

ANNEXURE 005/2023



**SUPPLY CHAIN
MANAGEMENT POLICY**

City of Mbombela
Supply Chain Management

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DEFINITIONS

1. Supply Chain Management Policy, unless the context otherwise indicates; a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and-
 - 1.1 **“Adjudication points”**: means the points referred to in the Preferential Procurement Policy, and the Preferential Procurement section of this policy also referred to as “evaluation points”.
 - 1.2 **“Bidder”**: means any person submitting a bid.

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- 1.3 “**Broad-Based Black Economic Empowerment (BBBEE) Act**”: means the Broad Based Black Economic Empowerment Act, 53 of 2003 and Code of Good Practice thereto.
- 1.4 “Accounting Officer”: means the City Manager as defined in Section 60 of the Municipal Finance Management Act, 56 of 2003.
- 1.5 “**Closure Date**”: means the time and day specified in the bid documents for the receipt of the bids.
- 1.6 “**Competitive Bidding Process**”: means a competitive bidding process referred to in Regulation 12(1)(d) of the Supply Chain Management Regulations.
- 1.7 “**Competitive Bid**”: means a bid in terms of a competitive bidding process.
- 1.8 “**Construction Industry Development Board (CIDB) Act**”: means the Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto.
- 1.9 “**Consultant**”: means a person or entity providing services requiring knowledge-based expertise, and includes professional service providers.
- 1.10 “**Contract**”: means the agreement which is concluded when the Municipality accepts, in writing, a bid or quote submitted by a provider.
- 1.11 “**Long term contract**” means a contract with a duration period exceeding one year.
- 1.12 “**Contractor**”: means any person or entity whose bid or quote has been accepted by the Municipality.
- 1.13 “**Day(s)**”: means calendar days unless the context indicates otherwise.
- 1.14 “**Delegated Authority**”: means any person or committee delegated with authority by the Municipality in terms of the provisions of the Municipal Finance Management Act, 56 of 2003.
- 1.15 “**Disability**”: means, in respect of a person, a permanent impairment of a physical, intellectual or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner or in the range considered normal for a human being.
- 1.16 “**Final Award**”: in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.
- 1.17 “**Formal Written Price Quotation**”, “Written Price Quotation”,

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“Quotation” or “Quote”: means a written or electronic offer to the Municipality in response to an invitation to submit a quotation.

1.18 “In the service of the state”: means:

- (i) a member of any municipal council, any provincial legislature or the National Assembly or the National Council of Provinces;
- (iii) an official of any municipality or municipal entity;
- (iv) 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, 1 of 1999;
- (v) a member of the board of directors of any municipal entity;
- (vi) a member of the accounting authority of any national or provincial public entity; or
- (vii) an employee of Parliament or a provincial legislature.

1.19 “List of accredited prospective providers”: means the list of accredited prospective providers kept by the National Treasury in the Central Supplier Database.

1.20 “Municipal Entity”: means an entity as defined in Section 1 of the Municipal System Act, 32 of 2000.

1.21 “Person”: includes a natural or juristic entity.

1.20 “Preferential Procurement Policy Framework Act” (PPPFA): means the Preferential Procurement Policy Framework Act, 5 of 2000.

1.21 “SARS”: means the South African Revenue Services.

1.22 “Supply Chain Management (SCM) Regulations”: means the Municipal Supply Chain Management Regulations published in Government Gazette 27636 of 30 May 2005.

1.23 “The Act” (MFMA): means the Local Government: Municipal Finance Management Act, 56 of 2003.

1.24 “Treasury Guidelines”: means any guidelines on supply chain management issued by the Minister in terms of section 168 of the MFMA;

1.25 “Unsolicited Bid”: means an offer submitted by any person at its own initiative without having been invited by the Municipality to do so.

Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, closed corporations and firms, unless the context clearly indicates otherwise.

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SUPPLY CHAIN MANAGEMENT FRAMEWORK AND PRINCIPLES

Supply chain management policies

- 2 (1) The City of Mbombela shall in line with Section 111 of the Municipal Finance Management Act implement a supply chain management policy, that–
- (a) Gives effect to-
 - (i) section 217 of the Constitution, and
 - (ii) Part 1 of chapter 11 and other applicable provisions of the Act;
 - (b) is fair, equitable, transparent, competitive and cost effective;
 - (c) complies with-
 - (i) the regulatory framework prescribed in Chapter 2 of these Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislations that is, and not limited to;
 - (i) The Preferential Procurement Policy Framework Act of 2000
 - (ii) The Broad-Based Black Economic Empowerment Act;
 - (iii) The Construction Industry Development Board Act;
 - (iv) The Local Government : Municipal Systems Act;
 - (v) The Municipal Finance Management Act;
 - (vi) The Supply Chain Management Regulations;
 - (vii) The Promotion of Administration Justice Act;
 - (viii) The promotion of Access to Information Act,
 - (x) The protection of personal information act (POPI Act)
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The supply chain management policy of the City of Mbombela shall, in addition to complying with sub-section (1), and to the extent determined by the parent municipality, also be consistent with the supply management policy of the parent municipality. If the supply chain management policy of an entity is not consistent with the supply chain management of the parent municipality, the council of the parent municipality shall take appropriate steps to ensure consistency.
- (3) City of Mbombela may not act otherwise than in accordance with its policy when-

