



SUPPLY CHAIN MANAGEMENT POLICY

2023/24

The Supply Chain Management Policy is meant to be a “Living” Document and will be subject to regular reviews.

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1. PREAMBLE

- Section 111 of the Municipal Finance Management Act requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.
- In addition, the Preferential Procurement Policy Framework Act requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

2. OBJECTIVES OF THE POLICY

The principal objectives of the Ray Nkonyeni Municipality is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within the Ray Nkonyeni Municipality, whilst promoting black economic empowerment, which includes but not solely confined to achieving the following socio-economic principles:

- To stimulate and promote Local Economic Development in a targeted and focused manner;
- To promote resource efficiency and greening;
- To facilitate creation of employment and business opportunities for the people of Ray Nkonyeni Municipality with particular reference to Historical Disadvantaged Individual's (HDIs) as cited in section 217 (2) of the Constitution of the Republic of South Africa Act 106 of 1996 ;
- To promote competitiveness of local businesses operating within the Ray Nkonyeni Municipality;
- To increase the small business sector access, in general, to procurement business opportunities created by Council;
- To increase participation by small, medium and micro enterprises (SMME's), including cooperatives.

3 DEFINITIONS

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

“Accounting Officer” means the Municipal Manager or his delegate;

“Adjudication points”: means the points for price and points for Specific Goals referred to in the Preferential Procurement Regulations, 2022 and the Preferential Procurement section of this policy, also referred to as “evaluation points”.

“All applicable taxes”: includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

“Artificial person” means a legal entity, not a human being, recognized as a person in law to whom certain legal rights and duties may attached - e.g. a body corporate

“Asset”: means a tangible or intangible resource capable of ownership

“B-BBEE Status Level of Contributor”: means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.

“Bid”: means a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of goods, services or construction works through price quotations, advertised competitive bidding processes or proposals.

“Bidder”: means any person submitting a competitive bid or a quotation

“Broad-Based Black Economic Empowerment (BBEE) Act”: means the Broad-Based Black Economic Empowerment Act, 53 of 2003 and Codes of Good Practice pertaining thereto.

“Capital Asset”: means:

- (a) any immovable asset such as land, property or buildings; or
- (b) any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.

“Central Supplier Database” means the South African Government single web based Central Supplier Database (CSD) for the registration of prospective suppliers to assist in performing validation functions of key supplier information.

“Chief financial officer” means a person designated in terms of section 80 (2) (a) of the Municipal Finance Management Act;

“Companies and Intellectual Property Commission” means the South African registrar of companies and intellectual property

“Closing Time”: means the time and day specified in the bid documents for the receipt of bids and the official watch will be that of the municipality or municipal official.

“Community Based Vendor”: means a supplier of goods, services and/or construction works who resides in a target area or community, who meets the criteria for community based vendors as determined by the Manager: Supply Chain Management from time to time, and who is registered as such on the Council’s Supplier database.

“Comparative Price”: means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.

“Competitive bid” means a bid in terms of a competitive bidding process;

“Competitive bidding process” means a call for supply of goods and services, the receipt of offers for supply thereof from qualifying Vendors and the evaluation of offers received;

“Construction Industry Development Board (CIDB) Act”: means the Construction Industry Development Board Act, 38 of 2000 and includes the regulations pertaining thereto.

“Construction Works”: means any work in connection with:

(a) the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;

(b) the installation, erection, dismantling or maintenance of a fixed plant;

(c) the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or

(d) the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.

“Consortium”: also referred to as a “Joint Venture”

“Consultant”: means a person or entity providing services requiring knowledge based expertise, and includes professional service providers.

“Contract”: means the agreement which is concluded when the Council accepts, in writing, a bid or quote submitted by a provider

“Contractor”: means any person or entity whose bid or quote has been accepted by the Council.

“Contract participation goal”: the value of the participation of a specific target group that a contractor must achieve in the performance of a contract, expressed as a percentage of the bid sum less provisional sums, contingencies and VAT.

“Co-operative” mean a group of people acting together to meet the common needs and aspirations of its members, sharing ownership and profits making decisions democratically as espouse by national government to give work to such formation.

“Day(s)”: means calendar days unless the context indicates otherwise.

“Delegated Authority”: means any person or committee delegated with authority by the City in terms of the provisions of the Municipal Finance Management Act.

“Designated sector”: means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content.

“Emergency” means a situation which is life threatening, and/or there is death and/or serious damage to property, and/or serious imminent loss to Council.

“Evaluation of Bids”: in respect of bids that exceed R200 000, shall be deemed to take place when the Bid Evaluation Committee meets to make a recommendation to the Bid Adjudication Committee.

