



KAAP AGULHAS MUNISIPALITEIT
CAPE AGULHAS MUNICIPALITY
U MASIPALA WASECAPE AGULHAS

CAPE AGULHAS MUNICIPALITY

Supply Chain Management Policy

and

System

Issued in terms of the Local Government Municipal Finance
Management Act, 2003

The policy was approved on 31 JANUARY 2024 as per Council Resolution Nr 5/2024

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PART 1: DOCUMENT DEFINITION

1.1.1 ISSUING CERTIFICATE

Version

Date

Summary

Signature

Approved by the Council

Resolution

Transitional arrangements

Effective date

Next revision date

This document is the SCM Policy, Principles and Operational System applicable to the Cape Agulhas Municipality

 _____ Date: 06/02/2024

ACCOUNTING OFFICER
As delegated in terms of the AO Finance Delegations, item issued in terms of section 79 of the MFMA, dated 31 MAY 2016

Resolution 5/2024 Date: 31 January 2024

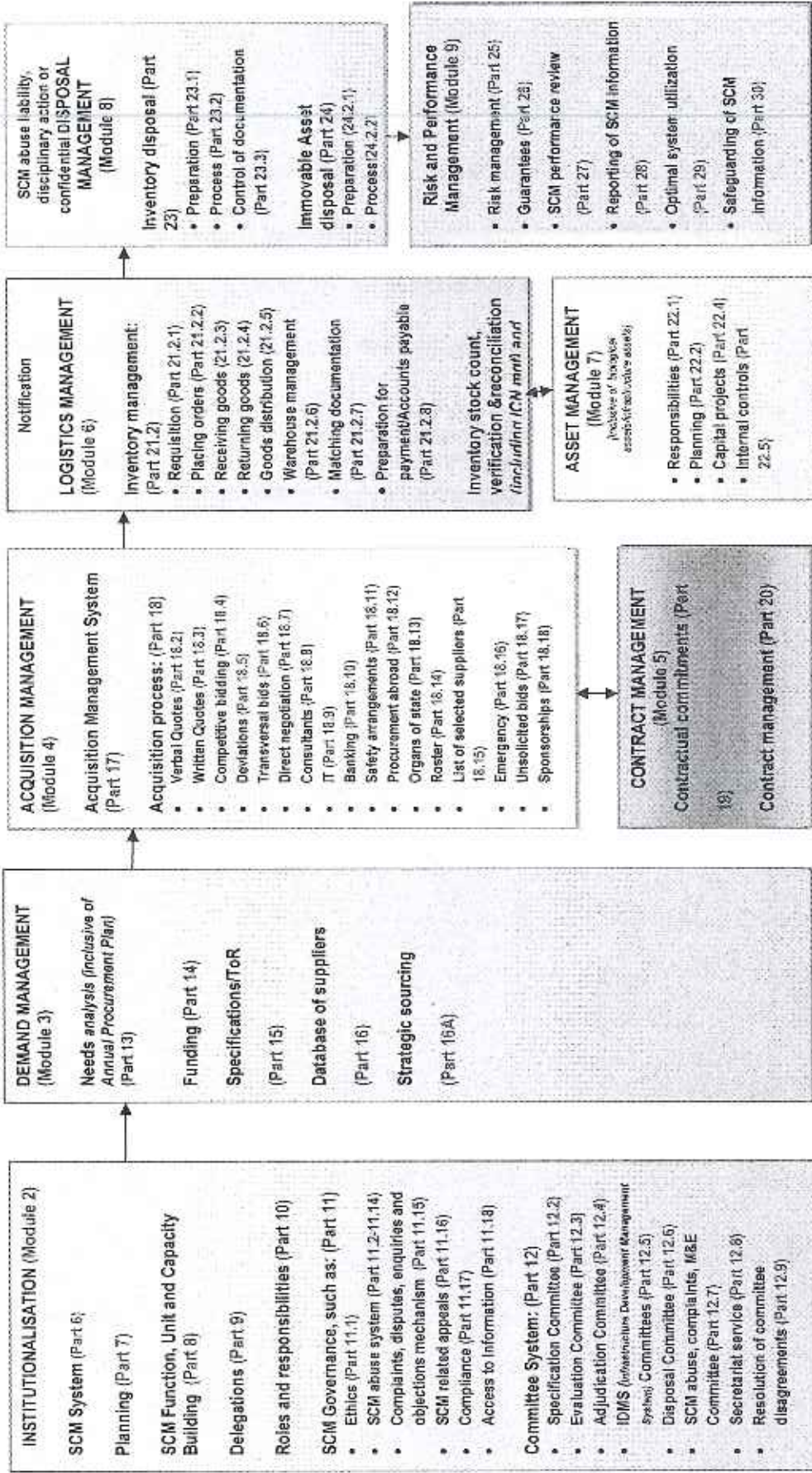
1.1.2 APPROACH

- 1.1.2.1 For ease of reference this SCM P²OS is divided into Modules and Parts as set out in the contents table.
- 1.1.2.2 The SCM P²OS, where applicable, is divided into Policy, Principle and Operational portions. The rationale for this division is to identify the policy provisions of the Council – the 'WHAT', the principle provisions unique to the municipality and the operational provisions to guide operations – the 'HOW'.
- 1.1.2.3 The relevant prescripts governing the specific Part as well as the appropriate Unit Standards are indicated in the right hand block.
- 1.1.2.4 It is imperative to note that this SCM P²OS aims to summarise the important aspects to be considered when conducting municipal SCM and does not in any way replace other official prescripts issued in this regard nor exempt officials from full compliance with such prescripts.
- 1.1.2.5 The Flow of the SCM P²OS is as per the prescribed SCM System and is graphically depicted in Figure 1 below:

Figure 1: SCM P:OS

MUNICIPAL SCM SYSTEM MAP

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



The policy was approved on 31 JANUARY 2024 as per Council Resolution Nr 5/2024

1.1.3 APPLICATION

1.1.3.1 This SCM P²OS is applicable to all Councillors, municipal officials, stakeholders, contractors, suppliers, service providers and any other party doing business with the Municipality.

1.1.4 MAINTENANCE

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

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

1.1.4.3 Other independent assurance providers, such as the National Treasury, relevant Provincial Treasury, Internal Audit, inclusive of the Audit Committee, and the Auditor-General: SA, will also be involved in the examination of the adequacy and effectiveness of this SCM P²OS to ensure an effective and appropriate control environment.

1.1.5 IMPLEMENTATION

1.1.5.1 The Accounting Officer of Cape Agulhas Municipality must take all reasonable steps to ensure that the Municipality has and implements this policy.

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

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

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

PART 2: TERMINOLOGY

2.1.1 ABBREVIATIONS

BBBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
AO	Accounting Officer
CFO	Chief Financial Officer
CPO	Chief Procurement Official at the National Treasury
CIDB	Construction Industry Development Board
EPWP	Expanded Public Works Programme
DTI	Department of Trade and Industry
FM	Financial Manager
GCC	General Conditions of Contract
MEC	Members of Executive Council
MUNICIPALITY	Municipality of <i>Cape Agulhas</i>
MSA	Municipal Systems Act, 2000 (act 32 of 2000)
MTEF	Medium Term Expenditure Framework
MFMA	Municipal Finance Management Act (Act 56 of 2003)
PAIA	Promotion of Access to Information Act (Act 2 of 2000)
PAJA	Promotion of Administrative Justice Act (Act 2 of 2000)
PoPIA	Protection of Personal Information Act (Act 4 of 2013)
PPP	Public Private Partnership
PPPPFA	Preferential Procurement Policy Framework Act (Act 5 of 2000)
RDP	Reconstruction and Development Programme

RFI	Request for Information
RFP	Request for Proposal
RFQ	Request for Quotation
SAPO	South African Post Office
SAPS	South African Police Services
SARS	South African Revenue Services
SASSA	South Africa Social Security Agency
SBD	Standard Bidding Documents
SCA	Supreme Court of Appeal
SCM	Supply Chain Management
SCM TR	Supply Chain Management Treasury Regulations, 2005
SCMU	SCM Unit
SITA	State Information Technology Agency
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
SP	Service Provider
SPLUMA	Spatial Planning and Land Use Management Act, 2013
TCO	Total Cost of Ownership
TOR	Terms of Reference

2.1.2 DEFINITIONS

A-CLASS ITEMS	A-class items are those items which are not consumable or expendable
ABUSE	<p>in terms of the Municipality's Supply Chain Management System means conduct by an official or person that is tantamount to:</p> <ul style="list-style-type: none"> i. fraud; ii. corruption; iii. favouritism; iv. unfair, irregular and unlawful practices; v. misrepresentation on information submitted for the purposes of procuring a contract with the Municipality; misrepresentation regarding the supplier's B-BEE status level of contributor, expertise and capacity to perform in terms of a contract procured via the supply chain management system; vi. breach of a contract procured via the supply chain management system; vii. failure to comply with the supply chain management system; or viii. any other conduct referred to under the heading of "Combating Abuse of the Supply Chain Management System".
"ACCEPTABLE BID"	Means any bid which, in all respects, complies with the specifications and conditions of tender as set out in the tender document. Also referred to as a "Responsive Bid"
ACQUISITION MANAGEMENT	<p>Acquisition management is the process of procurement of goods or services and includes the:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Evaluation of bids and tabling of recommendations; <input type="checkbox"/> Compilation and signing of contract documents; and <input type="checkbox"/> Contract administration and management.
ASSET	<p>Is a resource controlled by an entity as a result of past events and from which future economic benefits or service potential is expected to flow to the entity. It has the following characteristics:</p> <ul style="list-style-type: none"> <input type="checkbox"/> It possesses service potential or future economic benefit that is expected to flow to the entity. <input type="checkbox"/> It is controlled by the entity. <input type="checkbox"/> It originates as a result of a past transaction or event.
BROAD BASED BLACK ECONOMIC EMPOWERMENT	Means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to—

	<p>(a) increasing the number of black people that manage, own and control enterprises and productive assets;</p> <p>(b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises;</p> <p>(c) human resource and skills development;</p> <p>(d) achieving equitable representation in all occupational categories and levels in the workforce;</p> <p>(e) preferential procurement; and</p> <p>(f) investment in enterprises that are owned or managed by black people.</p>
DEMAND MANAGEMENT	<p>Demand management ensures that the resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quality that will satisfy the needs and is inclusive of, but not limited to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Identification of preferential policy objectives; <input type="checkbox"/> Determination of market strategy; <input type="checkbox"/> Application of depreciation rates; <input type="checkbox"/> Application of total cost of ownership principle; <input type="checkbox"/> Compilation of bid documentation, including conditions; and <input type="checkbox"/> Determination of evaluation criteria.
DEPRECIATION	<p>Depreciation refers to the reduction in the value of assets generally from wear and tear. The consumption of capital is recognised as a cost of production and an allowance for this is made before net profit is arrived at.</p>
DISPOSAL MANAGEMENT	<p>Disposal management is responsible to ensure that all unserviceable, redundant or obsolete assets are subjected to a formal process of doing away with in a cost-effective, but transparent and responsible manner. It also entails the maintenance of records and documents as prescribed.</p>
E-CLASS ACCOUNTABLE	<p>Accounting in respect of those stores approved by the Treasury as consumables.</p>
E-CLASS ITEMS	<p>E-class items are consumable and expendable stores that cannot be repaired when it becomes unusable.</p>
ECONOMIC PRINCIPLE	<p>Obtain the highest possible output for the lowest possible use of resources.</p>
ECONOMY OF SCALE	<p>Reductions in the average cost of a product in the long run, resulting from an expanded level of output</p>
EQUIPMENT	<p>A-class accountable stores that are issued and accounted for on an inventory.</p>
FINAL AWARD	<p>In relation to bids or quotations submitted for a contract, means the final decision on which bid or quote is accepted</p>
FRAMEWORK AGREEMENT	<p>means a bid for the supply of goods, services or construction works, which are of an ad-hoc or repetitive nature on an "as instructed basis" where the terms are approved for use over a predetermined period of time without guaranteeing any quantum of expenditure utilising the contract;</p>
INTEGRATED SCM	<p>The foundation of the integrated SCM concept is total cost analysis, which is defined, as minimising the total cost of SCM elements.</p>
IN THE SERVICE OF THE STATE	<p>As per SCM TR means to be –</p> <ul style="list-style-type: none"> (a) A member of – <ul style="list-style-type: none"> (i) Any municipal council (ii) Any provincial legislature, or (iii) The National Assembly or the National Council of Provinces (b) A member of the board of directors of any municipal entity (c) An official of any municipality or municipal entity (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act 1 of 1999) (e) An executive member of the accounting authority of any national or provincial public entity; or". (f) An employee of Parliament or a provincial legislature and is inclusive of 'staff' and 'official'. (g) A Person who is an advisor or consultant contracted with the Municipality.
INVENTORIES	<p>Including stock and stores (consumable stores, maintenance materials, spare parts, WIP, education/training course materials, client services). Properties/land held for sale. Strategic stocks (fuel supplies, precious stones and metals). Seized or forfeited property.</p>
INVENTORY (MOVABLE)	<p>It shall be possible to determine accountability for all A-class-accountable items at all times. Records shall</p>

ASSETS) MANAGEMENT	therefore be available to describe the full extent of the responsibility of officials for equipment belonging to the institution on personal account or sectional inventories for general usage. Inventory (distribution) ledger accounts shall therefore be maintained for all A-class items.
ITEMS	An individual article or unit.
LIFECYCLE COSTING	Lifecycle costing is a technique developed to identify and quantify all costs, initial and ongoing, associated with a project or installation over a given period. Thus, it is a tool that forecasts the total cost of a purchase throughout its predetermined lifecycle.
LIST OF ACCREDITED PROSPECTIVE PROVIDERS	Means a list of accredited prospective providers which the municipality / municipal entity must keep in terms of Part 16 of this SCM P2OS and SCM TR 14
LOGISTICS MANAGEMENT	Logistics management ensures that goods and services are available at the right place, time and quantities required to execute the functions of the Municipality and may include stores.
LONG TERM CONTRACT	Means a contract with a duration period exceeding one year for SCM related contracts and a period of three years for immovable assets as per the MATR
LONG TERM NATURE	Means a contract as defined by section 33(1) of the Municipal Finance Management Act imposing financial obligations on the Municipality beyond the first three years covered in the approved annual budget
MEASURABLE OBJECTIVES	Measurable objectives identify very specific activities that the municipality intends performing or delivering in order to achieve the strategic objectives and ultimately the strategic goals it has set. There must therefore be a direct causal link running from the measurable objective to one or more of the strategic objectives.
MEGA CAPITAL PROJECTS	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.
MFMA	MFMA means the Municipal Finance Management Act, 2003 (Act no 56 of 2003) as amended, as well as National Treasury Regulations, including SCM Regulations issued in terms thereof.
MOVABLE ASSETS	Movable assets are assets that can be moved (e.g. machinery, equipment, vehicles, etc). All inventories and valuables and some fixed assets belong to this category.
NET PRESENT VALUE (NPV)	The sum that results when the discounted value of the expected costs of an investment are deducted from the discounted value of the expected returns. If the NPV is positive the project in question is potentially worth undertaking.
OBSELETE	No longer produced or used, out of date, to become obsolete by replacing it with something new.
OTHER APPLICABLE LEGISLATION	Means any other legislation applicable to municipal supply chain management listed in Part 3 of the SCM PPOS including – a) The Preferential Procurement Policy Framework Act, 2000 (Act no. 5 of 2000) b) The Broad Based Economic Empowerment Act, 2003 (Act no 53 of 2003) c) The Construction Industry Development Board Act, 2000 (Act no 38 of 2000) d) The Municipal Systems Act, 2000 (Act 32 of 2000)
PRACTITIONER	A person who practices a profession or art.
REDUNDANT	No longer needed or useful, superfluous (unnecessary).
SALVAGE	The act of saving any goods or property in danger of damage or destruction.
SMALL, MEDIUM AND MICRO ENTERPRISE (SMME)	SMME is as defined in the National Small Business Act, 102 of 1996, as amended.
STORES/STOCK	All movable state property/assets that are kept in stock for issue purposes.
STRATEGIC GOALS	Strategic goals are areas of institutional performance that are critical to the achievement of the mission. They are statements that describe the strategic direction of the municipality. It is useful to think of strategic goals as outcomes to be achieved by the municipality.
STRATEGIC OBJECTIVES	Strategic objectives are more concrete and specific than strategic goals. They should give a clear indication of what the municipality intends doing in order to achieve the strategic goals it has set for itself, as such strategic objectives would normally describe high-level outputs or "results" of actions that the institution intend taking.
SCM	SCM (SCM) is an integral part of financial management. This function integrates the planning, procurement and provisioning processes, seeks to introduce international best practices, whilst at the same time addressing Government's preferential procurement policy objectives. Four phases are

	distinguished in the SCM processes namely; <ul style="list-style-type: none"> <input type="checkbox"/> Demand Management <input type="checkbox"/> Acquisition Management <input type="checkbox"/> Logistics Management <input type="checkbox"/> Disposal Management <p>The planning process is dealt with in the Demand management phase, the procurement function in the Acquisition management and provisioning in Logistics and Disposal Management.</p>
TREASURY GUIDELINES	Means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA
'THE ACT'	Means the Local Government Municipal Finance Management Act, 2003 (Act no 56 of 2003) – Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005
'THE REGULATIONS'	Means the Local Government Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005; and its amendments in Government Gazette Notice GoN R31, Gazette 40553 dated 20 January 2017; and Government Gazette Notice GoN 4198, Gazette 49863 dated 14 December 2023
VALUE FOR MONEY	means that the performance of a private party in terms of the agreement will result in a net benefit to the institution defined in terms of cost, price, quality, quantity, risk transfer or any combination of those factors.

PART 3: LEGISLATIVE ENVIRONMENT

POLICY

- The municipality is committed to comply with applicable legislation as it pertains to SCM.

2.1.3 THE CONSTITUTION

- 2.1.3.1 In establishing this SCM P²OS, the municipality intends to comply with section 217 of the Constitution of the Republic of South Africa (Act No 108 of 1996, as amended) which reads as follows:
- 2.1.3.2 *"217 (1) 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 and services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.*
- 2.1.3.3 *217(2) Subsection (1) does not prevent the municipality from implementing a procurement policy providing for:*
- 2.1.3.4 *Categories of preference in the allocation of contracts; and*
- 2.1.3.5 *The protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.*
- 2.1.3.6 *217(3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented." – in this regard refer to the BBEEA and the PPPFA*

2.1.4 MUNICIPAL FINANCE MANAGEMENT ACT (MFMA)

- 2.1.4.1 The overall objective of the MFMA is to improve financial management in the public sector and to give Accounting Officers certain discretionary powers to ensure that the intention of the Act is achieved.
- 2.1.4.2 Sections 63, 77 and 78 of the MFMA effectively allocate joint responsibility for integrity and maintenance of good corporate governance to all officials in regard to SCM matters.
- 2.1.4.3 The MFMA provides that the National Treasury will issue a framework for the procurement and provisioning of goods and services. The aforementioned was issued by National Treasury as the SCM (SCM) Treasury Regulations, effective from 1 July 2005 and set the framework for the Municipal SCM P²OS.
- 2.1.4.4 The SCM Treasury Regulations contain extensive prescripts requiring compliance when procuring goods and services.

2.1.5 PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPFA)

- 2.1.5.1 In terms of Section 217(2) of the Constitution, Organs of State are not prevented from implementing a procurement policy providing for categories of preference in the allocation of contracts and the protection or advancement of persons, disadvantaged by unfair discrimination.
- 2.1.5.2 The policy, however, may only be implemented within a framework prescribed by national legislation as contemplated in section 217(3) of the Constitution.
- 2.1.5.3 To give effect to the Constitution, 1996 the PPPFA was promulgated and took effect on 3 February 2000.
- 2.1.5.4 Subsequently, in 2022, a new set of Preferential Procurement Policy Regulations were issued in terms of the aforementioned legislation. The main thrust of the PPPFA, 2000 is that an Organ of State must determine its preferential procurement policy and must implement a preferential procurement framework.

2.1.6 PROMOTION OF ADMINISTRATIVE JUSTICE ACT (PAJA)

- 2.1.6.1 PAJA, 2000 gives effect to section 33 of the Constitution, 1996 that stipulates that everyone has the right to administrative action that is lawful, reasonable, and procedurally fair.
- 2.1.6.2 Furthermore, everyone whose rights have been adversely affected have the right to be given reasons or clarification. PAJA, 2000 deals with general administrative law and therefore binds the entire administration at all levels of government.
- 2.1.6.3 It is important to distinguish between general and particular administrative law. General administrative law governs the administrator's actions in general by stipulating general rules and principles that all administrators must follow, as well as remedies for individuals affected by administrative decisions, for example where administrative powers have not been properly used or where requirements of law have not been followed. By contrast particular administrative law comprises the legislation governing the legal rules, principles and policies that have been developed in specific areas of administration, e.g. law relating to procurement or SCM.
- 2.1.6.4 PAJA, 2000 further provides a set of general rules and principles for the proper performance of administrative actions in all areas and requires the giving of reasons for administrative actions in certain circumstances. In addition, it sets out the remedies that are available if these rules are not complied with or followed. It also indicates how administrative powers allocated to administrators in terms of other statutes and the common law must be exercised in the light of the Constitution.
- 2.1.6.5 When an official has to execute an administrative action based on discretion he has to apply his mind and must be able to show cause for such "applying of his mind". Following is a short tick list to consider when executing such discretion:

<i>JUST ADMINISTRATIVE ACTION TEST: tick off</i>	
<input type="checkbox"/>	All relevant and permissible facts and circumstances were taken into consideration (<i>mindful of previous precedence created</i>)
<input type="checkbox"/>	All prescripts, limits and conditions are adhered to
<input type="checkbox"/>	Ensure decision is within ambit of delegation or legislative power
<input type="checkbox"/>	Ensure result of action/decision will serve a legal permissible purpose
<input type="checkbox"/>	Ensure the end-result falls within ambit of budget, budget description and objectives of strategic plan

PROMOTION OF ACCESS TO INFORMATION ACT (PAIA)

- 2.1.6.6 PAIA, 2000 responds to section 32 of the Constitution, 1996. In terms of this provision everyone has the right of access to information held by the State.
- 2.1.6.7 PAIA, 2000 fosters a culture of transparency and accountability in the public and private bodies by giving effect to the right of access to information and to actively promote a society in which people have effective access to information to enable them to more fully exercise and protect all their rights.
- 2.1.6.8 PAIA, 2000 is of particular importance to the administrative decision-maker, as the latter may at any stage, either during the deliberative process or after the decision has been taken, be faced with the request for access to files and or records, e.g. those relating to contracts concluded through SCM processes. It then becomes all the more important to distinguish between information that may be given and information that must be refused. In terms of PAIA, 2000 there are certain categories of information that must be refused, and other categories, which may be refused, hence the importance that both officials and administrative decision-makers be familiar with the grounds of exclusion.
- 2.1.6.9 It is important that SCM practitioners involved in decision-making processes must be able to express views and tender advice without being concerned that these views and advice will be subject to public debate and criticism. PAIA, 2000 does not authorise the withholding of all such information only the extent that disclosure might inhibit frankness. If there is no such risk, views or advice of officials, consultants or advisory bodies or any other individual or group may be divulged.

- 2.1.6.10 Once a decision has been taken or policy formulated, the argument relating to premature disclosure of information and the consequent expected frustration of the decision or policy formulating process becomes invalid, access may also be granted to such records. Such records may then also serve as proof of the process followed by the administrator in taking the decision and to, *inter alia*, prove that the relevant administrator did in fact apply his or her mind.
- 2.1.6.11 Within SCM processes, PAIA, 2000 becomes extremely relevant, e.g. in a situation where a bidder loses a bid through a deliberative and decision-making process and the municipality is challenged on that matter.
- 2.1.6.12 Section 42 of PAIA specifically provides that information may be withheld if: 'its disclosure would contain financial, commercial, scientific or technical information and trade secrets, the disclosure of which would be likely to cause harm to the commercial or financial interests of the State or a public body as it contains information, the disclosure of which could reasonably be expected—
- (i) to put a public body at a disadvantage in contractual or other negotiations; or
 - (ii) to prejudice a public body in commercial competition; or
 - (iii) is a computer program, as defined in section 1 (1) of the Copyright Act, 1978 (Act No. 98 of 1978), owned by the State or a public body, except insofar as it is required to give access to a record to which access is granted in terms of this Act.

2.1.7 PROTECTION OF PERSONAL INFORMATION ACT (PoPIA)

2.1.7.1 PROTECTION OF INFORMATION AND DATA STORAGE

- 2.1.7.1.1 All information gathered by SCM shall follow the approved processes and procedures in terms of the Protection of Personal Information Act No. 4 of 2013.

2.1.8 CONSTRUCTION INDUSTRY DEVELOPMENT BOARD ACT (CIDBA)

- 2.1.8.1 According to section 22 of the Bill of Rights in the Constitution, 1996, every citizen has the right to freely choose their trade, occupation or profession.
- 2.1.8.2 Municipalities are mandated to deliver economic and social infrastructure, such as housing. In the execution of its mandate the municipality will contract with service providers from the construction industry.
- 2.1.8.3 Although access to contract opportunities has been widely promoted by government, the sustainability of small contractors is perceived to be jeopardised by, *inter alia*: some public sector employees that are not committed to procurement reform; complicated tender documentation; lack of standardisation within the public sector and the awarding of contracts to the lowest bidder that affects the sustainability of real contractors.
- 2.1.8.4 The Construction Industry Development Board (CIDB), a national body established by the CIDBA, 2000 is, *inter alia*, responsible for developing the industry for the improved delivery of infrastructure to the South African public; working with all stakeholders for the sustainable growth of construction enterprises and the best practice of employers, contractors and the professions; identifying best practice and setting national standards; and promoting common and ethical standards for construction delivery and contracts.
- 2.1.8.5 Taking a closer view at the powers, functions and duties of the CIDB in relation to SCM matters, one comes to the realisation that this body affects the procurement processes of municipalities significantly. The powers, functions and duties include, *inter alia*, the following:
- 2.1.8.6 To provide strategic leadership, the CIDB must promote and implement policies, programmes and projects aimed at, amongst others, procurement reform, standardisation and uniformity in procurement documentation, practices and procedures.
- 2.1.8.7 To advance the uniform application of policy with regard to the construction industry, the CIDB must within the framework of the procurement policy of government promote the standardisation of the procurement process with regard to the construction industry.
- 2.1.8.8 To promote uniform and ethical standards within the construction industry, the CIDB must publish a code of conduct for all construction related procurement and all participants involved in the procurement process. Furthermore, the CIDB may in this context initiate, promote and implement national programmes and projects aimed at the standardisation of procurement documentation, practices and procedures.
- 2.1.8.9 To promote sustainable growth of the construction industry and the participation of the emerging sector. The CIDB may monitor national programmes aimed at procurement reform and standardisation and uniformity in procurement documentation, practices and procedures.
- 2.1.8.10 Furthermore, the CIDBA, 2000 requires that the National Minister responsible for Public Works must prescribe the manner in which public sector construction contracts may be invited, awarded and managed within the framework of the Register of Contractors and within the framework of the policy on procurement. It also requires that every government institution must, subject to the policy on procurement, apply the Register of Contractors to its procurement process.
- 2.1.8.11 Various Regulations, templates and toolkits were issued in this regard and are obtainable from www.cidb.co.za.

2.1.9 COMPETITION ACT (CA)

- 2.1.9.1 Section 22 of the Bill of Rights in the Constitution, 1996, confirms that every citizen has the right to choose their trade, occupation or profession freely. Law may regulate the practice of a trade, occupation or profession.
- 2.1.9.2 The purpose of the CA, 1998 is to promote and maintain competition in the Republic of South Africa in order to: Promote the efficiency, adaptability and development of the economy; provide customers with competitive prices and product choices; promote employment and advance the social and economic welfare of South Africa; expand opportunities for South African participation in world markets and recognise the role of foreign competition in the Republic and ensure that SMME's have an equitable opportunity to participate in the economy and to promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.
- 2.1.9.3 Given the aforementioned goals and in relation to SCM, organs of state in their role as customers in the market are dependent on the enforcement of the provisions of this Act, for example to prevent restrictive practices such as collusive tendering, fronting and price fixing, etc.