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- (a) procuring goods or services in line with the provisions of the sourcing strategy and the procurement plans;
 - (b) disposing of goods no longer needed;
 - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Municipal Systems Act applies, or
 - (d) Selecting external mechanisms referred to in section 83 of that Act.
- (4) Unless stated otherwise, this Policy does not apply if the City of Mbombela contracts with another organ of state for;
- (i) The provision of goods and services to the municipality,
 - (ii) The provision of a municipal service, or assistance in provision of the municipal service, or
 - (iii) The procurement of goods and services under a contract secured by other organ of state, provided that the relevant supplier has agreed to such procurement.
- (5) The City Manager may approve the utilization of a contract secured by another organ of state in accordance with Section 32 of the Policy.
- (6) The municipality may utilize contracts secured by other organs of state only if the contracts are still valid and complies with the requirements of National Treasury prescripts.

ADOPTION AND AMENDMENT OF SUPPLY CHAIN MANAGEMENT POLICIES

- 3** (1) This policy shall be effective from the date on which it is adopted by Council and the City Manager shall annually review the implementation of the policy and submit proposals for the amendment of the policy to the council if deems necessary.
- (2) This policy shall ensure that the objectives of uniformity in supply chain management processes are achieved, and the supply chain management regulations published under GN868 in Government Gazette 27636 of 30 May 2005 and any National Treasury Circular or Guidelines are complied with.
- (3) No deviations from the guidelines will be allowed, in an unlikely case such deviations happen, the City Manager shall report to Provincial Treasury and National Treasury.

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(4) The City Manager shall take all reasonable steps to ensure that the municipality implements a supply chain management policy in accordance with Regulation 2 of the Municipal Supply Chain Management regulations.

(5) Implementation of the POPI Act of 2021

The City may request personal information from the bidders and such information will only be utilised by the City for the purpose of bidding processes. No personal information may be forwarded to third parties without the consent of the bidder.

Delegation of supply chain management powers and duties

- 4 (1) Council shall delegate the City Manager to exercise all powers and duties to enable him to;
- (a) to discharge the supply chain management responsibilities conferred in terms of-
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) the supply chain management policy of the municipality;
 - (b) to maximize administrative and operational efficiency in the implementation of the policy;
 - (c) to enforce reasonable cost-effective measures, prevention of fraud, corruption, favouritism, unfair and irregular practices in the implementation of supply chain management policy; and
 - (d) to comply with his responsibilities in terms of section 115 and other applicable provisions of the Act.

Sub-delegations

- 5 (1) The City Manager may sub-delegate in terms of Section 79 of the Act powers and duties delegated in terms of Section (1).
- (2) The City Manager shall not delegate or sub-delegate any supply chain management powers or duties-
- (a) to a person who is not an official of the City of Mbombela; or
 - (b) to a committee which is not exclusively composed of officials of the City of Mbombela; or
- (3) A senior official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with sub-regulation (2) must within five days of the end of each month submits to the official referred to in subsection (4) a written report containing particulars of each final award made by such official or committee during that month, including-
- (a) the amount of the award;
 - (b) the name of the person to whom the award was made;
 - (c) the reason why the award was made to that person
- (4) This Section may not be interpreted as permitting an official to whom the power to make final awards have been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in this Policy.

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- (5) The powers delegated to any official or capacity of the City of Mbombela shall be reviewed on annual basis and such review will form part of the annual report on the implementation of the Supply Chain Management policy.
- (6) Delegation of powers conferred to acting responsibilities will be in writing and such powers will be delegated by an authorized officer. The letter for acting responsibilities shall include inter alia

6.1 A detailed information relating to the roles and responsibilities of the position.

6.2 Acceptance of the offer by the acting incumbent.

6.3 The duration of the acting responsibilities.

Oversight role of Council of City of Mbombela

- 6 (1) The council of the City of Mbombela shall maintain oversight over the implementation of this supply chain management policy.
- (2) For the purposes of such oversight the City Manager shall –
 - (a) within 30 days of the end of each financial year, submit a report on the implementation of this policy and municipal entity under its sole or shared control, to the council of the municipality;
 - (b) Whenever there are serious and material problems in the implementation of there is policy, immediately submit a report to the council.
- (3) The City Manager shall, within 10 days of the end of each quarter, submit a report on the implementation of this policy to the Executive Mayor of the City of Mbombela.
- (4) The City of Mbombela shall publish and make public all the Supply Chain Management reports of the municipality in accordance with section 21A of the Municipal System Act. For the purpose of complying with section 6(4) above, All Supply Chain Management report shall be published on the municipal website 10 days after the tabling and approval by Council.