“Evaluation Points”: also referred to as “Adjudication Points”

“Exempted Capital Asset”: means a municipal capital asset which is exempted by section 14(6) or 90(6) of the MFMA from the other provisions of that section.

“Exempted Micro Enterprise”: means a bidder with an annual total revenue of R5 million or less (in terms of the Broad-Based Black Economic Empowerment Act).

“Final award”, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept.

“Firm Price”: means the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy, or tax, which, in terms of the law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.

“Formal written price quotation” “Written Price Quotation”, “Quotation” or “Quote”: means a written or electronic offer to the municipality in response to an invitation to submit a quotation.

“Functionality”: is the measure, according to predetermined criteria which must be measurable, of the suitability of a proposal, design or product for the use for which it is intended, and may also include a measure of the competency of a supplier. “Functionality” is also referred to as “Quality”.

“Granting of Rights”: means the granting by the Council of the right to use, control or manage capital assets in circumstances where sections 14 and 90 of the MFMA and Chapters 2 and 3 of the Municipal Asset Transfer Regulations do not apply. In other words, where the granting of such rights does not amount to “transfer” or “disposal” of the asset and which includes leasing, letting, hiring out, etc., of the capital asset.

“Green Procurement”: is defined as taking into account environmental criteria for goods and services to be purchased in order to ensure that the related environmental impact is minimized.

“Imported Content”: means that portion of the bid price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its sub-contractors) and which costs are inclusive of the costs abroad, plus freight and other direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port or entry. In this policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Act has the same meaning as in the Act, and –

“In the service of the state” means to be –

- (a) a member of –
 - (i) any municipal council;
 - (ii) any provincial legislature; or
 - (iii) the National Assembly or the National Council of Provinces;
- (b) a member of the board of directors of any municipal entity;
- (c) an official of any municipality or municipal entity;
- (d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (e) a member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

“Joint Venture or Consortium”: means an association of persons/companies/close corporations/firms formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an

activity for the execution of a contract or contracts. The Joint Venture must be formalised by agreement between the parties.

“Local business enterprise or local Supplier” means a service provider who permanently reside in the Ray Nkonyeni Municipality or enterprise that is permanently based in the Ray Nkonyeni Municipality

“Long term contract” means a contract with a duration period exceeding one year;

“list of accredited prospective providers” means the list of accredited prospective providers which is maintained by the municipality in terms of **clause 14** of this policy;

“Municipal Asset Transfer Regulations”: means the Municipal Asset Transfer Regulations published in Government Gazette 31346 of 22 August 2008.

“Municipal Entity”: means an entity as defined in the Systems Act.

“Municipal manager”: means a person appointed in terms of section 82 (1)(a) or (b) of the Municipal Structures Act;

“Municipality”: means the Ray Nkonyeni Municipality or any entity under its control,

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

“Non-compliant Contributor”: means a person who does not meet the minimum score to qualify as a status level 8 B-BBEE Contributor, or a person who is not verified in terms of the required Sector Charter.

“Non-exempted Capital Asset”: means a municipal capital asset which is not exempted by section 14(6) or 90(6) of the MFMA, from the other provisions of that section.

“Non-firm Prices”: means all prices other than “firm” prices.

“Non-Government Organisation” is any non-profit, voluntary citizens' group which is organized on a local, national or international level

“Natural person” means a natural person is a human being that has the capacity for rights and duties. The person is not a natural person in terms of the Companies Act, No. 71 of 2008, Section 69. If a person was disqualified or found to be an un-rehabilitated insolvent or has been removed from an office of trust on the grounds of misconduct involving dishonesty or convicted of fraud, theft or forgery or any conduct involving fraud, misrepresentation or dishonesty. This includes flouting statutes like the Insolvency Act, the Close Corporation Act, the Competition Act, the Financial Intelligence Centre Act, the Securities Act or the Prevention and Combating of Corrupt Activities Act.

“Other applicable legislation” means any other legislation applicable to municipal supply chain management, including –

(a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

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

(c) the Construction Industry Development Board Act, 2000 (Act No. 38 of 2000);

“Person”: includes a natural or juristic entity.

“Policy”: means this Supply Chain Management Policy as amended from time to time.

“Preference points”: mean the points for preference referred to in this Policy.

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

“Preferential Procurement Regulations”: means the regulations pertaining to the PPPFA.

“Prime Contractor”: shall have the same meaning as “Contractor”.

“Promotion of Administrative Justice Act”: means the Promotion of Administrative Justice Act, 3 of 2000.

“Quality”: also referred to as “Functionality” (see clause 1.34 above).

“Rand Value”: means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.

