

**FEZILE DABI DISTRICT MUNICIPALITY
DRAFT SUPPLY CHAIN MANAGEMENT POLICY**



Fezile Dabi
District Municipality

Date of approval by council:.....

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MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY
LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of adoption: ???

Council resolve in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of **Fezile Dabi District Municipality**

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Definitions

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

“ **highest acceptable tender**” means a tender that complies with all specifications and conditions of tender that has the highest price compared to other tenders;

“ **lowest acceptable tender**” means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;

“**price**” means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;

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

“ **specific goal**” means specific goals as contemplated in section 2(1) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;

“**tender**” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through

price quotations, competitive tendering process or any other method envisaged in legislation;

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

“competitive bidding process” means a competitive bidding process referred to in paragraph 12 (1) (d) of this Policy;

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

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

“formal written price quotation” means quotations referred to in paragraph 12 (1) (c) of this Policy;

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

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

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

“list of accredited prospective providers” means the list of accredited prospective providers which the **[municipality]** must keep in terms of paragraph 14 of this policy;

“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);

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

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

“the Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

“written or verbal quotations” means quotations referred to in paragraph 12(1)(b) of this Policy.

Abbreviations

AG	Auditor-General
BBBEE	Broad Based Black Economic Empowerment
HDI	Historically Disadvantaged Individual
PFMA	Public Finance Management Act
PPPFA	Preferential Procurement Policy Framework Act (Act 5 of 2000)
RFI	Request for Information
RFQ	Request for Quote
SCM	Supply Chain Management
SMME	Small, Medium and Micro Enterprises

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply chain management policy

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

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

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

3. Amendment of the supply chain management policy

(1) The accounting officer must –

- (a) at least annually review the implementation of this Policy; and
- (b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the **Council**.

(2) If the accounting officer submits proposed amendments to the **Council** that differs from the model policy issued by the National Treasury, the accounting officer must –

- (a) ensure that such proposed amendments comply with the Regulations; and
- (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

(3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

4. Delegation of supply chain management powers and duties

(1) The **council** hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer –

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

(2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

(3) The accounting officer may not subdelegate 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 paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. Subdelegations

(1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

- (2) The power to make a final award –
- (a) above R10 million (VAT included) may not be subdelegated by the accounting officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be subdelegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
 - (c) not exceeding R2 million (VAT included) may be subdelegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager;
 - (iii) a bid adjudication committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
- (a) the amount of the award;
 - (b) the name of the person/company to whom the award was made; and
 - (c) the reason why the award was made to that person/company.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

- (b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - (i) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

- (5) Subparagraphs (3) and (4) of this policy do not apply to procurements out of petty cash.

- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

- (7) No supply chain management decision-making powers may be delegated to an advisor or consultant.

6. Oversight role of council

(1) The **Council** reserves its right to maintain oversight over the implementation of this Policy.

(2) For the purposes of such oversight the accounting officer must –

In the case of the municipality

- (a)
 - (i) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and



- (ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report **to 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 **Executive Mayor**

(4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

7. Supply Chain Management Unit

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

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

8. Training of supply chain management officials

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

CHAPTER 2 SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of supply chain management system

This Policy provides systems for –

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

Part 1: Demand management

10. System of demand management

10.1 The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by **the municipality** support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

10.2 The demand management system must –

- (a) include timely planning and management processes to ensure that all goods and services required by **the municipality** are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
- (c) provide for the compilation of the required specifications to ensure that its needs are met.

- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

Part 2: Acquisition management

11. System of acquisition management

11.1 The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

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

11.2 When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the **municipality** supply chain management system, including -

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

12. Range of procurement processes

12.1 Goods and services may only be procured by way of –

- (a) written quotation, for procurements of a transaction value R1 to R30 000 (VAT included)

(b) formal written price quotations for procurements of a transaction value over R30 000 less than R200 000 (VAT included); and

(c) a competitive bidding process for–

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

(ii) the procurement of long term contracts.