Supply chain management units

- 7 (1) The City Manager shall establish a Supply Chain Management unit to implement this policy.
- (2) The Supply Chain Management unit shall operate under the direct supervision of the Chief Financial Officer.

Training of supply chain management officials

- 8 The training of officials involved in implementing a supply chain management policy shall be in accordance with any treasury guidelines on supply chain management.

CHAPTER 2 – SUPPLY CHAIN MANAGEMENT POLICY FRAMEWORK

Format of supply chain management policy

- 9 The supply chain management system implemented shall ensure there is effective;

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- (1) Demand management;
- (2) Acquisition management;
- (3) Logistics management;
- (4) Disposal management;
- (5) Risk management; and
- (6) Performance management

PART 1 – DEMAND MANAGEMENT

System of Demand management

10 The City Manager shall implement an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments of the municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the municipality.

(1) The following systems and procedures shall be implemented to achieve the demand management objectives;

(a) Procurement plans (demand management plans) in line with the service delivery budget implementation plan (SDBIP) should be in place and approved by the City Manager.

(b) A sourcing strategy for administrative and operational goods and services must be implemented to ensure cost effectiveness and value for money.

PART 2 – ACQUISITION MANAGEMENT

System of acquisition management

11 (1) This policy shall provide for an effective system of Acquisition management in order to ensure –

- (a) that goods and services are procured by the municipality in accordance with authorized processes only;
- (b) that expenditure on goods and services is incurred in term of an approved budget in terms of section 15 of the Act;
- (c) that the threshold values for the different procurement processes are complied with;
- (d) that the bid documentations, evaluation and adjudication criteria, and a general condition of a contract, are in accordance with any applicable legislation; and
- (e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) This policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

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

(3) When procuring goods or services contemplated in section 110(2) of the Act the City shall make public the fact that it procures such goods or services otherwise than through its supply chain management system, including –

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- (a) the kind of goods or services; and
- (b) the name of the supplier

Range of procurement processes

- 12 (1)** This policy shall, subject to Section 11(2), provide for the procurement of goods and services by way of –
- (a) Petty cash purchases, up to a transaction value of R 1000 (VAT included);
 - (b) Written or verbal quotations for procurements of a transaction value over R1 000 up to R10 000 (VAT included);
 - (c) Formal written price quotations for procurements of a transaction value over R10 000 to R200 000 (VAT included); and
 - (d) a competitive bidding process for –
 - (i) Procurements above a transaction value of R200 000 (VAT included);
 - (ii) The procurement of long term contracts.
- (2) (a) The procurement of goods or services may not deliberately be split into parts or items of lesser value merely to avoid complying with the requirements of this policy
- (b) 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.

General preconditions for consideration of written quotations or bids

- 13** The municipality shall not consider a written quotation or bid unless the service provider who submitted the quotation or bid –
- (a) has furnished the municipality -
 - i. full name;
 - ii. identification number or company or other registration number; and
 - iii. tax reference number and vat registration number, if any;
 - iv. municipal rates and taxes account details
 - (b) has authorized the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
 - (c) has indicated –
 - (i) whether the person is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholders is in the service of the state, or has been in the services of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.
 - (d) The municipality will on regular basis prior to payments of contracted service provider check the rates and taxes of the bidders, and should it transpire that the bidder is owing the municipality, an arrangement to offset the bill in full will be entered into by the parties prior to payment been effected.

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13.20 in order to comply with the requirement as indicated in section 13 above, the following procedures and processes will be followed,

13.20.1 A CSD report will be downloaded by the Supply Chain Management Practitioners from the system to verify compliance with section 13 (a-c).

13.20.2 The report indicated in section 13.1(a) above shall not be more than thirty (30) days prior to the sourcing of the quotations.

13.20.3 All quotations must be accompanied by a fully completed forms MBD 4 and if municipality is in possession of the recent (within the same financial year) fully completed MBD4 Form, such form shall not be requested from the service provider.

List of accredited prospective providers

14 The municipality shall conduct business with suppliers that registered on the National Treasury Central Suppliers Database.

Petty cash purchases

15 This policy stipulates the conditions for the procurement of goods by means of petty cash purchases referred to in regulation 12 (1) (a), which must include conditions –

- (a) The cash petty purchase should not exceed R1 000 (Vat included) per transaction and each petty cash holder should exceed a maximum of R2 000 petty cash expenditure per month.
- (c) The following types of expenditures are excluded from petty cash purchases;
 - (i) Materials for building renovations or maintenance;
 - (ii) Materials and consumables kept by the municipal stores; unless materials or consumables cannot be provided by the municipal stores.
 - (iii) Purchases of personal items; and
 - (iv) Donations
- (d) The petty cash managers must when replenishing petty cash provide a reconciliation to the Chief Financial Officer, including-
 - (i) the total amount of petty cash purchases for the period;
 - (ii) receipts and appropriate documents for each purchase.