2.1.10 POLICY TO GUIDE UNIFORMITY IN PROCUREMENT REFORM PROCESSES IN GOVERNMENT

- 2.1.10.1 The Policy to Guide Uniformity in Procurement Reform Processes in Government was approved by Cabinet on 10 September 2003 and promulgated on 5 December 2003.
- 2.1.10.2 The policy has as a goal the uniform implementation of Government's procurement reform initiatives and the issuing of regulations in terms of Section 111 of the MFMA in respect of the Framework for SCM.
- 2.1.10.3 In terms of this policy strategy Accounting Officers are required to establish and implement a SCM function that promotes sound financial management and uniformity in all spheres of Government.
- 2.1.10.4 Regarding insurance, Organs of State should either insure for procurement related physical risks, establish risk management programmes or make advance provision for losses associated with such risks, within the scope of the provisions of the Treasury Regulations issued in terms of the MFMA. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of SMME's.

2.1.11 NATIONAL TREASURY PRACTICE NOTES

- 2.1.11.1 The SCM Regulations in terms of the MFMA empower National Treasury to issue practice notes to ensure minimum norms and standards within Government.
- 2.1.11.2 All documents relevant to SCM are available electronically on National Treasury's web page http://www.treasury.gov.za/organization/specialist_functions/SCM_norms_and_standards.

2.1.12 THE KING REPORTS ON CORPORATE GOVERNANCE FOR SOUTH AFRICA

- 2.1.12.1 The municipality subscribe to the Code of Corporate Practices Conduct in all material respects as it affects SCM.
- 2.1.12.2 The Report concludes that successful governance requires institutions to adopt an inclusive approach and there must be greater emphasis on the sustainable or non-financial aspects of its performance.
- 2.1.12.3 The tests of fairness, accountability, responsibility and transparency to all acts or omissions and be accountable to the institution, but also responsive and responsible towards the institutions' stakeholders must be applied.
- 2.1.12.4 The Report describes the principles of risk management, ethical conduct, black economic empowerment and social investment prioritisation and spending.

2.1.13 THE PREVENTION AND COMBATING OF CORRUPT ACTIVITIES ACT

- 2.1.13.1 The municipality adheres to the provisions of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) as it affects the supply chain process.
- 2.1.13.2 The Act regulates offences in respect of corrupt activities relating to contracts, activities pertaining to acceptance or offering of any gratification and the improper influence of another person as well as offences in respect of corrupt activities relating to procuring and withdrawal of tenders and auctions.
- 2.1.13.3 The Act provides for miscellaneous offences relating to possible conflict of interest and other unacceptable conduct such as acquisition of private interest in contract, agreement or investment of a public body.
- 2.1.13.4 It also provides that National Treasury must establish a register for tender defaulters.

2.1.14 THE NATIONAL SMALL BUSINESS ACT [NSBC]

2.1.14.1 The National Small Business Act, Act No. 102 of 1996, as amended, establishes the National Small Business Council (NSBC) and also the Ntsika Enterprise Promotion Agency (Ntsika). The main functions of Ntsika are *inter alia*:

- (i) To expand, coordinate and monitor the provision of training, advice, counseling and any other non-financial services to small business in accordance with the National Small Business Support Strategy.
- (ii) To consult with any organ of government, the NSBC or a service provider in order to *inter alia*:
 - ↖ Facilitate the provision of business advice and counseling services to small business.
 - ↖ Facilitate national market access for products and services of small business.
 - ↖ Generally strengthen the capacity of service providers to support small business and small business to compete successfully in the economy.
- (iii) To enable small businesses to compete successfully in the economy, the procurement policies and practices influence the economic behavior of small businesses, and therefore during the procurement process, it is important to implement guidelines to promote small businesses.

2.1.15 STATE INFORMATION TECHNOLOGY AGENCY ACT [SITA]

- (i) The State Information Technology Agency (SITA) Act, 1998 (Act No 88 of 1998), as amended by Act 38 of 2002, requires that SITA may act as the procurement agency for municipalities' information technology requirements.
- (ii) The parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to SITA.
- (iii) The Accounting Officer must notify SITA together with a motivation of the IT needs of the institution if the transaction value of IT related goods or services required by the institution in any financial year will exceed R50 million (VAT included).

- (iv) If SITA comments on the submission and the municipality disagrees with such comments, the municipality may conduct its own IT procurement, provided that the comments and the reasons for rejecting or not following SITA comments must be submitted to the relevant provincial treasury and the Auditor General.

2.1.16 BROAD-BASED BLACK ECONOMIC EMPOWERMENT ACT [B-BBEEA]

- (i) This piece of legislation is linked to the Bill of Rights, Section 9 of the Constitution, 1996. The preamble of the BBBEEA reflects that: "... under apartheid-race was used to control access to South Africa's productive resources and access to skills; ...the South African economy still excludes the vast majority of its people from ownership of productive assets and the possession of advanced skills; ...South Africa's economy performs below its potential because of the low level of income earned and generated by the majority of its people; and ...unless further steps are taken to increase the effective participation of the majority of the South Africans in the economy, the stability and prosperity of the economy in the future may be undermined to the detriment of all South Africans".
- (ii) In relation to SCM, broad-based black economic empowerment means the empowerment of all black people including women, workers, youth, people with disabilities and people living in the rural areas through diverse but integrated socio-economic strategies that include but are not limited to, *inter alia*, preferential procurement.
- (iii) According to the BBBEEA codes of good practice will be issued on qualification criteria for preferential purposes for procurement and other economic activity.
- (iv) It is of interest to note that the National Treasury in its Budget Review 2004 (2004:71) indicated that the Broad Based Black Economic Empowerment Act and its accompanying Strategy Document have highlighted several deficiencies in the Preferential Procurement Policy Framework Act in relation to Government's empowerment objectives. The National Treasury, in consultation with the Department of Trade and Industry, reviewed the regulations, and introduced changes to the system that becomes effective on 7 December 2011 and will assist towards achieving and monitoring progress in black empowerment.

2.1.17 OTHER LEGISLATION AFFECTING SCM IN THE MUNICIPALITY

- (i) The following table indicates various legislation affecting SCM in the Municipality:

Table 3.15: Legislative framework: [ = direct impact and  = indirect impact]

LEGISLATION AFFECTING SCM IN THE MUNICIPALITY		Direct/Indirect Impact
1.	Constitution of the RSA, 1996	
2.	Public Finance Management Act, 1999 (Act 1 of 1999)	
3.	Municipal Finance Management Act, 2003 (Act 56 of 2003)	
4.	Division of Revenue Act (Annual)	
5.	Annual Budgets	
6.	Borrowing Powers of Provincial Governments Act, 1996 (Act48 of 1996)	
7.	Disaster Management Act, 2002 (Act 57 of 2002)	
8.	Finance Acts	
9.	Intergovernmental Fiscal Relations Act, 1997 (Act 97 of 1997)	
10.	Local Government Municipal Property Rates Act, 2004 (Act 6 of 2004)	
11.	Municipal Systems Act, 2000 (Act 32 of 2000)	
12.	National Credit Act, 2005 (Act 34 Of 2005)	

LEGISLATION AFFECTING SCM IN THE MUNICIPALITY		Direct/Indirect impact
13	Public Audit Act (PAA), 2004 (Act 25 of 2004)	
14	Western Cape Direct Charges Act, 2000 (Act 6 of 2000)	
15	Financial Intelligence Centre Act, 2001 (Act 38 of 2001)	
16	Provincial Tax Regulation Process Act, 2001 (Act 53 of 2001)	
17	Value Added Tax Act, 1991 (Act 89 of 1991)	
18	Promotion of Administrative Justice Act (PAJA), 2000 (Act 3 of 2000)	
19	Promotion of Access to Information Act (PAIA), 2000 (Act 2 of 2000)	
20	Public Protector Act, 1994 (Act 23 of 1994)	
21	Basic Conditions of Employment Act, 1997 (Act 75 of 1997)	
22	Employment Equity Act (EEA), 1998 (Act 55 of 1998)	
23	Compensation for Occupational Injuries and Disease Act, 1993 (Act 130 of 1993)	
24	Income Tax Act, 1962	
25	Public Office Bearers Act, 1998 (Act 20 of 1998)	
26	Unemployment Insurance Act, 2001 (Act 63 of 2001)	
27	Unemployment Insurance Contributions Act, 2002 (Act 4 of 2002)	
28	State Information Technology Agency Act (SITA), 1998 (Act 88 of 1998)	
29	Broad-Based Black Economic Empowerment Act (BBBEEA), 2003 (Act 53 of 2003)	
30	Competition Act (CA), 1998 (Act 89 of 1998)	
31	Construction Industry Development Board Act (CIDBA), 2000 (Act 38 of 2000)	
32	Employment Equity Act (EEA), 1998 (Act 55 of 1998)	
33	Companies Act, 1973 as amended in 2008	
34	Prevention and Combating of Corrupt Activities Act, 2003	
35	National Environmental Management Act (NEMA), 1998 (Act 107 of 1998)	
36	National Small Business Act (NSBA), 1996 (Act 102 of 1996)	
37	Preferential Procurement Policy Framework Act (PPPFA), 2000 (Act 5 of 2000)	
38	Prevention and Combating of Corrupt Activities Act (PCCAA), 2004 (Act 12 of 2004)	
39	Prevention of Organized Crime Act, 1998 (Act 121 of 1998)	
40	Reconstruction and Development Fund Act, 1998 (Act 79 of 1998)	
41	State Tender Board Act, 1968 (Act 86 of 1968)	
42	National Road Traffic Act, 1996 (Act 93 of 1996)	
43	Road Transportation Act, 1977 (Act 74 of 1977)	
44	Road Transport Management Corporation Act, 1999 (Act 20 of 1999)	
45	Building Standards Act, 1977 (Act 103 of 1977)	
46	National Building Regulations and Building Standards Act, 1977 (Act 103 of 1997)	
47	Intelligence Service Act, 2002 (Act 65 of 2002)	
48	Intergovernmental Relations Framework Act, 2005 (Act 13 of 2005)	
49	Labor Relations Act, 1995. (Act 66 of 1995)	
50	Magistrates Act, 1993 (Act 90 of 1993)	
51	Magistrates Court Act, 1944 (Act 32 of 1944)	
52	National Archives and Records Service of South Africa Act, 1996 (Act 43 of 1996)	
53	Occupational Health and Safety Act, 1993 (Act 85 of 1993)	
54	Protected Disclosures Act (PDA), 2000 (Act 26 of 2000)	
55	Protection of Constitutional Democracy Against Terrorist and Related Activities Act, 2004 (Act 33 of 2004)	
56	Skills Development Act, 1998 (Act 97 of 1998)	
57	Skills Development Levy Act, 1999 (Act 9 of 1999)	
58	Western Cape Procurement Act, 2010	
59	SPLUMA	

PART 4: OVERALL OBJECTIVE

2.1.18 OVERALL OBJECTIVES

The municipality's overall objective of this SCM P²OS is the following:

- 4.1.1 To give effect to the provisions of the Constitution, 1996, *which is fair, equitable, transparent, competitive and cost-effective.*
- 4.1.2 To ensure the efficient, effective and uniform planning for and procurement of all services and goods, required for the proper functioning of the municipality as well as the sale and letting of assets that conforms to constitutional and legislative principles whilst developing, supporting and promoting historically disadvantaged individuals, black economic empowerment, SMME's and preferential goals.
- 4.1.3 To ensure the efficient, effective and uniform management and disposal of goods and assets.
- 4.1.4 To ensure good governance through its SCM processes.
- 4.1.5 To prevent SCM System abuse and resultant irregular expenditure.

4.2 THE SCM POLICY

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

POLICY

- This SCM P²OS shall give effect to the legislation and the overall objectives stated, through appropriate policy, principles and operational procedures.
- The entire municipality's SCM must be done in accordance with this SCM P²OS.

PRINCIPLES

- 4.2.1 Where the National Treasury issue amendments in the interim, those instructions will also be taken into account in the execution of the SCM in addition to the SCM P²OS which must be consequently amended within two months of said amendments.

4.3 POLICY ADOPTION AND REVIEW

Refer to section 111 of the MFMA and SCM TR 3

POLICY

- This SCM P²OS shall be adopted by the Municipal Council and reviewed at least annually.
- Ensure continuous review and update of the SCM P²OS against prescripts and related legislative frameworks and amendments.

PRINCIPLES

- 4.3.1 The SCM P²OS must be reviewed at least annually to ensure that it is compliant with the legislative environment.
- 4.3.2 When deemed necessary on an *ad hoc* basis, the CFO must submit proposals for the amendment of the policy to the Council.

- 4.3.3 On an annual basis, at least a quarter before the adoption of the Municipal Budget, the Head of the SCMU must review the SCM P²OS and submit such to the CFO for consultation with the AO and submission to the Council for adoption.

PART 5: PROCUREMENT PRINCIPLES

5.1 PROCUREMENT PRINCIPLES

Refer to section 112 of the MFMA and SCM TR 2

POLICY

- The municipality hereby adopts the procurement principles as noted hereunder:

Transparency	The procurement process shall be open and predictable and shall afford each prospective bidder timely access to the same and accurate information
Equal treatment	All bidders and providers shall be treated equally throughout the whole procurement process and shall be given access to the same information.
Effectiveness	The municipality shall strive for SCM system effectiveness and shall carry out its procurement processes as cost-effectively as possible while meeting the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.
Efficiency	The municipality shall strive to standardise and simplify procedures where appropriate to enhance SCM system effectiveness and shall carry out its SCM processes as cost-effectively and efficiently as possible. The municipality shall strive to build relationships with providers, shall ensure good working practices and shall encourage innovative solutions for providers
Competitiveness	The municipality shall satisfy its requirements through competition unless there are justifiable reasons to the contrary.
Fairness	All bidders and contractors shall be dealt with fairly and without unfair discrimination. Unnecessary constraints shall not be imposed on bidders/contractors and commercial confidentiality shall be protected.
Ethics	All suppliers shall be treated equally whilst promoting certain empowerment objectives, all stakeholders shall conduct business and themselves professionally, fairly, reasonably and with integrity, all interests shall be disclosed and all breaches shall be reported.
Proportionality	The product/service requirements stipulated in the specification/terms of reference and the qualification requirements attached thereto must be appropriate, necessary and in reasonable proportion to the product/service being procured.
Uniform application	The municipality shall ensure the application of a SCM P ² OS and a streamlined SCM process and documentation that is uniformly applied by the municipality, all things being equal. The procurement process shall be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.
Accountability	Each practitioner shall be accountable for their decisions and actions relative to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. The municipality shall have a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with the municipality, for their decisions and actions relative to their procurement responsibilities, the procurement process as

	well as in the implementation of concluded contracts.
Openness	The municipality shall ensure a procurement process and a subsequent contract award and implementation according to the predetermined specification in line with the best practice procurement principles.
Value for money	The municipality shall achieve value for money through the optimum combination of whole life cost and quality (or fitness for purpose) to meet the customer's requirements while maximising efficiency, effectiveness and flexibility.
	The municipality shall apply the following TCO philosophy to the procurement of goods and services in achieving value for money.
	$TCO = Price + Administration (maint. and process) + Quality/Usage + Supplier Value-add.$
Commitment to safety, health and the environment	The municipality is committed to the health and safety of its personnel and its providers in the application of its SCM process.
	The municipality is committed to the preservation of the environment, minimising pollution and the improved use of natural resources in the application of its SCM processes and more specifically in the design of the specifications/terms of reference for each requirement.
	The municipality shall apply preventative measures in situations of scientific uncertainty where a course of action could harm the environment.
Black Economic Empowerment	The municipality is committed to the promotion of Black Economic Empowerment.
Preferential Procurement Policy	The municipality shall implement the preferential system and its preferential procurement policy (once adopted) in the allocation of contracts for categories of services providers such as previously disadvantaged individuals, women and small business.
Local Sourcing	The municipality is committed to give preference to locally sourced products and services whenever possible.
Resolution of Bid Award Disagreements	Should the Bid Adjudication Committee and or the AO not agree with any recommendations made by the Bid Evaluation Committee, only the AO may make the final award within 10 working days, subject to the provisions of section 114 of the MFMA.

PART 6: SCM SYSTEM

6.1 SCM SYSTEM

Refer to section 115 of the MFMA and SCM TR 9

POLICY

- The AO shall develop and implement an effective and efficient SCM system for:
 - The acquisition of goods and services
 - The disposal and letting of assets and goods no longer required.
- The system shall be fair, equitable, transparent, competitive and cost-effective.
- The system shall be consistent with the PPPFA and the B-BBEE Act.
- The system shall provide for at least the following:
 - Demand management.
 - Acquisition management.
 - Logistics management.
 - Disposal management.
 - Risk management.
 - Regular assessment of supply chain performance.

PRINCIPLES

- 6.1.1 The SCM process must, in the case of procurement through a competitive and other relevant bidding process, provide for:
- Bidding procedures.
 - The establishment, composition and functioning of a bid specification, evaluation and adjudication committees.
 - Selection of bid committee members.
 - Adjudication of bids through a bid adjudication committee.
 - Approval of bid evaluation committee recommendations by the Bid Adjudication Committee for bids up to R10m and the AO for bids exceeding R10m.
- 6.1.2 The SCM system must be seen as an integrated system and takes into account the main influencers such as the suppliers, clients, information and inventory flow.

PART 7: PLANNING

7.1 PLANNING

Refer to MSA, chapter 5, MFMA, chapter 4 and SCM TR 3

POLICY

- The SCM P²OS of the municipality must complement its IDP, Budget and SDBIP

PRINCIPLES

- 7.1.1 Management must align the SCM strategies with their municipal departmental strategies

PART 8: SCM FUNCTION, UNIT AND CAPACITY BUILDING

8.1 SCM FUNCTION, UNIT AND CAPACITY BUILDING

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

POLICY

- The AO must establish a separate SCMU which operates under the direct supervision of the CFO to implement its SCM system.
- The AO shall ensure that officials implementing the SCM system are trained and deployed in line with the National Treasury prescripts and guidelines.
- National Treasury shall regulate the training.
- National Treasury must validate the training material of providers

PRINCIPLES

- 8.1.1 The separate SCMU must operate under the direct supervision of the CFO.
- 8.1.2 The Procurement section is responsible for the co-ordination and oversight of the supply chain management function. It is headed by the SCM Manager and falls under the management of the Municipality's CFO.
- 8.1.3 The AO and all other officials of the municipality involved in the implementation of the SCM P²OS must meet the prescribed competency levels.
- 8.1.4 The municipality must therefore provide resources or opportunities for the training of relevant officials to meet the prescribed competency levels and training will be provided for at least the following officials:
 - Senior management
 - Practitioners and users
 - New entrants – new appointees irrespective of the level at which they are appointed.
- 8.1.5 The training material must be of an acceptable level of quality and in accordance with the relevant SCM policy reforms and legislation and must be validated by National Treasury.
- 8.1.6 A phased-in implementation strategy as outlined below could be followed:
 - Short term through Introduction to SCM.
 - Medium term through training in all elements of SCM as well as training in specialised skills.

PART 9: AUTHORITY TO EXECUTE

9.1 DELEGATION OF AUTHORITY

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

POLICY

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

PRINCIPLES

- 9.1.1 The Council hereby delegates such additional powers and duties to the AO so as to enable the AO:
- To discharge the SCM responsibilities conferred on AO in terms of –
 - Chapter 8 or 10 of the MFMA; and
 - This Policy
 - To maximise administrative and operational efficiency in the implementation of this Policy;
 - To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - To comply with his/her responsibilities in terms of Section 115 and other applicable provisions of the MFMA.
- 9.1.2 No individual official should be in a position to take a decision in isolation regarding the award of a bid.
- 9.1.3 The AO may not sub-delegate any SCM powers or duties to any person who is not an official of the Municipality or to a committee which is not exclusively composed of officials of the Municipality.
- 9.1.4 The AO may sub-delegate the power to make a final award above R2 million but not exceeding R10 million, but only to the CFO, a senior manager or a BAC of which the CFO of a senior manager is a member.
- 9.1.5 The word 'delegation' is derived from Latin; delegate meaning 'to send from', which in turn means that when delegating, work is being sent 'from' one person 'to' someone else.
- 9.1.6 Delegation is the process through which a portion of authority assigned to an official is passed on to a lower level official who in turn has the authority to deploy resources in his or her area of responsibility to execute a specific task.
- 9.1.7 In this context:

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

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

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

- (i) Managers who allow their staff to accept more responsibilities are in a better position themselves to accept more responsibilities and higher levels of authority.
- (ii) Delegations encourage officials to exercise judgment and to accept accountability.
- (iii) Better decisions are often taken by officials who operate closer to implementation.
- (iv) Decision-making processes are quicker and enhances officials' confidence to make future decisions.
- (v) The Municipal Financial and SCM delegations must be designed to distinguish between:
 - Strategic, tactical and operational level delegations.
 - Different activity requirements in exercising a delegated power, being to initiate, process, recommend, approve, execute and monitor the execution of a delegated power.
 - Different principles guiding the appropriate delegation level, being the management impact level, post level and frequency level.
 - Whether the provision is mandatory or allows for discretion in terms of implementation.
 - Different risk impact levels when executing a delegated power, being, extensive, moderate or limited, including the area of impact.

9.2 RESPONSIBILITY OF OFFICIALS

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

POLICY

- Each official shall carry out its activities within its area of responsibility.
- Each official shall take appropriate steps to prevent any unauthorised, irregular, fruitless and wasteful expenditure in its area of responsibility.

PRINCIPLES

- 9.2.1 A person in the relevant division or department holding the rank to which the authority has been delegated or the person with the authority appointed for the task must carry it out satisfying the various SCM requirements, including the ability to commit the municipality.
- 9.2.2 All activities not delegated to a person in the relevant division or the SCMU holding the rank to which the authority has been delegated, must be forwarded upwards to the person holding the required rank or to the relevant delegated structure.
- 9.2.3 Officials acting on behalf of others may execute the delegations of such post, subject to written appointment.

9.3 PARTICIPATION OF ADVISORS

Refer to SCM TR 5, 27 & 29

POLICY

- Specialist advisors may assist in the execution of the SCM function.
- The services must be obtained through the SCM System.
- No advisor may form part of the final decision-making process regarding bids.
- No decision-making authority can be delegated to an advisor.

PRINCIPLES

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

PART 10: ROLES AND RESPONSIBILITIES

10.1 SCM FOCUS

Refer to section 117 of the MFMA and SCM TR 6

POLICY

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

10.2 MUNICIPAL COUNCIL

Refer to section 117 of the MFMA and SCM TR 6

POLICY

- 10.2.1 Without interfering in the actual procurement processes, to ensure that the municipality has and maintains:
- An appropriate SCM system, which is fair, equitable, transparent, competitive and cost-effective.
 - Effective, efficient and transparent systems of financial and risk management and internal control.

- 10.2.2 To act with fidelity, honesty, integrity and in the best interest of the municipality in managing its financial affairs, including the avoidance of conflict of interest and provision of safeguards against favouritism, improper practices and opportunities for fraud, theft and corruption.
- 10.2.3 To prevent any prejudice to the financial interests of the municipality or the State.
- 10.2.4 To take effective and appropriate steps to prevent irregular expenditure, fruitless and wasteful expenditure, losses as a result of criminal conduct and expenditure not complying with the operational policies of the municipality.
- 10.2.5 To ensure that expenditure of Municipality related to SCM is in accordance with the approved budget.
- 10.2.6 To delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution, MSA and the MFMA, to the Accounting Officer.
- 10.2.7 To approve the allocation of funds to strategic goals of the municipality.
- 10.2.8 To oversee the implementation of the SCM P²OS.

10.3 ACCOUNTING OFFICER

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

POLICY

- 10.3.1 To advise on the establishment of strategies in compliance with the legislation.
- 10.3.2 To act as a sounding board for the Council on the translation of the SCM strategy into business objectives and operational plans.
- 10.3.3 To grant final approval of certain bids not delegated to any other official or structure and bids subject to certain conditions.
- 10.3.4 To delegate or sub-delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution, MSA and the MFMA, to the CFO.
- 10.3.5 To manage SCM processes in the event of uncertainty or dispute between different award structures.

10.4 CHIEF FINANCIAL OFFICER

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

POLICY

- 10.4.1 To advise on the establishment of strategies in compliance with the legislation.
- 10.4.2 To act as a sounding board for the AO on the translation of the SCM strategy into business objectives and operational plans.
- 10.4.3 To provide guidance on the establishment of proposals, policies and the operational budget.
- 10.4.4 To provide guidance and options in terms of operational expenditure.
- 10.4.5 To establish and maintain the municipal SCM P²OS.
- 10.4.6 To establish and maintain the municipal SCMU.

- 10.4.7 To take all reasonable steps to ensure that proper mechanisms and separation of duties in the SCMU and SCM P²OS are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.
- 10.4.8 To sub-delegate in writing any of the powers, functions or duties entrusted, delegated, conferred or imposed on it by the Constitution, MSA and the MFMA, to an official in the Office of the CFO.

10.5 LINE FUNCTION/USERS

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

POLICY

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

10.6 SCMU

Refer to section 79 of the MFMA and SCM TR 7

POLICY

- 10.6.1 To develop and implement strategies to ensure optimisation of the supply chain management unit's service delivery, resource utilisation and client satisfaction.
- 10.6.2 Develop necessary policies and procedures such as asset management policy, disposal policy, etc. or other procedures required to enhanced the implementation of supply chain management.
- 10.6.3 Provide strategic direction and operational planning for the SCMU.
- 10.6.4 Manage provisioning, procurement, logistics, risk and performance management.
- 10.6.5 Co-ordinate and oversee the functions of demand, acquisitions, logistics, risks and performance management.
- 10.6.6 Responsible for SCM including evaluation and adjudication of bids as delegated, research and adherence to SCM PPOS, compilation of financial and other reports as required, auditing of supply chain allocation, ensure proper statistical administration and cost- and management accounting.

- 10.6.7 Liaise with external auditors and attend to audit queries and address them accordingly.
- 10.6.8 Advise the bid committees on procurement processes and prescripts.
- 10.6.9 Approves and sign letters of acceptance to prospective bidders.
- 10.6.10 Develop a delegation schedule for SCMU.
- 10.6.11 Facilitate training needs for all SCM practitioners and ensure that each official is trained accordingly.
- 10.6.12 Assist the AO and CFO to at least annually review the SCM POS.

PART 11: SCM GOVERNANCE

11.1 ETHICS

Refer to section 118 of the MFMA and SCM TR 46

POLICY

- The municipality commits itself to a policy of fair dealing and integrity in conducting its SCM activities.
- All SCM practitioners and role players in the SCM P²OS are required to promote mutual trust and respect and an environment where business can be conducted in a fair and reasonable manner and with integrity.
- All SCM practitioners should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation and regulations.
- The municipality's Code of Conduct shall incorporate the Code of Conduct for SCM practitioners as contained in National Treasury's Practice Note Number SCM 4 of 2003 and shall direct all SCM practitioners and role players in their conduct within and with the municipality. Non-compliance shall be subject to the appropriate disciplinary action.
- The AO shall take all reasonable steps to prevent abuse of the SCM P²OS.
- Anyone who becomes aware of a breach of or failure to comply with any aspect of the SCM P²OS, must immediately report the breach or failure to the AO or his/her delegated authority in writing.
- All allegations against a practitioner or any other role player, of corruption, improper conduct or compliance failure with the SCM P²OS shall be investigated by the AO or his/her delegated authority who will, when justified:
 - ❖ Take steps against such official or other role player and inform the relevant Treasury of such steps.
 - ❖ Report any conduct that may constitute an offence to the SAPS.

