

# WINNIE MADIKIZELA-MANDELA LOCAL MUNICIPALITY



## SUPPLY CHAIN MANAGEMENT FINAL POLICY 2026/27

**This Policy consists of two parts:**

**Part A** is the Supply Chain Management Policy, adopted in terms of section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005 as amended;

**Part B** is the Preferential Procurement Policy, adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2022.

**PART A**

**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY**

**LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**

This Supply Chain Management policy has been formulated in terms of Section 111 of the Local Government: Municipal Finance Management Act (no. 56 of 2003).

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**PREAMBLE**

This Supply Chain Management policy aims to ensure that Winnie Madikizela-Mandela local Municipality procures goods and services in a manner that is efficient, timely and cost-effective, ensures customer satisfaction, pursues socio-economic objectives through a preference system and demonstrates compliance with the constitution and all relevant legislation. This SCM policy also assists the Accounting Officer and Accounting Authorities with the implementation of the Preferential Procurement Regulations, 2022 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA). Furthermore, the policy will also inform the applicable Supply Chain Management processes to contribute the local economic development of the Bizana area.

## POLICY STATEMENT AND OBJECTIVES

- 1 Section 111 of the Local Government: Municipal Finance Management Act, 56 (MFMA) requires each municipality and municipal entity to adopt and implement a Supply chain Management Policy, which give effect to the requirements of the Act.
- 2 In addition, the Preferential Procurement Policy Framework Act requires Winnie Madikizela-Mandela Local Municipality to determine its Preferential Procurement Policy and to implement it within the framework prescribed.
- 3 The objectives of this Policy are:
  - 1) to give effects to section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost effective;
  - 2) To ensure efficient, effective and uniform planning for and procurement of goods, services and/or works, required for proper functioning of Winnie Madikizela-Mandela Municipality as well as the sale and letting of assets;
  - 3) to comply with applicable provisions of the Municipal Finance Management Act including Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636, 30 May 2005 and any National Treasury Guidelines issued in terms of the MFMA and regulations pertaining thereto; and
  - 4) to acknowledge the provisions of:
    - a) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
    - b) The Competitions Act 1998 (Act No. 89 of 1998)
    - c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
    - d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
    - e) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
    - f) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
    - g) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
    - h) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004);
    - i) the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000)
    - j) the Protection of Personal Information Act, 2013 (Act No.4 of 2013)
  - 5) To ensure, that the goods and services required, are aligned to both the IDP and budget of Winnie Madikizela-Mandela Municipality.
  - 6) To obtain best value for money when procuring goods and services
  - 7) To ensure that the objectives of uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

1. Definitions

In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) has the same meaning as in the Act, and –

<b>“Accounting Officer”</b>	means a person appointed by the Municipality in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and who is the head of administration and also the Municipal Manager for the Municipality.
<b>“Act” or “MFMA”</b>	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
<b>“Budget Holder”</b>	Means the person/s accountable for expenditure from, and income to a particular budget. Each budget holder is responsible for the control of his/her budget and for the general financial administration of his/her area of responsibility. The Budget Holder is responsible to authorise expenditure from their budget up to a total of their budget allocation
<b>“business day”</b>	means any day of the week except Saturday, Sunday and public holidays as determined in the Public Holidays Act, 1994 (Act No. 36 of 1994)
<b>“Capital Asset”</b>	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 economic benefit can be derived, such as plant, machinery and equipment.
<b>“CFO”</b>	means Chief Financial Officer of the Municipality or Director of Finance in this instance;
<b>“CIDB”</b>	means Construction Industry Development Board
<b>“close family member”</b>	a person’s spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption
<b>“closing date”</b>	means the time and day specified in the bid documents and/or advertisement of the receipt of bids.
<b>“competitive bidding process”</b>	means a competitive bidding process referred to in clause 12(1)(e) of this Policy;
<b>“competitive bid”</b>	means a bid in terms of a competitive bidding process;
<b>“Construction Works”</b>	means any work in connection with: c) the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure; d) the installation, erection, dismantling or maintenance of a fixed plant; e) 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 f) the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.
<b>“Consultant”</b>	means a person or entity providing services requiring knowledge-based expertise
<b>“contract”</b>	means the agreement that results from the acceptance of a bid by the Municipality;
<b>“Contract Owner”</b>	means the deputy director, senior manager or manager, as the case may be, that is ultimately accountable for all activities during the life cycle of the contract. The Contract Owner can also be seen as the Budget holder.
<b>“day(s)”</b>	means calendar days unless the context indicates otherwise;
<b>“delegation”</b>	in relation to a duty, includes an instruction a request to perform, or to assist in performing the duty.

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<b>“director”</b>	means a manager referred to in section 56 of the Municipal Systems Act.
<b>“emergency”</b>	an emergency is an unforeseeable and sudden event with harmful or potentially harmful consequences for the municipality which requires urgent action to address.
<b>“emerging enterprise”</b>	means an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid.
<b>“essential community services”</b>	<p>means (in Local Government context) as published in Government Gazette numbers 18043 of 6 June 1997; Government Gazette number 18276 of 12 September 1997; Government Gazette number 18439 of 21 November 1997; Government Gazette number 18761 of 27 March 1998; Government Gazette number 22670 of 21 September 2001; Government Gazette number 27104 of 24 December 2004; Government Gazette number 28076 of 28 July 2006; Government Gazette number 29987 of 22 June 2007; Government Gazette number 30805 of 29 February 2008:</p> <ol style="list-style-type: none"> <li>a. Municipal traffic services and policing.</li> <li>b. Municipal health</li> <li>c. Municipal security</li> <li>d. Supply and distribution of water</li> <li>e. Generation, transmission and distribution of power</li> <li>f. Fire-fighting</li> <li>g. The following parts of sanitation services: <ol style="list-style-type: none"> <li>i. Maintenance and operation of water borne sewerage systems, including pumping stations and the control of discharge of industrial effluent into the system;</li> <li>ii. Maintenance and operation of sewerage purification works;</li> <li>iii. Collection of refuse of an organic nature;</li> <li>iv. Collection of infectious refuse from medical and veterinary hospitals or practices;</li> <li>v. Collection and disposal of refuse at a disposal site;</li> <li>vi. Collection of refuse left uncollected for fourteen (14) days or longer, including domestic refuse and refuse on public roads and open spaces.</li> </ol> </li> </ol>
<b>“final award”</b>	in relation to bids or quotations submitted for a contract, means the final decision on which a bid or quote is accepted;
<b>“financial interest”</b>	means where a municipal staff member is a close family member of a person who is the owner, partner, principal shareholder or member, manager or who serves on the board of directors, etc of a tendering enterprise
<b>“financial year”</b>	means a twelve-month period ending 30 June of every year.
<b>“formal written price quotation”</b>	means quotations referred to in clause 12(1)(d) of this Policy;
<b>“Granting of Rights”</b>	means the granting by the Winnie Madikizela-Mandela Local Municipality 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.
<b>“Head: Supply Chain Management”</b>	Any post in the approved organisational structure to whom the entire SCM Unit reports to functionally
<b>“IDP”</b>	means Integrated Development Plan;