“Regulation” means the Local Government: Municipal **Finance Management Act, 2003, Municipal** Supply Chain Management Regulations **published by Government Notice** [686 of 2005]

“Republic”: means the Republic of South Africa.

“Responsible Agent”: means those internal project managers being Council officials or external consultants appointed by the Council responsible for the administration of a project or contract.

“SARS”: means the South African Revenue Services.

“Small, Medium and Micro Enterprises (SMME’s)”: bears the same meaning assigned to this expression in the National Small Enterprise Act, 102 of 1996.

“Stipulated Minimum Threshold”: means that portion of local production and content as determined by the Department of Trade and Industry.

“Sub-contract”: means the prime contractor’s assigning, leasing, making out work to, or employing, another person to support such prime contractor in the execution of part of a project in terms of the contract.

“Sub-contractor”: means any person that is assigned, leased, employed or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.

“Substitute Bid” “Means a second official Bid submitted by the same person, to replace a bid for the same Bid, already submitted by them into the Bid box.

“Supplier/Vendor”: are generic terms which may include suppliers of goods and services, contractors and/or consultants.

“Supplier Database”: means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of Regulation 14 of the Supply Chain Management Regulations.

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

“Systems Act”: means the Local Government: Municipal Systems Act, 32 of 2000.

“Sundry Purchases” mean purchases made without going through a verbal or written quotation process;

“Targeted Labour”: means those individuals employed by a contractor, or subcontractor, in the performance of a contract, who are defined in the contract as the target group, and who permanently reside in the defined target area.

“Targeted Enterprises”: means those enterprises (suppliers, manufacturers, service providers or construction works contractors) that own, operate or maintain premises within the target area defined in the contract, for the purposes of carrying out their normal business operations.

“Tender/Tenderer”: means “bid/bidder” in the context of construction works procurement.

“Tender Waiver”: means right given to End User to request the evaluation committee to consider its input / other service provider/bidder not recommended by pre-evaluation process. A waiver exists only where one with full knowledge of a material (legal/risks/technical/safety or other) fact does or forbears to do something inconsistent with the existence of the right or of his intention to rely on that right."

“Term Bid”: means rates based bid for the ad-hoc or repetitive supply of goods, services or construction works, where the individual rates are approved for use over a specified contract period.

“Total Revenue”: bears the same meaning assigned to this expression in the Codes of Good Practice on Black Economic Empowerment issued in

terms of section 9(1) of the Broad-Based Black Economic Empowerment Act and promulgated in the Government Gazette on 9 February 2007.

“Transaction Value”: means the actual contract value (the bid sum or price) in South African currency, inclusive of all applicable taxes in respect of the goods, services or construction works that are contracted for.

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

“The Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

“Unbundling of Contracts or Tender”: means to “break” a contract into smaller pieces that could result in a project having multiple Contractors, performing separate pieces of work for the project.

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

“Web site”: means the Council’s official web site

“Written or verbal quotations” means quotations referred to in [paragraph] **clause**12 (1)(be) of this policy.

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, close corporations and firms, unless the context clearly indicates otherwise.

Unless otherwise indicated, all amounts/limits stated in this document shall be deemed to be inclusive of all applicable taxes.

CHAPTER 1

ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY

2. OBJECTIVES OF THE SUPPLY CHAIN MANAGEMENT POLICY

- (1) The Ray Nkonyeni Municipality resolves in terms of section 111 of the Act to have and 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 the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) is consistent with other applicable legislation;
 - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) The supply chain management policy of a municipal entity must, in addition to complying with clause 2(1) of this policy, and to the extent determined by the parent municipality, also be consistent with the supply chain management policy of the parent municipality. If the supply chain management policy of an entity is not consistent with the supply chain management policy of its parent municipality, the Council of the parent municipality must take appropriate steps to ensure consistency.
- (3) The municipality may not act otherwise than in accordance with this supply chain management policy when –
 - (a) procuring goods or services;
 - (b) disposing of goods no longer needed;
 - (c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

- (d) selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

(4) Sub-clauses (1) and (2) of this policy do not apply in the circumstances

3. ADOPTION AND AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY
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This policy applies to the Ray Nkonyeni Municipality and any of the Municipality's entities.

- (1) The accounting officer must –
 - (a) promptly prepare and submit a draft supply chain management policy complying with regulation 2 to the council of the municipality for adoption;
 - (b) at least annually review the implementation of this policy; and
 - (c) when the accounting officer considers it necessary, submit proposals for the amendment of this policy to the Council.
- (2) (a) The accounting officer may for the purposes of subsection (1) (a) make use of any Treasury guidelines determining standards for municipal supply chain management policies, and submit to council that guideline standard, or any modified version thereof, as a draft policy.
(b) The accounting officer must report any deviation from the guideline standard to National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
- (4) The accounting officer of municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements a supply chain management policy as set out in regulation 2.