(2) The accounting officer may, in writing

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

(b) direct that –

(i) written quotations be obtained for any specific procurement of a transaction from value R1 to R30 000

(ii) formal written price quotations be obtained for any specific procurement of a transaction value above than R30 000; or

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

(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

13. General preconditions for consideration of written quotations or bids

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

- (a) has furnished that provider's –
 - (i) full name;
 - (ii) identification number or company or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
 - (iv) Central supplier database summary report
 - (v) BBBEE Verification Certificate/Specific goals
 - (vi) Municipal rates and taxes information/Landlord information
- (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 he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

14. Lists of accredited prospective providers

- (1) The accounting officer must –
 - (a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written quotations and formal written price quotations; and

- (b) at least once a year through the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- (c) specify the listing criteria for accredited prospective providers; and
- (d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

(3) The list must be compiled per commodity and per type of service.

15. Written quotations (R1 to R30 000)

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

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the **municipality database and on central supplier database**, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;
- (b) 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 Chief Financial Officer or another official designated by Chief Financial Officer.
- (d) the Chief Financial Officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted, the order may be placed only against written confirmation by the selected provider.

16. Procedures for procuring goods or services through written quotations and formal written price quotations(R30 000 –R200 000)

The procedure for the procurement of goods or services through written quotations or formal written price quotations, is as follows:

- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 16, be advertised for at least seven days on the website and an official notice board of the **municipality** and eTender portal for self- download;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (d) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Chief Financial Officer or another official designated by Chief Financial Officer.
- (e) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (f) offers below R30 000. (VAT included) must be awarded based on compliance to specifications, conditions of contract and condition of the request for procurement, ability and capability to deliver on time and at the most competitive price ;
- (g) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

17. Competitive bids

(1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

18. Process for competitive bidding

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

- (a) Compilation of bidding documentation as detailed in paragraph 19;
- (b) Public invitation of bids as detailed in paragraph 21;
- (c) Site meetings or briefing sessions as detailed in paragraph 20;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 21;
- (e) Evaluation of bids as detailed in paragraph 28;
- (f) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
 - (i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (h) Proper record keeping
 - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

19. Bid documentation for competitive bids

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

- (a) take into account –

- (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, functionality, 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 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.

20. Public invitation for competitive bids

(1) The procedure for the invitation of competitive bids, is as follows:

(a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the **municipality** or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

(b) the information contained in a public advertisement, must include –

- (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
- (ii) a statement that bids may only be submitted on the bid documentation provided by the **municipality**; and
- (ii) date, time and venue of any proposed site meetings or briefing sessions.;

(2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed.

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

21. Procedure for handling, opening and recording of bids

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

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

22. Negotiations with preferred bidders

(1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation —

- (a) does not allow any preferred bidder a second or unfair opportunity;
- (b) is not to the detriment of any other bidder; and
- (c) does not lead to a higher price than the bid as submitted.

- (2) Minutes of such negotiations must be kept for record purposes.

23. 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.

24. EXTENSION OF VALIDITY PERIODS

24.1 The period for which bids are to remain valid and binding must be indicated in the bid documents.

24.2 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.

24.3 The responsible official for the bid must take all possible steps to ensure the bids are evaluated and adjudicated within the validity period.

24.4 This period of validity may be extended, provided that the original validity period has not expired. The period of extension must be agreed to by both the municipality and the bidder within a reasonable period, but may not exceed a further period of ninety (90) days.

24.5 The responsible official must ensure that all bidders (responsive or non-responsive) are given an opportunity to extend the validity period to ensure that bids are valid throughout the evaluation period

or until the award is finalized.

24.6 All bidders (responsive and non-responsive) must inform the municipality in writing whether they agree to extend the validity period or not before expiry date of the original validity period.

24.7 The responsible official must ensure that it is clearly indicated in the letter to request extension of the validity period that failure by the bidder to respond would lead thereto that the bidder refuses to extend the validity period and be deemed to have withdrawn the tender from the evaluation process.