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<b>“in the service of the state”</b>	means to be- a member of: a) any municipal council; b) any provincial legislature; or c) the National Assembly or the National Council of Provinces; d) a member of the board of directors of any municipal entity; e) an executive member of the accounting authority of any national or provincial public entity; or f) an official of any national or provincial department, national or provincial public entity or institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999); g) a member of the accounting authority of any national or provincial public entity; or h) an employee of Parliament or a provincial legislature;
<b>“long term contract”</b>	means a contract with a duration period exceeding one year;
<b>“list of accredited prospective providers”</b>	means the list of accredited prospective providers which the Winnie Madikizela-Mandela Local Municipality must keep in terms of clause 14 of this policy;
<b>“municipality”</b>	means the Winnie Madikizela-Mandela Local Municipality;
<b>“notice boards”</b>	means the official notice boards at the municipal offices and libraries;
<b>“other applicable legislation”</b>	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); c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); e) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); g) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004); h) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003): Municipal Supply Chain Management Regulations; i) the Preferential Procurement Regulations j) The Competitions Act 1998 (Act No. 89 of 1998), 2022 k) the Protection of Personal Information Act, 2013 (Act No.4 of 2013)
<b>“policy”</b>	means the Supply Chain Management Policy of the Winnie Madikizela Mandela Local Municipality;
<b>“quotation”</b>	means a stated price that a supplier expects to receive for the provision of specified services, works or goods;
<b>“Regulations”</b>	means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 30 May 2005 as amended;
<b>“SDBIP”</b>	means Service Delivery and Budget Implementation Plan;
<b>“single provider”</b>	Sole supplier - One and Only (Alone of its kind) Supplier (Oxford Dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one provider exists in South Africa (for example, sole distribution rights);
<b>“small business”</b>	means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy mentioned in column I of the Small Business Classification Schedule, and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying

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	the criteria mentioned in columns 3,4 and 5 of the Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule.
<b><i>“Strip and quote”</i></b>	means when the repairs and maintenance on our machines, vehicles are done by one (1) supplier and/or strip/quote, for example a municipal vehicle enters the workshop that needs repairs, however to do the repairs, the vehicle has to be sent to a supplier that determines what repairs should be done.
<b><i>“supply chain management practitioners”</i></b>	includes the Chief Financial Officer and the Head: Supply Chain Management;
<b><i>“survivalist enterprise”</i></b>	means a business set up by people unable to find a paid job or get into an economic sector of their choice. Income generated from these activities usually falls far short of even a minimum income standard, with little capital invested, virtually no skills training in the particular field and only limited opportunities for growth into a viable business. This category is characterised by poverty and the attempt to survive.
<b><i>“tender”</i></b>	means a ‘bid’ or a ‘quotation’ in relation to a “Tender Box”;
<b><i>“tender box”</i></b>	means the specified tender box at the offices of the Winnie Madikizela-Mandela Address 51 Winnie Madikizela Street, Bizana
<b><i>“Treasury guidelines”</i></b>	means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act
<b><i>“validity period”</i></b>	means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document.
<b><i>“panel”</i></b>	Is a pre-qualified list of contractors, typically used by the municipality to streamline the process of hiring contractors for specific projects

## CHAPTER 1: IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

### 2. Supply Chain Management Policy

- 1) All officials and other role players in the Supply Chain Management system of the 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;
    - iii. Regulations pertaining to Supply Chain Management.
  - b) is fair, equitable, transparent, competitive, cost effective. and complies with –
    - i. the Regulations; and
    - ii. any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
  - c) is consistent with other applicable legislation;
  - d) does not undermine the objective for uniformity in Supply Chain Management Systems between organs of state in all spheres; and
  - e) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- 2) This Policy applies when the Municipality –
  - a) procures goods or services;
  - b) disposes of goods no longer needed;
  - c) selects contractors to provide assistance in the provision of municipal services including circumstances where Chapter 8 of the Municipal Systems Act applies.
  - 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 the Act.
- 3) This Policy, except where provided otherwise, does not apply in respect of:
  - a) the procurement of goods and services contemplated in section 110(2) of the Act, including –
    - (i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity;
    - (ii) electricity from Eskom or another public entity, another municipality or a municipal entity; and
    - (iii) or any other such entities.

### 3. Adoption, Amendment and Implementation 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 Council.
- 2) If the Accounting Officer submits proposed amendments to 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 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 must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality implements the supply chain management policy.

#### **4. Delegation of supply chain management powers and duties**

- 1) 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 maximize administrative and operational efficiency in the implementation of this Policy;
  - c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - d) to comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.
- 2) Section 79 of the Act applies to the sub delegation of powers and duties delegated to the Accounting Officer in terms of sub-clause (1).
- 3) The Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of 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.