Written quotation

16 (a) Written quotations shall be obtained by the Supply Chain Management Unit officials from at least three different providers registered on the National Treasury Central Suppliers Database.

(b) The function indicated in section 16 (a) above is the sole responsibilities of the Supply Chain Management office and cannot be delegated from other Department unless compelling reasons has been provided and dully authorized by the City Manager.

(c) The written quotations must meet the following criteria;

- (i) Where practical shall be signed by the suppliers, with the exceptions of quotations received by electronic mail;
- (ii) have both physical and postal address of the supplier, company name and registration, VAT number, if applicable;
- (iii) Costs clearly broken down (itemized bill); and

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- (iv) The details of the information on the quotation must be similar to the details captured on the National Treasury Central Suppliers Database.
- (d) Where it is not possible to obtain at least three quotations, the reasons must be recorded and reported to the Chief Financial Officer for approval. Quotations fewer than the normal three may be accepted in cases whereby bidders were selected from an approved panel of service providers implemented on rotational bases.

Formal written price quotation

- 16.20.1** (a) Formal written price quotations must be obtained from at least three different providers whose names appear on the National Treasury Central Suppliers Database or an approval panel of service providers.
- (e) The written quotations must meet the following criteria;
 - (i) Where practical it must be signed by the suppliers, with the exceptions of quotations received by electronic mail;
 - (ii) Have both physical and postal address of the supplier, company name and registration, VAT number, if applicable;
 - (iii) Costs clearly broken down (itemized bill); and
 - (iv) The details of the information on the quotation must be similar to the details captured on the National Treasury Central Suppliers Database.
 - (f) Where it is not possible to obtain at least three quotations, the reasons must be recorded and reported to the Chief Financial Officer for approval. Quotations less than the normal three may be accepted in cases whereby bidders were selected from an approved panel of service providers implemented on rotational bases.

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

- 17** (a) Procurement of goods and services that in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of regulation 17, be advertised for at least seven (7) days on the municipal website and an official notice board of the of the municipality;
- (b) When using the list of accredited prospective providers the City Manager must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
 - (c) The City Manager shall take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;
 - (d) The City Manager or Chief Financial Officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written quotations accepted by an official acting in terms of a sub-delegation; and
 - (e) The Supply Chain Management Unit must keep proper record.
 - (f) The 7 days advertisement requirement will not be applicable when quotations are sourced from service providers whose names appear on the approved panel of service providers.

Competitive bids

- 18** (a) The procurement of goods or services above a transaction value of R200 000 (VAT included) and long-term contracts shall be done by the municipality only through a competitive bidding process, subject to Section 11(2) of this Policy.

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- (b) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely to avoid complying with the requirements of the policy.

Process for competitive bidding

19 This policy provides procedures for a competitive bidding process for each of the following stages:

- (a) the compilation of bidding documentation;
 - (i) A standardized bid documents will be utilized when procuring goods and services for the municipality. In case of construction related projects, the CIDB standardized document will be utilized.
 - (ii) Suppliers will be at their own costs download the document from the National Treasury Central Suppliers Database tender e-portal system in the prescribed format determined by the Bid Specification Committee and approved by the City Manager or delegated official.
 - (iii) The functionality evaluation criteria shall apply consistently for all categories or classes of construction works, including non-construction related bids for goods or services as approved by the City Manager. Where functionality is used as criteria to evaluate bids, a minimum of two officials with a thorough knowledge of the subject matter will be required to do technical evaluations. This requirement will only apply where subjective probability method is required to award score points.
 - (iv) Section 20 (a)(iii) above will not be applicable in cases whereby the awarding of functionality points is not based on subjectivity, especially in cases whereby a checklist format is utilized to score points for functionality. E.g., in situations whereby, a bidder has been requested to attached evidential proof to claim points.
- (b) Site meetings/briefing sessions will be held only if the project necessitates such clarification and physical inspections of the site and it shall be stated on the advertisement of the bid.
- (c) Two officials from Supply Chain Management Unit shall be responsible for collecting of the bids from tender box and opening of the bids in public and where practical the prices of bids received will be announced, including the name of the bidder. All bids will be opened at 11h00 on the prescribed date and the clock as demonstrated on the municipal wall will be utilized for that purpose. The municipality will endeavour where practical to keep the clock accurate at all times.
- (d) Evaluation of bids
 - (i) Bids will be evaluated in accordance with the criteria as stipulated in the bid document.
 - (ii)
 - (iii) No deviations will be allowed unless duly approved by the City Manager and reasons provided for such deviations.
 - (iv) Only bids download as per the prescribed format will be accepted.
 - (v) All bids must be received in a seal envelop and clearly marked.
 - (vi) No late bids will be accepted
- (e) Contracts or bids will only be awarded to companies that complies in all respects to the applicable evaluation criteria set out on the bid documents.