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer
 - (a) to discharge the Supply Chain Management responsibility in terms of:-
 - (i) Chapter 8 or 10 of the Act; and

- (ii) this Council's supply chain management policy;
 - (b) to maximize administrative and operational efficiency in the implementation of the supply chain management policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the supply chain management policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of sub clause (1) of this policy.
- (3) The council or accounting officer may not delegate or sub-delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality;
- (4) This clause may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in clause 26 of this policy.

<p>5. SUB DELEGATIONS</p>

- (1) The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub-delegation must be consistent with clause (2) below and section 4 of this policy.
- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be sub-delegated by the accounting officer.
 - (b) above R 2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer is a member;
 - (c) not exceeding R 2 million (Vat included) may be sub-delegated but only to the chief financial officer, manager directly accountable to the chief financial officer, a senior manager and the bid adjudication committee;

- (3) The Bid Adjudication Committee to which the power to make final awards has been sub-delegated in accordance with clause (2) must within five days of the bid adjudication committee meeting submit to the accounting officer particulars of each final award made by such committee during that meeting, including–
 - (a) the amount of the award;
 - (b) the name of the person / company to whom the award was made; and
 - (c) the reason why the award was made to that person.
- (4) A written report referred to in subsection (3) must be submitted –
 - (a) to the accounting officer, in the case of an award by–
 - (i) the chief financial officer
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial
- (5) No final award in a competitive bidding process may be affected otherwise than through the committee system provided for in clause 26 of this policy.
- (6) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. OVERSIGHT ROLE OF COUNCIL

- (1) The right to maintain oversight over the implementation of this Supply Chain Management policy rests with the Council.
- (2) For the purposes of such oversight the accounting officer must –
 - (i) within 30 days (within 20 days for municipal entity) of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality,
 - (ii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

- (5) Section 117 of the Municipal Finance Management Act prohibits a Councillor from being a member of a bid committee or any other committee evaluating or approving quotations or bids nor may a Councillor attend any such meeting as an observer.

7. SUPPLY CHAIN MANAGEMENT UNIT

- (1) The accounting officer must establish a Supply Chain Management unit to implement this supply chain management policy. This supply chain management unit may be jointly established by the municipality and entities under its sole or shared control.
- (2) The supply chain management unit must operate under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act or any official to whom this duty has been delegated in terms of section 82 of the Act.

08. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

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

CHAPTER 2
FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

09. FORMAT OF SUPPLY CHAIN MANAGEMENT

This supply chain management policy provides systems for –

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

PART 1: DEMAND MANAGEMENT

10. SYSTEM OF DEMAND MANAGEMENT

- (1) The accounting officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments outlined in the Integrated Development Plan are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.
- (2) The demand management system must :-
 - (a) include timely development of procurement plans 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 appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
 - (c) The development of a system which results in continuing improvement in affordability and value for money, based on total cost of ownership and quality of procurement as competition amongst suppliers is enhanced.
 - (d) provide for the compilation of the required specifications to ensure that its needs are met and

- (e) provide for an appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

11. SYSTEM OF ACQUISITION MANAGEMENT

- (1) The accounting officer must establish, through operational procedures, an effective system of acquisition management in order to ensure –
- (a) that goods and services, including construction works and consultant services are procured by the municipality in accordance with authorised processes only;
 - (b) that expenditure on goods and services, including construction works and consultant services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) that the threshold values for the different procurement processes are complied with;
 - (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; including, the Constitution of the Republic of South Africa Act, the Preferential Procurement Policy Framework Act, and any conditions of the Construction Industry Development Board Act; and
 - (e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) This policy except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
- (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.
- (3) Whenever the municipality procures goods or services contemplated in section 110(2) of the Act the accounting officer must make public the fact that it procures such goods or services otherwise than through its Supply Chain Management system, including –
- (a) the kind of goods or services; and
 - (b) the name of the supplier

12. RANGE OF PROCUREMENT PROCESSES

(1) The procurement of goods and services, including construction works and consultant services shall be procured through the range of procurement processes set out below only:

(a) **petty cash purchases**, up to a transaction value of R 2000 (VAT included);

(b) **written or verbal quotations** for procurements of a transaction value over R2 000 up to R10 000 (VAT included);

(c) **formal written price quotations** for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and

(d) a **competitive bidding** process for:

(i) procurements above a transaction value of R200 000 (VAT included); and

(ii) the procurement of long term contracts exceeding one year in duration (which includes any defects liability period, if applicable)

(2) Reduction in Threshold Values

The accounting officer may, in writing:

(a) lower, but not increase, the different threshold values specified in clause (1); or

(b) direct that:

(i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000(VAT included);

(ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000 (VAT included); or

(iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000. (VAT included).