#### **5. Sub-delegations**

- 1) The Accounting Officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with sub-clause (2) of this clause and clause 4 of this Policy.
- 2) The power to make a final award –
  - a) above R10 million (Incl. VAT), may not be sub-delegated by the Accounting Officer;
  - b) above R300,000 (Incl. VAT), but not exceeding R10 million (Incl. VAT) may be sub-delegated, but only to a bid adjudication committee of which the Chief Financial Officer is the chairperson and directors are members;
  - c) below R300,000 (Incl. VAT) may be sub-delegated as per Council's delegations, attached as Annexure A, pertaining to the procurement of goods and services.
- 3) An official or bid adjudication committee to which the power to make final awards has been subdelegated in accordance with sub-clause (2) must within three (3) business days of the end of each month submit to the official referred to in sub-clause (4) a written report containing particulars of each final award made by such official or committee during that month, including–
  - a) contract numbers and description of goods, services or infrastructure projects;
  - b) the name of the person to whom the award was made;
  - c) the points claimed for specific goals in terms of council policy;
  - d) the amount of the award; and
  - e) the reason why the award was made to that person.
- 4) A written report referred to in sub-clause (3) must be submitted to the Accounting Officer, in the case of an award by a bid adjudication committee of which the Chief Financial Officer and directors are members.

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- a) The awards schedule must be published on Council's website in terms of Section 75(g) of the Act).
- 5) Sub-clauses (3) and (4) of this policy do not apply to procurement out of petty cash or written quotations below R2,000 (Incl. VAT).
- 6) This clause may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in clause 26 of this Policy. Also refer to clause 4(4) and 5(2)(a) 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) Council must maintain oversight over the implementation of this Policy.
- 2) For the purposes of such oversight the Accounting Officer must –
  - a) 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
  - b) Whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to Council.
- 3) The Accounting Officer must, within 30 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor of the municipality.
- 4) The reports must be made public in accordance with section 21A of the Local Government Municipal Systems Act 32, 2002.

### **7. Supply Chain Management Unit**

- 1) The Winnie Madikizela-Mandela has established a Supply Chain Management Unit to implement this Policy.
- 2) The Chief Financial Officer is administratively in charge of the supply chain management unit which operates under the direct supervision of the Head: Supply Chain Management, to whom this duty has been sub-delegated in terms of Section 82 of the Act.

### **8. Training of Supply Chain Management officials**

The Accounting Officer shall ensure that officials implementing the Supply Chain Management Policy are trained in accordance with the relevant legislation and any Treasury guidelines on supply chain management training. The Municipality must provide training for at least practitioners who are involved with the day to day operations of the SCM (Senior and Operational level)

## CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

### 9. Format of Supply Chain Management system

- 1) This Policy provides systems for –
  - a) demand management;
  - b) acquisition management;
  - c) logistics management;
  - d) disposal management;
  - e) risk management; and
  - f) performance management.

#### Part 1: DEMAND MANAGEMENT

### 10. System of Demand Management

- 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, the Budget and the Service Delivery and Budget Implementation Plan.
- 2) The Demand Management Plan must be developed in conjunction with the IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget.
- 3) All user departments are required to submit their procurement plans to the Supply Chain Management Unit by 31 December in terms of the IDP and Budget processes.
- 4) The Demand Management Plan must be submitted to and approved by the Accounting Officer or his or her delegate before 30 June of each year.
- 5) The Demand Management Plan must be reviewed regularly and submitted to the Accounting Officer or his delegate on a monthly basis.
- 6) Demand management must be co-ordinated by SCM officials of the Municipality in consultation with budget holders.
- 7) The outcome of this activity should be a detailed planning document that outlines what goods, works or services should be procured, the manner in which they should be procured as well as the timelines to execute the procurement functions.

#### Part 2: ACQUISITION MANAGEMENT

### 11. System of Acquisition Management

- 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 in accordance with authorised processes only;
  - b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
  - c) that the threshold values for the different procurement processes are complied with;
  - d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
  - e) that any Treasury guidelines on acquisition management are properly taken into account.
- 2) When procuring goods or services contemplated in section 110(2) of the Act, the Accounting Officer must, subject to clause 2(3), make public the fact that such goods or services are procured otherwise than through the Municipality's supply chain management system, including –
  - a) the kind of goods or services; and
  - b) the name of the supplier.

**12. Range of procurement processes**

<b>STRUCTURE OF APPROVAL</b>		
<b>GOODS/SERVICE VALUE</b>	<b>PROCUREMENT METHOD MINIMUM</b>	<b>APPROVAL AUTHORITY</b>
R 0 – R2000	One Written Quote	Department Manager
R2001 – R30 000	Three Written Quotations	Department Senior Manager
R30 001 – R300 000	7 days advert on Notice Board and via Website (Competitive Bidding)	Accounting Officer or delegated official
R300 001 – R50 Million	Competitive Bidding Process	Accounting Officer
Above R50 Million	Competitive Bidding Process	Accounting Officer

- 1) Goods and services may only be procured by way of –
  - a) one written quotation for procurement transactions with a value up to R2 000 (Incl. VAT);
  - b) three written quotations for procurement transactions with a value over R2 001 (Incl. VAT) up to R30 000 (Incl. VAT);
  - c) formal written price quotations for procurement transactions valued over R30 001 (Incl. VAT) up to R300 000 (Incl. VAT); and
  - d) a competitive bidding process for –
    - i. procurement transactions with a value above R300 000 (Incl. VAT); 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 sub-clause (1);
  - b) or b) direct that –
    - i. written quotations be obtained for any specific procurement of a transaction value lower than R2 000 (Incl. VAT);
    - ii. formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000 (Incl. VAT); or
    - iii. a competitive bidding process be followed for any specific procurement of a transaction value lower than R300 000 (Incl. VAT).
- 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.