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- (f) Administration of contracts; and
 - (i) The administration of contracts will be done in accordance with the approved Contract Management policy adopted by council.
 - (ii) Accurate and up to date contract register must be kept.
 - (iii) A contract or service level agreement shall be entered into with all service providers appointed in terms of this Policy for any contract or agreement value of more than R200 000 or contracts or agreement of long term nature. In all once off kind of supplies and services, contract form MBD 7.1 will be completed.
 - (iv) Should there a need arises that a contract or agreement procured through this Policy must be amended by the either of the parties through mutual agreement, the contract or agreement must be amended after the following processes has been concluded;
 - (aa) the reasons for the proposed amendment have been tabled in the council; (ab) the local community has been given reasonable notice of the intention to amend the contract or agreement; and
 - (ac) the local community has been invited to submit representations to the municipality.
 - (v) Sub-section (iv) above will not apply if a contract or an agreement is expanded or varied for not more than 20% for all construction related projects and 15% for the normal procurement of goods and service as per guidelines provided by MFMA Circular 62;
 - (vi) Expired contracts will not be eligible for extension.
 - (vii) The Department requesting the amendment of the contract must ensure that the processes indicated in (v) and (vi) are followed to the later.

Bid documentation for competitive bids

- 20** (a) The bid documentation for competitive bidding must take into account –
- (i) the general conditions of contract;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
 - (iv) the Preferential Procurement policy of the City.
- (b) The bid documentation must include the requirements for (if applicable), evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) it compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish-
- (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statement –
 - (aa) for the past three years; or
 - (bb) since their establishment if established during the past three years;
 - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

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- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract.
 - (v) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic.
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or when unsuccessful, in a South African court of law.

Public invitation for competitive bids

- 21** (1) (a) The public will be invited through the advertisement of the bids on the National Treasury tender e-portal, municipal website, notice boards and Construction Industry Development Board I-tender if the bid is relating to construction works.
- (b) the closing date for the submission of bids may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement. All projects awarded on rates bases shall be capped below the threshold on (ten) R 10 million, unless such bid was advertised for a period as not less than 30 days.
- (2) This policy shall allow the City Manager to determine a closure date for the submission of bids which is less than the 30- or 14-days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional cases. Reasons for such motivation should be recorded for audit purposes and poor planning cannot be provided as a reason for the deviation.
- (3) Bids submitted to the municipality must be sealed in an envelope as no bids will be accepted if it is not properly sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (5) The bids submitted by the service providers must be valid for a period of hundred and twenty days (120) days and the validity period may be extended for further period of 30 days. The following procedures and processes shall be followed in extension of the validity date.
- (a) Requests for the extension of validity dates must be extended to all service providers.
 - (b) Proof should be provided that all services providers shown interests in the bid have been contacted.
 - (c) Service providers have consented on the extension.
 - (d) Bidders that have not responded or rejected the request for the extension of the validity will be eliminated from the processes.
 - (e) That any prices changes resulting from the extension of the validity date shall be taken into considerations when evaluating bids.
 - (f) The request for the extension for the validity date extended to interested service providers shall have a (seven) 7 working dates respond period.
 - (g) Every case will be treated on its own merit, however, the none response from the services providers does not render the entire project null and void.

Procedure for handling, opening and recording of bids

- 22** This policy determines the procedure for the handling, opening and recording of bids –
- (a) stipulate that bids –

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- (i) may be opened only in public at 11h00 on the day of closing; and
- (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
- (b) confer on any bidder or member of the public the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price; and
- (c) require the City Manager –
 - (i) to record in a register all bids received in time as per the clock as displaced on the municipality building;
 - (ii) to make the register all bids received in time;
 - (iii) to publish the entries in the register and the bid results on the website of the municipality.

Negotiations with preferred bidders

- 23** (1) The City Manager may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidder, provided that such negotiation –
- (a) does not allow any preferred bidder a second or unfair opportunity;
 - (b) is not to the detriment of any other bidder; and
 - (c) does not lead to a higher price than the bid as submitted provided the rates have been adjusted by the City Manager or delegated committee to comply with legislative requirements or to standardize prices/ rates for various service providers appointed for the very same scope of works.
- (2) Minutes of such negotiations must be kept for record purposes.
 - (3) Negotiations on the prices shall be in line with the approved City's Sourcing Strategy.
 - (4) The City Manager or the relevant bid committee may nominate a task team to negotiate on the behalf of the municipality.
 - (5) Should the negotiations deadlock based on any reason of mutual interest, the task team may recommend to the City Manager to bypass the service provider.
 - (6) Value for money requirement should always be a primary matter in the negotiation.
 - (7) A decision to bypass a service provider rest with the City Manager and it cannot be delegated.

