance with the requirements of generally accepted municipal accounting practice, be recorded in the first instance in the municipality's operating account as ordinary operating revenues, and shall thereafter be appropriated, every six months, to the fund or account in respect of which such investment was made.

Cash management

10 Banking arrangements

- 10.1 The accounting officer is responsible for the management of the municipality's bank accounts, but may delegate this function to the chief financial officer.
- 10.2 The accounting officer and chief financial officer are authorised at all times to sign cheques and any other documentation associated with the management of such accounts.
- 10.3 The accounting officer, in consultation with the chief financial officer, is authorised to appoint two or more additional signatories in respect of such accounts, and to amend such appointments from time to time.
- ~~10.4 The list of current signatories shall be reported to the executive mayor or the mayoral committee, as the case may be, on a monthly basis, as part of the report dealing with the municipality's investments.~~
- 10.4 In compliance with the requirements of good governance, the accounting officer shall open a Primary Bank Account for ordinary operating purposes, and shall further maintain a separate ledger account for the administration of the Capital Replacement Reserve
- 10.5 One or more separate accounts shall also be maintained for the following: capital receipts in the form of grants, donations or contributions

from whatever source; and the municipality's self-insurance reserve (if legally permissible).

10-710.6 In determining the number of additional accounts to be maintained, the accounting officer, in consultation with the chief financial officer, shall have regard to the likely number of transactions affecting each of the accounts referred to.

10-810.7 Unless there are compelling reasons to do otherwise, and the council expressly so directs, all the municipality's bank accounts shall be maintained with the same banking institution to ensure pooling of balances for purposes of determining the interest payable to the municipality.

1.1 Raising of debt finance

- 11.1 The accounting officer is responsible for the raising of debt, but may delegate this function to the chief financial officer, who shall then manage this responsibility in consultation with the accounting officer.
- 11.2 All debt shall be raised in strict compliance with the requirements of the Municipal Finance Management Act 2003, and only with the prior approval of the council.
- 11.3 Long-term debt shall be raised only to the extent that such debt is provided for as a source of necessary finance in the capital component of the approved annual budget or adjustments budget.
- 11.4 Short-term debt shall be raised only when it is unavoidable to do so in terms of cash requirements, whether for the capital or operating budgets or to settle any other obligations, and provided the need for such short-term debt, both as to extent and duration, is clearly indicated in the cash flow estimates prepared by the accounting officer.
- 11.5 Short-term debt shall be raised only to anticipate a certain long-term debt agreement or a certain inflow of operating revenues.
- 11.6 The municipality shall not borrow for the purposes of investing or speculating in short or long term financial instruments.

12 Cash Collection

- 12.1 All monies due to the municipality must be collected as soon as possible, either on or immediately after due date, and banked on a daily basis except in the case of satellite offices, i.e. Ceres, Montagu, Robertson and Worcester.
- 12.2 The respective responsibilities of the accounting officer and other executive directors of departments in this regard is defined in a code of financial practice approved by the accounting officer and the chief financial officer, and this code of practice is attached as Annexure II to this policy.
- 12.3 The unremitant support of and commitment to the municipality's credit control policy, both by the council and the municipality's officials, is an integral part of proper cash collections, and by approving the present policy the council pledges itself to such support and commitment.

13 Payments to Creditors

- 13.1 The accounting officer shall ensure that all tenders and quotations invited by and contracts entered into by the municipality stipulate payment terms favourable to the municipality, that is, payment to fall due not sooner than the conclusion of the month following the month in which a particular service is rendered to or goods are received by the municipality.
- 13.2 This rule shall be departed from only where there are financial incentives for the municipality to effect earlier payment, and any such departure shall be approved by the accounting officer before any payment is made.
- 13.3 In the case of small, micro and medium enterprises, where such a policy may cause financial hardship to the contractor, payment may be effected at the conclusion of the month during which the service is rendered or within fourteen days of the date of such service being rendered, whichever is the later. Any such early payment shall be approved by the accounting officer before any payment is made.
- 13.4 Notwithstanding the foregoing policy directives, the accounting officer shall make full use of any extended terms of payment offered by suppliers and not settle any accounts earlier than such extended due date, except if the

accounting officer determines that there are financial incentives for the municipality to do so.

- 13.5 The accounting officer shall not ordinarily process payments, for accounts received, more than once in each calendar month, such processing to take place on or about the end of the month concerned.
- 13.6 Wherever possible, payments shall be effected by means of electronic transfers rather than by cheques.
- 13.7 Special payments to creditors shall only be made with the express approval of the accounting officer, who shall be satisfied that there are compelling reasons for making such payments prior to the normal month end processing.

14 Management of Inventory

- 14.1 Each head of department shall ensure that such department's inventory levels do not exceed normal operational requirements in the case of items which are not readily available from suppliers, and emergency requirements in the case of items which are readily available from suppliers.
- 14.2 Each head of department shall periodically review the levels of inventory held, and shall ensure that any surplus items be made available to the accounting officer for sale at a public auction or by other means of disposal, as provided for in the municipality's supply chain management policy.

15 Cash Management Programme

- 15.1 The accounting officer shall prepare an annual estimate of the municipality's cash flows divided into calendar months, and shall update this estimate on a monthly basis.
- 15.2 The estimate shall indicate when and for what periods and amounts surplus revenues may be invested, when and for what amounts investments will have to be liquidated, and when – if applicable – either long-term or short-term debt must be incurred.
- 15.3 Heads of departments shall in this regard furnish the chief financial officer with all such information as is required, timeously and in the format indicated.

15.4 The accounting officer shall report to the mayoral committee on a monthly basis and to every ordinary council meeting the cash flow estimate or revised estimate for such month or reporting period respectively, together with the actual cash flows for the month or period concerned, and cumulatively to date, as well as the estimates or revised estimates of the cash flows for the remaining months of the financial year, aggregated into quarters where appropriate.

15.4

15.5 The cash flow estimates shall be divided into calendar months, and in reporting the accounting officer shall provide comments or explanations in regard to any significant cash flow deviation in any calendar month forming part of such report. Such report shall also indicate any movements in respect of the municipality's investments, together with appropriate details of the investments concerned.

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16 Amendments

The accounting officer or his/her delegate must review the policy on an annual basis.

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