PRINCIPLES

- 11.1.1. The AO or his/her delegated authority shall take all reasonable steps to prevent abuse, corruption and collusion through at least regular internal audit reviews, and external audit as well as risk assessments in the SCM environment.
- 11.1.2. The AO or his/her delegated authority shall ensure that the municipality considers all complaints received and shall respond thereto in a timely manner.

11.2 DECLARATION OF INTEREST

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

POLICY

- If a SCM practitioner or other role player, or close family member, partner or associate of such practitioner or other role player, has any private or business interest in any contract to be awarded, that practitioner or other role player must:
 - Disclose that interest.
 - Withdraw from participating in any manner whatsoever in the process relating to the contract.
 - A SCM practitioner must recognize and disclose any conflict of interest that may arise.

PRINCIPLES

- 11.2.1. The AO or his/her delegated authority shall determine whether the interest declared, constitutes a conflict of interest in circumstances where it is not clear that it presents a conflict.
- 11.2.2. SCM TR 44 – prohibition of bidders - must be maintained at all times.
- 11.2.3. Disclosures must be made as per SCM TR 45 in the municipal annual financial statements as prescribed.

11.3 EQUAL TREATMENT

POLICY

- All SCM practitioners and other role players must treat all suppliers and potential suppliers equitably.

PRINCIPLES

- 11.3.1 All municipal officials associated with SCM, particularly those dealing directly with service providers/suppliers or potential service providers/suppliers are required to:
 - Provide all assistance in the elimination of fraud and corruption.
 - Be fair, efficient, firm and courteous.
 - Achieve the highest professional standards in the awarding of contracts.

11.4 ACCOUNTABILITY

POLICY

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

PRINCIPLES

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

11.5 OPENNESS

POLICY

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

11.6 CONFIDENTIALITY

POLICY

- Any information that is the property of the municipality or its suppliers/service providers should be protected at all times.
- Information regarding any bid/contract/bidder/contractor may only be revealed if such an action will not infringe on the relevant bidder's/contractors personal rights as per the provision of PAIA.

11.7 INDEPENDENCE

POLICY

- All SCM practitioners and role players may not use their position for private gain or to improperly benefit another person.
- If a SCM practitioners or other role player's family member, partner or associate of such official or role player, has any private or business interest in any bid to be submitted or to be adjudicated, such interest must be disclosed and recorded and the party with the interest must withdraw from participating in the evaluation process relating to the bid if there is a conflict of interest.

11.8 GIFTS AND HOSPITALITY

Refer to SCM TR 47

POLICY

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

PRINCIPLES

- 11.8.1 The municipality shall maintain a gift register in which gifts as well as hospitality received must be recorded in line with the municipal policy.
- 11.8.2 The current policy states that all gifts valued at **R350** should be entered into the gift register.
- 11.8.3 No gifts or hospitality valued at more than **R350** may be accepted.

11.9 FRAUD AND CORRUPTION

Refer to SCM TR 38

POLICY

- The provisions of the Prevention and Combating of Corrupt Activities Act, 2004 shall be adhered to.
- The SCMU must ensure that all officials, clients and other stakeholders (including service providers) are made aware of the implications of the Prevention and Combating of Corrupt Activities Act.
- Fraud prevention and anti-corruption plans shall be instituted.

- A SCM practitioner or other role player must assist the AO or his/her delegated authority in combating corruption and fraud in the SCM P²OS.
- The AO or his/her delegated authority must reject a proposal for adjudication if he/she determines that the supplier/service provider recommended for adjudication, has engaged in corrupt or fraudulent activities in competing for the contract in question.

PRINCIPLES

- 11.9.1 The Constitution and recent legislation dealing with transparency and anti-corruption measures strengthen Government's ability to combat corruption and also protects employees from making disclosures against their employers in both the public and private sectors.
- 11.9.2 The AO or his/her delegated authority must insist that a provision be included in the contract agreement, requiring contractors to permit the AO or his/her delegated authority to inspect their accounts and records relating to the performance of the contract and to have them audited by auditors appointed by the AO in order to monitor and prevent corrupt activities.
- 11.9.3 Contractors shall observe the highest standard of ethics during the selection and execution of the contract.
- 11.9.4 Contractors must assist in combating corruption in SCM in line with the Prevention and Combating of Corrupt Activities Act, by not giving, receiving or soliciting any item of value to influence the action of an official dealing with SCM.

11.10 COMBATIVE PRACTICES

Refer to section 112 of the MFMA and SCM TR 38

POLICY

- The use of combative practices is not allowed.

PRINCIPLES

- 11.10.1 Combative practices are unethical, illegal and prohibited and be avoided at all cost. They include but are not limited to:
 - Suggestions of fictitious lower quotations.
 - Reference to non-existent competition.
 - Exploiting errors in bids.
 - Soliciting bids from bidders whose names appear on the list of restricted bidders/suppliers/persons.

11.11 INTERNAL ABUSE OF THE PPPFA

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

POLICY

- The AO or his/her delegated authority shall ensure that the SCM P²OS is not abused for any purpose, neither for the benefit of the municipality nor for the benefit of any potential provider/contractor or individual.
- All conducts, dealings and actions are to be *bona fide*.
- Any employee suspected of acting contrary to this policy, will be dealt with in terms of the disciplinary code of the municipality.

PRINCIPLES

11.11.1 No official of the municipality should be involved in or promote the abuse of the preferential procurement system.

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

11.12 EXTERNAL ABUSE OF PPPFA

POLICY

- The municipality shall vigorously pursue all legal remedies available in the event that the SCM P²OS is abused, particularly through for example, but not limited to the following ways:
 - ❖ That a provider or contractor is suspected of contravening the PPPFA.
 - ❖ Has promised, offered or given a bribe during the bidding process and/or after conclusion of the contract.
 - ❖ Has acted in a fraudulent manner or in bad faith or in any other improper manner during the bidding process or after conclusion of the contract.
 - ❖ That an agreement was entered into with the contractor on the strength of information furnished by him, and it became apparent after conclusion of such agreement that the information provided was incorrect.
- To protect both parties to an agreement, potential providers, contractors and municipal officials must be made aware of the implications of any contraventions via the special conditions of contract and the applicable paragraphs in the GCC or CIDBA contract, in the case of construction or infrastructure procurement.

11.13 FRONTING

PPPFA Regulations, 2022

POLICY

- The municipality shall ensure that, where possible, fronting is identified before a contract is awarded.
- Where, after award of a contract it becomes evident that the award made to the organisation based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available as well as the provisions of the PPPFA.

PRINCIPLES

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

11.13.2 Where, after award of a contract it becomes evident that the award made to the organisation based on incorrect information constituting fronting, the appropriate action is to be taken in accordance with all legal remedies available, especially the Prevention and Combating of Corrupt Activities Act, 2004, the Promotion of Administrative Justice Act, 2000 as well as Regulation 14 of the PPPFA i.e. equity ownership, active management and active control.

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

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

11.14 SCM ABUSE

Refer to SCM TR 38, 49 and 50

POLICY

- The municipality must establish a mechanism to receive and consider complaints regarding alleged non-compliance with the prescribed norms and standards.
- Such mechanism must provide that recommendations for remedial actions to be taken if non-compliance of any norms and standards is made to the Council, including recommendations of criminal steps to be taken in the case of corruption, fraud or other criminal offences.
- The AO must reject the bid of any bidder if that bidder or any of its directors has been convicted for fraud or corruption during the past 5 years.

PRINCIPLES

11.14.1 The SCM U must issue a standard operating procedure to -

- a) Establish an independent and impartial point of access for the:
 - (i) Reporting, investigation, determination and treatment of SCM P²OS abuse, -disputes, -objections, -complaints or -queries.
 - (ii) Measuring of performance output of the SCM U.
- b) Identify an independent Committee/Person to promote, monitor, report and advise the AO or delegated authority on the fairness, equitability, transparency, competitiveness and cost-effectiveness of the SCM P²OS whilst achieving the following:
 - (i) Identify and manage fronting.
 - (ii) Monitor and prevent SCM P²OS abuse.
 - (iii) Receive, investigate and rule on complaints, objections, enquiries or disputes.
 - (iv) Instil SCM best practice.
 - (v) Prevent and treat fraudulent activities.
 - (vi) Prevent and treat irregular expenditure.
 - (vii) Strengthen the control environment.
 - (viii) Prevent the undermining of the financial management system.
 - (ix) Assist management to appropriately act on SCM P²OS abuse and complaints incidents.
 - (x) To strengthen the ability to manage the SCM P²OS.
- c) Establish a mechanism to independently review and advise the AO or delegated authority on the determination of 'Liability in Law' of any perpetrator abusing the SCM P²OS.

11.14.2 In the case of SCM P²OS abuse, where appropriate, the:

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

11.14.3 Details of any restrictions imposed on bidders of contractors must be forwarded to the relevant Treasury for inclusion in the centralised database of restricted suppliers.

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

11.14.5 Give cognisance of "listen to other side" rule (*audi alteram partem*) and once followed the bidder must be afforded sufficient opportunity to correct any transgressions or remedy any breaches.

11.15 DISPUTES, COMPLAINTS, ENQUIRIES AND OBJECTIONS MECHANISM

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

POLICY

- Bidders are allowed the opportunity to lodge an objection or complaint against the decisions of the municipality within a period of 14 (*calendar*) days of the municipal decision or action.
- This process does not constitute an APPEAL and the provisions of SCM TR 50 must be adhered to in order to respond to objections or complaints received in this regard [Appeals are addressed at Part 11.16].
- The AO may appoint an independent and impartial person, not directly involved in the SCM processes;
 - To assist in the resolution of disputes between
 - To assist in the resolution of disputes between the Municipality and other persons regarding –
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - To deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
 - Suppliers must provide details of the reasons for their appeal including any non-compliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant and endeavour to finalise appeals within 10 working days of their receipt. Where this is not possible, the Accounting Officer shall advise the appellant in writing of the reasons for the delay.
 - If the appeal is based on a technically complex matter, the Accounting Officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.
 - The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay.
- When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.
- 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.
- The person appointed must –
 - strive to resolve promptly all disputes, objections, complaints or queries received; and
 - submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.

- A dispute, objection, complaint or query may be referred to the relevant Provincial Treasury if –
 - the dispute, objection, complaint or query is not resolved within 60 days; or
 - no response is forthcoming within 60 days.
- 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.
- This paragraph must not be read as affecting a person's rights to approach a court at any time.

PRINCIPLES

11.15.1 The SCMU in the Office of the CFO must develop and maintain a Complaints Mechanism Standard Operating Procedure as referred to in Part 11.14 above.

11.16 SCM RELATED APPEALS

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

POLICY

- Bidders are allowed to appeal against a decision or action of the municipality, but only after exhausting the provisions of SCM TR 21(e), 49 and 50.
- In strict legal terms the nature of an appeal has a specific meaning in relation to administrative actions, only allowing for a review of the processes followed by the administrator but not the merit of the discretionary decision taken by them. If the decision of the municipality is taken on appeal, it means that the municipality should show cause that it followed due process in awarding the tender.
- The administrator will not have to defend the merits of any discretionary decisions taken subject to such decisions being reached following due process. In practical terms, it means that the municipality will have to confirm that:
 - Due process was followed in awarding the tender, i.e. all relevant legal prescripts were complied with; and
 - The discretionary decision made to award the tender was reached having followed such due process.
- If an application for appeal is upheld, the only sanction could be that the tender evaluation and/or adjudication process must be re-constituted following due process. An administrative appeal does not allow the making of an alternative decision, but only to refer a matter back to follow due process.
- Since the AO and/or members of the Adjudication Committee are in most instances involved in the final decision making as per the MFMA, they cannot be an Appeal Authority as foreseen in section 62 of the MSA¹ and therefore appeals may also be considered through a court of law process or as per SCM TR 50(1).

¹ MSA 62 stipulates that:

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

- From the above as well as the interpretation allowed thereto by recent case law^[2], it is evident that the MSA and MFMA in its application seems to contradict each other, which results in confusion, delays and costly legal representation and all efforts must be made to protect both the suppliers and Municipality against the aforementioned actions.

PRINCIPLES

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

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

11.16.2 Experience and recent case law has taught that SCM related appeals submitted to Municipalities vary in complexity, nature and volume. The complexity of SCM related appeals further dictates the work to be done to consider and decide on the matter. SCM related appeals can generally be divided into three categories, namely:

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

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

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

² CC *Groenewald v M5 Developments* (283/09) [2010] ZASCA 47 [31 March 2010]; *Loghdey v Advanced Parking Solutions CC* Unreported, Case No. 207/86/2008 (W) [25 February 2009]; *Lobian Civil-Tebogo Joint Venture v Mangaung Plasstike Municipality* Unreported, Case No. 508/2009 (D) [27 February 2009]

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

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

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

Category 2: SCM related appeal of medium complexity

11.16.6 SCM related appeals falling in this category are more technical in nature but the necessary expertise to respond to the issues raised is mainly available within the Municipality or obtainable from not more than 2 outside sources. It could also contain legal arguments that is general in nature and can be responded to by obtaining legal input. Criteria to be used to place an SCM related appeal in this category include:

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

Category 3: Complex SCM related appeals

11.16.7 SCM related appeals falling in this category contain technical or legal arguments that are specialised, highly complex and/or controversial. The technical or legal expertise required to respond to the issues

are not available within the Municipality or alternatively, due to controversy surrounding the matter, the Municipality may want an external opinion. Criteria to be used to place the SCM related appeal in this category include:

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

11.17 COMPLIANCE

Refer to SCM TR 9

POLICY

- The SCM P²OS must describe in sufficient detail -:
- The Supply Chain Management System that is to be implemented by the municipality.
- Effective systems for:
 - (i) Demand management
 - (ii) Acquisition management
 - (iii) Logistics management
 - (iv) Disposal management
 - (v) Risk management
 - (vi) Performance Management

11.18 ACCESS TO INFORMATION

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

POLICY

- Everyone has the right of access to -:
 - o Any information held by the state;
 - o Any information that is held by another person and that is required for the exercise of any rights.
- The objectives of this are to-:
 - o Give effect to the constitutional right of access to any information as stated above;

- Set out justifiable limitations on the right of access to information aimed at protecting people's privacy, confidential commercial information and ensuring effective, efficient and good governance;
- Balance the right of access to information with all the other rights in the constitution;
- Promote a culture of human rights and social justice;
- Establish mechanisms and procedures to enable persons to obtain access to records as swiftly, inexpensively and effortlessly as is reasonably possible;
- Promote transparency, accountability and effective governance;
- Empower and educate everyone to:
 - Understand their rights in terms of the Act;
 - Understand the functions and operation of public bodies; and
 - Effectively scrutinise and participate in decision-making by public bodies that affect their rights.
- Therefore, it permits aggrieved bidders to challenge procurement decisions by allowing them access to prescribed information they might require when their rights have been infringed.

PART 12: COMMITTEE SYSTEM

12.1 COMMITTEE SYSTEM

MFMA s 117 and SCM TR 26-29

POLICY

- A committee system for competitive bids is hereby established, consisting of the following committees for each Procurement or cluster of procurements with a value exceeding R 30 000
 - A bid specification committee;
 - A bid evaluation committee; and
 - A bid adjudication committee.
- The AO or delegated authority appoints the members of each committee, taking into account section 117 of the Act.
- A neutral or independent observer may attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- The committee system must be consistent with –
 - (a) Parts 12.2, 12.3 and 12.4 of this SCM P²OS; and
 - (b) Any other applicable legislation.
- The AO or delegated authority may opt to apply the committee system to formal written price quotations.

PRINCIPLES

12.1.1 APPOINTMENT OF MEMBERS

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

12.1.2 TENURE

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

12.1.3. CO-OPTING OF MEMBERS

- 12.1.3.1. The AO or delegated authority may, after consultation with the Chairperson of the Committee, co-opt any person who is able to assist the Committee or a sub-committee of the Committee in the consideration of a particular matter and more specifically to investigate and report on any matter envisaged in SCM TR 50.
- A person co-opted shall not be entitled to vote at any meeting of the Committee or a sub-committee of the Committee.
 - The remuneration of any person co-opted in terms of this section shall be determined by the AO or delegated authority.

12.2 BID SPECIFICATION COMMITTEE

12.2.1 ROLES AND RESPONSIBILITIES OF MEMBERS

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

POLICY

- To compile specifications for bids at the municipality in an unbiased manner to allow all potential bidders to offer their goods and services.
- To identify and include the relevant evaluation criteria in the specifications as bids may only be evaluated and scored according to the criteria stipulated in the bid documentation.
- To forward the final specification to the SCMU to facilitate final approval of the specification prior to the advertisement of bids.
- To consider and mitigate risks emanating from bids.
- To consider the contractual arrangements relevant to each bid.
- A member of the specification committee can also be a member of either the BEC or BAC (but not both committees) that considers any of the bids for the same goods or services.

12.2.2 ESTABLISHMENT OF BID SPECIFICATIONS COMMITTEES

POLICY

- The AO or delegated authority shall establish one or more Bid Specification Committees on an *ad hoc* basis or for a specific commodity or group of commodities, as necessary.
- The AO or delegated authority may utilise the services of any other institution's Committee if and when required.
- No person, advisor or corporate entity involved with the BSC, or director of such a corporate entity, may

bid for any resulting contracts.

12.2.3 COMPOSITION OF BID SPECIFICATIONS COMMITTEES POLICY

- The Bid Specification Committee will compose of a Senior Manager of the user department, an official of a division requiring the goods or services [user], and [optionally] a member of the SCM Unit.
- The quorum for each meeting of the specification committee is four standing members. One member from the SCM unit and three members of the different directorates as minimum.
- A professional with required technical expertise from the directorate for whom the goods or services are to be procured, may also be appointed as may be required for each committee meeting.
- An external consultant may be appointed if deemed necessary, provided that the task is executed under the direction of the line function Senior Manager concerned.

12.3 BID EVALUATION COMMITTEE

12.3.1 ROLES AND RESPONSIBILITIES OF MEMBERS

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

POLICY

- To evaluate all bids received from above the quotation threshold (**Currently R30 000**).
- To evaluate offers received within the quotation threshold where the requirement is technically complex and/or there are risks involved that warrant this process.
- To ensure that evaluation is done in accordance with the criteria specified in the bid documentation.
- To submit a report and recommendations regarding the award to the Bid Adjudication Committee for consideration and/or approval.
- To present their reports to the Bid Adjudication Committee to clarify uncertainties. Such members shall not have any voting power on the Bid Adjudication Committee.
- To check in respect of each bidder whether taxation matters are cleared by SARS.
- To check in respect of the recommended bidder whether Municipal Rates and taxes and municipal service charges are not in arrears.

12.3.2 ESTABLISHMENT OF BID EVALUATION COMMITTEES

SCM TR 29, 44 & 46

POLICY

- The AO or delegated authority must establish one or more Bid Evaluation Committees, as necessary per requirement and may utilise the services of any other institution's Committee if and when required.
- Bid Evaluation Committees shall be appointed at the start of the financial year for bids that must be evaluated by the Committee.
- The Committee be appointed on an *ad hoc* basis or for a period of time, dependent on the letter of appointment.
- Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and must be replaced by a member of suitable expertise.

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

12.3.3 COMPOSITION OF BID EVALUATION COMMITTEES POLICY

- A Bid Evaluation Committee should consist of at least four officials.
- The Bid Evaluation Committee should be cross-functional and should comprise of supply chain practitioners and officials from the user division requiring the goods /services.
- If considered necessary, appoint additional persons with suitable expertise from other divisions/institutions with voting rights.
- If considered necessary, appoint additional experts in an advisory capacity only with no voting rights. Such experts must provide a final written report within 5-days after the relevant committee meeting.
- The AO or delegated authority must appoint one of the members of the Bid Evaluation Committee as the chairperson of the Committee.
- The chairperson must be an official with the rank of at least Manager.
- The quorum for each meeting of the BEC is four standing members, provided that one is a SCM practitioner.

12.4 BID ADJUDICATION COMMITTEE

12.4.1 ROLES AND RESPONSIBILITIES

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

POLICY

- To consider the report and recommendations made by the Bid Evaluation Committee or the delegated official(s) who performed the evaluation.
- To assess the process followed in making the recommendation to ensure that the SCM policy have been complied with in full.
- To obtain clarity from members of the Bid Evaluation Committee if required.
- To make the final award in bids less than R10 m and comment on the recommendations made and forward it together with the report to the AO for bids in excess of R10m.
- To refer the recommendation back to the Bid Evaluation Committee if they do not agree with the recommendation in order to endeavour to sort out the differences if they are process related.
- Should the Bid Adjudication Committee and/or the AO not agree with the recommendations made by the Bid Evaluation Committee, only the AO may make the final award, within 10 working days, subject to the provisions of section 114 of the MFMA.

12.4.2 ESTABLISHMENT OF BID ADJUDICATION COMMITTEE

SCM TR 29, 44 & 46

POLICY

- The AO shall establish the Bid Adjudication Committee to perform the award/adjudication of formal written quotations and bids.
- The Bid Adjudication Committee process must provide for final approval by:
 - The Committee for awards up to R10m.
 - The AO for awards exceeding a value of R 10 m.
- The adjudication for a specific quotation/bid cannot be conducted by an official who:
 - Performed the evaluation or made a recommendation in respect of that quotation/bid.
 - Served on the Bid Evaluation Committee, which processed that quotation/bid.
- No advisor may form part of the final decision-making process regarding the award of bids.
- The AO may utilise the services of any other institution's Bid Adjudication Committee if and when required.

12.4.3 COMPOSITION OF BID ADJUDICATION COMMITTEE

POLICY

- The Bid Adjudication Committee shall be composed of the following members:

Standing Members:

- The CFO or, if the CFO is not available, the person acting on behalf of the CFO, designated by the AO,
- At least one senior SCM practitioner who is an official of the Municipality,
- Director: Financial & ICT Services
- Director: Infrastructure Service
- Director: Management Services
- Manager Budget & Treasury Office
- Divisional Head: Strategic, Planning & Administration Services
- Divisional Head: Human Resources & Organisation Development Services
- Manager SCM

Other Members

- Any technical experts in the relevant field, when deemed necessary by the chairperson; and
- Members of the Audit Committee
- The quorum for each meeting of the BAC is a minimum 4 standing members
- The Bid Adjudication Committee consists of at least four senior officials from different departments.
- When possible, the chairperson of the Bid Adjudication Committee should be the CFO.

**12.5 INFRASTRUCTURE DEVELOPMENT MANAGEMENT SYSTEM COMMITTEES (IDMS) –
[optional]** *Refer to sections 168 of the MFMA, SCM TR 3 (2)
Refer to CIDBA*

POLICY

- For infrastructure and construction related procurement the same SCM Bid Committee System will apply subject to each committee being provided with a relevant technical and related engineering expertise for each specific required commodity.
- The provisions of the CIDBA will be adhered to, complementary to the SCM P²OS.
- Where relevant the EPWP principles and objectives will also be observed.
- Annexure A - Framework for Infrastructure Delivery and Procurement Management

12.6 DISPOSAL COMMITTEE *Refer to sections 14 and 90 of the MFMA, the MATR, 2008*

POLICY

- The AO or delegated authority will implement a mechanism to dispose of movable assets.
- For the disposal of immovable assets the Municipal Land Disposal Policy of 30 May 2013 read with the relevant provisions of the MFMA and the Municipal Asset Transfer Regulations, 2008 will apply.
- Line Managers are regarded as Asset Managers.

12.7 SCM ABUSE, COMPLAINTS, MONITORING AND EVALUATION COMMITTEE [optional]
Refer to SCM TR 38.1

POLICY

- The AO must consider the establishment of this Committee as provided for in Part 11.14 above and submit a feasibility report to the Council for determination.
- Once such Committee is established it shall have the duties and responsibilities imposed on it as directed by the Council.

12.8 SECRETARIAT SERVICE *Refer to SCM TR 26*

POLICY

The Secretariat shall:

- (i) In conjunction with the chairperson, compile an agenda and determine dates of meetings.
- (ii) Give appropriate notice of proposed meetings to committee members.
- (iii) Process and distribute all submissions/reports together with the agenda to committee members on an agreed date before the actual meeting takes place.
- (iv) The secretary to all Committees shall be responsible for the safekeeping of the tapes on which the deliberations of the Committee have been recorded, as well as copies of minutes. The Secretariat will forward the minutes and applicable attachments to the members of the relevant Committees.
- (v) The minutes of all Committee meetings will be signed by the Chairperson to determine the validity of the proceedings.
- (vi) Where feasible, Committee meetings shall be recorded on tape.

- (vii) Adhere strictly to the stipulations of the National Archives of South Africa Act, 1996 (Act No 43 of 1996) and accompanying directives as well as the documentation and recording provisions of the municipality.
- (viii) Be responsible for all the administrative tasks for the committee.

PRINCIPLES

The SCMU shall perform secretariat functions in relation to all SCM process unless alternatively directed by the AO or CFO.

12.9 RESOLUTION OF COMMITTEE DISAGREEMENTS

Refer to MFMA section 114 and SCM TR 36

POLICY

- Where the Bid Adjudication Committee disagrees with the recommendation of the relevant Bid Evaluation Committee on the adjudication of a bid, it must refer the request together with its recommendations to the Bid Evaluation Committee for consideration.
- Where the Bid Adjudication Committee still disagrees with the recommendation of the relevant Bid Evaluation Committee the commentary and reasons of the Bid Adjudication Committee is to be submitted to the AO for a final decision.
- The AO may obtain advice as deemed necessary, including advice from outside the Municipality.
- Should the AO decide to award a bid to a bidder other than the one recommended by the Bid Adjudication Committee the Auditor-General, the National Treasury and the Provincial Treasury must be informed in writing within 10 days of the reasons for such deviation.

MODULE 3: DEMAND MANAGEMENT

PART 13: NEEDS ANALYSIS

13.1 SYSTEM OF DEMAND MANAGEMENT

POLICY

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

PRINCIPLES

Line Functions must:

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

13.2 SDBIP

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

POLICY

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

PRINCIPLES

- 13.1.1. The aim of producing a SDBIP is to detail the municipality's strategic priorities.
- 13.1.2. The focus must therefore be on those issues that are strategically important. The resultant document must be clear, concise and coherent, focusing attention on the strategic issues the municipality intends addressing or doing in the next three-year period.
- 13.1.3. Identifying strategic priorities of necessity entail making difficult choices between different areas of possible focus and action. A cross-functional management team inclusive of the SCMU can be very useful in helping the end-users in identifying and determining strategic priorities.

13.3 ANNUAL PERFORMANCE PLANNING PROCESS

POLICY

- The SCM unit shall participate in the annual performance planning process.
- Each user division shall perform an annual needs analysis of strategic objectives and programmes involving SCM, Human Resource Management and Finance to determine strategic sourcing that will ultimately provide best value for money.

PRINCIPLES

- 13.3.1 The annual performance plan is to set out what the municipality intends doing in the upcoming financial year.
- 13.3.2 The purpose of the plan is to spell out what funds and resources the municipality has allocated in order to deliver on the measurable objectives and service delivery targets set out in the SBBIP. In addition, the municipality will be required to indicate their expected capital requirements, which may extend beyond one financial year.
- 13.3.3 Annual performance planning and prioritisation is the starting point for preparation of the annual budget submissions as it guides reprioritization within the medium-term baseline allocations and provides the rationale for policy options regarding changes to baseline allocations over the next 3-year period.

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

13.3.5 The annual performance plan must:

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

13.4 ASSESSMENT OF CURRENT AND FUTURE NEEDS

Refer to SCM TR 10 & 39 and NT MFMA circular 62 of 2012

POLICY

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

13.5 ASSESSMENT OF AVAILABLE ASSETS

POLICY

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

PRINCIPLES

13.5.1 The question of "how much" is required, should be answered, based upon balancing storage cost and ordering cost.

13.5.2 If this principle is applied to computer hardware, the above principle should be linked to other principles such as technology becoming outdated quickly.