(3) Parcelling

(i) Goods or services may not deliberately be split into parts/parceled or items of a lesser value merely to avoid complying with the requirements of the policy, unless it is line with the unbundling strategies, in order to distribute work amongst the different suppliers for fair distribution of economy.

- (ii) 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, i.e. no splitting of orders.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS
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A written quotation or bid may not be considered unless the provider/ bidder who submitted the quotation or bid:

- (a) has furnished with the quotation or bid the municipality with that provider's:

- (i) full name;

- (ii) identification number or company or other registration

- (iii) tax reference number and VAT registration number, if any

- (b) has attached a tax status PIN to allow the municipality to verify tax compliance status of the bidder

- (c) has indicated:

- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

- (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or

- (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subclause (ii) is in the service of the state or has been in the service of the state in the previous twelve months

14. LISTS OF ACCREDITED PROSPECTIVE PROVIDERS
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The accounting officer must –

- (1) (a) keep a list of accredited prospective providers of goods and services that must be used for all procurement requirements of the municipality greater than R 2 000.00 including VAT ; and

- (b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, prospective providers of goods or services, construction works and consultant services must be

- invited to apply for evaluation and listing as accredited prospective providers;
- (c) the advertisement in (b) must specify the listing criteria for accredited prospective providers; and;
- (d) the listing must disallow any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services.
- (3) Prospective providers will be allowed to submit applications for listing once a year as prescribed in 14(1)(b). This does not preclude any potential service provider from quoting or bidding. Should service provider be successful they would be required to meet all the requirements of the listing criteria of this policy before awarding is done in order for their quotations/bids to be responsive.
- (4) The list must be compiled per commodity and per type of service.
- (5) Prospective vendors may only register for a maximum of two categories or types of service, this to allow for controlling the distribution of opportunities and accurate reconciliation of spending to support BBEE.
- (6) All parties to a Joint Venture or Consortium must comply with the requirements of clauses 14 (3) (4) and (5) above.

15. PETTY CASH PURCHASES

- (a) Petty cash may be used for procurement of goods and services as per clause 12 (1) (a) of this policy.
- (b) Petty cash may only be used for procurement of urgent goods and services from recognized suppliers.
- (c) Petty cash can only be obtained through Councils approved buying procedure (Authorised petty cash application form, acknowledgement of goods received and receipt/ proof of payment).
- (d) Each manager (official responsible for petty cash administration) must submit monthly reconciliation reports to the Chief Financial Officer including total amount of petty cash purchases with receipts and appropriate documents for each purchase, with each application for reimbursement.
- (e) The Manager Supply Chain Management may authorise procurement from petty cash exceeding R500,00, but below R2 000,00 in special

circumstances, where goods or services are to be procured from Suppliers with no credit facility.

16. WRITTEN OR VERBAL PRICE QUOTATIONS

The conditions that must be followed when procuring goods or services through written or verbal quotations are as follows –

- (a) quotations must be obtained from at least three different service providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality or municipal entity, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by subsection 14 (1) (b) and (c)
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer.
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.
- (e) If a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17. FORMAL WRITTEN PRICE QUOTATIONS

1. The conditions that must be followed when procuring goods or services through formal written quotations are as follows –

- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality
- (b) that quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria in the supply chain management policy required by regulation 14(1)(b) and (c)
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer.

- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (2) The designated official referred to in sub clause (1)(c) above, must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that sub clause.

18. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN OR VERBAL QUOTATIONS AND FORMAL WRITTEN PRICE QUOTATIONS

The Accounting Officer must determine the operational procedure for the procurement of goods or services through formal written price quotations,

- (a) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of clause 17, be advertised for at least 7 (seven days) on the website and an official notice board of the municipality or municipal entity;
- (b) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotation basis
- (c) accounting officer must 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 accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of sub-delegation; and
- (e) requirements for proper record keeping.

19. COMPETITIVE BIDDING PROCESS
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The Accounting Officer must determine the operational procedure for the procurement of goods or services through competitive bidding process,

- (a) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may be procured by the municipality through a competitive bidding process, subject to section 11(2); and
- (b) That no requirement for goods or services above an estimated transaction value of R 200 000 (VAT included) may be deliberately be split into parts or items of lesser value merely for the sake of

procuring the goods or services otherwise than through a competitive bidding process.