24.8 A tenderer must indicate in the extension document whether he/she is willing to proceed with tender at submitted prices, or any conditions as set out in the offer, after the validity period has **expired**.

25. SAMPLES

25.1 Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the addressee mentioned in the bid documents by no later than the closing time of the bid.

25.2 Bids may not be included in parcels containing samples.

25.3 If samples are not submitted as required in the bid documents, then the bid concerned may be declared invalid.

25.4 Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

25.5 If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects to that contract sample.

26. SUBMISSION OF BIDS

26.1. Bids must be submitted before the closing time, at the address and in accordance with the directives in the bid documents.

26.2 Each bid must be in writing using non-erasable ink and must be submitted on the official Form of Bid/Offer issued with the bid documents. Only one (1) tender offer from a bidding entity will be accepted.

26.3 The bid must be submitted in a separate sealed envelope with the name and address of the bidder, the bid number and title, the bid box number (where applicable), and the closing date indicated on the envelope. The envelope may not contain documents relating to any bid other than that shown on the envelope. Only sealed bids will be accepted.

The municipality may accept tenders where envelopes have been inadvertently marked with the name of the bidder.

26.4. The onus shall be on the bidder to place the sealed envelope in the official, marked and locked bid box provided for this purpose, at the designated venue, not later than the closing date and time specified in the bid notice.

26.5 Postal bids will not be accepted for consideration, nor shall proof of posting or proof of delivery be accepted as proof that bids were delivered if received after the closing date of bid.

26.6 No bids forwarded by telegram, facsimile or similar apparatus shall be considered unless stated otherwise in tender document.

26.7 Electronic bids will not be accepted.

26.8 No person may amend or tamper with any bids or quotations after their submission

26.9 The bidder shall choose a *domicilium citandi et executandi* in the Republic and unless notice of the change thereof has duly been given in writing, it shall be the address stated in the bid.

27. OPENING OF BIDS

27.1 At the specified closing time on the closing date the applicable bid box shall be closed.

27.2 The bid box shall be opened in public as soon as practical after the closing time.

27.3 Bids found to be inadvertently placed in the incorrect bid box will be redirected provided that the applicable bids either closed on the

same day at the same time, or are still open (in which case the municipality disclaims any responsibility for seeing that the bids are in fact lodged in the correct bid box). A record of all bids placed in an incorrect box shall be kept.

27.4 Bids received in sealed envelopes in the bid box without a bid number or title on the envelope will be opened at the bid opening and the bid number and title ascertained. If the bid was in the correct bid box it will be read out. If the bid is found to be in the incorrect bid box, it will be redirected provided that the applicable bids either closed on the same day at the same time, or are still open.

If the bid closes at a later date, the bid will be placed in a sealed envelope with the bid number and title endorsed on the outside, prior to being lodged in the applicable box. The municipality however disclaims any responsibility for seeing that the bid is in fact lodged in the correct box.

27.5 Immediately after the opening of the bid box, all bids shall be opened in public and checked for compliance.

27.6 The official opening the bids shall in all cases read out the name of the bidder and, if practical, the amount of the bid.

27.7 As soon as a bid or technical proposal has been opened:

(a) The bid/proposal shall be stamped with the official stamps, and endorsed with the opening official's signature;

(b) The name of the bidder, and where possible, the bid sum shall be recorded in a bid opening record kept for that purpose; and

(c) The responsible official who for opened the bid shall forthwith place his/her signature on the bid opening record and shall ensure that the bid opening record and the bid prices, where applicable, are made available public inspection and are **published on the municipality's official website.**

28. Evaluation and Awarding Of Bids

(28.1) Bids will be evaluated in terms of the point system as laid out in the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and the its regulations 2022

(28.2) When functionality is included as a criterion in the Evaluation of bids, the evaluation of the bids shall be conducted in the following two stages:

Firstly: the assessment of functionality shall be done in terms of the evaluation criteria and the minimum threshold as were stipulated in the invitation for bids. A bid shall be disqualified if it fails to meet the minimum threshold for functionality and shall be regarded as acceptable if it achieves the prescribed minimum qualifying score for functionality as per the bid invitation

Secondly: only the qualifying bids will be evaluated in terms of the 80/20 or 90/10 preference points systems, where the 80 or 90 points shall be used for price only and the 20 or 10 points are used for specific goals

28.3 The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids should be prohibited as this will jeopardize the fairness of the Supply Chain Management system of the municipality.