13.5.3 Other planning principles to consider are:

- 13.5.3.1 **Obsolescence planning:** Obsolescence cost is the difference between the original cost of the item and its salvage value. This only needs to be applied if you determine that you have items that will become obsolete.

13.5.3.2 **Renewal planning:** The asset renewal planning involves the assessment of existing assets and planned acquisitions against service delivery requirements. This may for example be the replacement of old technology computers with up-to-date computers.

13.5.3.3 **Determining an asset strategy:** Asset management decisions should be consistent with the Asset Management Plan and integrated into the annual performance planning process. Following an evaluation of lifecycle costs and the benefits and risks associated with each option, the strategy will identify the most appropriate approach for meeting programme delivery needs.

13.6 ANALYSIS OF PAST EXPENDITURE

POLICY

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

13.7 ANNUAL OPERATIONAL PLAN

POLICY

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

13.8 AD HOC NEEDS ANALYSIS

POLICY

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

PART 14: FUNDING

14.1 FUNDING PLAN FOR PROCUREMENT

NT MFMA Circular 62 of 2012

POLICY

- The line function will submit project plans aligned with the APP and SDBIP in a prescribed format.
- The SCMU shall use the above to compile a SCM operational and funding plan for procurement for the next financial year.
- The identified requirements in the operational plan and SDBIP are drawn from and summarised in a funding plan for procurement for the next financial year and will identify the funding required.

PART 15: SPECIFICATIONS / TERMS OF REFERENCE

15.1 SCOPING THROUGH A REQUEST FOR INFORMATION (RFI) POLICY

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

15.2 COMPILATION OF THE SPECIFICATION OR TERMS OF REFERENCE

POLICY

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

PRINCIPLES

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

15.2.2. Specifications:

- i. Must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- ii. Must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- iii. Where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- iv. May not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- v. May not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words "equivalent";
- vi. Must indicate the points system to be used in terms of the Preferential Procurement Regulations

2022; and

vii. Must be approved by the Accounting Officer or relevant delegated authority prior to publication of the invitation for bids.

15.2.3. Minimum specifications must include the following, where applicable:

- (i) Description of the requirement
- (ii) Background.
- (iii) Objective of the project, where applicable.
- (iv) Quantity/volume applicable.
- (v) Plans and drawings that reflect the text of the specification. *(Please note, that the order of precedence between the drawings and the specifications should be specified.)*
- (vi) Minimum performance requirements.
- (vii) Expected outcomes/deliverables.
- (viii) Evaluation criteria including the ratio of points as applicable and the quantification thereof.
- (ix) The particulars pertaining to the goal to be met, where applicable.
- (x) The delivery date(s), place(s) of delivery and/or the contract period applicable. In the case of period contracts a period of time for completion of the contract must always be prescribed in the relevant bid documents. This period of time must also be precisely stated, e.g. "contract period: 24 months". Statements such as "within x months" or "before x months" must not be used.
- (xi) Schedule for service delivery or completion date.
- (xii) Shelf life, where applicable.
- (xiii) Packaging, where applicable.
- (xiv) Whether installation/erection is required and if affirmative, an indication of the place/address where the installation/erection is to take place.
- (xv) Whether demonstration/training is required and if affirmative, an indication of the place/address where the demonstration/training is to take place.
- (xvi) Whether a performance guarantee is required. Full particulars, amount and reasons must be given. Performance guarantees should be commensurate with the degree of contractual risk to which the department is exposed and are normally applicable to large and complex contracts. Performance guarantees should spread the cost of the risk of failure between the contracting parties and should be set at such a level that all municipal costs relating to such failure are likely to be recovered.
- (xvii) The warrantee requirement and period applicable (time period, parts and labour, onsite service and repair, extended warranty)
- (xviii) Whether samples must be submitted and whether the samples must be tested before the award of the contract. Reasons for testing should be given.
- (xix) Where samples are to be submitted, the special conditions should state that samples must be submitted not later than the closing time or the date and time specified in the bidding documents.
- (xx) Indicate inspection, testing, analysis, standards or method requirements, where applicable. Where tests, inspections and analyses are a bid condition, the bid documents should specify that the premises of the bidder

should be open at all reasonable hours for inspection by a representative of the department acting on behalf of the department.

- (xxi) Price particulars applicable.
- (xxii) The most common types of contracts provide for payments on the basis of lump sum prices, unit prices, reimbursable cost plus fees, deposits required, establishment cost required or or combinations thereof. For infrastructure or construction tenders – a bill of quantities will be required
- (xxiii) Reimbursable cost contracts should be acceptable only in exceptional circumstances, such as conditions of high risk or where costs cannot be determined in advance with sufficient accuracy. Such contracts should include appropriate incentives to limit costs and may only be concluded subject to the approval of the Accounting Officer. It is advisable that the reasons and formal approval for following the reimbursable route are recorded for auditing purposes.
- (xxiv) Indicate in the case of capital goods, whether foreign export credit facilities should be utilized.
- (xxv) Competency and expertise requirements.
- (xxvi) Reporting requirements, where applicable.
- (xxvii) Available documentation pertaining to the specific project, where applicable.
- (xxviii) Detailed product requirements (materials used, colour, horsepower, minimum and maximum parameters).
- (xxix) Detailed service requirements (what must be provided, what service performed).
- (xxx) Performance requirements (what must it do, how is the work performed).
- (xxxi) Product certifications, professional licenses or required training.
- (xxxii) "Build inspection" at manufacture's facility during production.
- (xxxiii) Any space or weight restrictions.
- (xxxiv) Who handles the installation.
- (xxxv) What utilities are available.
- (xxxvi) Training requirements, instructional and maintenance materials such as manuals or DVD's.
- (xxxvii) Delivery instructions.
- (xxxviii) When and where is it needed.
- (xxxix) Responsibilities (who hooks up the utilities, removes debris, disposes of the old equipment).

PART 16: DATABASE FOR SUPPLIERS

16.1 ESTABLISHMENT OF THE LIST OF PROSPECTIVE PROVIDERS PER COMMODITY

Refer to SCM TR 14, 43, 44 & 45, NT Circular 81

POLICY

- The Municipality shall establish and maintain a list of prospective providers per commodity for the purpose of obtaining quotations.
- The prospective provider list shall be used effectively to promote B-BBEE as well as the participation of Small, Medium and Micro Enterprises (SMMEs).
- The prospective provider list must be re-advertised at least every year.
- Prospective providers will be assessed in terms of predetermined evaluation criteria.

- The prospective provider list shall be used effectively to promote Local Economic Development, B-BBEE as well as the participation of Small, Medium and Micro Enterprises (SMMEs).

PRINCIPLES

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

16.2 NATIONAL TREASURY'S WEB BASED CENTRAL SUPPLIER DATABASE (CSD)

16.2.1 In addition to the requirements of the Municipality's Supplier Database, it is a requirement for all Suppliers to be registered on the National Treasury Web Based Central Supplier Database (CSD) that can be accessed at <https://secure.csd.gov.za>.

16.2.2 The CSD is the national standardised and centralised electronic supplier database administered by the National Treasury which provides information to an organ of state.

16.2.3 Prospective suppliers shall be allowed to submit applications for registration and amendments for listing on the CSD at any time and agree to the terms and conditions of the CSD.

16.2.4 Bidders who are not registered on the CSD are not precluded from submitting bids but must however register when called upon to do so.

16.2.5 Prospective suppliers must notify the Municipality immediately upon receipt of their CSD Reference Number (MAAA...) for this to be captured onto the Municipality Supplier Database.

16.3 UPDATING OF THE LIST

POLICY

- The prospective provider list must be updated at least quarterly in order to accommodate additional providers, newly established providers and for adding or amending categories of requirements.

16.4 UTILISATION PROCEDURE

POLICY

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

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

16.5 REMOVAL FROM THE PROSPECTIVE PROVIDER LIST

POLICY

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

PRINCIPLES

- A provider will be removed from the provider list under the following circumstances:
 - The entity ceases to exist.
 - Sole proprietor dies.
 - Liquidation/sequestration of the entity.
 - Continual proven non-delivery (two and more times) or unable to meet minimum specification continuously.
 - Non-compliance with legislation or statutory requirement e.g. its tax status.
 - Proven fraud and/or corruption.
 - On provider's request.
 - By mutual agreement, in writing.
 - Where required, due legal processes must be followed to deal with providers fairly in executing this process.

PART 2.5.1: SOURCING SUPPLIERS

2.5.1.1 ANALYSIS OF SUPPLY INDUSTRY

POLICY

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

OPERATIONAL

- The following aspects are to be taken into consideration:
 - (i) What exactly is required in terms of goods and services?*
 - (ii) What is the estimated consumption in terms of quantity and loss?*
 - (iii) Are the goods and services required currently available in the supplying industry?*
 - (iv) Are the goods subject to shelf life limitations?*
 - (v) Who were the past suppliers?*
 - (vi) Who are potentially the future suppliers?*
 - (vi) What are the delivery, and lead times of each commodity?*

PART 2.5.2. STRATEGIC SOURCING

POLICY

- The sourcing strategy shall determine where the goods and services can be obtained and through which selection mechanism.
- The sourcing strategy shall address value for money principles.

PRINCIPLES

- All possible methods of obtaining the requirements should be investigated, such as:
 - Obtaining the goods and/or services by means of a transversal term contract;
 - Could other institutions satisfy the requirements at a better price;
 - Are the requirements available on the list of redundant/obsolete material/goods from other institutions.
- The optimum sourcing strategy and technique should be used, taking due cognizance of the nature of the commodity or service required, the conditions of delivery, among others, just-in time delivery, the prospective suppliers and the goals to be promoted as contemplated in the PPPFA.
- Sourcing strategies might include:
 - Utilising transversal term contracts;
 - Local versus international sourcing;
 - Utilising a paper-based bidding system, which may include obtaining quotations, inviting competitive bids, pre-qualification of bidders and two-stage bidding;
 - Utilising E-procurement; and
 - Negotiations.

PART 16A: STRATEGIC SOURCING

16A.1. ANALYSIS OF SUPPLY INDUSTRY [optional]

POLICY

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

16A.2. STRATEGIC SOURCING

POLICY

- The sourcing strategy shall determine where the goods and services can be obtained and through which selection mechanism.
- The sourcing strategy shall address value for money principles.

PRINCIPLES

- All possible methods of obtaining the requirements should be investigated, such as:
 - ✓ Obtaining the goods and/or services by means of a transversal term contract;
 - ✓ Could other institutions satisfy the requirements at a better price;
 - ✓ Are the requirements available on the list of redundant/obsolete material/goods from other

institutions.

- The optimum sourcing strategy and technique should be used, taking due cognizance of the nature of the commodity or service required, the conditions of delivery, among others, just-in-time-delivery, the prospective suppliers and the goals to be promoted as contemplated in the PPPFA.
- Sourcing strategies might include:
 - ✓ Utilising transversal term contracts;
 - ✓ Local versus international sourcing;
 - ✓ Utilising a paper-based bidding system, which may include obtaining quotations, inviting competitive bids, pre-qualification of bidders and two-stage bidding;
 - ✓ Utilising E-procurement; and
 - ✓ Negotiations.

MODULE 4: ACQUISITION MANAGEMENT

PART 17: ACQUISITION MANAGEMENT SYSTEM

17.1 ACQUISITION MANAGEMENT SYSTEM

17.1.1 THE ACQUISITION SYSTEM

Refer to SCM TR Part 2

POLICY

- Goods and services must only be procured in accordance with an authorised procurement processes.
- Procurement of goods and services, either through quotations or through a bidding process, must be within the threshold values as determined by National Treasury.
- Expenditure on goods and services may only be incurred in terms of an approved budget and within the limits of the amounts appropriated for the different main divisions within an approved budget.
- Take into account any Treasury guidelines on acquisition management.
 - This Policy, except where provided otherwise in the Policy, does not apply in respect of the procurement of goods and services contemplated in Section 110(2) of the MFMA, including water from the Department of Water Affairs or a public entity, another Municipality or a Municipal entity, and electricity from Eskom or another public entity, another Municipality or a Municipal entity.

PRINCIPLES

17.1.1.1. Acquisition Management is the process and management of procuring goods, services or works.

17.1.1.2. Following the system of acquisition management shall ensure avoidance of unauthorised, irregular, fruitless and wasteful expenditure.

17.1.2 TYPES OF PROCUREMENT

POLICY

- When a requirement becomes known, the noted hierarchy for satisfying requirements shall apply starting first with the hierarchy of processes of obtaining stock from internal resources and then only applying

the hierarchy of processes of satisfying requirements from external sources.

- Liaise and obtain permission from relevant treasury to commence with establishment and maintenance of an E-procurement system in order to ensure compatibility with other electronic systems utilised by Government.

PRINCIPLES

- 17.1.2.1 Obtaining goods and services do not mean that these requirements should only be procured from outside sources.
- 17.1.2.2 As part of acquisition management, all possible methods of obtaining requirements should be considered. This starts first with satisfying requirements from internal sources.
- 17.1.2.3 Hereafter a hierarchy for satisfying requirements from external sources must be applied.
- 17.1.2.4 Together with this, the specific rules pertaining to specific products and circumstances such as PPPs and Information Technology must be taken into account.

17.1.3 PRE-ESTABLISHED SOURCES

PRINCIPLES

- 17.1.3.1 There are a number of pre-established sources that may be considered. Goods or services may also be available from other government institutions.
- 17.1.3.2 **Items in stock** - Obtain from stock according to the prescribed process. An example of this may be stationery.
- 17.1.3.3 **Items on pre-established municipal contracts** - Investigate whether the requirements are available on an existing contract arranged by the municipality. If the requirement is then available on contract, order accordingly. The non-utilisation of a contract could be regarded as breach of contract and will be regarded as breach of procedure.
- 17.1.3.4 **List of redundant, obsolete materials and supplies, if established** - Divisions within the municipality must ensure that the requirement is not available on the internal redundant or obsolete materials list if there was a need to establish such a list, before enquiring whether the requirements are available from other government institutions' list of redundant, obsolete materials or supplies, if feasible.
- 17.1.3.5 **Sourcing from other government institutions** - Services and goods that are the core function of a specific government institution may be sourced from or through the auspices of such an institution. However, should the government institution not be able to assist the municipality, the normal acquisitioning procedures should apply.
- 17.1.3.6 **Contracts arranged by other organs of state** - The AO or delegated authority may participate in any contract arranged by means of a competitive bidding process by any other organ of state, subject to the written approval of such organ of state and the relevant contractor as per SCM TR 32.
 - i. The contract has been secured by that other organ of state by means of a competitive bidding

- process applicable to that organ of state;
- ii. There is no reason to believe that such contract was not validly procured;
 - iii. There are demonstrable discounts or benefits to do so; and
 - iv. That other organs of state and the provider have consented to such procurement in writing.
- (iii and iv do not apply if a Municipal entity procures goods or services through a contract secured by its parent Municipality or a Municipality procures goods or services through a contract secured by a Municipal entity of which it is the parent Municipality).

17.1.4 DIRECTIVES FOR SPECIFIC TYPES OF REQUIREMENTS POLICY

- For the following cognisance should also be taken of additional specific prescripts, rules and thresholds guiding specific circumstances and products:
 - E-commerce
 - Public Private Partnerships
 - Building, Engineering and Construction Works

17.1.4.1 E-COMMERCE

POLICY

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

17.1.4.2 PUBLIC PRIVATE PARTNERSHIPS

Refer to section 120 of the MFMA and relevant PPP Regulations

POLICY

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

PRINCIPLES

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

17.1.4.3 BUILDING, ENGINEERING OR CONSTRUCTION WORKS

Refer to the CIDBA Act, Regulations and Standards

POLICY

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

PRINCIPLES

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

17.2 COMPILATION OF BID DOCUMENTS

17.2.1 BID DOCUMENTS FOR BIDS

Refer to SCM TR 15-21

POLICY

- 17.2.1.1 The criteria to which bid documentation for a competitive bidding process must:
- 17.2.1.2 Take into account:
- *The general conditions of a contract and any special conditions of contract, if specified;*
 - *Any treasury guidelines on bid documentation;*
 - *The requirements of the CIDB, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure; and*
 - *The Municipal Preferential procurement policy.*
- 17.2.1.3 Include the preference point system to be used, goals as contemplated in the Preferential Procurement Regulations and Evaluation and Adjudication criteria; including any criteria required by other applicable legislation;
- 17.2.1.4 Include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- 17.2.1.5 Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- 17.2.1.6 If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish:
- *If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements*
 - *For the past three years;*
 - *Since the establishment, if established during the past three years;*
 - *A certificate signed by the bidder, certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than thirty (30) days;*
 - *Particulars of any contract awarded to the bidder by the municipality during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract.*
 - *A statement indicating whether any portion of the goods or services are expected to be sourced*

from outside the Republic, and, if so what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and

- 17.2.1.7 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
- 17.2.1.8 Require supplier to supply tax references, tax compliance status verification pin, VAT registration numbers and identification or registration numbers;
- 17.2.1.9 Details of any contracts above R200 000 carried out on behalf of the Municipality within the last five years;
- 17.2.1.10 Contract management processes and procedures including provision for the AO to cancel the contract on ground of unsatisfactory performance;
- 17.2.1.11 Any other matters as required by the MFMA and the SCM regulations;
- 17.2.1.12 Performance guarantees and retention.

17.2.2 LANGUAGE OF QUOTATION / BID DOCUMENTS POLICY

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

PRINCIPLES

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

17.2.3 CALLING FOR BIDS POLICY

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

17.2.4 ADVERTISING OF BIDS

Refer to SCM TR 22 & NT Circular 83

POLICY

- All bids must at least be advertised in the local media, municipal website, e-tender portal and, optionally, the Government Tender Bulletin, where possible.
- The specifications must be approved by the AO, or the official delegated by the AO, prior to advertisement of the bid. In the absence of the AO this may be delegated to the acting MM or the CFO.
- The relevant media shall be considered to ensure that the target market is reached. Cost must be a consideration.
- Bids must be advertised for at least 14 days before closing time, except in urgent cases when bids may be advertised for such shorter period as the AO may determine. In the case of transactions over R10 million or which are of a long-term nature the closure date for the submission of bids may not be less than

30 days.

- All competitive bids must be advertised on the e-Tender Publication Portal in terms of NT MFMA Circular Nr. 83.
- No bids may be advertised or close between 15 and 31 December as most firms are closed during this period and advantageous bid can therefore not be ensured. However, if circumstances require otherwise, a submission for approval must be made to the AO or the delegated authority in this regard

17.2.5 CLOSING TIME OF BIDS POLICY

- Closing time means the latest date and hour specified in the bid documents for the receipt of bids.
- Bids of the municipality close at 12:00 on the day indicated in the bid documents.
- The closing of bids must be strictly observed.

17.2.6 DETERMINING THE CLOSING PERIOD POLICY

- The normal closing period is between 14 to 21 days from the date of the publication of the invitation to bid.
- As a minimum requirement, where goods are to be imported, bids will close at least 5 weeks from the date of the publication.
- The principle of allowing bidders enough time to prepare comprehensive bids must be observed.
- Approval for the shortening or lengthening of the closing period must be obtained in accordance with the AO's delegated powers. Reasons for the deviation must be documented and fully motivated.
- Where a shorter period is involved, care must be taken that a reasonable time, normally not less than 14 days, is allowed for the preparation of the bidder's offer.

PRINCIPLES

17.2.6.1 A longer closing period may be necessary where a product is to be imported or a complex response is required from bidders. Where complex supply contracts, particularly those requiring refurbishing of existing works, items or equipment are involved, this period should generally not be less than twelve weeks to enable bidders to conduct investigations before submitting their bids. In such cases, pre-bid information meetings for the bidders to seek clarifications and site visits may be necessary. The municipality should provide reasonable access to project sites for such visits.

17.2.6.2 In justifiable cases bids may be advertised for a shorter period as the Accounting Officer or the delegated authority may determine. A shorter closing period should allow adequate time for responses to be prepared and submitted and should not disadvantage any prospective bidder from bidding. This shorter closing period should not be shorter than 14 calendar days unless the municipality is certain that all prospective bidders are able to deliver a response in a shorter time.

**17.2.7 DETERMINING THE VALIDITY PERIOD
POLICY**

- The validity period should allow the municipality sufficient time to finalise the evaluation and award of the quotation/bid.
- Bids must be valid for at least 60 - 90 days from the closing date of the bid. A longer period may be set if problems with the evaluation is envisioned, but preferably not longer than 120 days. Approval is to be obtained within the AO's delegated powers. The extension should be for the minimum period required to complete the evaluation, obtain the necessary approvals and award the contract. In the case of fixed price contracts, requests for second and subsequent extensions should be permissible only if the request for extension can be provided subject to the same price, terms and conditions.
- An extension of validity must be requested in writing from all bidders before the expiry date.

**17.2.8 AVAILABILITY OF BID DOCUMENTS
POLICY**

- Bid documents must be ready and available before the requirement is advertised.
- Bid documents may be collected by or may be e-mailed or posted to prospective bidders.

**17.2.9 SALE OF BID DOCUMENTS
POLICY**

- In the event that bid documents are being sold, the costs thereof must only be to cover actual preparation cost and not for the purpose of making a profit. The fee should not be so high as to discourage prospective bidders.

**17.2.10 RESPONSES RECEIVED
POLICY**

- The municipality shall maintain a register/list of responses to the advertisement, or the individuals/organisations targeted.
- The response list must contain the following information:
 - Bid number.
 - Name of the bidder who documents were issued to.
 - Name of the person/organisation that collected the bid on behalf of the bidder.
 - Name of the person/organisation on whose behalf the document is collected, the phone number, the fax number and contact person of the prospective bidder.
- The date and time the document was collected or the date the document was posted/e-mailed.
- The same particulars as mentioned above, where applicable, must also be collected where bid documents are requested by phone.
- Bidders should take note that if bidding documents are posted, it is not the responsibility of the municipality to ensure that the bidder receives the document on time in order to prepare a response.

17.2.11 ELEMENTS FOR INCLUSION IN BID DOCUMENTS

POLICY

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

17.2.12 BIDS BASED ON FUNCTIONALITY

PRINCIPLES

17.2.12.1 Not all bids are invited on the basis of functionality as a criteria

17.2.12.2 A need to invite bids on the basis of functionality as a criterion depends on the nature of the required commodity or service taken into account cost, quality, reliability, viability and durability of a service and the bidder's technical capacity and ability to execute a contract.

17.2.12.3 When an institution invites a bid that will also be evaluated on the basis of functionality as a criterion, the AO must clearly specify the following aspects in the bid documents:

17.2.12.3.1 Evaluation criteria for measuring functionality

- May include criteria such as the consultant's relevant experience for the assignment, the quality of the methodology;
- The qualification of key personal;
- Transfer of knowledge etc.

17.2.12.3.2 Weight of each criteria

- The weight that is allocated to each criterion should not be generic but should be determined separately for each bid on a case-by-case basis.

17.2.12.3.3 Applicable value

- The applicable value that will be utilized when scoring each criterion should be objective.
- As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilised

17.2.12.3.4 Minimum qualification score for functionality

- The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. The latter should be determined separately for each bid on a case-by-case basis. The minimum qualifying score must not be prescribed so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to

the extent that it jeopardized the fairness of the SCM system.

17.2.13 THE SCM UNIT RESPONSIBILITY

OPERATIONAL

- The SCMU is responsible for compiling the final bid documents on receipt of a request by the user division accompanied by specification/terms of reference as well as the evaluation criteria as compiled by the Bid Specification Committee and the approval received from the AO or the delegated authority.

17.2.14 QUOTATION/BID DOCUMENTATION PACK

PRINCIPLES

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

17.2.15 PRE-BID INFORMATION/SITE MEETINGS

POLICY

- Minutes of the meeting should be provided to all prospective bidders.
- Any additional information, minutes of meetings, clarification, correction of errors, or modifications of bid documents should be sent to each recipient of the original bid documents in sufficient time before the closing date and time for receipt of bids to enable bidders to take appropriate actions.
- Site or information meetings, if specified, are compulsory. Bids will not be accepted from bidders who have not attended compulsory site or information meetings. Bidders that arrive **10 minutes** or more after the advertised time the meeting starts will not be allowed to attend the meeting or to sign the attendance register. If a bidder is delayed, he must inform the contact person before the meeting commence and will only be allowed to attend the meeting if the chairperson of the meeting as well as all the other bidders attending the meeting, give permission to do so.
- An attendance register must be completed at all meetings or sessions.
- All partners or the leading partner of a Joint Venture must attend the compulsory site or information meeting.

17.2.16 CHANGING INFORMATION BEFORE CLOSING TIME

POLICY

- It is preferable to cancel a bidding invitation and to invite fresh bids if conditions or the specification or any other information have to be materially changed before the closing time or if mistakes are discovered in the documents before the closing time.

- In this regard also adhere to the provisions of the PPPFA Regulations where all bids received are above or below the stipulated preference scoring.

PRINCIPLES

17.2.16.1 Where the information that has to change is not material or will not have a material influence on the bidders proposals, all prospective bidders must be informed before the closing date of the bid and in time to take the information into consideration.

17.2.16.2 Where the information that has to change is material or will have a material influence of the crafting of the bidders' proposals, the bid must rather be cancelled and fresh bids invited with the amended information.

17.2.17 POSTPONEMENT OF CLOSING DATE POLICY

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

PRINCIPLES

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

17.3 RECEIPT AND OPENING OF BIDS

17.3.1 ANALYSIS OF PROCUREMENT REQUESTS

17.3.1.1 Receiving and opening procedures for quotations up to R2 000

Refer to SCM TR 23

POLICY

- A fair and transparent process shall be followed for the closing, receiving, opening and processing of quotations.

17.3.1.2 Written quotation above R2000 up to R30 000

POLICY

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

17.3.1.3 Receiving and opening procedures for quotations above R30 000 up to R300 000

POLICY

- A fair and transparent process shall be followed for the closing, receiving, opening and processing of bids and may be aligned with the Bid opening SOP.
- Bidders shall be allowed to submit bids by courier or by hand.
- A bid box shall be visibly provided on the premises of the municipality and shall be accessible 24 hours per day including weekends and public holidays.
- A bid box shall always be locked, unless bids are collected in order to prevent unauthorized removal of bids.

- The CFO or delegated official will ensure that the bid boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- At the precise closing time of the bid, the bid box is locked to prevent late submission of bids into the box where after all bids in the box are removed for processing.
- At the advertised time, the bid box will be unlocked and opened by two officials – both from the SCM unit.
- A SCM official will open the bid documents in the presence of any other interested parties, excluding Councillors.
- The bid box can be opened without any members of the public being present provided that the appropriate procedure for advertising the time and venue has been followed.
- Unmarked or incorrectly marked bids will not be opened.
- The mandatory information on bids received must be captured in the bid opening register template as well as the names of all bidders and their bid price, the B-BBEE level of each bidder, if applicable and where practically possible, must be completed as soon as practically possible.
- The names, total bid amounts and the B-BBEE level will be read out and recorded in the tender register, which will be available for public inspection on request.
- Information on bids received must be captured in a bid register. A copy of the record must be kept in the Procurement Manager's office.
- Bids shall be date stamped to indicate the date and time of receipt of bids.
- Once all the names and bid prices have been read out, the bid opening session must be closed, where after those bidders and members of the public must leave the venue.
- A special lockable office for the storing of bids must be available.
- All bid opening register containing the bid results must be published on the municipal website.
- A written quotation or bid may not be considered unless the provider who submitted the quotation or bid:
 - o *Has furnished that providers:*
 - o *Full name;*
 - o *Identification number or company or other registration number;*
 - o *Tax reference number and VAT registration number, if any;*
 - o *Has authorised the municipality to verify a tax compliance status pin from SARS that the provider's tax matters are in order; and*
 - o *Has indicated;*
 - o *Whether he or she is in the service of the state, or has been in the service of the state in the previous 12 months;*
 - o *If the provider is not a natural person, whether any of its directors, managers, principle shareholders or stakeholder is in the service of the state; or has been in the service of the state in the previous 12 months; or*
 - o *Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder is in the service of the state or has been in the service of the state in the previous 12 months.*

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

17.3.1.4 Admission of bids

POLICY

- Bids received by facsimile transmitter, telegram, telex, e-mail or similar media do not meet the requirements and must be summarily rejected.
- Only original bid documents or certified photocopies of facsimiles, which are submitted in the prescribed manner and where all essential forms are originally **signed in ink** before submission, may be accepted as valid.
- Bidders shall be allowed to submit bids by mail, by courier or by hand into the bid box or at the physical address of the municipality (reception, over the counter at the SCMU as applicable) before the closing time of the bids.
- Bids received via courier services must be submitted in time and deposited into the bid box by the courier services. Officials may not deposit bids into the bid box on behalf of courier services and the Municipality accepts no responsibility for late delivery by courier services or for delivery at the wrong address.
- All bids will then be kept unopened in safe custody until the closing date and time of the bids.