20. PROCESS FOR COMPETITIVE BIDDING

Stages of a competitive bidding process are as follows:-

- (a) the compilation of bidding documents
- (b) the public invitation of bids
- (c) site meetings or briefing sessions, if applicable
- (d) the handling of bids submitted in response to public invitation
- (e) the evaluation of bids
- (f) the award of contracts
- (g) the administration of contracts; and
- (h) proper record keeping

21. BID DOCUMENTATION FOR COMPETITIVE BIDS

The Specifications Committee shall approve standard documentation pertaining to a particular type of or group of services for which tender specifications was developed. The criteria to which bid documentation for a competitive bidding process must comply, and state that in addition to regulation 13 of the bid documentation must –

- (a) take into account –
 - (i) the general and special 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;
- (b) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish –
 - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements:
 - (aa) for the past three years; or
 - (bb) since their establishment and/or if established during the past three years;

- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

<p>22. PUBLIC INVITATION FOR COMPETITIVE BIDS</p>
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The procedure for the invitation of competitive bids, is as follows –

- (1) (a) any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the municipality or municipal entity or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin or Construction Industry Development Board (CIDB) website for contraction related bids); and
 - (b) the information contained in a public advertisement, must include:
 - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to sub clause (2) of this policy; and
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality or municipal entity.
 - (c) to contain all information to ensure unambiguous, free, transparent and competitive procurement, unless otherwise specified.
- (2) the accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or

any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) bids submitted must be sealed.

(4) where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

Bid closing date may be extended

(5) the bid closing date may be extended if circumstances justify this action; provided that-

(a) the closing date may not be extended unless a notice is published in the same media the Bid was originally advertised, prior to the original bid closing date. This notice shall also be posted on the official notice boards and Council's Web site, a notice to this effect to all bidders that have collected documents shall be issued;

(b) if on the site meeting a certain issue was raised that would warrant to extend the date. The extension will be granted to only those that attended the compulsory site meeting.

<p style="text-align: center;">23. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS</p>

1. The procedures for the handling, opening and recording of bids are as follows –

- (a) Bids shall be placed in the official tender box located in the foyer of the Ray Nkonyeni Local Municipality, situated at 10 Connor Street, Port Shepstone before the time and date specified in the bid advertisement. Whenever a municipal time piece is out of order for whatever reasons a watch of an official designated shall be used. –
 - (i) the tender box shall be opened only by and in the presence of two officials delegated to do so by the Accounting Officer or his/her delegate
 - (ii) the bid opening shall be open to the public and attendance shall be recorded by signature of each attendee in the register;
 - (iii) bids shall be opened only in public by the officials designated in (ii) above and the results thereof recorded in an official register kept by the Supply Chain Management Unit; and
 - (iv) must be opened at the same time and/ or as soon as possible after the period for the submission of bids has expired;
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, relating to a bid other than one in sub-clause (b) may be disclosed to bidders or other persons until an official award is made; and
- (d) The accounting officer or his delegate must:
 - (i) record in a register all bids received in time;
 - (ii) make the register available for public inspection; and
 - (iii) publish the entries in the register and the bid results on the website.

2. Amendment of Bid: "Substitute Bids

Should a bidder indicate that they wish to review their bid that has already been submitted in the bid box, the following procedure must be followed –

- (a) bidder to pay the required Bid fee, for a new set of original documents.
- (b) bidder to note on the cover page and each page of the bid document that this is a "Substitute Bid" that replaces one that has already been submitted for the same bid.

- (c) “substitute bid”, will only be considered, if documentation is completed and signed by the original parties that signed the initial (first Bid), that was submitted.
- (d) “substitute bid” will be subject to the same terms and conditions as per the initial bid submitted, and does not qualify for any preferential treatment.
- (e) all documentation as prescribed/required in the bid document to be submitted with the “substitute bid”, under no circumstance will it be allowed that documents from one bid document be used for another and failure to attach such documents will invalidate the bid.
- (f) once a ‘substitute bid” that complies to all the requirements above, has been submitted, the original bid is automatically regarded as cancelled, and will only be opened at the bid opening, for reference purposes, such as comparison of Signatories
- (g) at no stage may a bid be removed from the bid box, except on the official date and time of the bid opening by the delegated officials.
- (h) Council reserves the right not to accept any “Substitute Bid”
- (i) the period for which bids are to remain valid and binding must be indicated in the bid documents.
- (j) the validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period.

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

25. TWO-STAGE BIDDING PROCESS

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

26. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

- (1) The accounting officer must:
 - (a) establish a committee system comprising of at least:
 - (i) a bid specification committee;
 - (ii) a bid evaluation committee; and
 - (iii) a bid adjudication committee;
 - (b) appoint the members of each committee, taking into account section 117 of the Act; and
 - (c) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- (2) The committee system must be consistent with:
 - (a) clause 27, 28, and 29 of this policy; and
 - (b) any other applicable legislation.
- (3) The accounting officer may apply the committee system to formal written price quotations.