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4) Sundry payments-

- a) The following line items are not required to be procured through the SCM process. The end user to complete and submit the sundry documents with the original invoice to the SCM unit to check for legal compliance:

Audit fees	Purchase of specialised Library equipment & books
Bursaries and student practical work	Bank Charges
Compensation for injuries and diseases	Election Activities
Postage	Licence fees
Conferences/Professional meetings (S & T)	Mayoral donations
Donations/grants by Council	Membership fees
Advertisements	Medical expenses not on contract
Telecommunications (Telkom)	Nutritional care
Reference books and magazines	Eskom
Ward committee allowances	Inter-departmental charges
All employee/Councillors related costs	Artists
Research by Council for Scientific and Industrial Research	Services of professional bodies in the republic

- b) Fixed term service contracts appointed through the formal bid process where it is difficult to identify beforehand what the total quantity of work will be done on sundry payments (e.g. maintenance of tarred roads, vacuum tank services, Maintenance of sewer pipelines, etc.) clearly marked with the bid number.
- c) Purchases less than R2 000-00 (vat inclusive) for emergency situations may be sourced directly from vendors listed on the Winnie Madikizela-Mandela Local Municipality supplier database and paid by Sundry payment with the approval of the HOD and CFO/Director: Expenditure. All the above requests must be signed by the requestor, the HOD and CFO/delegate.
- d) All other fixed contracts and items not on contract must follow the relevant SCM processes and systems.
- e) No orders will be amended to include extra work not authorised through the correct processes and therefore the orders will not be cancelled to accommodate such work or payments. Any additional work/services must be requested through the correct SCM process and a new order be printed for approval by the HOD and CFO/delegate.
- f) All printed orders except for the IT orders are to be collected from the SCM office on a daily basis.

**13. General preconditions for consideration of written quotations or bids**

- 1) A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- a) has furnished that provider's –
- i. full name;
  - ii. Verifiable business address;
  - iii. Contactable phone and email address;
  - iv. Proof of CSD registration;
  - v. Proof of identity;
  - vi. identification number or company or other registration number;
  - vii. the SARS document containing the PIN for the bidder
  - viii. tax reference number and VAT registration number, if any;
- b) has authorised the Municipality to verify any of the documentation referred to in sub-clause (a) above; 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 shareholder or stakeholders are in the service of the state, or has been in the service of the state in the previous twelve months; or
  - iii. whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in sub-clause (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 formal written price quotations; and
  - b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers; and
  - c) The listing criteria for prospective suppliers are:
    - i. Name of supplier / service provider;
    - ii. Street and postal address;
    - iii. Contact person for quotations/enquiries;
    - iv. Contact numbers for quotations / enquiries;
    - v. Contact details for quotations/enquiries
    - vi. VAT registration
    - vii. Banking details in the name of the entity;
    - viii. Type of industry;
    - ix. Valid certification for specialised services;
    - x. Valid tax clearance certificate or pin;
    - xi. CIDB registration if applicable;
    - xii. Relevant identification numbers and certified copies of identity documents of all members, directors and partners.
  - 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) All service providers listed on the WINNIE MADIKIZELA-MANDELA LOCAL MUNICIPALITY's list of service providers must be registered on the National Treasury's Central Supplier Database (CSD). No service provider will be considered to provide goods or services to the municipality if they are not registered on this database.
- 4) The list must be compiled per commodity and per type of service.

#### 15. Petty cash purchases

- 1) The accounting officer has established the conditions for the procurement of goods by means of petty cash purchases which must include conditions –
  - a) determining the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;

- b) limiting the number of petty cash purchases or the maximum amounts per month for each manager;
  - c) excluding any types of expenditure from petty cash purchases, where this is considered necessary; and
  - d) requiring monthly reconciliation reports from each manager to the chief financial officer, including –
    - i. the total amount of petty cash purchases for that month; and
    - ii. receipts and appropriate documents for each purchase.
- 2) The conditions for the procurement of goods by means of written quotations referred to in clause 12(1)(b) of this Policy for minor items that are purchased for up to R2,000 (Incl. VAT), are as follows: -
- a) written quotations for transactions must be obtained from at least one prospective supplier or service provider preferably from, but not limited to, suppliers or service providers whose names appear on the list of accredited prospective providers of the Municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in clause 14(1)(b), (c) and (d) of this Policy;

#### **16. Formal written price quotations above R2,000 (Incl. VAT)**

- 1) The conditions for the procurement of goods or services through formal written price quotations for amounts above R2,000 (Incl. VAT) up to R30,000 (Incl. VAT) 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 provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in clause 14(1)(b), (c) and (d) of this Policy;
  - b) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer and reported at least quarterly to the Accounting Officer or another official designated by the Accounting Officer; and
  - c) the Accounting Officer must record the names of the potential providers requested to provide such quotations with their quoted prices.

#### **17. Formal written price quotations above R30,000 (Incl. VAT)**

- 1) The conditions for the procurement of goods or services through formal written price quotations for amounts above R10,000 (Incl. VAT) up to R300,000 (Incl. VAT) 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) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in clause 14(1)(c) and (d) of this chapter of the policy;
  - c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer; and
  - d) the Accounting Officer must record the names of the potential providers and their written quotations.
- 2) A designated official referred to in clause 16(1)(b) and sub-clause (1)(c) must by the 3<sup>rd</sup> of each month report to the Chief Financial Officer on any approvals given during the preceding month by that official in terms of that sub-delegation.

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

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

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- 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 (Incl. VAT) 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 days on the website and an official notice board of the Municipality;
  - c) quotations received must be evaluated on a comparative basis taking into account unconditional discounts;
  - d) the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a sub-delegation;
  - e) quotations must be awarded based on compliance to specifications, conditions of contract, ability and capability to deliver the goods and services and lowest price for quotations up to R30 000 (Incl. VAT) and the preference points system will apply for all quotations in excess of R30 000 (Incl. VAT);
  - f) the Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of the municipality;
- 2) With regard to the procurement of goods and services with a transaction value lower than R300 000:
- a) the procurement of goods and services between R0 and R30 000 falls within the scope of the heads of departments;
  - b) the procurement of goods and services between R30 001 and R300 000 will be delegated by the accounting officer to Chief Financial Officer of the municipality.
- 3) For purposes of the procurement of goods and services in terms of sub-section 2 –
- a) the municipality shall establish a database of service providers and suppliers which must be updated annually.
  - b) Three databases shall be established in terms of subsection 3 (a), namely:
    - (i) general services;
    - (ii) professional services; and
    - (iii) contractor's database.
  - c) In order to be considered for listing on any of the databases referred to in subsection (b), a service provider or supplier must produce proof of compliance with the following prerequisites:
    - i good standing in respect of:
      - a. Winnie Madikizela-Mandela Municipality levies (if applicable); and
      - b. VAT and Income Tax (tax clearance certificate/PIN); and,
    - ii offices, preferably, to be located within the jurisdiction of Winnie Madikizela-Mandela Municipality;
    - iii registration in terms of the Companies and Close Corporations Act, No. 61 of 1973; and,
    - iv registration with a professional body, where relevant;
    - v service providers must also be included in the National Treasury's Central Supplier Database
  - d) the supply chain management policy unit must submit a quarterly report, including an analysis of the achievement of set goals.
  - e) the municipality must implement a valid service providers' and suppliers' database rotation system which must be administered by the supply chain management unit to ensure that such databases are managed fairly and equitably and the all service providers and suppliers are given a chance to bid for services and supplies required by the municipality.
- 4) The following prerequisites will apply in order to be considered for selection to be placed on the database:
- i. Current original certificate of good standing in terms of Winnie Madikizela-Mandela Municipality Levies.
  - ii. Current original certificate of good standing in terms of VAT/Income Tax (tax clearance certificate).