28.4 The following formula must be used to calculate the points out of 80 for price in respect with a Rand value equal to R2000 to or less than R30 000 and above R30 000 and up to a Rand value of R50 million, inclusive of all applicable taxes:

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

• *Where:*

- P_s = Points scored for price of tender under consideration;
- P_t = Price of tender under consideration; and
- P_{\min} = Price of lowest acceptable tender.

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

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

- *Where:*
- P_s = Points scored for price of tender under consideration;
- P_t = Price of tender under consideration; and
- P_{\min} = Price of lowest acceptable tender.

28.6 Once the points for price has been calculated, preference points for specific goal for both the 80/20 and 90/10 preference systems shall be determined in the Preferential Procurement Policy.

28.7 The maximum preference points that may be allocated for both the 80/20 and 90/10 point systems in respect of the SPECIFIC GOALS shall not exceed 20 and 10 respectively.

28.8 The Accounting Officer shall exercise due care to ensure that a bid is not disqualified from the bidding process solely because the bidder does not submit meet the evaluation criteria on specific goal.

28.9 The points scored for price must be added to the points scored for Specific goals to obtain the bidder's total points scored out of 100.

28.10 When calculating comparative prices, unconditional discounts must be taken into account for evaluation purposes; and conditional discounts must not be taken into account, but should be implemented when payments are effected.

28.11 A procurement contract shall be awarded to the bidder who scored the highest total number of points in terms of the preference point systems.

28.12 In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for specific goals.

If two or more bids have equal points, including equal preference points for specific goals, the successful bid must be the one scoring the highest score for functionality if functionality is part of the evaluation process.

28.13 In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots

29. LOCAL PRODUCTION CONTENT

29.1 Bids in respect of designated sectors must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

29.2 Where there is no designated sector, the Accounting Officer may decide to include a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered. Such a condition and minimum threshold must only be included with the approval of the National Treasury in consultation with the Department of Trade and Industry

29.3 Every bid invited on the basis of local production and content must be measurable and must be audited by the institution's internal audit. Bids that were invited on the basis of local production and content should be evaluated by following a two-stage bidding process:

First stage – Evaluation in terms of the stipulated minimum threshold for local production and content

- Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this will jeopardize the fairness of the system.
- A bid is regarded as acceptable if it achieves the stipulated minimum threshold for local production and content.
- Bids that fail to achieve the stipulated minimum threshold for local production and content must be disqualified

Second stage - Evaluation in terms of the 80/20 or 90/10 preference point systems

- Only acceptable bids must be evaluated further in terms of the 80/20 or 90/10 preference point systems prescribed as prescribed in Preferential Procurement Policy.
- Where appropriate, prices may be negotiated only with short listed or preferred bidders. The reasons for such price negotiations must be approved by the Accounting Officer and recorded for audit purposes.

30. Committee system for competitive bids

(1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

- (a) a bid specification committee;
- (b) a bid evaluation committee; and
- (c) a bid adjudication committee;

(2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

- (a) Regulations 27, 28 and 29; and
- (b) any other applicable legislation.

(5) The accounting officer may apply the committee system to formal written price quotations.

31. Bid specification committees

(1) A bid specification committee must compile the specifications for each procurement of goods or services by the **municipality**.

(2) Specifications –

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards 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) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or 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 word “equivalent”;
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 20 of this Policy.

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

(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.