27. BID SPECIFICATION COMMITTEES

- (1) The bid specification committee must compile the specifications for each procurement of goods or services, including construction works and consultant services by the municipality or municipal entity.
- (2) Specifications:
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognised 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 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 Preferential Procurement Regulations 2022; and
 - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of clause 22 of this policy.
- (3)
 - (a) the bid specification committee must be composed of at least one or more officials of the municipality or municipal entity, preferably the manager responsible for the function involved, and may, when appropriate, include internal or external specialist advisors
 - (b) the accounting officer must appoint the members of the committee in terms of clause 26(b) of this policy and the chairperson of the bid specification 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.
 - (c) documentation is to be approved by the Bid Specifications Committee prior to advertisement of bids as stipulated in clause 27 (2)(g)

- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
- (5) Must be appointed for period of 12 months which is in line with financial year end of the municipality, subject to the reviewal of this policy
- (6) The quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one.

<p>28. BID EVALUATION COMMITTEES</p>

- (1) The bid evaluation committee must:
 - (a) evaluate bids in accordance with:
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of clause 27(2)(f) and as prescribed in terms of the Preferential Procurement Policy Framework Act.
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as be possible compose of:
 - (a) officials from departments requiring the goods or services;
 - (b) at least one supply chain management practitioner of the municipality or municipal entity and
 - (c) the accounting officer must appoint the members of the committee in terms of clause 26(b) of this policy and the chairperson of the bid specification 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.
- (3) Must be appointed for period of 12 months which is in line with financial year end of the municipality, subject to the reviewal of this policy
- (4) The quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one.

29. BID ADJUDICATION COMMITTEES

- (1) The bid adjudication committee must:
 - (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality which must include:
 - (i) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office , reporting directly to the chief financial officer and designated by the chief financial officer;
 - (ii) at least one senior supply chain management practitioner who is an official of the municipality; and
 - (iii) a technical expert in the relevant field who is an official, if such an expert exists; and
- (3) The accounting officer must appoint the chairperson of the bid adjudication committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) Be appointed for period of 12 months which is in line with financial year end of the municipality, subject to the reviewal of this policy
- (6) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one.
- (7) Approval of Bid not recommended –
 - (a) If the bid adjudication committee decides to award a bid other than the one recommended by the Bid evaluation committee, the Bid adjudication committee must prior to awarding the bid –

- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in clause (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (8) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (9) The accounting officer must comply with section 114 of the Act within 10 working days. Approval of Bid not recommended Above R10 million.
- (10) If the Accounting officer decides to award the bid other than that recommended by the Bid adjudication committee for bids above, R10m, section 114 of the Act must be complied with within 10 working days.

30. PROCUREMENT OF BANKING SERVICES

- (1) A contract for the provision of banking services:
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of clause 23(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. PROCUREMENT OF INFORMATION TECHNOLOGY (IT) RELATED GOODS OR SERVICES

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

32. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE

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

33. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

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

34. PROUDLY SA CAMPAIGN

Proudly SA

- (1) The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services.

35. APPOINTMENT OF CONSULTANTS

- (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if-
 - (a) the value of the contract exceeds R200 000 (VAT included); or
 - (b) the duration period of the contract exceeds one year but the contract cannot exceed three years.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

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

- (1) The accounting officer may –
 - (a) dispense with the official procurement processes established by this policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only :
 - (i) in an emergency;
 - (ii) 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 and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

(b) to ratify minor breached of the procurement process by an official or committee acting in terms of delegated powers or duties which are of a technical nature.

(2) The accounting officer must record the reasons for any deviations in terms of sub clauses (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

(3) Sub clause (2) does not apply to the procurement of goods and services contemplated in clause 11(2) of this policy.

Deviation Request Form

(4) All Deviations be processed on the Deviation Request Form as provided by Council's SCMU (DMS 710756) and must be approved by the accounting officer.

(5) For practical purposes the requirements in terms of clause 36(2) not be applied for orders for R30 000 or less."

Publications in the Media

(6) Publication of official and legal notices and advertisements in the press by or on behalf of the Council, there is no requirement for a competitive bidding process to be followed when there is only one circulating publication in the area, provided that the advertisement is placed directly by Council, with the relevant newspaper/publication.

(7) Where there are more than two or more local publishers the distribution of work will be done on rotational basis after a competitive process.

(8) Variation Order

In terms of MFMA - Circular 62 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.]