- iii. Offices should preferably be in the jurisdiction of Winnie Madikizela-Mandela Municipality.
  - iv. Registration with the registrar of companies and close corporations.
  - v. Professional registration with a professional body, where required.
  - vi. Registration with the National Treasury's Central Database
  - vii. Service Provider is updated on the Municipal Data Base.
- 5) Supply Chain Management unit will submit a quarterly report on the procurement of goods and services in this category. An analysis will be provided stating the achievement and/or failure in compliance with the set goals.

#### 19. Competitive bids

- 1) Goods or services above a transaction value of R300 000 (Incl. VAT) and long-term contracts may only be procured through a competitive bidding process, subject to clauses 11(2) of this Policy.
- 2) No requirement for goods or services above an estimated transaction value of R300,000 (Incl. VAT), 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.
- 3) Expression of interest/Request for Information – The Municipality reserves the rights to issue expression of interest which is non-binding.
- 4) Verification by the Chief Financial Officer prior to advertisement of bids above R10 million. The following information must be submitted by the senior manager responsible for the vote to the CFO prior to the public advertisement of any bids in excess of R10 million (all applicable Taxes included):
  - i. Proof that the budgetary provision exists for procurement of the goods and services and /or infrastructure projects;
  - ii. Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance cost relating to the asset, administration costs and rehabilitation/renewal costs;
  - iii. Any Multi-year budgetary implications, for example, if the project will take more than one financial year, the estimated expenditure per financial year
  - iv. Goods, service and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be advertised after the CFO has verified in writing that budgetary provision exists for the commencement of the particular project
  - v. Requirements may not be deliberately split into part or items of lesser value merely to avoid the information being submitted
  - vi. Contracts above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after Chief Financial Officer has verified in writing that the budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan.
  - vii. Requirements of MFMA Circular No. 62 Municipal Finance Management Act No. 56 of 2003 relating to procurement of goods and services in excess of 10 million, be implemented dealing with procurement goods or services contracts in excess of R10 million

#### 20. Process for competitive bidding

- 1) The procedures for the following stages of a competitive bidding process are as follows:
  - a) Compilation of bidding documentation is detailed in clause 21;
  - b) Public invitation of bids is detailed in clause 22;
  - c) Site meetings or briefing sessions are detailed in clause 22;
  - d) Handling of bids submitted in response to public invitation is detailed in clause 23;
  - e) Evaluation of bids is detailed in clause 28;

- f) Award of contracts is detailed in clause 29;
- g) Administration of contracts as detailed in the Council's Contract management Policy
- h) Proper record keeping: Original and legal copies of all tender documentation must be kept in a secure place for reference purposes.

## 21. Bid documentation for competitive bids

- 1) The criteria to which bid documentation for a competitive bidding process must comply, must – a) take into account –
  - i the general conditions of contract and any special conditions of contract, if specified;
  - ii any Treasury guidelines on bid documentation; and
  - iii the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading, refurbishment of buildings or infrastructure.
- b) include the preference points system to be used as contemplated in the Preferential Procurement Regulations, 2022, 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 (Incl. VAT) –
  - i if the bidder is required by law to prepare annual financial statements for auditing, its audited annual financial statements –
    - (a) for the past three years; or
    - (b) since its establishment if established during the past three years;
  - ii 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 calendar days;
  - iii particulars of any contracts awarded to the bidder by the municipality during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - iv a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
- f) in the absence of formal construction or technical contracts, e.g. JBCC and general conditions of contract, in which guarantees/ sureties contained, the following shall apply:
  - (i) where surety is required it shall be in the form of cash or a bank guarantee from a banking institution registered in terms of the Banks Act, 1990 (Act No. 94 of 1990) or from an insurer registered in terms of the Insurance Act, 2002 (Act No. 30 of 2002). Where bids in category A cannot raise the required surety of 2,5%, and it is feasible to deduct the amount from the Preliminary and General (P+G) payment certificate, such concessions may be granted; Guarantees will be required as follows:
    - a. indicate the value or extent to which the execution of the contract should or should not be subcontracted;
    - b. submit a certificate from the Department of Labour indicating compliance with the Occupational Health & Safety Act, 1993 [Act No. 85 of 1993];
    - c. any other criteria determined by the Accounting Officer; and
    - d. the amount and period of retention.

- 2) A fee shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality for tenders in excess of R200 000 (Incl. VAT).

## 22. Public invitation for competitive bids

- 1) Prior to the invitation of tenders, Accounting Officer is required to:
  - i. Properly plan for the provision of goods and services, to ensure that the procurement plan is aligned to the needs identified in the strategic plan of the institution and that goods and services are delivered at the right time, right price, right place and that the quantity and quality will satisfy those needs.
  - ii. As far as possible, accurately estimate the costs for the provision of the required goods or services. This is in order to determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders and to also ensure that the prices paid for the services, works and goods are market related.
  - iii. Estimated costs can be determined by conducting an industry and commodity analysis to obtain indicative market related prices that may be utilized for benchmarking purposes. Based on the findings, the relevant preference point system (80/20 or 90/10) to be utilized for the evaluation of the tender must be stipulated in the tender documents;
  - iv. Determine whether the sector, sub-sector, industry or products for which an invitation is to be made have been designated for local production and content in terms of the Preferential Procurement Regulations. If designated, the municipality must include a specific condition in the tender documents that only locally produced goods or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered. This will subsequently have a direct impact on the evaluation of the tender.
  - v. Must identify procurement opportunities where pre-qualification criteria as provided must be applied by following the process
  - vi. Must identify procurement opportunities where subcontracting as condition of tender for procurement above R 30 million must be applied.
- 2) 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,
    - i on the notice boards at selected offices of the Municipality,
    - ii on the website of the Municipality,
    - iii on the e-Tender Publication Portal of the National Treasury
    - iv on the i-Tender website of the CIDB for construction procurement related transactions or
    - v any other appropriate ways (which may include an advertisement in the Government Tender Bulletin).
  - 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 (Incl. VAT), or which are of a long term nature (in excess of three years), 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;
    - ii. a statement that bids may only be submitted on the bid documentation provided by the Municipality;
    - iii. a statement that bids will only be considered if it was deposited into the bid box indicated in the bid invitation;