32. Bid evaluation committees

- (1) A bid evaluation committee must –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the preference points system in terms of the Preferential Procurement Policy Framework Act and Regulations.
 - (b) evaluate each bidder's ability to execute the contract;
 - (c)
 - (i) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears,
 - (ii) A tax clearance certificate pin issued by SARS, has been submitted.
 - (iii) The evaluation must also confirm the validity of a B-BBEE Status Level Verification Certificate by tracing the name of the issuing Verification Agency to the list of all SANAS accredited agencies.
 - (iv) They must evaluate on the specific goals provided by the bidder
 - (d) screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value
 - (e) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of-
- (a) officials from departments requiring the goods or services; and
 - (b) at least one supply chain management practitioner of the **municipality**.

33. Bid adjudication committees

- (1) A bid adjudication committee must –

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

(2) A bid adjudication committee must consist of at least four senior managers of the **municipality** which must include –

- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
- (b) at least one senior supply chain management practitioner who is an official of the **municipality**; and
- (c) a technical expert in the relevant field who is an official, if such an expert exists.

(3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

(4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.

(5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

- (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
- (b) The accounting officer may –
- (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (7) The accounting officer must comply with section 114 of the Act within 10 working days

34. Procurement of banking services

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60

days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

35. Procurement of IT related goods or services

(1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

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

(3) The Accounting Officer must notify SITA together with a motivation of the IT needs if –

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

(4) If SITA comments on the submission and the **municipality** disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

(1) The Accounting Officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

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

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

37. 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.

38. Proudly SA Campaign

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

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

39. Appointment of consultants(Regulation 35(2))

(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.

- (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** .

40. 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
- (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

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

(3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 10(2) of this policy.

41. Unsolicited bids

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

(2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- (c) the person who made the bid is the sole provider of the product or service; and
- (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

(3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –

- (a) reasons as to why the bid should not be open to other competitors;

- (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
- (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

(5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.

(6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.

(7) When considering the matter, the adjudication committee must take into account –

- (a) any comments submitted by the public; and
- (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

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

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

42. Combating of abuse of supply chain management system

- (1) The accounting officer must–
- (a) take all reasonable steps to prevent abuse of the supply chain management system;
 - (b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the **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;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

(2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this policy.

Part 3: Logistics, Disposal, Risk and Performance Management

43. Logistics management

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

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

44. Disposal management

(1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

.....

- (2) Assets may be disposed of by –

- (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
- (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (iii) selling the asset; or
- (iv) destroying the asset.

(3) The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

45. Risk management

(1) The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

- (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.

46. Performance management

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

Part 4: Other matters

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

(1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the Accounting Officer must first check with SARS whether that person's tax matters are in order.

(3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

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

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

- (a) who is in the service of the state;
- (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 **municipality**

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

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

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

50. Ethical standards

(1) A code of ethical standards as set out in [subparagraph (2) / the “*National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management*”] *Fezile Dabi District Municipality* is hereby established for officials and other role players in the supply chain management system of the **municipality** in order to promote –

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

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

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;

- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by the **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 **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 46(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 Executive Mayor of the 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) A breach of the code of ethics must be dealt with as follows -

- (a) in the case of an employee, in terms of the disciplinary procedures of the **municipality** envisaged in section 67(1)(h) of the Municipal Systems Act;
 - i. in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - ii. In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

51. 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 **municipality** for or in connection with the award of a contract; or
- (b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.

(2) The Accounting Officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such

person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

52. 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.

53. Objections and complaints

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

54. Resolution of disputes, objections, complaints and queries

(1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –

- (a) to assist in the resolution of disputes between the **municipality** and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

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

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

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

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

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

55. Contracts providing for compensation based on turnover

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

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

56. Assignment and Cession

(1) Assignment of contracts is not allowed to ensure the adherence to the principles of section 217 of the Constitution particularly, fairness, transparency and competitiveness

(2) Cession

Cession is permissible within the SCM legal prescripts.

Cession shall only be applicable as follows:

- 2.1 Cession is only applicable to the transfer of right to payment for services rendered by a service provider to an FSP or State Institutions;
- 2.2 The written request for cession must be by the service provider and not a third party; and
- 2.3 The written request by the service provider must be accompanied by the cession agreement