17.3.1.5 Confidentiality

POLICY

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

17.3.1.6 Bids received late

POLICY

- Bids are late if they are received at the address indicated in the bid documents after closing date and time.
- Bids received late shall not be considered and shall be returned unopened to the bidder.

- Where no bid or no acceptable bid has been received, the bid has to be re-advertised.

17.3.1.7 Evaluation and adjudication of bids

POLICY

- All bids duly lodged shall be taken into consideration and evaluated.
- For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official bid box located at the Main Building in 1 Dirkie Uys Street.
- The municipality shall base its evaluation solely on an examination of the relevant statutory and/or predetermined evaluation criteria.
- Evaluation criteria shall promote the areas of finance (commerce), technical compliance/ability, functional requirements and preferential procurement.
- Members involved in the evaluation process shall be honest, fair, impartial, and transparent.
- Bid Evaluation Committee(s) should be familiar with and adhere to prescribed legislation, directives and procedures in respect of SCM.
- No person should interfere with the SCM system of the municipality; or amend or tamper with any quotation/bid after its receipt.

17.3.2 REASONS FOR REJECTION

POLICY

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

17.3.3 SIGNING OF BIDS

POLICY

- In order to avoid confusion regarding precisely what must be signed for a valid bid, the Invitation to Bid or photocopy thereof must be signed in ink.
- All declarations must also be duly completed and signed to qualify as valid claims.

PRINCIPLES

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

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

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

**17.3.4 AUTHORITY TO SIGN BID DOCUMENTS
POLICY**

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

17.3.5 TAX COMPLIANCE STATUS

Refer to SCM TR 43 and PPPFA Regulations, 2022, MFMA Circular 90

POLICY

- As per SCM TR 43, the municipality must reject any bid from a supplier who fails to provide written proof from SARS that the supplier either has no outstanding tax obligations or has made arrangements to meet outstanding tax obligations. As proof that there are no outstanding tax obligations, a valid and active Tax compliance verification pin must be submitted.
- In all cases where the bidder did not submit the Tax compliance verification pin by the closing time, the bidder must be afforded an opportunity and be requested to submit the Tax compliance verification pin within **7 days** from the date of the request. Recommendations with regard to such matters must be submitted to the relevant evaluation and award structures.
- Where the municipality or central supplier database is in possession of a valid or active tax compliance verification pin from a bidder, i.e. due to its previous application as member on the list of prospective suppliers, the SCM Unit must make a note to such effect on the bid.
- No contracts may, however, be awarded to bidders who have failed to submit the Tax compliance verification pin within the relevant period and they must be reported to SARS.
- CSD will interface with the South African revenue Service (SARS) to verify the tax compliance status and the Companies and Intellectual Property Commission (CIPC) for business registration and business ownership information.
- Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.
- The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

17.3.6 SUBMISSION AND SIGNING OF CERTIFICATES

POLICY

- In all cases where the relevant preference claim form has to be submitted and a provider had the intention to claim must fill in the preference form as indication of wishing to claim preference, the bidder must also complete and/or sign the declaration.
- Recommendations with regard to incomplete claim forms must be submitted to the relevant Bid Evaluation Committee or relevant delegated authority

PRINCIPLES

- 17.3.6.1 If the potential provider is a supplier but not the actual manufacturer and will be sourcing the product(s) from another company, a letter from that company(s)/supplier(s) confirming firm supply arrangement(s) in this regard, has to accompany the quotation/bid and failure to submit the document may invalidate the quotation/bid.
- 17.3.6.2 The aforementioned statement is to be included in the relevant quotation/bid documents as a special condition.
- 17.3.6.3 The said company/supplier must confirm that it has familiarised itself with the item description, specifications and conditions and if the quotation/bid consist of more than one item, it should be clearly indicated in respect of which item(s) the supportive letter has been issued.

17.3.7 DECLARATION OF INTEREST

POLICY

- A form for the declaration of a provider's position and interest must be included with the quotation/bid documents.
- An official who is involved in the evaluation and recommendation process, or who is in any way involved with the procurement process, shall also certify, as part of the recommendation that he/she complies with The Prevention and Combating of Corrupt Activities Act.
- All officials who can influence the award of a quotation/bid are seen as officials who are involved in the recommendation process.
- The register of attendance of the members of the Bid Evaluation Committee and the Bid Adjudication Committee must contain the following:

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

- Declare that I did not purposefully unlawfully favour or prejudice anyone in the decision making process in the recommendation and award of the quotation/bid.*
- Declare that neither I nor, as far as I am aware, any member of my organisation or my immediate family have any interests (pecuniary or otherwise) which could possibly be construed as having any influence on the proper and objective performance by me of my duties in relation to any SCM activities relating thereto nor to unduly influence anyone in this matter.*

**Declaration if any:*

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

17.3.8 PROVIDERS OWN CONDITIONS POLICY

- The conditions as contained in the quotation/bid documents enjoy precedence.
- All providers must accept these conditions.
- However, it sometimes happens that providers set their own conditions, which might be in conflict with the quotation/bid conditions. Such own conditions set by providers can be recommended for acceptance where it is in the interest of the municipality to do so and where the interests of other providers are not prejudiced.
- Where the providers' own conditions are not in the best interest of the municipality, the provider must be requested to withdraw his conditions.
- If providers are not prepared to withdraw unacceptable or conflicting conditions, reasons why such conditions must be accepted must be submitted to the relevant Bid Evaluation Committee for approval or alternatively the quotation/bid may be passed over.

PRINCIPLES

- 17.3.8.1 A provider must not automatically be requested to withdraw his own conditions since such conditions are not necessarily unacceptable.
- 17.3.8.2 A recommendation by the relevant delegated authority that such a request should be made to the provider concerned must be submitted to the relevant Bid Evaluation Committee for the necessary consideration or for passing over due to it being unacceptable.
- 17.3.8.3 Unless specifically allowed in the bid, when are required in a quotation/bid, this must be identified as a conflicting condition and a motivated recommendation must be submitted to the relevant award structure. Normally such a condition is accepted only if a counter offer that will eliminate the risk, such as a bank/performance guarantee, is made.

17.3.9 EVALUATION AND AWARD FROM R30 000 AND UP TO R300 000

17.3.9.1 EVALUATION FROM R30 000 AND UP TO R300 000 POLICY

- For quotations from R30 000 and up to R300 000, where the requirement is not technically complex and where there are no major risks involved, the delegated authority shall evaluate quotations received and submit a recommendation regarding the award of the quotations to the relevant manager.
- The evaluator and awarder should consist of different members to ensure that a transparent review of the evaluation is undertaken.
- Quotations are to be evaluated against the predetermined criteria in the quotation document. The criteria to be taken into account, are *inter alia*:
 - *Compliance with the legality and special conditions.*
 - *Specifications/terms of reference evaluation = functionality*
 - *Preferential procurement:*
 - *Price*
 - *Preference*
 - *Capability / ability of the bidder to execute the contract and other latent factors.*

17.3.9.2 AWARD STRUCTURES UP TO R300 000

Refer to SCM TR 26

POLICY

- The delegated authority assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the deal is acceptable and in the municipality's best interest, and then approves/rejects the recommendation.
- The function must be carried out in line with the award functions stipulated under the roles and responsibilities section.
- Any decision regarding the adjudication and award of a contract is final.

17.3.10 EVALUATION AND AWARD FOR PROCUREMENT ABOVE R300 000

17.3.10.1 BID EVALUATION COMMITTEE FOR PROCUREMENT ABOVE R300 000 POLICY

- Above R300 000, a Bid Evaluation Committee shall evaluate bids received and submit a recommendation regarding the award of the bids to the Bid Adjudication Committee.
- Bids are to be evaluated against the predetermined criteria in the bid document. The criteria to be taken into account, are *inter alia*:
 - Legal compliance and compliance with special conditions*
 - Evaluation of specifications/terms of reference/functionality (within threshold values set).*
 - Preferential procurement:*
 - (i) *Price*
 - (ii) *B-BBEE certificates*
 - Latent factors or other additional objective factors:*
 - (i) *Capability/ability of the bidder to execute the contract.*

- National Industrial Participation Programme requirements.
- CIDBA requirements for infrastructure or construction procurement.

17.3.10.2 AWARD STRUCTURE ABOVE R300 000

Refer to SCM TR 29

POLICY

- The Bid Adjudication Committee shall consider and recommend the awarding of bids above the monetary value of R300 000 and up to R 10 million to the relevant delegated authority.
- The Bid Adjudication Committee shall consider and recommend the awarding of bids above the monetary value of R 10 million to the AO who will make the final award.
- The function must be carried out in line with the functions stipulated under the roles and responsibilities section.
- The Bid Adjudication Committee assesses if the specific procurement process followed, is in line with the approved policy and procedures, that the evaluation is fair and sound, the deal is acceptable and in the municipality's best interest, and then approves/rejects the recommendation or make a final recommendation to the AO for final award.
- Where the Bid Adjudication Committee finds that the recommendation is not correct or not in the municipality's best interest, the reasons for not supporting the review is:
 - Firstly returned to the Bid Evaluation Committee for reconsideration, then*
 - Submitted to the AO for final award.*
- Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties.
- The Bid Adjudication Committee and the AO has the power to amend or cancel concluded agreements if delivered goods and services do not conform to specifications.
- Any decision regarding the adjudication of a contract is final.

PRINCIPLES

- 17.3.10.2.1 In the event that the AO makes an alternative decision than the recommendation submitted by the Bid Adjudication Committee after returning the matter back to the Bid Adjudication Committee for reconsideration, within 10 working days, the provisions of section 114 of the MFMA and SCM TR 29 will apply.

17.3.11 CONSIDERATION OF ADDITIONAL INFORMATION

POLICY

- Information received after the closing date, may only be taken into consideration if it would not influence the original recommendation made, which must be based on the original information received from providers.
- During the consideration of quotations/bids, communication by the municipality with providers may take place only with the express prior approval of the relevant award structure.

PRINCIPLES

- 17.3.11.1 Should a discount for instance be offered, it could be taken into account when the contract has been awarded, but not beforehand.
- 17.3.11.2 The municipality must communicate with providers where bid information is incomplete or the quotation/bid document is not completed in full, in order to obtain the necessary information.
- 17.3.11.3 Communication with bidders after the closing period but before the bid is awarded, must be done in an open and transparent manner. All bidders who submitted bid documents must be provided with the same communiqué.
- 17.3.11.4 During the period of time between the closing time of a bid and the date of notice of acceptance to the successful bidder, communication regarding matters in connection with the quotation/bid, between any official or a representative of a properly appointed testing organisation or a person acting in an advisory capacity for the municipality and a member of the public, should take place only with the express prior written approval of the relevant delegated authority

17.3.12 CANCELLATION OF QUOTATIONS/BIDS POLICY

- Should it be determined through the evaluation process that no acceptable quotations/bids were received; or funds are no longer available to cover the total envisaged expenditure; or due to changed circumstances, there is no longer a need for the goods or services specified in the invitation; or there is a material irregularity in the tender process; a recommendation to cancel the quotation/bid must be submitted for approval as part of the evaluation report.
- The reasons why no acceptable quotations/bids were received by the closing date and time must be investigated before a decision is made what alternative process must be followed to satisfy the requirements.
- The requirement may be re-advertised / re-invited or a specific number of pre-identified service providers may be targeted.
- The evaluation report must contain the request for cancellation accompanied by the perceived reasons determined through the investigation as well as a recommendation on the alternative process to be followed to satisfy the requirements.
- The relevant delegated authority shall approve all cases where quotations/bids:
 - o *Are to be cancelled.*
 - o *New quotations/bids are to be solicited because of the cancellation.*
 - o *Negotiations with the preferred bidder are to take place to determine a reduction in the scope and/or a reallocation of risk and responsibility.*
 - o *A substantial reduction in the scope or modification to the bidding documents may require re-bidding.*
- Where quotations/bids are to be cancelled all bidders must be informed in writing of the cancellation.

17.3.13 DISCUSSIONS WITH BIDDERS

Refer to SCM TR 24

POLICY

- Without the prior approval of the delegated authority no discussions may be conducted with any bidders regarding any aspect, which might in any way affect the prices, i.e. which may change the order in which quotes/bids will be ranked.
- Where such discussions are authorised, the delegated authority must ensure that the discussions take place at least at the middle management level and that the outcome of such discussions, must be placed on record in writing and comply with the provisions of SCM TR 24.

17.3.14 PREFERENTIAL PROCUREMENT

17.3.14.1 Preference point system

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

POLICY

- The application of preferential procurement and broad based black economic empowerment must be consistent with:
 - The Preferential Procurement Policy Framework Act and its Regulations.
 - The Broad Based Black Economic Empowerment Act.
 - The municipality shall set itself a target that it wishes to achieve through preferential procurement, preferably through the adoption of a Municipal Preferential Procurement Policy as provided for in section 2 of the PPPFA.
- The municipality shall stipulate the preference point system in bid documents to be applied in adjudication.
- No system has to be applied in respect of acquisition with a Rand value of less than R2 000 per case.
- The relevant preference point formula as per the PPPFA must be used to calculate the points for price in respect of acquisition with a Rand value equal to, or above R2 000.
- The maximum score must be allocated to the lowest priced acceptable bid/quote. Any other acceptable quotations/bids, which are higher in price, must score fewer points on a *pro rata* basis, calculated on their prices in relation to the lowest acceptable quotation/bid in accordance with a prescribed formula.
- The contract must be awarded to the bidder who scores the highest points unless objective criteria in addition to that pertaining to specific goals justify the award to another bidder.

PRINCIPLES

17.4.14.1.1. In the acquisition of local goods and services or sale and letting of assets, categories of preference shall be used in the allocation of contracts and the protection or advancement of persons or categories of persons, disadvantaged by unfair discrimination.

17.4.14.1.2. Bids must include criteria for the evaluation of quotations/bids to identify the quotation/bid that represents the best value for money.

17.3.14.2 Broad Based Black Economic Empowerment Status Level Certificate

POLICY

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

OPERATIONAL

- 17.3.14.2.1 Bidders are required to submit original and valid B-BBEE Status level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.
- 17.3.14.2.2 Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for B-BBEE but should not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for B-BBEE.
- 17.3.14.2.3 A Trust, consortium or joint venture must submit a consolidated B-BBEE status Level Verification Certificate for every bid separate.
- 17.3.14.2.4 If the municipality is already in possession of a valid and original or certified copy of a bidder's B-BBEE Status Level Verification Certificate that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE Status Level Verification Certificate each time a bid submitted from a specific bidder.
- Such a certificate may be used to substantiate B-BBEE rating claims provided that the closing date of the bid falls within the expiry date of the certificate that is in the municipality's possession.
- Each time this provision is applied, cross-reference must be made to the B-BBEE Status Level Verification Certificate already in possession for audit purposes.
- 17.3.14.2.5 Verification Certificates (indicating B-BBEE Status Level of contributor) that are issued in terms of the B-BBEE Codes of Good Practice will be used to calculate points out of 10 or 20.
- 17.3.14.2.6 Bidders with annual turnovers of less than or equal to R10 million qualify as Exempted Micro Enterprises in terms of the B-BBEE Act.
- 17.3.14.2.7 An EME automatically qualifies as a **Level 4 contributor** with a B-BBEE recognition level of 100% in terms of the Codes of Good Practice.
- 17.3.14.2.8 An EME with at least 51% black ownership qualifies as a **Level 2 contributor** with a B-BBEE recognition level of 125% in terms of the Codes of Good Practice.
- 17.3.14.2.9 An EME with 100% black ownership qualifies as a **Level 1 contributor** with a B-BBEE recognition level of 135% in terms of the Codes of Good Practice.
- 17.3.14.2.10 An EME that is regarded as a specialised enterprise with at least 75% black beneficiaries qualifies as a **Level 1 contributor** with a B-BBEE recognition level of 135% in terms of the Codes of Good Practice.
- 17.3.14.2.11 An EME that is regarded as a specialised enterprise with at least 51% Black beneficiaries qualifies as a **Level 1 contributor** with a B-BBEE recognition level of 135% in terms of the Codes of Good Practice.
- 17.3.14.2.12 An EME is required to submit a sworn affidavit confirming their annual total revenue of R10 million or less and level of black ownership of a B-BBEE level verification certificate to claim points as prescribed by regulation 3(1)(b) of the Preferential Procurement Regulations, 2022.

- 17.3.14.2.13 Bidders other than EME's and QSE's must submit a valid and original or certified copy of their B-BBEE status level verification certificate, substantiating their B-BBEE rating.
Certified copies older than 3 months will not be accepted.

**17.3.14.3 Application of preferences
POLICY**

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

PRINCIPLES

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

17.3.15 VERIFYING PREFERENCES

SCM TR 43, PPPFA and PPPFA Regulations, 2022

POLICY

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

PRINCIPLES

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

**17.3.16 AMENDMENT OF PRICES PRIOR TO LAPSE OF VALIDITY
POLICY**

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

**17.3.17 EXTENSION OF VALIDITY PERIOD
POLICY**

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

**17.3.18 NEW AND UNPROVEN PRODUCTS
POLICY**

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

**17.3.19 COUNTRY OF ORIGIN
POLICY**

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

**17.3.20 DEVIATIONS FROM SPECIFICATION
POLICY**

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

**17.3.21 ALTERNATIVE OFFERS
POLICY**

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

**17.3.22 IMPROVEMENT OF SPECIFICATION
POLICY**

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

PRINCIPLES

17.3.22.1 A quotation/bid which is the highest scorer and which represents an improvement on the requirements of the specification may be recommended for acceptance.

17.3.22.2 A quotation/bid which is not the highest scorer and which represents an improvement on the requirements of the specification may be recommended for acceptance by the relevant Bid Evaluation Committee provided that all competitive providers are approached beforehand but are not able to offer such an improved product at a lower price.

17.3.22.3 Each case is considered on its merits but it can be accepted as a general guideline that such an improvement must exceed the specified minimum requirements. The reason why the improvement is deemed to be an absolute necessity must be motivated and the additional costs must be justifiable.

17.3.22.4 If the improvement can be regarded as a unique property of the particular product, the case is regarded as a significant amendment of the specification and an explanation must be provided of why these unique properties are essential and the reasonableness of the price will have to be substantiated.

17.3.22.5 It must also be motivated why it would not be better to cancel and re-invite the bid.

**17.3.23 EQUAL OFFERS
POLICY**

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

17.3.24 ADDITIONAL QUANTITIES

MFMA section 116 and NT MFMA CIRCULAR 62 of 2012

POLICY

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

**17.3.25 SAMPLES
POLICY**

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

**17.3.26 COMPARISON OF QUOTED PRICES
POLICY**

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

**17.3.27 COMPARATIVE PRICES: BIDS FOR CONTRACTS WITH A DURATION OF MORE THAN ONE YEAR
POLICY**

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

**17.3.28 CONFIDENTIALITY
POLICY**

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

**17.3.29 SUBCONTRACTING AND JOINT VENTURES
POLICY**

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

17.3.30 CLEARANCE OF PROVIDERS PRIOR TO THE AWARD OF A CONTRACT

17.3.30.1 RESTRICTED PERSONS

Refer to section 114 of the MFMA and SCM TR 29

POLICY

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

PART 18: ACQUISITION MANAGEMENT PROCESS

18.1 RANGE OF PROCUREMENT PROCESSES AND THRESHOLDS

Refer to SCM TR 12

POLICY

- Promote the principles of being fair, equitable, transparent, competitive and cost-effective through all procurement processes.
- Subdivision of requirements to circumvent the Accounting Officer's delegated powers will not be tolerated.
- The Accounting Officer may, in writing:
 - Lower but not increase, the different threshold values
 - Direct that:
 - (i) *Verbal quotations be obtained for any specific procurement of a transaction value up to R2 000, confirmed with a written quotation before order can be issued.*
 - (ii) *Formal Written price quotations (at least 3) be obtained for any specific procurement of a transaction value exceeding R2 000 and up to R30 000;*
 - (iii) *Formal written price quotations be obtained for any specific procurement of a transaction value between R30 000 – R 300 000; or*
 - (iv) *A competitive bidding process be followed for any specific procurement of a transaction value higher than R300 000 and the procurement of long-term contracts (excluding normal rental/lease agreements regarding office equipment. IT equipment and software to a maximum of R300 000 Over the three-year period).*
- 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.

THRESHOLD	PROCUREMENT PROCESS	APPROVAL AUTHORITY
R0 – R2000	1 Written Quotation	As delegated By Municipal Manager
R2001– R30 000	3 Formal Written Quotations, 80/20 Preference Point System applied	Divisional Head / Head of Department
R30 001 – R300 000	Advertise on Notice Board & Website for 7 days, 80/20 Preference Point System applied	Head of Departments / Bid Adjudication Committee
R300 001 – R10 000 000	Competitive Bidding	Bid Adjudication Committee
Above R10 000 000		Municipal Manager after recommendation from Bid Adjudication Committee

18.2 INFORMAL QUOTES

18.2.1 From R0 and less than R2 000

Refer to SCM TR 12 (1) (a)

POLICY

- Requirements may be procured without inviting competitive bids or verbal quotations.
- Obtain at least 1 written quotation from the list of prospective providers, where applicable.
- Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list.
- If it is not possible to obtain at least 1 quotation from the list of prospective providers, the reason must be recorded and approved by the AO or the delegated authority.
- Place the order only against written confirmation from the selected provider.

18.3 FORMAL WRITTEN PRICE QUOTATIONS

18.3.1 Above R2 000 and less than R30 000

Refer to SCM TR 17

POLICY

- Requirements may be procured by inviting written quotations from as many as possible providers on the prospective provider list.
- Obtain at least 3 written quotations from the list of prospective providers, where applicable.
- Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list.
- If it is not possible to obtain at least three quotations, the reason must be recorded and approved by the AO or the delegated authority.
- Place the order only against written confirmation from the selected provider.
- The municipality shall apply the prescripts of the PPPFA for procurement above R2 000.

- 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.

18.4 FORMAL WRITTEN PRICE QUOTATIONS

18.4.1 Above R 30 000 and less than R300 000

Refer to SCM TR 17 & 18

POLICY

- Requirements may be procured by inviting written quotations from as many as possible providers on the prospective provider list.
- Requirements for quotations above R30 000 and up to R300 000 must be advertised for at least 7 days on the website, e-tender portal and an official notice board of the Municipality and deposited in the bid box specified by the specified time on the due date accompanied by an active tax compliance status as issued by SARS.
- Where no suitable providers are available from the list, quotations may be obtained from other possible providers not on the list.
- If it is not possible to receive at least 3 quotations, the reasons should be recorded and approved by the CFO or the delegated authority.
- The AO must record the names of the potential providers and their written quotations.
- A designated official must within 3 days of the end of each month report to the CFO on any approvals given during that month by that official.
- The municipality shall apply the prescripts of the PPPFA for procurement above R2 000.
- 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.

PRINCIPLES

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

18.5 RANGE OF PROCUREMENT PROCESSES ABOVE R300 000

POLICY

- A competitive bidding process shall be followed as far as possible.
- If, in a specific case it is impracticable to invite competitive bids, the municipality may procure the required goods or services by other means such as through deviations, provided that the reasons for deviating from inviting competitive bids must be recorded and approved by the Accounting Officer or delegated authority prior to the award and promptly reported to the SCM Unit.
- The municipality may include an open and transparent, competitive pre-qualification bidding process in which only pre-qualified organisations may participate.

- The prescripts of the PPPFA shall be adhered to.
- Subdivision of requirements to circumvent the AO's delegated powers will not be tolerated.

18.5.1 COMPETITIVE BIDDING

Refer to SCM TR 19-20

POLICY

- Competitive open bidding shall be applied as first preference.
- Bids shall be advertised in appropriate media to reach the target market (*including the Government Tender Bulletin if appropriate*), should the AO or the delegated authority deem it necessary.

PRINCIPLES

- Bid documentation will be prepared by the Procurement Manager in consultation with the relevant directorate and displayed on notice boards, e-tender portal, placed on the Council's website, and advertised in commonly circulated local and/or provincial newspapers with a closing date of at least 14 days after the date that the advertisement first appears.
- No requirement for goods or services above an estimated transaction value of R 300 000 may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

18.5.2 TWO-STAGE BIDDING

POLICY

- A two-stage bidding process is allowed for:
 - (i) Large complex projects;
 - (ii) Projects where it may be undesirable to prepare complete detailed technical specifications; or
 - (iii) Long term projects with a duration period exceeding three years.
 - (v) Local Content

PRINCIPLES

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

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

POLICY

- Deviations are only to be used if justification exists and the necessary approval has been obtained within the provisions of the Delegation Framework.
- The municipality will use deviations only in the following exceptional circumstances:
 - Where the municipality applied the competitive (open) bidding process, but the bids received were all non-responsive or not acceptable, thus the time required to go out on the same process has elapsed.
 - Where the municipality can buy under exceptionally advantageous conditions that only arise in the very short term.
 - In the event that a change of provider would compel the municipality to obtain spare parts or additional equipment or services that are not compatible or interchangeable with existing equipment or services that were obtained from an original provider.
 - The goods, services or works to be bought have to be designed by the provider.
 - When goods, services or works can only be supplied or rendered by a particular provider and no reasonable alternative or substitute exists.
 - There are legislative, technological or safety reasons to restrict purchases to providers who have proven their capability.
 - In cases of urgency.
 - In cases of emergency.
 - The provision of legal advice (firms of attorneys and Counsel).
 - Appropriate motivation that competitive bidding would be impractical.
- The reasons for employing deviations must be approved in writing by the AO or delegated authority prior to an award being made.
- The following will be deemed not to be deviations, but exceptions from SCM processes:
 - (i) Advertisements that are placed in the newspaper that is commonly circulated.
 - (ii) Advertisements that are placed in National Government and Provincial Government Gazettes.
 - (iii) The acquisition of accommodation and air travel for official purposes subject thereto, that the acquisition of such services be dealt with in terms of the Municipality's Payment of Travel and Subsistence for Councillors and Officials Policy as amended from time to time as well as in terms of the Municipality's Delegation of Powers and Duties as amended from time to time.
 - (iv) The procurement of fuel from any recognised Fuel Company and their depots, except when fuel is procured for the Municipal Depot.
 - (v) Vehicles serviced by the agent in terms of the warranty or service plan of the vehicle.
 - (vi) Training and expansion of current operating systems used by the Municipality.
 - (vii) Service Agent.
 - (viii) Subscriptions/membership.