- iv. date, time and venue of any proposed site meetings or briefing sessions, provided that site meetings / information sessions may not be scheduled within 7 days of the date on which a bid advertisement is placed;
  - v. the required CIDB contractor category and grading designation for construction procurement.
  - vi. that only locally produced goods, works or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered for sectors designated by the Department of Trade and Industry.
- 3) 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
  - 4) The notice shall further state that all bids for the contract must be submitted in a sealed envelope on which it is clearly stated that such envelope contains a bid and the contract title and contract or bid reference number for which the bid is being submitted.
  - 5) The period for which bids are to remain valid, irrevocable and open for acceptance must be indicated in the bid documents and must not exceed 180 days.
  - 6) The validity period of a bid may be extended by the accounting officer, or his/her delegate, prior to the expiry of the validity period indicated in the bid document.
  - 7) Communication with bidders before the closing date:
    - a) The budget holder must approach the Bid Specification Committee, if necessary, to consider authorisation in writing, of communication with bidders prior to bids closing.
    - b) The Municipality is entitled to amend any bid condition, validity period, specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or where possible, that all bidders to whom bid documents have been issued, are advised in writing per e-mail of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, officials and authorised service providers issuing bids shall keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.
    - c) All amendments must be approved by the Accounting Officer or the relevant delegated director prior to the closing date of the bid invitation.

### 23. Procedure for handling, opening and recording of bids

- 1) The procedures for the handling, opening and recording of bids, are as follows: a)

#### Bids–

- i. All bids must be submitted online through an email address provided in the tender invitation
  - ii. bids must be opened in and recorded in a register that must be made public once completed;
  - iii. must be opened on the same date and as soon as possible after the period for the submission of bids has expired; and
- b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time be provided on request and, if practical, also each bidder's total bidding price;
  - c) No information, except the provisions in sub-clause (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.
- 2) Late Bids

- a) Bids or quotations received after the specified closing time shall not be considered.
- 3) Dealing with bids and quotations if the closing date thereof has been extended.
  - a) Where the closing date of a bid or quotation is extended, bids or quotations already received, will be retained unopened in the Email Box and be duly considered after the expiry of the extended period, unless the bidder cancels it by submitting a later dated bid or quotation before the extended closing date.
- 4) Bids submitted must be correctly marked the name or number of the bid.
- 5) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies for the winning bidder.

#### **24. Negotiations with preferred bidders and communication with prospective providers and 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;
  - d) does not lead to a lower price in respect of sale of land / goods.
- 2) Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.
- 3) No unauthorised communication with bidders and prospective providers:
  - a) where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor, official, or authorised service provider on any matter regarding his bid, quotation or offer other than a notice of withdrawal.
  - b) No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in clause (c) below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.
  - c) The budget holder must approach the Bid Evaluation Committee, as determined in clause 28(2), to consider authorising an employee or authorised consulting service provider, in writing, to communicate with a bidder during the period mentioned in subsection (b) above for the purpose of:-
    - i. Obtaining an explanation and verification of declarations made in the bid response;
    - ii. confirming technical particulars and the compliance thereof with specifications;
    - iii. clarifying delivery times/quantities;
    - iv. extending the validity period of a bid;
    - v. clarifying any other commercial aspect;
    - vi. for the submission of substantiating documents;
    - vii. any other clarifications
  - d) In all cases where authority has been granted to communicate with bidders in terms of clause (c) above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.

## 25. Two-stage bidding process

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

## 26. Committee system for competitive bids

- 1) A committee system for competitive bids is hereby established, consisting of the following committees for each transaction or cluster of transactions 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) The Accounting Officer may appoint a neutral or independent observer, to attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
- 4) The committee system must be consistent with –
  - a) clause 27, 28 and 29 of this Policy; and
  - b) any other applicable legislation.
- 5) The Accounting Officer may apply the committee system to formal written price quotations.

## 27. Bid Specification Committees

- 1) The appropriate bid specification committee must compile the specifications for each procurement transaction for goods or services by the Municipality, depending on the department involved.
- 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) must, where possible, be described in terms of performance required and / or in terms of descriptive characteristics for design;
  - d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
  - e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - f) must indicate the preference points system for which points may be awarded as set out in the prevailing Preferential Procurement Regulations; and
  - g) must be approved by the Accounting Officer or the relevant delegated director prior to publication of the invitation for bids in terms of clause 22 of this Policy.

- 3) A Bid Specification Committee must be composed of one or more officials of the municipality, including, but not limited to:-
  - a) a delegated supply chain management practitioner as chairperson;
  - b) the budget holder from the Directorate for whom the bid is called; and
- 4) The Committee may, when appropriate, include external specialist advisors.
- 5) 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.

## 28. Bid Evaluation Committees

- 1) A Bid Evaluation Committee must –
  - a) evaluate all bids in accordance with –
    - i the specifications for a specific procurement; and
    - ii the points system set out in terms of the Preferential Procurement Policy;
  - 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
  - d) service charges are not in arrears for more than three months;
  - e) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter; and
- 2) A Bid Evaluation Committee must as far as possible be composed of: -
  - a) the budget holder and other officials from departments requiring the goods or services
  - b) at least one delegated supply chain management practitioner
- 3) Subject to subsection (2) the composition of the bid evaluation committee may change to accommodate different scenarios;
- 4) The chairperson of the bid evaluation committee may invite an external technical expertise if necessary, in an advisory capacity;
- 5) A copy of the minutes of the bid evaluation committee must after approval be submitted to the adjudication committee.
- 6) a member from the bid evaluation committee may present reports to the bid adjudication committee, but only as an advisor.