Two-stage bidding process

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

Committee system for competitive bids

- 25** (1) (a) The following bid committees shall be established by the City Manager;

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- (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
 - (iv) Objections Committee
- (b) the appointment by the City Manager of the members of each committee, taking into account section 117 of the Act;
- (b) the committee members will serve into the committees for a period of not exceed one financial year.
- (c) Attendances by appointed members is compulsory.
- (d) the City Manager reserves the right to extend the membership of the members if deems necessary.
- (e) an attendance or oversight process by a neutral or independent observer appointed by the City Manager when this is appropriate for ensuring fairness and promoting transparency.
- (2) the committee system must be consistent with Section 27, 28, 29 and any other applicable legislation.
- (3) This policy may allow the City Manager to apply the committee system to formal written price quotations.

Bid specification committees

- 26** (1) A bid specification committee shall compile the specifications for each procurement of goods or services by the municipality above a threshold value of R200 000 VAT inclusive.
- (2) The specifications –
- (a) shall be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) shall take account of any accepted standards such as those issued by Standards the South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) where possible, be described in terms of performance required rather than in term of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing, and test methods, packaging, marking or labeling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the words “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the supply chain management policy of the municipality or municipal entity; and
 - (g) must be approved by the City Manager or any delegated official.

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- (3) A bid specification committee must be composed of one or more officials of the municipality or municipal entity; preferable the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

Bid evaluation committees

- 27 (1)** A bid evaluation committee shall –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system as must be set out in the supply chain management policy of the municipal in terms of Section 27(2)(f) of this Policy and as prescribed in terms of the Preferential Procurement regulations of 2017;
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended whether municipal rates and taxes and service charges are not in arrears; and
 - (d) submit to the adjudication committee a report and recommendations regard the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of –
- (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the City.
- (3) in relation to section 28(1)(b)(d) above, any matter deferred by a specific evaluation committee must be concluded by that particular committee. In exceptional cases whereby the project must be concluded by a different committee, the committee members must take into consideration matters raised by the previous committee prior to making determination.

Bid adjudication committee

- 28 (1)** A bid adjudication committee shall –
- (a) consider the report and recommendations of the Bid Evaluation Committee; and
 - (b) either –
 - (i) depending on its delegations, make a final ward or a recommendation to the City Manager to make the final award; or
 - (ii) make another recommendation to the City Manager how to proceed with the relevant procurement.
- (2) A bid adjudication committee shall comprise of all General Managers of the City which must include –
- (i) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the Finance Department and designated by the Chief Financial Officer;
 - (ii) at least one Senior Supply Chain Management practitioner who is an official of the city; and
 - (iii) a Technical Expert in the relevant field who is an official of the city has such an expert.

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- (3) The City Manager must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) The quorum of the meeting will be formed by three members and the Chairperson (three plus one members)
- (5) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (6) (a) If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to award the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in areas; and
 - (ii) notify the City Manager in writing.
- (b) The City Manager may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The City Manager may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The City Manager must comply with section 114 of the Act within 10 working days.

Cancellation of tender

30.

1. This policy allows the City Manager, before the award of a tender, cancel a tender invitation if-
 - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
 - (b) funds are no longer available to cover the total envisaged expenditure;
 - (c) no acceptable tender is received; or
 - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of subregulation (1) must be published in the same manner in which the original tender invitation was advertised.
- (3) The municipality will finalise all tenders within the specific validity period and cancellation of tenders will be of the last resort.

Procurement of banking service

31. (1) A contract for the provision of banking services to a municipality-
 - (a) must be procured through competitive bids;
 - (b) must be consistent with sections 7 or 85 of the Act; and

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- (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of regulation 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).
- (4) Section 33 of the Act will be applicable on this contract. The contract will not impose financial implications to the municipality for the period beyond three years covered in the annual budget for the financial year.
- (5) The contract for the banking services is tariff based and linked to the transaction the municipality will be processing with the appointed banker.

Procurement of IT related goods or services

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

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

- 33. (i) The City shall not procure goods or services under a contract secured by another organ of state as indicated in regulation 32 of the Supply Chain Management Regulations.
- (ii) The City shall not shall not give consent to any other spheres of the government to piggyback on contracts secured by City of Mbombela

Procurement of goods necessitating special safety arrangements

- 34. (1) The policy must restrict the acquisition and storage of goods in bulk (other than water) which necessitate special safety arrangements, including gasses and fuel.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership and cost advantages for the municipality or municipal entity.

Proudly SA Campaign and Local production and content

- 35. (1) The City Mbombela will give preferences to goods manufactured in South Africa.