OPERATIONAL

- Deviations are where the competition is limited in one way or another. Limited bidding is reserved for a specific group or category of possible providers. This mechanism must be used responsibly.
- Three categories of deviations can be distinguished:
- Multiple source** - *There is limited competition, hence only a few prospective bidders are allowed to make a proposal. This should be based on a thorough analysis of the market.*
Reasons for the decision must be documented and readily available.
- Single source** - *This form of bidding uses a transparent and equitable pre-selection process, to request only one amongst a few prospective bidders to make a proposal. This should be based on some form of recorded analysis of the market. Reasons for the decision must be documented and readily available.*
- Sole source** - *There is no competition and only one bidder exists. Documentation substantiating the sole source, as proof must be submitted along with reasons for the decision that should be readily available.*
- The SCMU must develop and maintain a SCM Deviation SOP and register mindful of the following:
 - (i) 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.
 - (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. The Bid Adjudication Committee will be responsible for awards in excess of R200 000 and the Procurement Manager for awards up to R200 000. However, there must be market testing at least every two years to determine the continuing validity of this criterion.
 - (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, including, but not limited to:
 - a) any purchase on behalf of the Municipality at a public auction sale;
 - b) any contract in respect of which compliance therewith would not be in the public interest;

- c) ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids;
- d) in the event of a major system failure; or
- e) in the event where the delivery of a municipal service would be significantly restricted.

(vii) The Accounting Officer may ratify any minor breaches of the procurement processes, by an official or committee acting in terms of delegated powers or duties, which are purely of a technical nature.

(viii) The Accounting Officer may condone a deviation from the procurement processes, provided that such deviation is limited to the circumstances referred to in the abovementioned clauses.

- The Accounting Officer must record the reasons for any deviations in terms of this Policy and report them to the next meeting of the council and include as a note to the annual financial statements.

18.6 TRANSVERSAL BIDS

MSA 3 – co-operative governance and MSA 87-90- multi jurisdictional services

POLICY

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

PRINCIPLES

18.6.1. "Facilitation" means that the SCMU in the Office of the CFO will provide advice, assist and guide the transversal procurement process to ensure that the technical and governance requirements are met but will not actively participate in either the evaluation or adjudication process.

18.6.2. "Arranging" implies drawing up the business case, obtaining formal approval from affected municipalities and the Council to proceed, the planning, organising, logistical and bid administration requirements by the custodian municipality.

18.6.3. Where the custodian municipality has identified the need for a transversal tender, it must ensure that the procurement of goods or services or both for transversal use of municipalities must be procured in terms of section 217 of the Constitution of the Republic of South Africa, 1996 and any other legislation and prescripts.

- 18.6.4. Where contemplated transversal tenders will result in lower unit costs/economies of scale or other corporate advantages as demonstrated by the required business case, the custodian municipality must facilitate such transversal term contracts.
- 18.6.5. Contracts so procured must follow a strategic sourcing methodology and leverage buying power to achieve economies of scale and will be governed by the current requirements for supply chain management as envisaged.
- 18.6.6. The custodian municipality must obtain written consent from the other accounting officers to participate in the arrangement of the contemplated transversal contract and need to do so immediately after conclusion of the business case and before proceeding to any further phases of the procurement process. In the case of a custodian municipality, prior approval from the Council is additionally required.
- 18.6.7. Where an accounting officer opts to participate in a transversal contract, the accounting officer may not solicit bids for the same or similar product or service during the tenure of the transversal term contract.
- 18.6.8. The custodian municipality will take full responsibility for the arrangement and conclusion of the bid process, inclusive of the formalization of the contracting arrangements noting that each participating municipality, depending on the requirements and the nature of the contract, may have to sign a separate service level agreement with the selected service provider.

18.7 DIRECT NEGOTIATION

MSA 78-process and Municipal Land Disposal Policy

POLICY

- Direct negotiations shall only be permitted after approval by the AO and shall be conducted in such a manner that limits disadvantage or prejudice to other stakeholders. Care should be taken to ensure that such a process does not allow the bidder concerned an unreasonable unfair opportunity.
- Direct negotiations may only take place under the following circumstances:
 - In cases of urgency due to unforeseen circumstances where lack of planning or negligence did not play a role and where following the standard competitive bidding process or the process prescribed for urgency would not be in the municipality's best interest.
 - Owing to a catastrophic event, there is an urgent need for the goods or services (an emergency), making it impractical to use other methods of procurement because of the time involved in using those methods.
 - In cases where preferred bidders were identified through a competitive bidding process.
 - In the case of competitive negotiation because of the technical character of the goods or construction, or because of the nature of the services, it is necessary for the procuring entity to negotiate with suppliers or service providers. Thus in the aforementioned case the first round of the two-stage bidding process has taken place where *inter alia* capacity and acceptability was established.
 - In the case where a Municipal Systems Act, section 78 process was followed.
 - In the case of an unsolicited bid process.

- The official that can contractually commit the municipality in this regard must lead the negotiation and must be supported by the user division and the SCMU.
- The AO may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation does not lead to a higher price than the bid as submitted.

18.8 FRAMEWORK AGREEMENT BID

CIDB PRACTICE NOTE 15

POLICY

- It is permissible to invite bids for the supply of goods and services or construction works that is of an ad-hoc or repetitive nature, for a predetermined period of time (commonly referred to as a framework agreement bid).
- The period of a framework agreement that is of repetitive nature for services that the Municipality has an obligation to provide on an ongoing basis for the duration of the resulting contract(s), cannot extend beyond the three years covered in the annual budget for the financial year in which the contract is entered into, unless all related legislative and procedural processes are complied with. The period of a framework agreement that is of an ad hoc nature cannot exceed a period of 36 months from the commencement of the contract unless all related legislative and procedural processes are complied with.
- The general acquisition procedure for framework agreement bids shall comply with procedures contained in the acquisition management system of this Policy.
- The method by which the price will be determined must be stated in the bid documentation. The detailed formulation of the calculations that will determine the financial offer must be agreed to by the Bid Specification Committee prior to the advertisement of the bid.
- The Rand value that will determine the applicable preference system for framework agreement bids will be the estimated overall value of the tender.
- Bid documentation shall state that the acceptance of framework agreement bids will not impose any obligation on the Municipality to avail itself of the goods and services or construction works offered by the bidders.
- Bid documentation shall state the processes by which allocations will be made arising from any resulting contract.
- Material for repairs and maintenance can be purchased on a framework agreement bid where circumstances warrant it.
- Additional items included in a framework agreement bid by any bidder which are clearly not an alternative to any of the items specified shall not be considered.
- Orders for goods may be raised up until the expiry of the framework agreement bid, provided that the goods can be delivered within 30 days of expiry of the framework contract.
- All orders, other than for goods must be completed prior to the expiry of the framework contract period.
- Upon request, the Manager: Supply Chain Management may approve the use of existing framework agreements by other departments in accordance with the Municipality's procedures.

EVALUATION AND ADJUDICATION OF FRAMEWORK AGREEMENT BIDS

- The process for considering framework agreement bids shall be in terms of the evaluation and adjudication procedures as described in the bid documents and in accordance with the principles contained in this Policy.
- Subsequent to award, where different selections of items are required in terms of the same framework agreement bid and it is not possible or practical to separate orders for different items from different suppliers then a selection process will have to be carried out in respect of each application by the Responsible Agent. Individual orders will then be placed (or contracts awarded) on the basis of the highest total adjudication points received, per application.
- If the selected supplier, in terms of the selection process specified in the framework agreement bid documentation, is unable to provide the required goods, services or construction works at the required time and confirms as such in writing then the bidder with the next highest adjudication points shall be selected. If after a contract is awarded, or an order is placed in terms of a framework agreement bid, the supplier fails to supply the goods or service required, then the remedies in terms of the contract shall apply.

18.9 CONSULTANTS

*Refer to SCM TR 35, Municipal Cost Containment Regulations &
CAM Cost Containment Policy (Res 160/2019 of 1/10/2019)*

POLICY

- The municipality shall apply the National Treasury's instructions in respect of the appointment of consultants.
- Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the accounting officer/authority cannot be reasonably expected either to train or to recruit people in the time available.
- Consultant services cannot be dealt with in the same manner as general procurement, as this type of procurement contains specialised types of services, therefore specific procedures and processes should be adopted and put in place.
- These procedures and processes should be on a case-by-case basis depending on the nature and the type of consulting work under consideration.
- Take into account production of documents where copy right, patents/ownership is concerned when drafting documentation of this nature.
- In addition to any requirement prescribed by this policy for competitive bids, bidders must furnish particulars of:
 - All consultancy services provided to the municipality in the last 5 years
 - Any similar consultancy services provided to the municipality in the last 5 years
- The work undertaken by a consultant should be regulated by a contract. The accounting officer/authority is, however, responsible for monitoring and evaluating contractor performance and outputs against project specifications and targets and should take remedial action if performance is below standard.
- The particular method to be followed for the selection of consultants for any given project should be selected by the accounting officer/authority.

18.10 INFORMATION TECHNOLOGY

Refer to SCM TR 31

POLICY

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

18.11 BANKING SERVICES

Refer to SCM TR 30

POLICY

- A contract for banking services:
 - Must be procured through competitive bids;
 - Must be consistent with section 7 or 85 of the MFMA and
 - May not be for a period of more than 5 years at a time.
- The process for procuring a contract for banking services must commence at least 9 months before the end of an existing contract.
- The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper. Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act 94 of 1990).

18.12 GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

Refer to SCM TR 33

POLICY

- 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.
- Where the storage of goods in bulk are justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the Accounting Officer.

18.13 PROCUREMENT FROM ABROAD

POLICY

- The municipality may procure from abroad if it can be certified in writing that:
 - The product/service cannot be sourced locally or through local representatives and that no other similar product will serve the purpose.
 - That a local sourcing process has been run without any success.
 - The prices of the locally available supply/service are exorbitant.
- For procurement outside the boundaries of South Africa, the same process is followed as for the procurement within South Africa, except for the following:
 - Determining international advertising mechanisms.
 - Determining the utilisation of conditions applicable to foreign countries, such as Inco terms, if required.
 - Determining if the price should be indicated in foreign currency, and if so, which currency.
 - The estimated cost in foreign currency plus conversion factors.
- The forward cover risk must as far as feasible, be carried by the selected supplier.

18.14 ORGANS OF STATE

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

POLICY

- The AO may procure goods and services for the municipality under a contract secured by another organ of state, but only if:
 - The contract was secured by that other organ of state by means of competitive bidding process applicable to that organ of state.
 - The municipality has no reason to believe that such contract was not validly procured.
 - There are demonstrable discounts or benefits for the municipality to do so.
 - That the other organ of state and the provider have consented to such procurement in writing, prior to the award.
- However, the above do not apply if a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.
- The SCMU must facilitate the process, through the application of an adopted SOP.

18.15 ROSTER

POLICY

- A roster system may be applied for a list of pre-approved suppliers, subject to the development and adoption of a Roster System Policy containing the following:
 - Roster scope for Professional Service Providers and consultants.
 - Registration of service providers.
 - Qualification to be registered on the Roster System database.
 - Sequencing and ranking of service providers on the Roster System database.
 - Selection of a service provider on the Roster System database.

- Appointment of a service provider.
- Roster System computer based.

PRINCIPLES

18.14.1. Roster Scope for Professional Service Providers and Consultants

- (i) The professionals and consultants that work on pre-determined tariffs are a subset of the Professional Service Provider collective. The key basis for this principle is that some professionals no longer issue or work on gazetted tariffs. Hence, The Roster System should only apply to Professional Service Providers with pre-determined and gazetted tariffs.
- (ii) In this context it may include but not be limited to the following list of Professional Service Providers or consultants:
 - Architectural Services
 - Construction Services
 - Dispute Resolution Professionals
 - Engineering Services
 - Civil Engineering Services
 - Electrical Engineering
 - Geotechnical Engineering
 - Mechanical Engineering
 - Miscellaneous Engineering Services
 - Structural Engineering
 - Environmental Impact Studies
 - Landscape Architectural Services
 - Management Services
 - Quantity Surveying Services
 - Land Surveying
 - Transportation Planning
 - Town Planning
 - Property Valuations
 - Arbitrations
- (iii) Guidelines tariffs that are issued by the National Department of Public Service and Administration determine hourly rates for consultants and could be adopted by the Municipality. These fees are only applicable to consulting disciplines for which no such standardized rates have already been determined by professional institutes or associations established in terms of legislation
- (iv) Where no gazetted tariffs exist for a particular profession, it may, at the Municipality's discretion, be acceptable for a proposed schedule of tariffs to be submitted to the Council for approval on an annual basis. The duly approved tariffs should then be deemed to satisfy the requirement of "pre-determined tariffs" for that profession in terms of this policy. It should be noted that this avenue should only be acceptable for recognized professions providing Professional Services

- (v) Professional Service Providers and consultant disciplines without a pre-determined tariff list should be sourced through existing agreed mechanisms (verbal quotations; three quotations; or competitive bids).
- (vi) The logic to not source Professional Service Providers (PSP's) who work on pre-determined tariffs via a competitive process (such as three quotations or bids) is that there is no sense in comparing multiple offers where they are all the same rate. This principle supports the "cost effective" principles in the section 217 of the Constitution.
- (vii) A tariff or rate is only one factor in a total cost equation. Other factors may include the scope and/or the time taken to fulfil a task or responsibility, such as:
 - (a) Where some factors are variable, then the competitive sourcing methods of quotations and bids should be used e.g. if one service provider may be able to complete the work more efficiently than another, then the Professional Service Provider should be sourced via a quotation or competitive bid and not via the Roster System.
 - (b) Other total cost factors should all be constant or fixed (and not variable) before the Roster System is used for sourcing Pre-Determined Tariff PSPs i.e. the scope should be adequately defined and the time-period should also be firm (for example two months).

18.14.2. Registration of service providers

- (i) Calls for Expressions of Interest for admission to the database in specified service disciplines should be made every two years in suitable media and in a manner that enables a wide spectrum of qualified respondents to respond to the call.
- (ii) Professional Service Providers should be requested to submit particulars sufficient for the Department to evaluate their eligibility and to establish their credentials and to assess their capabilities and capacities to perform work in service disciplines and sub disciplines.
- (iii) In order for the Professional Service Providers to be registered on the Roster System database they should also be registered on the Municipality's supplier database. The reason for this is that the Municipality already has a process and procedures in place for registration and there is no sense in duplication
- (iv) All registrations on the Roster System database should be administered centrally by the Supply Chain Management Unit:
- (v) Registration on the Roster System database should be valid for a period of two years or such period to be determined by the Supply Chain Management Unit.
- (vi) Professional Service Providers should be required to advise the administrator of the database of any changes that impact their registration status on the Roster System database.
- (vii) Renewal of Professional Service Providers registration on the Roster System database should be required every two years.
- (viii) Service providers should be allowed to register for admission to the Roster System database at any time.

18.14.3. Qualification to be registered on the Roster System database

- (i) Qualification of a Professional Service Providers should typically be done when the supplier registers on the Roster System.
- (ii) This qualification can be updated as the Professional Service Provider progresses and acquires other capabilities and experience.
- (iii) Admission to the Roster System database requires service providers to submit particulars sufficient for the Municipality to evaluate their eligibility and to establish their credentials and to assess their capabilities and capacities to perform contracts envisaged by the Municipality.
- (iv) Service providers should be registered on the Roster System against the different service disciplines applied for and verified by the Municipality.
- (v) Sequencing and Ranking of service providers on the Roster System database:
 - A set of pre-defined weighted factors, where the weighting of these factors should be determined beforehand and should be transparent, should be used to determine initial ranking on the Roster System database per service discipline and sub-discipline.
 - Factors that should be taken into account in determining the positioning of service providers on the database (by service discipline) should include:
 - (a) Value of successfully completed previous work conducted for the Municipality where value of the work should mean, value of all work a service provider has performed for the Municipality in the preceding year period.
 - (b) The B-BBEEE status of the service provider.
 - ↖ When the amendments to the PPPFA is approved, the B-BBEE level of the service provider should be used
- (i) Performance of the service provider should not be a determinant of the sequencing of service providers on the Roster System. The rationale is that it may potentially impact on the Municipality's new service provider developmental initiatives and easily be manipulated. Should a service provider have performed poorly to the point that it is blacklisted, then such service provider should be taken off the Roster System immediately.
- (ii) Service provider sequence and updates of sequence on the Roster System database should be triggered by the following events:
 - ↖ Allocation of a new assignment to a service provider (new contract awarded).
 - ↖ Where the service provider declines such new assignment, the service providers' sequence should change to reflect as if the service provider had accepted.
 - ↖ Roster System database sequence updates should take place monthly.
 - ↖ After suppliers have been registered on the database.
 - ↖ Service providers should be removed from the Roster System database when such service provider no longer conducts business or is blacklisted due to default or misconduct by the Municipality.
- (iii) Should there be service providers that are equal in value and B-BBEE level, then they should be sequenced according to a random number generator or date of registration on the Municipality's supplier register.

18.14.4. Selection of a Professional Service Provider on the Roster System database

- (i) To limit risk and exposure to the Municipality, the sourcing of Professional Service Providers via the Roster System should be limited within an upper Rand value threshold of R500 000.
 - ⚡ All projects exceeding this threshold should follow:
 - (a) The standard competitive quote and bidding process of the Municipality.
 - (b) The limited quote and bidding process where appropriate.
 - ⚡ To limit the Municipal risk and exposure associated with project delays, the sourcing of service providers should be limited to pre-qualified service providers admitted to Roster System
- (ii) Where the assignment does not qualify as a Roster System appointment and a limited bid is required, the Roster System database should be used only for identification of the top listed service providers on the Roster System database that the bid would be limited to.
- (iii) Deviation appointments should follow the separate bidding process, as follows:
 - The Roster System database should be used to identify and select three service providers based on the following selection factors:
 - (a) Select three Professional Service Providers from the required service discipline or sub discipline and from the top of the list for that discipline.
 - (b) The three service providers should meet selection criteria of location (if applicable) and qualification.
 - (c) Qualification should always takes preference where location criteria is not met
- (iv) Selection on the basis of quality should not necessarily mean the best quality available, but quality appropriate for the assignment.
- (v) The Roster System selection process should always be executed by the SCMU, who should recommend the selected service provider to the line management for appointment.
- (vi) Where a recommended service provider declines an assignment offered, that service provider should move to the bottom of the list, and the service provider next in line should be selected.
- (vii) All correspondence relating to the Roster System and correspondence in this regard between Service Providers and the Municipality should be in writing.

18.14.5. Appointment of the Service Provider

- (i) The final appointment of the service provider is either processed using mechanisms in the SCM PPOS or the line function with the appropriate delegated authority.

18.14.6. Roster System Computer Based

- (i) The professional services supplier Roster should operate as a centralised database to be used by the Municipality.
- (ii) The system should preferably be an electronic system, due to:
 - ⚡ IT is a key enabler to compile and credibly implement the Roster System approach therefore the Roster System database should be populated with relevant data to enable the Roster System.
 - ⚡ The Roster System should be programmed to determine various service discipline allocations, ranking and sequencing of service providers, and administrative activities.
 - ⚡ Programmed electronic databases should provide integrity of the Roster System and remove subjectivity concerning Roster System activities.

- ✧ Security of the system should be such that the Roster System cannot be unduly manipulated so as to influence service provider selection.
- (iii) The effectiveness of the Roster System should be evaluated using the monitoring mechanisms in the SCM PPOS; hence it should be necessary to record key performance indicators relating to time, cost and the attainment of specific goals associated with a service provider contract. All records of admissions, deletions and transactions on the database should be stored for a period of five years

18.16 EMERGENCY POLICY

- Irrespective of monetary value, an emergency procurement process will only apply in serious, unexpected and potentially dangerous circumstances which require immediate rectification:
 - In the event of a threat or interruption in the municipality's ability to execute its mandate or render its services.
 - In the event of an immediate threat to the environment or human safety.
- The standard procurement processes will be bypassed. The municipality may dispense with the invitation of bids and may obtain the requirement by means of quotations by preferably making use of the list of prospective providers or otherwise in any manner to the best interest of the municipality.
- The appropriate course of action for emergency shall be justifiable under the circumstances.
- The nature of the emergency and the details of the justifiable procurement process followed will be recorded and reported.

18.17 UNSOLICITED BIDS

Refer to section 113 of the MFMA and SCM TR 37

POLICY

- The municipality is not obliged to consider unsolicited bids received outside a normal bidding process.
- If the Accounting Officer decides to consider an unsolicited quotation/bid, he or she may do so only if:
 - It is in compliance with section 113 of the MFMA and SCM TR 37.*
 - The product or service offered in terms of the quote/bid is a unique innovative concept that will be exceptionally beneficial to, or have exceptional cost advantages for the municipality.*
 - The person who made the offer is the sole provider of the product or service.*
- The need for the product or service by the municipality has been established during its strategic planning and budgeting processes.

PRINCIPLES

- 18.17.1 The Municipality is not obliged to consider an unsolicited bid received outside its normal bidding process.
- 18.17.2 If the municipality decides to consider an unsolicited bid received outside a normal bidding process, it may do so only in accordance with this framework.
- 18.17.3 This framework strictly regulates and limits the power of the municipality to approve unsolicited bids received outside their normal tendering or other bidding processes and it may only do so if:
- The product or service offered in terms of the bid is a demonstrably or proven unique concept;

- The product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality or entity;
- The person who made the bid is the sole supplier of the product or service; and
- The reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

18.17.4 If the municipality decides to consider an unsolicited bid that complies with Municipal SCM regulation 37(2), the municipality must make its decision public in accordance with section 21 A of the Municipal Systems Act, together with:

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

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

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

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

18.18 SPONSORSHIPS

Refer to SCM TR 48

POLICY

- The Municipal Grant-in-Aid Policy guides the management of sponsorships as it provides for the opportunity for developing methods of joint funding strategies with outside agencies such as matching funding or sponsorship partnerships to meet the objectives of a developmental local government.
- Reporting to the Provincial Treasury and National Treasury must promptly be executed as per TR 48.

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

- Promote fairness, equitability and transparency in the process of granting aid funding.
- Support the poor, aged, youth, disabled and women.
- Promote sustainable solutions to serve the poor, marginalized or otherwise vulnerable.
- Identify and develop sustainable matching funding or sponsorship partnerships to meet the objectives of a developmental local government.

PRINCIPLES

- The AO must promptly disclose to the NT and relevant PT any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is:
 - A provider or prospective provider of goods or services; or
 - A recipient or prospective recipient of goods disposed or to be disposed.

MODULE 5: CONTRACT NEGOTIATIONS, ADMINISTRATION, MANAGEMENT AND CONTRACT RELATED RISK MANAGEMENT

PART 19: CONTRACTUAL COMMITMENTS

19.1 CONCLUSION OF CONTRACTS

Refer to section 116 of the MFMA and SCM TR 51

POLICY

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

19.2 FORMAL CONTRACTS

POLICY

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

19.3 SERVICE LEVEL AGREEMENTS

POLICY

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

19.4 TIME OF CONCLUSION

POLICY

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

PART 20: CONTRACT MANAGEMENT

20.1 GENERAL RESPONSIBLITY

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

POLICY

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

20.2 MANAGING AND ADMINISTRATING THE CONTRACT

POLICY

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

20.3 CORRECTION OF INCORRECT ACCEPTANCE

POLICY

- Mistakes in the letter of acceptance, contract form and/or formal contract must be reported immediately to the SCMU.
- Every effort must be made without delay to recover the original letter of acceptance, contract form and/or formal contract from the contractor.
- Where it is not possible to recover the original, all particulars of the incorrect acceptance must be reported to the AO or delegated authority together with a recommendation regarding the corrective steps that are envisaged.

20.4 PLACING ORDERS

POLICY

- Placing orders is the sole responsibility of the SCMU.
- Orders are to be placed in accordance with the contract and in accordance with the instructions of the financial policy.

20.5 PLACING ORDERS NEAR THE END OF THE CONTRACT PERIOD

POLICY

- Placing orders near the end of the financial year in order to spend unused funds in the budgets are not allowed.
- The obtaining of requirements must be restricted to what is absolutely necessary.

20.6 CONTRACT MONITORING

POLICY

- Constant monitoring is essential to ensure that contractual obligations are met and that contracts run with as little disruption as possible.
- The SCMU is responsible for notifying the user division timely of term contract expiry that will allow the user division sufficient time to decide whether to renew the contract.
- The user division must ensure that the contractor performs according to the stipulations of the contract in delivering the goods or services on time, in the correct quantity and to the required standard and implement

retention provisions where applicable.

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

20.7 NON-CONTRACTUAL PURCHASES POLICY

- Small quantities of supplies or minor services may be procured outside of the contract in the following circumstances:
 - In cases of emergency; or
 - When the contractor's point of supply is not situated at or near the place where the supply or service is required; or
 - If the contractor's supplies or services are not readily available; or
 - As per the municipal social relief policy.
- Purchases outside the contract must be restricted to requirements that are absolutely necessary to satisfy the immediate requirement and the action must always be justifiable against the contract conditions.
- Acquisition procedures must in all instances be followed when procuring outside of existing contracts.

20.8 PAYMENTS

MFMA section 65(2)

POLICY

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

PRINCIPLES

- 20.8.1 Sound cash management include avoiding pre-payment or advance payment for goods/services (i.e. payments in advance of the receipt of the goods/services), unless required by the contractual conditions.
- 20.8.2 Where a contractor requires an advance payment or a progress payment and this is not a contract condition, payment may be made only with the prior approval of AO.
- 20.8.3 The conditions for advance payment would normally have to include a letter of credit from the supplier as a counter commitment to the advance.
- 20.8.4 Payments must be made within 30-days after it is due as per section 65(2) of the MFMA.
- 20.8.5 Officials must endeavour to, where feasible, process invoices of SMME's within 7-15 days in order to promote their cash flow position.

20.9 OVER/UNDER DELIVERIES POLICY

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

20.10 DISCOUNT ON INVOICES POLICY

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

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

- In terms of paragraph 26 of the GCC, the municipality has certain options, which it may exercise in the case of insolvency.
- The risk to the municipality is the determining factor and the choice with the smallest degree of risk is preferred.

20.12 TRANSFER OF CESSION OF CONTRACTS POLICY

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

20.13 TRANSFER OF CONTRACT PAYMENTS POLICY

- Transfer of payments may be considered in cases where a contractor makes application on an official letter signed by the CEO, or any other authorized person, for monies due to the contractor, to be paid to another person or organization, such as a bank or supplier of materials.
- Contract payments may be transferred on the recommendation of the municipality and with the relevant Accounting Officer's or delegated authority's approval only.
- Written confirmation must be obtained from the contractor as requests for transfer of payment received from another person or organization cannot be considered favourably.
- Every application must be dealt with on its own merits. Favourable consideration will result only where it is not to the detriment of the municipality and will not result in an undue administrative burden for the municipality.

20.14 CONTRACT VARIATIONS / AMENDMENTS

Refer to MFMA section 116 and MFMA circular 62 of 2012

POLICY

- Contracts may be amended/varied/modified according to the AO's delegated powers to achieve the original objective of the contract.
- Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
- Any expansion or variation in excess of these thresholds 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.
- Amendments may not materially alter the original objective; as such amendments should form part of a new bid invitation.
- All contractual parties must agree to the amendment in writing.
- No contract can be amended after the original contract has ceased to exist.
- The extension of a contract shall be finalised before the current expiry date of the contract.
- Where prices are amended for the extended period, the reasonableness of the prices must be established.

(a) EXTENSION OF DELIVERY PERIODS

POLICY

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

(b) AMENDMENT OF CONTRACT CONDITIONS

POLICY

- Amendments may be considered on their merits bearing in mind the best interest of the municipality.
- Amendments, which prejudice the municipality, can be agreed to only with the approval of the relevant delegated authority on recommendation of the Bid Adjudication Committee.

(c) AMENDMENT OF SPECIFICATIONS

POLICY

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

(d) CONTRACTUAL PRICE ADJUSTMENTS

POLICY

- The contractual conditions shall stipulate the circumstances under which price adjustments shall be considered, the intervals for adjustment, the base date for adjustments as well as the price adjustment formula and the process to be followed in such circumstances.
- In cases of term contracts, price adjustments shall be considered on a quarterly basis and this condition shall be indicated in the bid document.
- No price adjustments should preferably be considered for a contract period less than twelve (12) months.
- The prescribed formula will be used for adjustment of prices due to the fluctuation of the indices.