## 29. Bid Adjudication Committees

- 1) A bid adjudication committee must –
  - a) consider the report and recommendations of the bid evaluation committee; and
  - b) either –
    - i depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
    - ii make another recommendation to the Accounting Officer how to proceed with the relevant procurement.
- 2) The 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 the senior manager responsible for the bid or another manager reporting directly to that senior manager;

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- iii. at least one senior supply chain management practitioner who is an official of the municipality; and
  - iv. 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 unable to chair the meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- 4) A quorum for the Adjudication Committee shall be four members.
  - a) In the event of an equality of votes the chairperson shall have a casting vote over and above a deliberate vote.
  - b) The Head of the department that called for the tender must be present at the meeting where the particular tender is considered.
- 5) The members of the Bid Evaluation Committee, or their delegates, must be present at the Bid Adjudication Committee meetings [introduce the reports to the Committee and assist in] to clarify issues that were dealt with in the Bid Evaluation Committee meetings without voting rights.
- 6) A technical expert in the relevant field, who is an official, if such an expert exists, may attend the meeting as an advisor for clarification purposes. This official will not have voting rights at the Bid Adjudication Committee meeting. Neither a member of a bid evaluation committee, nor an advisor or person assisting the bid evaluation committee, may be a member of a bid adjudication committee.
- 7) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee –
  - a) 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 for more than three months, and; (ii) notify the Accounting Officer.
  - b) The Accounting Officer may –
    - ii. 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
    - iii. 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 14 days–
  - a) If a tender other than the one recommended in the normal course of implementing the supply chain management policy is approved, the Accounting Officer must, in writing, notify the Auditor General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.
  - b) Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.
- 10) Subject to the conditions in paragraph 2, municipalities and municipal entities are exempted from compliance with regulations 4(3) and 29(2) of the Regulations in so far as the regulations-
  - a) prohibit the delegation or sub-delegation of any supply chain management powers or duties to a person who is not an official of the municipality or municipal entity or to a committee which is not exclusively composed of officials of the municipality or municipal entity; and
  - b) require a bid adjudication committee to consist of four senior managers.
  - c) When applying paragraph 1, a municipality or municipal entity must implement the following conditions:
    - i. For municipalities with four senior managers approved in their organogram but filled less than four and the posts are funded and are not subject to a moratorium emanating from implementing cost containment measures, the municipality or municipal entity will be given six to 12 months from the date of this exemption to fill the specific positions

subject to the bid adjudication committee still having a senior supply chain management practitioner and a technical expert in the relevant field as contemplated in regulation 33(2)(ii) and (iii);

- ii. Where it is not viable for the posts in subparagraph (a) above to be filled, yet there are vacant positions, the municipality or municipal entity may consider appointing an official in an acting capacity to fulfil the role of senior manager in those instances;
- iii. For those municipalities or municipal entities with less than four senior managers approved in their organogram, they may utilise senior managers from neighbouring municipalities in accordance with section 88 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); and
- iv. Senior Managers who are members of the bid adjudication committee will be allowed to sub-delegate, in writing, their responsibilities to competent staff.

### **30. Procurement of Banking Services**

- 1) A contract for banking services –
  - a) must be procured through competitive bids;
  - b) must be consistent with section 7 and 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 22(1).
- 4) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### **31. Procurement of Information- and Communication Technology (ICT) related goods or services**

- 1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of ICT 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 ICT needs if –
  - a) the transaction value of ICT related goods or services required in any financial year will exceed R50 million; or
  - b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million.
- 4) If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to Council, the National Treasury, the Provincial Treasury and the Auditor-General.
- 5) The Municipality is required to follow the following process before inviting proposals for a new financial management system:
  - a) National and Provincial Treasury should immediately be informed of any intention to replace the accounting or billing system currently operating at the municipality;
  - b) The submission should include a comprehensive motivation with specific reasons for why it is deemed necessary to replace the existing financial system;
  - c) A copy of the service level agreement with minutes of the meetings between the municipality and the current service provider (financial system vendor) during the previous twelve months must be made available;
  - d) The organisational structure, specifically for the IT department/function, clearly indicating management capacity and responsibility for operating the financial system, must be submitted;

- e) An assessment should be done to determine which modules of the existing financial system are being utilised by the municipality and reasons must be provided for modules not in operation. In cases where an existing system is not an ERP system the municipality must provide details of any other systems utilised by the municipality;
- f) The date on which the existing financial system was implemented, the procurement and implementation costs and the current operational costs thereof must be disclosed;
- g) A technical assessment must be undertaken on the server and network requirements of the new financial system and a copy of such report should be submitted; and
- h) Copies of all IT strategies, policies and procedural documents including the IT disaster recovery plan must be made available.

### **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. Subsections (1) (c) and (d) do not apply if the 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 official duly authorised in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

### **34. Proudly SA Campaign**

- 1) The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that preference is given, in the following order, to procuring local goods and services from suppliers and businesses located:
  - a) within the jurisdiction of Winnie Madikizela-Mandela Municipality
  - b) within the Eastern Cape Province;
  - c) within the RSA.
- 2) The municipal The Municipal Manager must ensure compliance with the Proudly South African campaign on the procurement of goods or services using this Policy and following products must as much as is possible, be procured from companies manufacturing such products in South Africa;
  - (a) Electrical power supply cables;
  - (b) Traffic official Uniforms;
  - (c) Protective clothing;
  - (d) Furniture;
  - (e) Tyres;
  - (f) Prepaid meters;
  - (g) Post-paid meters; and
  - (h) Other commodities as prescribed by Department of Trade and Industry (DTI) from time to time
- 3) The conditions of the DTI with regard to the proudly SA products must be adhered to when procurement of good or services is initiated.