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Appointment of consultants

36. (1) The City Manager may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made. Departments are encouraged to where feasible insource the consultancy services. The outsourcing of the consultancy services must be used as a last resort and prior approval must be granted by the City Manager prior to the appointment. Consulting definition of consultants will include the rendering all professional services but not limited to:
- (a) All professional services from the built environment
 - (b) All professional services from the financial, banking, insurance, sectors
 - (c) All professional services from the Legal fraternity
 - (d) All professional services from health profession
 - (e) All professional services from security services
 - (f) All professional services from educational sector
 - (g) All professional services from business development sectors
 - (h) All general professionals rendering consultancy works other discipline not indicated above
- 1.1 A business case must be presented by the relevant Department prior the procurement or the approval of the City Manager motivating reasons as to why external sourcing mechanisms are preferred. Business cases must be presented for all the contract above the estimated threshold of R 200 000, 00 VAT inclusive. The motivation must include *inter alia* :
- (a) The reasons as to why the current internal officials cannot perform the required tasks.
 - (b) Plans to breach the skills gap including timeframes.
 - (c) The cost benefits of outsourcing the tasks in relations to insourcing. (d) Skills transfer mechanisms to the current members of the staff.
- (2) A contract for the provision of consultancy services to a municipality or must be procured through competitive bids if –
- (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by these Regulations for competitive bids, bidders must furnish the municipality or municipal entity with particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The City Manager may establish a database of professional consultants following a competitive bidding process and the use of the professional consultants must be on a rotational basis or competitive basis.
- (5) The database referred to in Section (4) above must be valid and utilized for a period of three years.
- (6) The city must ensure that copyright in any documents produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the city.
- (7) Where practical, the appointment of consultants must be rates based/time based and the rates may not exceed the recommended tariffs as outlined on the guidelines/ gazette as provided by the relevant professional body or act.

Deviation from and ratification of minor breaches of, procurement processes

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37. (1) The City Manager is allowed;
- (a) to dispense with the official procurement processes established by the policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (iv) acquisition of animals for zoos; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (b) to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The City Manager must record the reasons for any deviations in terms of Subsection (1)(a) and (b) and report them to the next meeting of the council, or board of directors in the case of a municipal entity, and include as a note to the annual financial statements.
- (3) Subsection (2) does not apply to the procurement of goods and services contemplated in Section 11(2) of this Policy.

Unsolicited bids

38. (1) The municipality is in terms of section 113 of the Act not obliged to consider unsolicited bids received outside a normal bidding process.
- (2) If municipality decides in terms of section 113(2) of the Act to consider an unsolicited bid, it may do so only if –
- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages for, the municipality or municipal entity;
 - (c) the person who made the bid is the sole provider of the product or service; and
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the City Manager.
- (3) If the city decides to consider an unsolicited bid that complies with subsection (2), the city must make its decision public in accordance with section 21A of the Municipal System Act, together with –
- (a) its reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits for the municipality were it to accept the unsolicited bid; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

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- (4) Once the city has received written comments pursuant to subsection (3), it must submit such comments, including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the City Manager, depending on its delegations.
- (6) A meeting of the adjudication committee to consider and unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the City Manager must submit to the Auditor General, the relevant provincial treasury and those recommendations.
- (9) Such submissions must be made within seven days after the decisions on the award of the unsolicited bid is taken, but no contract committing the municipality or municipal entity to the bid may be entered into or signed within 30 days of submission.

Combating of abuse of supply chain management system

- 39 (1) Measures to combat abuse of the supply chain management system must be put in place and the City Manager must;
- (a) take all reasonable steps to prevent such abuse;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the supply chain management policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the national Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder –
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality or municipal entity, or to any other municipality or municipal entity, are in areas for more than three months; or

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- (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or municipal entity or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person;
- (g) to reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the municipality or municipal entity or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms section 29 of the Prevention and Combating of Corrupt Activities Act (No12 of 2004).

(2) The City Manager must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subregulation (1) (b) or (f).

PART 3 – LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

Logistics management

40. This policy provides for an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, and maintenance and contract administration.
- (1) Inventory management system
 - (a) Stock items shall be systematically replenished using the economic quantity ordering system.
 - (b) A combination of the first in first out system will be used for issuing of the inventory and the weighted average system will be for the valuation of the inventory on hand.
 - (2) This policy allows the City Manager to keep all the scrap materials at a central place for either disposal or fixing of the items for future use.
 - (3) The logistic section of the municipality will develop procedures on how repairable stock items can be accounted for in terms of the applicable GRAAP requirements.

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Disposal management

41. (1) This policy provides for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to section 14 and 90 of the Act.
- (2) This policy must –
- (a) specify the ways in which assets may be disposed of, including by –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (v) destroying the asset;
 - (b) stipulate that –
 - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) 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 to the municipality or municipal entity;
 - (iii) in the case of the 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; and
 - (iii) 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 institution within or outside the Republic;
 - (b) provide that –
 - (i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and
 - (ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
 - (iii) in the case of the 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; and
 - (iv) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of fire arms to any person or institution within or outside the Republic;
 - (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
 - (e) All assets will be disposed inline with the approved Asset Management Policy approved by the Municipality.

Risk management

42. (1) This policy provides for an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –

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- (a) the identification of risks on a case-by- case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Performance management

43. This policy provides for an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes are being followed and whether the desired objectives are being achieved.