- Indices compiled by Statistics South Africa will be used for price adjustments.
- Rate of Exchange (ROE) fluctuations are only allowed on the imported content of the commodity.

(e) NON-CONTRACTUAL ADJUSTMENT OF PRICES

POLICY

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

(f) REDUCTION OF PRICES

POLICY

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

20.15 UNSATISFACTORY PERFORMANCE AND CONTRACT TERMINATION

POLICY

- The municipality should continuously communicate unsatisfactory performance to contractors in writing compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.

20.16 RESTRICTION

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

POLICY

- The municipality may in terms of SCM TR 43 & 44.
 - Disregard the bid of any bidder if that bidder, or any of its directors-
 - Have abused the municipality's SCM system;
 - Have committed fraud or any other improper conduct in relation to such system; or
 - Have failed to perform on any previous contract; and
 - Must inform the relevant Treasury of any action taken in terms of the aforementioned paragraph.
- Irrespective of the procurement process followed, no award may be made to a person:
 - Who is in the service of the state;
 - If that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - A person who is an advisor or consultant contracted with the municipality
- The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous 12 months, including:
 - The name of that person;
 - The capacity in which that person is in the service of the state;
 - The amount of the award.

PRINCIPLES

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

public sector bids.

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

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

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

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

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

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

20.17 CONTRACT TERMINATION POLICY

- The municipality must cancel a contract awarded to a supplier of goods or services:
 - If the supplier committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract.
 - If any official or other role player committed any proven corrupt or fraudulent act during the bidding process or the execution of that contract that benefited the supplier.
- Termination of a contract may be considered for a variety of reasons, as stipulated in paragraphs 21.6, 23 and 26 of the GCC, such as delayed deliveries, failing to perform any other contractual obligation or if the supplier has engaged in corrupt and fraudulent practices and insolvency.
- Contract termination may be effected if allowed for in the contractual conditions and if both parties agree to the termination in writing.

20.18 CONTRACTS REPORTING QUESTIONNAIRE: NATIONAL TREASURY POLICY

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

20.19 CONTRACTOR ASSESSMENT PRINCIPLES

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

20.20 CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER PRINCIPLES

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

MODULE 6: LOGISTICS MANAGEMENT

PART 21: LOGISTICS MANAGEMENT

21.1 GENERAL

Refer to section 39 of the MFMA

POLICY

- The primary function of a store is the receiving, storing, preserving as well as the issuing of store items.
- It is essential that equipment or stock be stored in such a way that the possibility of loss, damage, exposure, deterioration or perishing thereof is minimized or eliminated completely. By lack of a physical store, the function must still be performed.
- Duplicate keys of all lockers, cabinets, padlocks and other storage areas should be readily available and shall be controlled by a responsible delegated official.

Logistics management includes:

- 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;
- The setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- 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;
- 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;
- Regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- Monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

21.2 INVENTORY MANAGEMENT

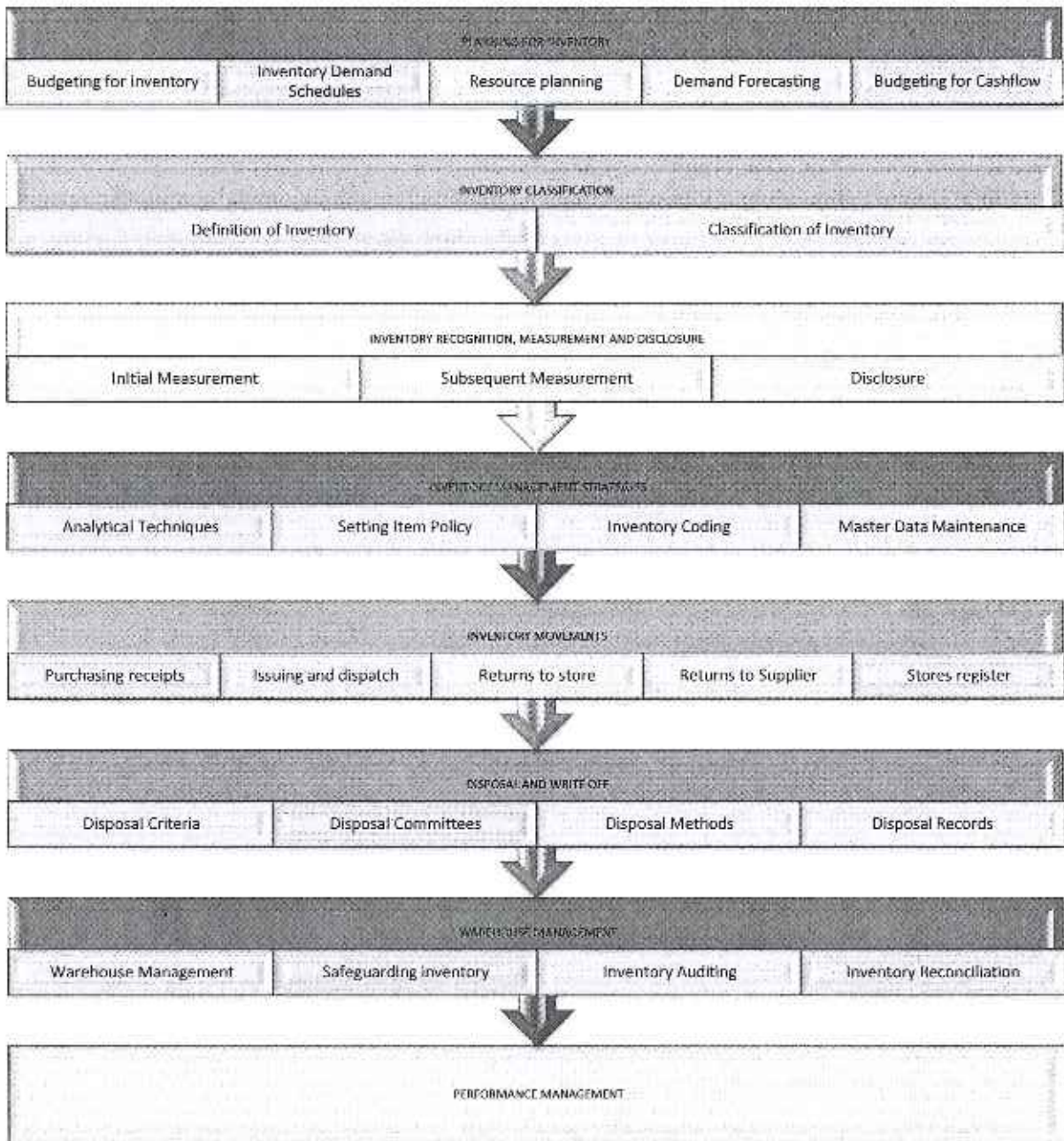
POLICY

- In cases where storage space is very expensive or not available, the just-in-time delivery principle must be used.
- Minimum and maximum order levels for all store items shall be determined based on the usage, the lead and delivery times.

PRINCIPLE

21.2.1. The following graph depicts the generic inventory management processes:

Graph 21.2: General inventory management process:



21.2.1 REQUISITION

POLICY

- Stock items must be systematically replenished using the re-order point planning strategy in conjunction with minimum and maximum levels.
- Procurement processes may differ between goods and services and in some cases a process for emergency procurement may be necessary.

21.2.2 PLACING OF ORDERS

POLICY

- Purchase orders must be in reference to the requisitions where the supply source is either –
 - Contract; or*
 - Quotations.*
- Purchase orders for imported goods and which are subjected to rate and exchange adjustments must specify that the vendor must take out a forward exchange contract in order to fix the Rand based price in the purchase order.

21.2.3 RECEIVING GOODS

POLICY

- Goods are received on the logistical system with reference to purchase orders.

21.2.4 RETURNING GOODS

POLICY

- Manage the return of goods and related third party claims.

PRINCIPLES

21.2.4.1 Return goods and manage third party claims.

21.2.4.2 Implement the return of goods.

21.2.5 GOODS DISTRIBUTION

PRINCIPLE

21.2.5.1 Buy-out items received in transit area – transferred to end user

21.2.5.2 End user signs if satisfied with delivered item - Forms part of payment package

21.2.5.3 Inventory items – send to end user

21.2.5.4 End user sign receipt on issue voucher

21.2.6 WAREHOUSE MANAGEMENT

POLICY

- Warehousing must be provided for and located in areas appropriate to where depots are situated.
- The Supply Chain must ensure for:-
 - Proper financial and budgetary control.
 - Uphold the principle of effective administration.
 - Proper stock holding and control.
 - Product standardization.
 - Quality of products.
 - A high standard of service levels.

21.2.7 MATCHING DOCUMENTS

POLICY

- Manage the payment voucher matching process.

PRINCIPLES

21.2.7.1 Review payment vouchers for completeness and accuracy and report discrepancies.

21.2.7.2 Monitor the payment voucher matching process and resolve discrepancies.

21.2.8 PREPARATION FOR PAYMENT / ACCOUNTS PAYABLE

POLICY

- After documented records were received, the payment process can be initiated as prescribed through the MFMA processes and delegations

21.3 INVENTORY STOCK COUNT, VERIFICATION AND RECONCILIATION (INCLUDING IN MANAGEMENT)

21.3.1 STOCK COUNT AND VERIFICATION PROCEDURES

21.3.1.1 PLANNING PHASE

SCM TR 39

POLICY

- Most important part when undertaking an inventory stock count is the planning phase. The phase must set out all the steps to be taken securing the accurate count and verification is undertaken.
- Stock count should at least be done once in a financial year but could also be done on a monthly basis.

OPERATIONAL

(iii) The SCMU are responsible to issue the stock take program for the financial year.

(iv) The Stock Take Team is responsible for the administrative issues of the annual stock take and verification and will prepare the detailed planning as well as any planning related to a continuous program.

(v) The SCMU must plan their schedule in conjunction with the inventory count and verification program and must ensure that resources are available during this period.

b) APPOINTMENT OF STOCK COUNT AND VERIFICATION TEAM

OPERATIONAL

(i) The SCM Manager must appoint the Stock Count and verification team to be part of the Stock Take Team for the financial year

(ii) Appointment of all members must be in writing.

(iii) The official appointed to be the responsible person for store inventory and stock may not be responsible for the count but can only serve on the Stock Take Team as an advisor.

(iv) The Stock Take Teams plans the Inventory Stock Count and Verification and must –

- *Have access to the quantity of stock, number of cycles and accessibility of items.*
- *Determine an estimate timeframe on how much time is needed to verify all the inventory store stock.*
- *Set dates for inventory stock count and verification process.*

- *Completes an Inventory Stock Count and Verification Action Plan*
- *Organise verification schedule with dates and timeframes.*
- *Arrange verification officials into teams.*
- *Assign verification teams to cycles that need to be verified.*
- *Notify all Participating Officials of Inventory Stock count and verification process.*
- *Inform all users of the planned date and time of the verification process.*
- *Check that all issues and receipts are captured.*
- *Check that all stock is packed out and in correct quantities.*
- *Check that all stock is in proper bins.*

c) CONDUCTING ACTUAL INVENTORY STOCK COUNT AND VERIFICATION

POLICY

(i) By the end of the verification process the following outcomes will emerge:

- All physical stock in each cycle must have been counted and noted on the required reporting document.
- All officials involved in the actual verification process must initial and sign the required reporting document and must also state his/her function in the process.
- The Stock Take Team must collate all required reporting document per cycles and must ensure that all information has been recorded, signed and submitted.
- The Stock Take Team must ensure that the documentation is ready for the reconciliation process.

OPERATIONAL

(ii) Use the required report document when conducting the Inventory Stock Count and Verification.

(iii) Report must be printed for every cycle and issued to verification officials to conduct the physical count and verification

(iv) All count and verification information should be noted on the required report document.

(v) Writing must be done in black pen.

(vi) Officials must verify that the following information is correct and correspond with the stock:

- Description of stock.
- Quantity of stock.
- Bin number quantity check.
- The officials responsible for the count of the specific cycle should sign the required report document once the stock in the cycle has been counted.

21.3.2 RECONCILIATION PROCEDURES

POLICY

- The reconciliation process commences once the count and verification phase has been completed and complete count reports are available from Stock Take Team (Refer to above paragraphs 21.3.1.3).
- The control report must be printed and compared with the count report.
- Discrepancies must be listed from above mentioned process.

**21.3.2.1 TREATMENT OF DISCREPANCIES
POLICY**

- Discrepancies are the result of shortages and or surplus stock found not equal to the quantity that appears on the control report.

MODULE 7: ASSET MANAGEMENT

PART 22: ASSET MANAGEMENT

22.1 RESPONSIBILITIES FOR ASSET MANAGEMENT

Refer to Section 63 and 96 of the MFMA and SCM TR 39

POLICY

- The AO of a municipality is responsible for the management of the assets of the entity, including the safeguarding and maintenance of those assets.
- The AO must take all reasonable steps to ensure that the entity has and maintains—
 - A management, accounting and information system that accounts for proper assets and liabilities of the management systems of the municipal entity; and
 - A system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed.

PRINCIPLES

- 22.1.1 The AO is responsible for the management of assets including the safeguarding and maintenance of those assets.
- 22.1.2 The AO must also ensure -:
 - 22.1.2.1 That the municipality has and maintains a management, accounting and information system that accounts for the assets of the Municipality;
 - 22.1.2.2 Municipality's assets are valued in accordance with standards of GRAP;
 - 22.1.2.3 Has and maintains a system of internal control, including an asset register;
 - 22.1.2.4 Senior Managers and their teams comply with the policy; and
 - 22.1.2.5 Approve temporary and/or permanent transfers of a moveable asset between departments as determined in the Powers of Delegation of the Municipality.
- 22.1.3 The CFO is responsible to ensure that the financial investments in the Municipality's assets are safeguarded and maintained.
- 22.1.4 The CFO may delegate or assign responsibility for performing these functions but will remain accountable for these activities.
- 22.1.5 The CFO must ensure that:
 - 22.1.5.1 Appropriate systems of financial management and internal control are established and carried out diligently;
 - 22.1.5.2 Municipality's assets are accounted for in accordance with standards of GRAP;
- 22.1.6 Financial and other resources are utilized effectively, efficiently, economically and transparently;

- 22.1.7 Any unauthorized, irregular or fruitless or wasteful expenditure and losses resulting from criminal or negligent conduct are prevented;
- 22.1.8 Systems, processes and registers are maintained and meet the requirements to substantiate the financial values of the Municipality's assets;
- 22.1.9 Financial processes are established and maintained to ensure that the financial resources are optimally utilized through appropriate asset plans, budgeting, purchasing, and maintenance and disposal decisions;
- 22.1.10 Municipal managers are appropriately advised on the exercise of powers and duties pertaining, purchasing, maintenance and disposal decisions;
- 22.1.11 Senior Managers and senior management teams are appropriately advised on the exercise of their powers and duties pertaining to the financial administration of assets.
- 22.1.12 Provide the Auditor-General or his personnel, on request, with the financial records relating to assets belonging to Council as recorded in the asset register.

22.2 PRE-ACQUISITION PLANNING

PRINCIPLES

- 22.2.1 Before a capital project is included in the budget for approval, the CFO must demonstrate that the following has been considered:
 - 22.2.1.1 A projected cost over all the financial years until the project is operational.
 - 22.2.1.2 Future operations costs and revenue on the project, including the tax and tariff implications.
 - 22.2.1.3 The financial sustainability of the project over its life including revenue generation and subsidisation requirements.
 - 22.2.1.4 The physical and financial stewardship of that asset through all stages of its life including acquisition, installation, maintenance, operations, disposal and rehabilitation.
 - 22.2.1.5 The inclusion of the capital project in the Integrated Development Plan and future budgets.
 - 22.2.1.6 Alternatives to the capital purchase

22.3 ACQUISITION POLICY

POLICY

- Money may only be spent on a capital budget if:
 - The money for the project, excluding the cost of feasibility studies conducted by or on behalf of the municipality has been appropriated in the capital budget.
 - Future annual operations and maintenance needs have been calculated and have been budgeted for in the operation budget.
 - The project, including the total cost, has been approved by the council.
 - Any contract that will impose financial obligations beyond two years after the budget year is appropriately disclosed.
 - The Supply Chain Management policies and procedures have been adhered to.

PRINCIPLES

22.3.1 The CFO confirms that funding is available for that specific project;

22.4 FUNDING OF CAPITAL PROJECTS

POLICY

- Capital projects will not be funded over a period longer than the useful life of that asset.
- Capital projects may be funded from:
 - The Capital Replacement Reserve
 - The External Financing Fund - the raising of external loans
 - Donations, Grants, Subsidies and Public contributions
 - Revenue Contributions,
 - Surplus cash.

PRINCIPLES

22.4.1 The CFO must ensure that all assets financed from grants or subsidies or contributions received from other spheres of government or from the public at large, as well as in respect of assets donated to the Municipality, that a Government Grants Reserve and Public Contribution Reserve for future depreciation is created equal in value to the capitalized value of each item of asset in question.

22.4.2 The CFO shall thereafter ensure that, in the case of depreciable Property Plant and Equipment, an amount equal to the annual depreciation expenses of the items concerned are transferred each year from such reserve to the Municipality's accumulated surplus.

22.5 INTERNAL CONTROLS

GRAP 17 & GAMAP

POLICY

- An asset register must be maintained in the format determined by the CFO, which must comply with the requirements of GRAP, GAMAP and any other prescribed accounting requirements.
- The Asset Register must specifically be able to account for components of assets according to GRAP 17, standards 54 to 57.

PRINCIPLES

22.5.1 The CFO must check and authorize the reconciliations.

22.5.2 The CFO must approve depreciation methods and rates used

22.5.3 The AO shall ensure that the municipality maintains a fixed asset identification system which shall be operated in conjunction with its computerized fixed asset register.

PART 23: INVENTORY DISPOSAL

SCM TR 40

POLICY

- The selling of items must at all times be done in a fair / competitive and scrupulous manner.
- Notice of the selling of assets must be given at least 14 days prior to the actual selling date and all possible buyers must be informed.
- Movable assets may be sold either by way of:
 - Written price quotations;
 - A competitive bidding process;
 - Auction; or
 - At market related prices
 - whichever is the most advantageous.
- The bid adjudication committee will determine the most advantageous method of disposal.
- The AO will approve sale of movable assets with a value of less than R 200 000.
- Assets can be sold in one of the following categories-:
 - As a lot.
 - As an individual item.
 - As scrap.
- In all cases, lot numbers must be allocated to each lot/item and a date and time must be stipulated on the notice of selling as to when potential buyers can view the items up for selling.
- The notice of selling must contain the following information:
 - Closing time and date for bids.
 - Date and time and place when and where the items can be viewed by potential buyers.
 - The condition of sale.
- Only officials who had been authorized in writing are allowed to handle government revenue.
- In the case of free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- In the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic.
- The BAC will approve the trade-in of assets, ensuring that the highest possible trade-in price is obtained, taking into account the cost-effectiveness of any alternatives.

PART 24: DISPOSAL OF IMMOVABLE ASSETS

24.1 PREPARATION

MATR, 2008

POLICY

- Council is permitted to dispose or let immovable property in its ownership, on a long term or short term basis, by way of Private Treaty or Open Bid for development purposes aligned with its strategic objectives.
- Where possible, Council's immovable property should be managed as a sustainable resource by leveraging environmental, social and economic returns on such immovable property while Council retains ownership thereof.
- Unless otherwise provided for in this Policy, vacant or improved immovable property shall be disposed of or let at a fair market related rental except when the public interest or the plight of poor demands otherwise.
- Ensure that all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.
- All applications to dispose of or lease immovable property must be considered in accordance with this Policy Framework and other applicable legislation.
- Unless otherwise provided herein, the disposal of or letting of viable immovable property by Council, shall be affected by means of a process of public competition/open bid.
- Previously Disadvantaged Individuals, who are South African citizens, will be afforded preference in terms of the Municipality's Supply Chain Management Policy in respect of the disposal of or letting of viable immovable properties as embodied in Section 9 (2) of the Constitution.
- In order to achieve the objective of Broad Based Black Economic Empowerment, Council reserves the right to limit the number of leases per bidder in the course of a bid process.
- No application shall be processed unless the prescribed application fee or tariff has been paid nor shall any proposed lease be advertised unless the applicant has confirmed, in writing, that it will bear all costs involved in such transaction including, but not limited to, Legal, Survey, Re-zoning, Sub-division, Consolidations, Advertisement, Relocation or provision of services and, where applicable, a deposit as per prescribed rate to cover incidental costs.

24.2 PROCESS

24.2.1 ADVERTISEMENT PROCESS

POLICY

- This process applies to properties exceeding the value of R 10 m and/or exceeds a period of 3 years.

PRINCIPLES

24.2.1.1 The AO must, within 60 days after the approval of Council in Part 24.1 places a public advert in the main local newspapers distributed in the municipal area:

- Calling for bids if the method of disposal or letting is as per a public bid

- Describing the method as approved by the Council if the method of disposal or letting is as per:
 - Donation Transfer
 - Exchange
 - Public Private Partnership
 - Sale by Pre-qualification
 - Transfer between spheres of government
 - Unsolicited bids
 - Special circumstances
- Requesting public comment or input, subject to MATR exemptions.

24.2.2 APPLICATION PROCESS POLICY

- Applications must:
 - Be made on the prescribed forms (if applicable).
 - All applications must be accompanied by a covering letter on the letterhead of the person, organisation or body, signed by the Head of the Organisation or body and must include the following information:
 - *Date of application;*
 - *Contact details of the organisation or body;*
 - *Date established;*
 - *Type of organisation;*
 - *Registration number;*
 - *Banking details;*
 - *References;*
 - *Confirmation of adherence to all conditions;*
 - *Checklist of supporting documentation, and*
 - *Prescribed declarations.*

24.3 CONTROL OF DOCUMENTATION PRINCIPLES

24.3.1 Payments will be effected through the CFO.

24.3.2 For accounting purposes, it is required that:

- (i) All property disposals will be accounted for in Capital Replacement Reserve.
- (ii) All property disposal/letting expenses are accounted for from General Expenditure.

MODULE 9: RISK AND PERFORMANCE MANAGEMENT

PART 25: RISK MANAGEMENT

25.1 RESPONSIBILITY FOR RISK MANAGEMENT

Refer to SCM TR 41

POLICY

- The AO shall ensure that the municipality has and maintains an effective system of risk management for the identification, consideration and avoidance of potential risks in the SCM system.
- Aspects of risk management shall be allocated to the CFO, the SCM practitioners, the internal audit function and the Audit Committee, each of which shall ultimately be accountable to the AO for the discharge of their responsibilities.

PRINCIPLES

25.2 Risk management is a key responsibility of the AO.

- 25.1.1 The MFMA and relevant Treasury Regulations assign responsibilities for aspects of risk management to management, the CFO, the internal audit function and the Audit Committee, each at the appropriate level of execution.
- 25.1.2 Risk management is however a continuous and proactive process that relates to all organisational activities at all levels.
- 25.1.3 All SCM practitioners must have a thorough understanding of the risks involved in the activities under their control and actively work towards managing these risks.
- 25.1.4 Each practitioner has a responsibility toward risk management.
- 25.1.5 SCM related risk management must be applied complimentary to the municipal risk management system.

25.3 ELEMENTS OF RISK MANAGEMENT

PRINCIPLES

- 25.1.6 Risk management is the culture, processes and structures that are directed towards the effective management of potential opportunities and adverse effects. Risk management forms an integral part of the SCM process.
- 25.1.7 The elements of risk management therefore are:
 - Assessing the nature and extent of the risks associated with the municipality's operations.
 - Deciding on an acceptable level of loss or degree of failure.
 - Deciding how to manage (minimize) the risk.
 - Monitoring, reporting and from time to time re-assessing the level and implications of the risk exposure.

25.4 APPLICATION OF RISK MANAGEMENT IN SCM

POLICY

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

- The Accounting Officer or delegated authority shall determine the municipality's risk appetite.
- Risks shall be identified upfront on a case-by-case basis.
- Risks shall be allocated to the party best able to manage such risk.
- The municipality must bear the cost of risks where the cost of transferring risk is greater than that of retaining such risk and it must transfer the risk where this is not the case.
- Risk shall be managed in a pro-active manner and the provision of adequate cover for residual risks.
- The bid and contract documentation must clearly state to whom the risk has been allocated and who should take responsibility for managing it.

PRINCIPLES

- 25.1.8 Risks must be identified and assessed together with the identification and crafting of the requirement and are essentially driven by the objectives that must be achieved.
- 25.1.9 Decisions must be taken with regard to minimising the municipality's exposure to risk, as well as to the potential effects of the risks. The focus should be on an approach involving preventing risks from materialising, detecting the effects of risks as soon as possible and correcting or recovering from the consequences.
- 25.1.10 Risk management decisions must continuously involve a cost benefit analysis (considerations of economy). The cost of controlling (minimising) a risk must not exceed the benefits to the municipality. Benefits can include the objective or subjective measurement of the cost to the municipality if the particular risk should materialize. (If it is not controlled what is the potential cost to the municipality?).
- 25.1.11 The identification, assessment and controlling of risks necessarily implies a specific management process including various stages and steps.
- 25.1.12 The controlling (minimizing) of identified risks essentially refers to the development and implementation of risk management techniques.
- 25.1.13 Risk management entails, *inter alia*, a management culture that accepts that all business opportunities entail risk taking. The trade-off between success and failure and to decide what is an acceptable risk (having regard to its cost and other social or political factors) that a programme might not achieve any or all of its objectives.
- 25.1.14 A major component of risk management is the establishment of a fraud prevention plan which aims to manage the risk of fraud through cost-effective use of the control environment, information systems, control procedures and an ethical culture within the municipality.
- 25.1.15 Risk must be identified on a case-by-case basis. It would however be good to build a list of potential risks over time that can be considered for each requirement.
- 25.1.16 Allocate the risk to the party best able to manage such risks.
- 25.1.17 The municipality should bear the cost of risks where the costs of transferring risk is greater than that of retaining such risk and transfer to risk where this is not the case.

- 25.1.18 The exercise of risk management in a proactive manner and providing adequately for the cover of residual risks.
- 25.1.19 Bid and contract documentation must clearly and unambiguously assign relative risks to the relevant bidding and contracting parties.
- 25.1.20 Risk management should form part of the business plan for the acquisition of all goods, services and works.
- 25.1.21 The municipality should insure for procurement related physical risks, establish risk management programmes or make advance provision for losses associated with such risks. Suitable arrangements should also be made to ensure that insurance related excesses do not cause the failure of emerging small and micro enterprises.
- 25.1.22 Ensure adequate resources to support control risk mitigation and control measures are incorporated.

RISK MANAGEMENT PHASES



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

(i) **BID RISK – PRE-BID FACTORS:**

- Legislative/Legal requirements: There are a host of prescripts that govern the bid process as indicated above. Although designed to reduce subjectivity in the selection criteria, they can create a potential hazard due to the technical nature and legalities that govern the various SCM processes.
- Deliverables: The bid specifications are designed to guide the bidders in meeting the expectations of the bid requirements. Deliverables are to be clearly stipulated against timelines and monetary cost. SCM practitioners should be wary of bidders who have merely replicated the specifications of the bid without any apparent attempt to interpret or contextualize what the objectives of the bid are.
- Timeframes: The bid timeframes need to be realistic in what is expected of the bidder. Unfortunately the drafters of bids can be under budgetary or political pressure and may include unrealistic timelines in the bid. Effective supply chain management should question the viability of potentially setting up a bidder to fail or be forced to submit/deliver sub-standard work so as to meet these aggressive targets. In the bid the bidder should have a clear Gantt chart that specifies the entire project plan coupled with resourcing and milestone dates.
- Municipal resources: Of importance in the facilitation of the entire bid (as well as post-bid project roll-out) the department needs to ensure that there are sufficient capacitated municipal resources to monitor the process throughout contracting and implementation.