37. UNSOLICITED BIDS

(1) In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.

- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
 - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - (c) the person who made the bid is the sole provider of the product or service
 - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with sub clause (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
 - (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to sub clause (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
 - (a) any comments submitted by the public; and
 - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

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

<p style="text-align: center;">38. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM</p>
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The Accounting Officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:

(1) The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this 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 to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

- (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
- (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years; in terms of the Companies Act, No. 71 of 2008, section 69. If a person was disqualified or found to be an un rehabilitated insolvent or has been removed from an office of trust on the grounds of misconduct involving dishonesty or convicted of fraud, theft or forgery or any conduct involving fraud, misrepresentation or dishonesty. This includes flouting statutes like the Insolvency Act, the Close Corporation Act, the Competition Act, the Financial Intelligence Centre Act, the Securities Act or the Prevention and Combating of Corrupt Activities Act.
 - (iii) has will fully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subclauses (1)(b)(ii), (e) or (f) (g) or (h) this clause 38

**PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE
MANAGEMENT LOGISTICS MANAGEMENT**

39. LOGISTICAL MANAGEMENT

The Accounting Officer must establish 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, maintenance and contract administration.

40. DISPOSAL MANAGEMENT

- (1) The Accounting Officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:
 - (2) The disposal of assets must–
 - (a) be by one of the following methods –
 - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) selling the asset; or
 - (iv) destroying the asset;
 - (b) provided 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;
 - (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 firearms to any person or institution within or outside the Republic;

- (c) furthermore ensure 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
- (d) ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.
- (3) The actual approach taken to address various scenarios for the disposal and lease of immovable assets is contained in Disposal and Lease of Immovable Assets Policy.

41. RISK MANAGEMENT

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

42. PERFORMANCE MANAGEMENT

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

PART 4: OTHER MATTERS

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

- (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above **R15 000** is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) At the time of Bid or Quotation closure, the Bidder must have attached either a valid SARS tax clearance certificate or Tax Status Compliance pin(PIN), or alternatively a letter from SARS confirming that the Bidder has applied for a Tax Clearance certificate, as stipulated on clause 13(b)
- (3) In the case where a letter from SARS confirming that an application for tax clearance has been received, such Tax Clearance certificate is to be provided by the Bidder, within 7 (seven) calendar days, failing which the Bid will be regarded as non-responsive. A bidder shall obtain proof of receipt from Council upon submission of the Tax certificate.

44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE

The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be given to a person –

- (a) who is in the service of the state; or
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with the Ray Nkonyeni Local Municipality or municipal entity.

45. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE

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

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

- (c) the amount of the award.

46. ETHICAL STANDARDS

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system in order to promote-
- (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of the supply chain management policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Ray Nkonyeni Local Municipality;
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to the Ray Nkonyeni Local Municipality;
 - (h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (b) by the Accounting Officer must be made to the mayor of the Ray Nkonyeni Local Municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
- (5) Ray Nkonyeni Local Municipality or municipal entity adopts the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management, which code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the Ray Nkonyeni Local Municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website **www.treasury.gov.za/mfma** located under "legislation".
- (6) A breach of the code of conduct adopted by the Ray Nkonyeni Local Municipality must be dealt with in accordance with schedule 2 of the Systems Act.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO MUNICIPALITIES , OFFICIALS AND OTHER ROLE PLAYERS

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

48. SPONSORSHIPS

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

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

49. OBJECTIONS AND COMPLAINTS

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

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding –
 - (a) 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
 - (b) to deal with objections, complaints or queries regarding any such decision or actions or any matters arising from such contract.

- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) If the independent and impartial person referred to in clause 50.1, is of the view that a matter which should be dealt with in terms of clause 50A, he or she shall forthwith refer the matter to the Municipal Bid Tribunals and that Tribunal shall then hear and determine the matter in accordance with the provisions of clause 50A.
- (5) Objections or complaints may be referred to the KwaZulu-Natal Treasury if
 - (a) the objection or complaint is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
- (6) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

50A. MUNICIPAL BID APPEALS TRIBUNAL

- (1) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.
- (2) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.
- (3) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which must be appended to this Supply Chain Management Policy.
- (4) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in clause 50A.3.
- (5) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

51. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER

If a service provider acts on behalf of a Ray Nkonyeni Local Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Ray Nkonyeni Local Municipality must stipulate –

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

52. APPLICATION OF PREFERENTIAL PROCUREMENT

The application of this Policy is subject to Preferential Procurement Policy Framework Act 2000: Preferential Procurement Regulations 2022

53. COMMENCEMENT

This policy takes effect on the date on which it is adopted by the council.