PART 4 - OTHER MATTERS

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

45. (1) this policy of a municipality, irrespective of the procurement process followed, state that the municipality or may not make any award above R15 000 to a person whose tax matters have not been declared by the south African Revenue Service to be in order.
- (2) Before making an award to a person, a municipality will first check with SARS portal whether that person's tax matters are in order.
 - (3) The municipality have an obligation of paying all the services providers who tax matters become non-compliant on the CSD after an official purchase order has been issued by the municipality and the services has been rendered.

Prohibition on awards to persons in the service of the state

45. This policy must, irrespective of the procurement process followed, state that the municipality may not make any award to a person;
- (a) who is in the service of the state;
 - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stake holder is a person in the service of the state; or
 - (c) who is an advisor or consultant contracted with the municipality or municipal entity.
 - (d) the municipality will utilise the CSD as its sole available resource to check if directors, managers, principal shareholders are in the employment of the state.

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

46. The notes to the annual financial statements of a municipality must disclose particulars of any award of more than R2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of a state in the previous twelve months, including;
- (a) the name of that person;
 - (b) the capacity in which that person is in the service of the state; and
 - (c) the amount of the award

Ethical standards

47. (1) this policy established a code of ethical standards complying with subsection (2) for officials and other role players in the supply chain management system in order to promote;

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- (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) A municipal code of ethical standards must stipulate that an official or other role player involved in the implementation of the supply chain management policy of the municipality;
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person;
 - (d) notwithstanding subregulation (2)(c), must declare to the City Manager details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the City Manager details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality or municipal entity;
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any other close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to the municipality or municipal entity;
 - (h) Must assist the City Manager in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management;
 - (i) must report to the City Manager any alleged irregular conduct in the supply chain management system which that person may become aware of, including -
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of Section 47(1); or
 - (iii) any alleged breach of the code of ethical standards.
- (3) This policy must;
- (a) determine that all declarations in terms of subsection (2)(d) and (e) must be recorded in a register which the City Manager must keep for this purpose;
 - (b) determine that all declarations by the City Manager must be made to the mayor of the municipality or the board of directors of the municipal entity who must ensure that such declaration are recorded in the register; and
 - (c) contain measures to ensure that appropriate action is taken against any official or other role player who commits a breach of the code of ethical standards.
- (4) this policy must take into account the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management.
- (5) A municipality may adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.
- (6) Subsection (2)(c) does not apply to gifts less than R350 in value.

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

48. (1) No person who is a provider or prospective provider of goods or services to a municipality or municipal entity, or recipient or prospective recipient of goods disposed of by a representative or intermediary promise, offer or grant;
- (a) any inducement or reward to the municipality or municipal entity; or for or in connection with the award of a contract; or
 - (b) any reward, gift, favour or hospitality to;
 - (i) any official of the municipality or municipal entity; or
 - (ii) any other role player involved in the implementation of the supply chain management policy of the municipal entity.
- (2) The City Manager of City of Mbombela must promptly report any alleged contravention of sub regulation (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subsection (1) does not apply to gifts less than R350 in value.

Remedies

49. This policy allows the City Manager that:

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

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

Sponsorship

50. The City Manager must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised. Offered or granted to the City, whether directly or through a representative or intermediary, by any person who is
-
- (a) a provider or prospective of goods or services to the municipality; or
 - (b) a recipient or prospective recipient of goods disposed or to be disposed, of by the municipality.

Objections and complaints

50. This policy allows persons aggrieved by decisions or actions taken by the city in the implementation of its supply chain management system, to lodge within 14 days of the decision or action a written objection or complaint to the city against the decision or action.

Resolution of disputes, objections, complaints and queries

51. (1) The City Manager may establish a dispute resolution committee of officials that do not participate or are not directly involved in the supply chain management processes of the city –
- (a) to assist in the resolution of disputes between the municipality other persons regarding
 -
 - (i) any decisions or actions taken by the city in the implementation of its supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of its supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The City Manager, or another official designated by the City Manager, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must -
- (a) strive to resolve promptly all disputes, objections, complaints or queries received; and

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- (b) submit monthly reports to the City Manager on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or (b) no response is received from the municipality or municipal entity within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) The City Manager has appointed an Objections Committee deal with all the complaints, disputes, objections or queries.
- (7) The activities of the committee are monitored as per the terms of references of the committee.

Contracts providing for compensation based on turnover

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

APPLICATION OF CESSION AND ASSIGNMENT OF CONTRACT

53. Approval of cession agreements will only be limited to those cessions' agreements in favour of registered Financial Services Providers funding businesses and entities. The cession will be applicable as follows:
- (a) Cession must only be applicable to the transfer of right to payment for services rendered by a service provider to an FSP or State Institutions;
 - (b) The written request for cession must be by the service provider and not a third party; and
 - (c) The written request by the service provider must be accompanied by the cession agreement.

Commencement

54. The policy will come into effect from 16 January 2023.