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

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

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

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

- Project risks: The unique nature of each project will determine the nature of the project risks that can arise throughout the project lifespan. There are certain generic project management criteria that can serve as early warning signs that a project could start losing traction:
 - A high churn of project staff
 - Diluted progress reports
 - Minutes that appear repetitive

- Progress reports that echo the last report
- Scope creep at early stages of the project
- Missing of project milestones
- A lack of visible progress
- An inability to engage meaningfully and contextually with department project managers
- Invoices without detail
- Poor quality products
- An over- reliance on sub-contractors
- Contract administration and management risks - Risks related to the contract management and administration must be considered and managed. Some of the more common risks related to managing a contract include:
 - The failure of either party to fulfil the conditions of the contract.
 - Inadequately administering/managing the contract.
 - Unauthorized changes to the contract.
 - The failure to meet the strategic objectives of the bid/contract.
 - The loss of intellectual property.
 - Changing scope.
 - Changing technology.
 - Fraud.
 - The lack of properly maintained records.
 - Unethical behaviour or conflicts of interest.
 - Changes or absences in key personnel.
 - New business processes do not integrate with existing processes.
 - People (in both organizations) fail to understand their obligations and responsibilities.
 - There are misunderstandings, disagreements and underestimations.
 - Too many issues are escalated inappropriately.
 - Progress is slow or there seems to be an inability to move forward.
 - The intended benefits are not realized.
 - Opportunities to improve value for money and performance are missed.
 - Ultimately, the contract becomes unworkable.
 - Poorly drafted contract.
 - Inadequate resources are assigned to contract management.
 - The customer team does not match the provider team in terms of either skills or experience (or both).
 - The wrong people are put in place, leading to personality clashes.
 - The context, complexities and dependencies of the contract are not well understood.
 - There is a failure to check provider assumptions.
 - Authorities or responsibilities relating to commercial decisions are not clear.

- o Lack of performance measurement or benchmarking by the customer.
- o Failure to monitor and manage retained risks (statutory, political and commercial).

PART 26: GUARANTEES AND RETENTION

Refer to MFMA s50

POLICY

Municipal guarantees

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

- (a) The guarantee must be within limits specified in the municipality's approved budget;
- (b) a municipality may guarantee the debt of a municipal entity under its sole control only if the guarantee is authorised by the council in the same manner and subject to the same conditions applicable to a municipality in terms of this Chapter if it incurs debt;
- (c) a municipality may guarantee the debt of a municipal entity under its shared control or of any other person, but only with the approval of the National Treasury, and then only if—
 - (i) the municipality creates, and maintains for the duration of the guarantee, a cash-backed reserve equal to its total potential financial exposure as a result of such guarantee; or
 - (ii) the municipality purchases and maintains in effect for the duration of the guarantee, a policy of insurance issued by a registered insurer, which covers the full amount of the municipality's potential financial exposure as a result of such guarantee.

Guarantees, indemnities and securities by Councillors

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

- (a) the Municipal Revenue Fund in respect of a financial commitment incurred or to be incurred by the Councillor; or
- (b) a municipal entity in respect of a financial commitment incurred or to be incurred by that entity.

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

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

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

26.1 GUARANTEES FOR DUE PERFORMANCE

26.1.1 Performance guarantees for the procurement of goods and services (including consultant services) will not generally be required, but in exceptional circumstances, can be called for. Where required, the value of such guarantee shall be determined in consultation with the Manager: Supply Chain Management.

26.1.2 Unless otherwise provided for in the standard conditions of contract prescribed, the performance guarantees that may be required are as follows:

- (i) In respect of a Rand value less than or equal to R1 000 000: **waived** (that is, no performance guarantee is required);
- (ii) In respect of a Rand value exceeding R1 000 000, but less than or equal to R10 000 000: **5%** of the bid sum;
- (iii) In respect of a Rand value exceeding R10 000 000: **7%** of the bid sum;
- (iv) For Framework Agreement Tenders the Bid Specification Committee must assess the Municipality's anticipated risk exposure at any given time during the contract execution and then, based on the clauses above, determine and specify the monetary value of the required performance guarantee.

26.1.3 The value of a performance guarantee required may be varied with approval of the Manager: Supply Chain Management.

26.1.4 An amount, equal to the value of the required performance guarantee, may be provided in cash (interest free) in accordance with the processes as prescribed by the delegated authority from time to time.

26.2 ADVANCE PAYMENT GUARANTEES

26.2.1 Advance payments in respect of specific materials or services may, where justified in accordance with rules determined by the Manager: Supply Chain Management from time to time, be made to a supplier only upon submission by the supplier of an acceptable advance payment guarantee to the Municipality. No such advance payment guarantee may be accepted unless the authenticity thereof has been verified by the Municipality's Treasury Department.

26.2.2 Advance payments may not be used as a mechanism for providing a supplier with an interest free loan for working capital.

26.3 RETENTION

26.3.1 Retention in respect of the procurement of goods and services (including consultant services) will not generally be applied, but where required, can be called for. Where required, the value of retention to be deducted shall be determined in consultation with the Manager: Supply Chain Management.

26.3.2 Unless otherwise provided for in the standard conditions of contract prescribed, the value of retention to be deducted in respect of construction works contracts shall be as follows:

- (i) In respect of a Rand value less than or equal to R200 000: No retention is called for.

- (ii) In respect of a Rand value exceeding R200 000, but less than or equal to R1 000 000: 10% of the value of work carried out with no limit, reducing by half for the duration of the defect's liability period;
- (iii) In respect of a Rand value exceeding R1 000 000: 5% of the value of work carried out with no limit, reducing by half for the duration of the defect's liability period.

26.3.3 The value of retention to be deducted in respect of construction works may be varied with the approval of the Manager: Supply Chain Management.

26.3.4 Where consultant services are to be completed at the end of the defect's liability period in respect of a construction contract, the value of this work (typically 5%) may be invoiced at the end of the construction period but shall be held as retention until the completion of the service (typically, an end of defects liability period inspection and the preparation of the final account). Alternatively, the value of this work must be budgeted for in the following financial year.

26.3.5 Financial guarantees in lieu of retention are, in general, not acceptable. Any motivation for the acceptance of a retention guarantee must be approved by the Manager: Supply Chain Management.

PART 27: SCM PERFORMANCE REVIEW

28.1 DEFINING PERFORMANCE MANAGEMENT

SCM TR 42

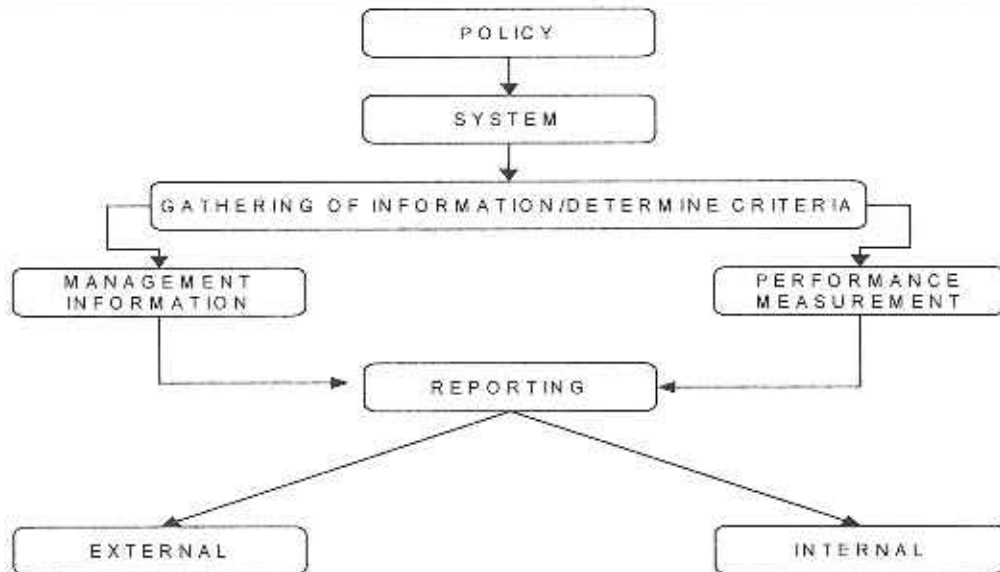
PRINCIPLES

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

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

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

THE RECORD KEEPING, REPORTING AND PERFORMANCE MEASUREMENT SYSTEM



27.1.4 Gathering of information/determining criteria

27.1.4.1 The National Treasury has determined that they require certain information so as to determine the implementation and progress made by Institutions regarding the SCM system.

27.1.4.2 The municipality is therefore compelled to ensure the continuous gathering and recording of this information to satisfy the requirement. In certain cases, the criteria to be used in determining progress will have to be compiled and updated at regular intervals. Steps will then have to be taken within the municipality to ensure that this system is implemented.

27.1.5 Management Information

27.1.5.1 From the gathered information the prescribed external and internal management reports must be compiled and distributed.

28.2 ASSESSMENT/MEASUREMENT OF SUPPLY CHAIN PERFORMANCE POLICY

- The municipality shall measure and monitor the SCMPPOS and process through a performance measurement system to ascertain whether government's objectives and targets set have been achieved. In this regard complete records pertaining to SCM will be kept.
- The municipality shall monitor and assess the performance of all contractors during the contract period.

28.3 DEFINING SCM PERFORMANCE MEASUREMENT PRINCIPLES

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

- SCM performance can be broken down into two categories of performance measurement:
- Contractor assessment.
- Monitoring of the SCMPPOS and processes followed.

28.4 MONITORING OF THE SCM PPOS PRINCIPLES

- 27.4.1 The AO must, within 30 days of the end of each financial year, submit a report on the implementation of this Policy of the Municipality and of any Municipal Entity under its sole or shared control, to the Council of the Municipality, and whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Council.
- 27.4.2 The AO must, within 10 days of the end of each quarter, submit a report on the implementation of the SCM Policy to the Mayor.
- 27.4.3 The reports must be made public in accordance with section 21A of the MSA. The AO will, within 60 days of the end of each financial year, submit to the PT any information concerning SCM in such format as the NT may determine.
- 27.4.4 The purpose of reporting is to effectively measure the achievement of government's as well as the municipality's procurement objectives and targets set.
- 27.4.5 The AO, in consultation with the Council, must determine whether the proper process has been followed and whether the desired objectives and targets have been achieved. The municipality must be able to extract accurate commercial and other relevant information.
- 27.4.6 The use of a common scorecard by the municipality will provide a basic framework against which to benchmark the same process. The scorecard also allows the municipality to align its SCM practices and individual strategies. The scorecard facilitates the process of setting measurable targets for implementation plans and to highlight deficiencies to be attended to.

PART 28: REPORTING OF SCM INFORMATION

PRINCIPLES

28.1 The municipality shall report quarterly to the Council on the following aspects:

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

PART 29: OPTIMAL SYSTEM UTILISATION

POLICY

- An electronic SCM system interfacing and integrating with the financial system of the Municipality may be instituted. (*Refer to collab manual*)

PART 30: SAFEGUARDING OF SCM INFORMATION

31.1 RECORD KEEPING

PRINCIPLES

28.1.1 ACHIEVING OF PREDETERMINED TARGETS

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

28.1.2 RECORD KEEPING HAS TO BE STRUCTURED AS FOLLOWS:

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

28.1.3 THE FOLLOWING RECORDS SHOULD BE KEPT:

28.1.3.1 Record of gifts received per division

- Name of official that received the gift.
- Description of the gift.
- Estimated value of the gift.
- Name of person or organization that presented the gift.
- Pages must be numbered.
- This record must preferably be in hard copy format.

28.1.3.2 Bid documents issued

- Bid reference number.
- Names and addresses of prospective bidders who requested documentation.
- All inscriptions must be numbered.

28.1.3.3 List of bids received

- Bid reference number.
- Closing date.

- Names of bids received.
- All inscriptions must be numbered.

28.1.3.4 Record of verbal and written quotations

Verbal quotations:

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

Written quotations:

- Date of the request received by the SCM Unit.
- Particulars of end user, contact person and telephone number.
- Requisition number.
- Description of the requirement.
- Estimated value of the requirement.
- Registration number of the provider where applicable.
- Names and contact details of prospective providers contacted.
- Price of quotes received.
- Specification points, B-BBEE status, points for goals, and points for price are to be indicated separately.
- Total points scored.
- Name of the successful provider.
- Date of approval and the name and rank of the persons/body that granted the approval.
- Delegation number.
- Satisfactory/non-satisfactory completion of the service or delivery of the supply.
- Rotation indicator on prospective provider list.
- All inscriptions must be numbered.

28.1.3.5 Record of all competitive bids

- Date of the request received by the SCM Unit.
- Particulars of end user, contact person and telephone number.
- Requisition number.
- Description of the requirement.

- Estimated value of the requirement.
- Registration number of the provider where applicable.
- Names and contact details of prospective providers contacted.
- Price of quotes received
- Specification points, B-BBEE status, points for goals, and points for price are to be indicated separately.
- Special conditions applicable
- Site meeting records (minutes and all communiques)
- Total points scored.
- Name of the successful provider.
- Date of approval and the name and rank of the persons/body that granted the approval.
- Delegation number.
- Negotiations
- Contract administration file
- Contract management file
- Satisfactory/non-satisfactory completion of the service or delivery of the supply.
- Rotation indicator on prospective provider list.
- All inscriptions must be numbered.

28.1.3.6 Record of ad hoc bids and/or deviations

- Bid number.
- Description of the requirement.
- Particulars of end user, contract person and telephone number.
- Date of advertisement.
- Date of advertisement for the extension of the closing date.
- Closing date.
- Extended closing date.
- Validity period.
- Extended validity period.
- Total number of bids received.
- Late bids received, where applicable.
- Name of successful bidder.
- Price of the successful bid.
- Points of the successful bid, received for specifications, price, equity and goals are to be indicated separately.
- Total points scored by the successful bidder.
- Date of approval and the name of the body that granted the approval.
- Delegation number, if applicable.
- Date contract form is signed.

- Satisfactory/non-satisfactory completion of the service or delivery of the goods.
- Cancellation of bid or the cancellation of contracts, where applicable. Particulars are to include the reason for the cancellation, the date of approval, the name and rank of the person/body that granted the approval and the delegation number.
- All inscriptions must be numbered.

28.1.3.7 Record of Specific Term Contracts

- Bid number.
- Description of the requirement.
- Contract term.
- Particulars of end user, contract person and telephone number.
- Date of advertisement.
- Date of advertisement for the extension of the closing date.
- Closing date.
- Extended closing date.
- Validity period.
- Extended validity period.
- Total of bids received.
- Late bids received, where applicable.
- Name of successful bidder.
- Price of the successful bid.
- Points of the successful bid, received for specifications, price, equity and goals are to be indicated separately.
- Total points scored by the successful bidder.
- Date of approval and the name of the body that granted the approval.
- Delegation number.
- Date of contract form signed.
- Satisfactory/non-satisfactory completion of the service or delivery of the goods.
- Cancellation of bid or the cancellation of contracts, where applicable. Particulars are to include the reason for the cancellation, the date of approval, the name and rank of the person/body that granted the approval and the delegation number.
- All inscriptions must be numbered.

28.1.3.8 Record of urgency and emergency procurement

- Reference number.
- Description.
- Nature and the details of the urgency or emergency process followed.
- Particulars of person or body that granted the approval.
- Date of approval.
- Delegation number.

- Financial implication.
- All inscriptions must be numbered.

28.1.3.9 Record of complaints received from bidders or contractors

- Date of complaint received.
- Name of company or person complaining.
- Reference of bid number.
- Description.
- Details of complaint.
- Action taken including the relevant dates.
- Date of finalization.
- All inscriptions must be numbered.

28.1.3.10 Record of instances of fraud or corruption

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

28.1.3.11 Record of irregular, fruitless and wasteful expenditure

- Date of request received.
- Description.
- Particulars of end user, contact person and telephone number.
- Details of irregular, fruitless and wasteful expenditure.
- Action taken.
- Date finalized.
- Financial implication.
- All inscriptions must be numbered.

28.1.3.12 Record of SCM circulars distributed within the municipality

- Circular number.
- Description.
- Date on which the circular was distributed to end users.
- Date of confirmation of receipt of the circular.
- All inscriptions must be numbered.

PART 31: COMMENCEMENT

This policy takes effect on 1 February 2024.

BIBLIOGRAPHY

Item	DESCRIPTION	DOCUMENT
1	Supreme legislation	<ul style="list-style-type: none"> ▪ Constitution of the Republic of South Africa, 1996 (Act 108 of 1996)
2	Primary legislation	<ul style="list-style-type: none"> ▪ Municipal Structures Act, 1998 (Act 117 of 1998) - MSTA ▪ Municipal Systems Act, 2000 (Act 32 of 2000) - MSA ▪ Municipal Finance Management Act, 2003 (Act 56 of 2003) - MFMA ▪ Division of Revenue Act, annual – DORA ▪ Employment Equity Act, 1998 (Act 55 of 1998) - EEA ▪ Inter-Governmental Fiscal Relations Act, 1997 (97 of 1997) - IGFRA ▪ Inter-Governmental Relations Framework Act, 2005 (Act 13 of 2005) - IGRFA ▪ Labour Relations Act, 1995 (Act 66 of 1995) - LRA ▪ Local Government Municipal Property Rates Act, 2004 (Act 6 of 2004) - PRA ▪ National Environmental Management Act, 1998 (Act 107 of 1998) and Regulations - NEMA ▪ Occupational Health and Safety Act, 1993 (Act 85 of 1993) - OHSA ▪ Skills Development Act, 1998 (Act 97 of 1998) – SDA ▪ Skills Development Levies Act, 1999 (Act 9 of 1999) – SDLA ▪ Environmental Conservation Act, 1989 (Act 73 of 1989) – ECA ▪ National Environment Management Waste Act, 2008 (Act 59 of 2008) - NEMWA ▪ Local Government: Municipal Demarcation Act, 1998 (Act 27 of 1998) – MDA ▪ Water Services Act, 1997 (Act 108 of 1997) - WSA ▪ Electricity Regulation Act, 2006 (Act 4 of 2006) - ERA ▪ Municipal Fiscal Powers and Functions Act – MFPPFA
3	Subordinate legislation	<ul style="list-style-type: none"> ▪ 2001 (GG 22328) MSA Regulations, ▪ MSA Municipal Planning and Performance Management Regulations, 2001 (GG 22605) ▪ MSA Performance Regulations, 2006 (GG 29089) ▪ MSA Disciplinary Regulations for Senior Managers, 2011 (GG 34213) ▪ Municipal Investments Regulations, 2005 (GG 27431) ▪ Municipal PPP Regulations, 2005 (GG 27431) ▪ Municipal SCM Regulations, 2005 (GG 27636) ▪ Municipal Regulations on Debt Disclosure, 2007 (GG 29966) ▪ Municipal Asset Transfer Regulations [MATR], 2008 (GG 31346) ▪ Municipal Budget and Reporting Regulations, 2008 (GG32141) ▪ Environmental Impact Assessment Regulations, 2006 (GG 28753) ▪ NEMA Regulations, 2001 (GG 22960)
4	Complimentary and functional legislation	<ul style="list-style-type: none"> ▪ Basic Conditions of Employment, 1997 (Act 75 of 1997) - BCoE ▪ Broad-Based Black Economic Empowerment Act (BBBEEA), 2003 (Act 53 of 2003) - BBEEE ▪ Companies Act, 1973 ▪ Competition Act, 1998 (Act 89 of 1998) ▪ Construction Industry Development Board Act, 2000 (Act 38 of 2000) and Regulations

Item	DESCRIPTION	DOCUMENT
		<ul style="list-style-type: none"> ▪ Construction Regulation R1010 of 2003 (for compliance to occupational health and safety within the construction industry) ▪ Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) and Regulations – PPPFA ▪ Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004) ▪ Promotion of Access to Information Act, 2000 (Act 2 of 2000) - PAIA ▪ Promotion of Administrative Justice Act, 2000 (Act 3 of 2000) - PAJA ▪ Public Audit Act, 2004 (Act 25 of 2004) ▪ Public Office Bearers Act, 1998 (Act 20 of 1998) ▪ State Information Technology Agency Act, 1998 (Act 88 of 1998) – SITA ▪ Engineering Professions Act, 2000 (Act 46 of 2000) – EPA ▪ Criminal Procedures Act, 1977 (Act 51 of 1977) – CPA ▪ Fire Arms Act, 2000 (Act 60 of 2000) ▪ National Road Traffic Act, 1996 (Act 93 of 1996) – NRTA ▪ National Small Business Act, 1996 (Act 102 of 1996) ▪ Prevention of Illegal Squatting Act, 1998 (Act 19 of 1998) ▪ Private Securities Companies Act, 2001 (Act 56 of 2001) ▪ Fire Brigade Services Act, 1987 (Act 99 of 1987) ▪ National Heritage Resources Act, 1999 (Act 25 of 1999) ▪ National Council for Library and Information Act, 2001 (Act 6 of 2001) ▪ Provincial library Service Ordinance, 1981 (Ord 16 of 1981) ▪ Museums Ordinance, 1975 (Ord 8 of 1975) ▪ Electronic Communications and Transactions Act, 2002 (Act 25 of 2002) ▪ Land Use Planning Ordinance, 1985 (Ord 15 of 1985) - LUPO
5	Policies	<ul style="list-style-type: none"> ▪ Land Disposal Policy, 2012 ▪ SCM Policy, 2013 ▪ Property rates Policy ▪ Asset management Policy ▪ Cash and Investment Policy ▪ Tariff Policy ▪ Budget Policy ▪ Virement Policy ▪ Funding and reserve Policy ▪ Indigent Policy ▪ Borrowing Policy ▪ Free basic services Policy ▪ Grant-in-Aid Policy ▪ Transfer Payments Policy ▪ PPPFA Policy
6	Guidelines	<ul style="list-style-type: none"> ▪ National Treasury Supply Chain Management; A Guide for Accounting Officers of Municipalities and Municipal Entities ▪ National Treasury Supply Chain Management: A Guide for Accounting Officers/Authorities (2004)

Item	DESCRIPTION	DOCUMENT
7	MFMA Circulars	<ul style="list-style-type: none"> ▪ 2 of 2004 – Supply Chain Management ▪ 22 of 2005 – Supply Chain Management: Model Policy ▪ 25 of 2005 – Supply Chain Management Guide, General Conditions of Contract and Municipal Bidding Documents ▪ 29 of 2006 – Supply Chain Management Issues ▪ 33 of 2006 – Supply Chain Management Issues ▪ 34 of 2006 – Supply Chain Management Issues ▪ 43 of 2007 – Restriction of Suppliers and BBBEE Objectives ▪ 46 of 2008 – Supply Chain Management: Checking the Prohibition Status of Recommended Bidders ▪ 52 of 2010 – Prohibition of Restrictive Practices and Certificate of Independent Bid Determination ▪ 53 of 2010 – Amended Guidelines in Respect of Bids that Include Functionality as a Criterion for Evaluation ▪ 56 of 2011 – Supply Chain Management ▪ 57 of 2011 – Municipal Financial Systems and Processes ▪ 62 of 2012 – Supply Chain Management: Enhancing Compliance and Accountability
8	Journals	<ul style="list-style-type: none"> ▪ Harland, C. 1996. Supply Chain Management Relationships, Chains & Networks. Wiley.
9	Article	<ul style="list-style-type: none"> ▪ Bolton, P. 2011. Roles and functions of Bid Committees, LGB, Volume 11(4) – p19-20

ALIGNMENT WITH MFMA SCM TREASURY REGULATIONS (TR's)

SCM TR #	SCM P ² OS REFERENCE	
	PARAGRAPH	MODULE AND PART
1	Not applicable	
2	4.2; 5.1; 10.5; 17.1.1	Module 1 – Part 4 & 5 Module 2 – Part 10 Module 4 – Part 17
3	4.2; 4.3; 7.1; 10.3	Module 1 – Part 4 Module 2 – Part 7 & 10
3(2)(c)	4.3.3	Module 1 – Part 4
4	9.1	Module 2 – Part 9
5	9.1; 9.3; 10.3	Module 2 – Part 9 & 10
6	10.1; 10.2	Module 2 – Part 10
7	8.1; 10.4; 10.6	Module 2 – Part 8 & 10
8	8.1	Module 2 – Part 8
9	6.1; 11.17	Module 2 – Part 6 & 11
10	13.3	Module 3 – Part 13
11	11.8; 17.1.1	Module 2 – Part 11 Module 4 – Part 17
12	10.5; 18.1	Module 2 – Part 10 Module 4 – Part 18
13	17.4.9.1.1	Module 4 – Part 17
14	16.1	Module 3 – Part 16
15	17.2.1; 18.2	Module 4 – Part 17 & 18
16	17.2.1; 18.3	Module 4 – Part 17 & 18
17	17.2.1; 18.4.1	Module 4 – Part 17 & 18
18	17.2.1; 18.4.1	Module 4 – Part 17 & 18
19	17.2.1; 18.5.1	Module 4 – Part 17 & 18
20	11.15; 17.2.1; 18.5.1	Module 2 – Part 11 Module 4 – Part 17 & 18
21	17.2.1	Module 4 – Part 17
21(e)	11.15; 11.16	Module 2 – Part 11
22	17.2.4	Module 4 – Part 17
23	17.3.1.1	Module 4 – Part 17
24	17.4.13	Module 4 – Part 17

SCM TR #	SCM P ² OS REFERENCE	
	PARAGRAPH	MODULE AND PART
25	18.5.2	Module 4 – Part 18
26	10.5; 12.1; 12.8; 17.4.9.2	Module 2 – Part 10 & 12 Module 4 – Part 17
27	9.3; 12.1; 12.2.1	Module 2 – Part 9 & 12
28	12.1; 12.3.1	Module 2 – Part 12
29	9.3; 10.3; 12.4.1; 17.4.10.2; 12.1; 12.3.2; 12.4.2; 17.4.30.1	Module 2 – Part 12 Module 4 – Part 17
30	18.10	Module 4 – Part 18
31	18.9	Module 4 – Part 18
32	18.13	Module 4 – Part 18
33	18.11	Module 4 – Part 18
34	17.4.19	Module 4 – Part 17
35	18.8	Module 4 – Part 18
36	12.9; 18.5.4	Module 2 – Part 12 Module 4 – Part 18
37	18.17	Module 4 – Part 18
38	10.5; 11.9; 11.10; 11.11; 11.14	Module 2 – Part 10 & 11
38(1)	12.7	Module 2 – Part 12
39	13.3; 21.3; 22.1	Module 2 – Part 13 Module 6 – Part 21 Module 7 – Part 22
40	23.1; 24.1	Module 8 – Parts 23 & 24 as a whole
41	25.1	Module 9 – Part 25 as a whole
42	13.1; 27.1	Module 2 – Part 13 Module 9 – Part 27
43	16.1.4; 17.4.5; 17.4.10.1.3; 17.4.15; 20.16	Module 3 – Part 16 Module 4 – Part 17 Module 5 – Part 20
44	9.2; 10.5; 11.2; 12.3.2; 12.4.2; 16.1; 20.16	Module 2 – Part 9, 10, 11, 12 Module 3 – Part 16 Module 5 – Part 20
45	10.5; 11.2; 16.1	Module 2 – Part 10 & 11 Module 3 – Part 16
46	9.2; 10.5; 11.1; 11.2; 12.3.2; 12.4.2	Module 2 – Part 9, 10, 11 & 12

SCM TR #	SCM P ² OS REFERENCE	
	PARAGRAPH	MODULE AND PART
47	10.5; 11.2; 11.8	Module 2 – Part 10 & 11
48	10.3	Module 2 – Part 10
49	11.14; 11.15; 11.16	Module 2 – Part 11
50	10.3; 11.14; 11.15; 11.16; 12.1.3	Module 2 – Part 10, 11 & 12
51	19.1	Module 5 as a whole – Part 19
52	Not applicable	