- 4) This policy will allow the municipal manager to advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
- 5) This policy further allows the municipal manager to include as a special condition of tenders that bidders failing to meet the minimum stipulated threshold for local production and content is an unacceptable tender

### 35. Appointment of consultants

- 1) The Accounting Officer may procure consulting services provided that any National Treasury guidelines in respect of consulting services are taken into account when such services are procured.
- 2) Consultancy services must be procured through competitive bids if:
  - a) the value of the contract exceeds R200 000 (Incl. VAT); 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 Winnie Madikizela-Mandela Local Municipality in the last five years; and
  - b) any similar consultancy services provided to Winnie Madikizela-Mandela Local Municipality 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.
- 5) A municipality or municipal entity may only appoint consultants if an assessment of the needs and requirements confirms that the affected municipality or municipal entity does not have the requisite skills or resources in its full -time employ to perform the function.
- 6) An accounting officer must adopt a fair and reasonable remuneration framework for consultants taking into account the rates -
  - a) determined in the "Guideline on fees for audits undertaken on behalf of the Auditor - General of South Africa ", issued by the South African Institute of Chartered Accountants;
  - b) set out in the "Guide on Hourly Fee Rates for Consultants ", issued by the Department of Public Service and Administration; or
  - c) as prescribed by the body regulating the profession of the consultant.
- 7) The tender documentation for the appointment of consultants must include a clause that the remuneration rates will be subject to negotiation, not exceeding the applicable rates mentioned in sub regulation (2).
- 8) When negotiating cost -effective consultancy rates for international consultants, the accounting officer may take into account the relevant international and market –determined rates.
- 9) When consultants are appointed, an accounting officer must -
  - a) appoint consultants on a time and cost basis with specific start and end dates;
  - b) where practical, appoint consultants on an output- specified basis, subject to specific measurable objectives and associated remuneration;
  - c) ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements;
  - d) ensure the transfer of skills by consultants to the relevant officials of a municipality or municipal entity;
  - e) undertake all engagements of consultants in accordance with the Municipal Supply Chain Management Regulations, 2005 and the municipality or municipal entity's supply chain management policy; and

- f) develop consultancy reduction plans to reduce the reliance on consultants.
- 10) Consultants should only be engaged when:
- a) the necessary skills and/or resources to perform a project/duty/study are not available; and
  - b) the accounting officer cannot be reasonably expected either to train or to recruit people in the time available
- 11) The term consultants include, consulting firms, engineering firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investment and merchant banks, universities, research agencies, government agencies, non-governmental organisations (NGOs), and individuals. Accounting officers may use these organizations as consultants to help in a wide range of activities such as policy advice, accounting officer's/authority's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies, and identification, preparation, and implementation of projects to complement accounting officers' capabilities in these area.
- 12) All contracts with consultants must include a fee retention or penalty clause for poor performance.
- 13) A municipality or municipal entity must ensure that the specifications and performance are used as a monitoring tool for the work to be undertaken and are appropriately recorded and monitored.
- 14) The travel and subsistence costs of consultants must be in accordance with the national travel policy issued by the National Department of Transport, as updated from time to time.
- 15) The contract price must specify all travel and subsistence costs and if the travel and subsistence costs for appointed consultants are excluded from the contract price, such costs must be reimbursed in accordance with the national travel policy of the National Department of Transport.
- 16) Appointment by means of a formal contract
- a) The relationship between the accounting officer and the consultant should be one of purchaser/provider and not employer/employee. The work undertaken for the accounting officer by a consultant should be regulated by a contract.
  - b) In procuring consulting services, the accounting officer should satisfy himself/herself that
    - i. the procedures to be used will result in the selection of consultants who have the necessary professional qualifications;
    - ii. the selected consultant will carry out the assignment in accordance with the agreed schedule, and
    - iii. the scope of the services is consistent with the needs of the project.
- 17) Selection methods for the appointment of consultants
- a) The accounting officer should be responsible for preparing and implementing the project, for selecting the consultant, awarding and subsequently administering the contract, as well as for the payment of consulting services under the project.
  - b) While the specific rules and procedures to be followed for employing consultants depend on the circumstances of the particular case, at least the following four major considerations should guide the accounting officer on the selection process:
    - i. the need for high-quality services;
    - ii. the need for economy and efficiency;
    - iii. the need to give qualified consultants an opportunity to compete in providing the services; and
    - iv. the importance of transparency in the selection process.
  - c) The particular method to be followed for the selection of consultants for any given project should be selected by the accounting officer in accordance with the criteria outlined in the Guide for Accounting Officers/Authorities.

- d) The method selection is determined by the scope of the assignment, the quality of service, the complexity of the assignment and whether assignments are of a standard and routine nature.
- e) The following are the methods most generally used for the appointment of consultants:

- I. *Quality and Cost Based Selection (QCBS)*

In the majority of cases, the abovementioned major considerations can best be addressed through competition among firms in which the selection is based both on the quality of the services to be rendered and on the cost of the services to be provided, i.e. Quality and Cost-Based Selection (QCBS). This method is used in the event of an assignment not complex or specialized.

Cost as a factor of selection should be used judiciously.

The relative weight to be given to the quality and cost should be determined for each case depending on the nature of the assignment.

Investment and commercial banks, financial firms, and fund managers hired by accounting officer for the sale of assets, issuance of financial instruments, and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS.

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the “Least Cost Selection” outlined in paragraph iv below. When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to, determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA’s website under [www.saica.co.za](http://www.saica.co.za). The tariffs are captured in a circular issued by SAICA.

In some circumstances, QCBS is not the most appropriate method for selecting consultants, and other methods are more appropriate. This section describes other selection methods and the circumstances under which they are generally appropriate.

- II. *Quality Based Selection (QBS)*

- a) QBS is appropriate for the following types of assignments:

- (i) Complex or highly specialized assignments for which consultants are expected to demonstrate innovation in their proposals (for example, financial sector reforms) for which it is difficult to define TOR and the required input from the consultants, and for which the client expects the consultants to demonstrate innovation in their proposals (for example, country economic or sector studies, multi-sectoral feasibility studies, design of a hazardous waste remediation plant or of an urban master plan, financial sector reforms);
        - (ii) Assignments that have a high downstream impact and in which the objective is to have the best experts (for example, feasibility and structural engineering design of such major infrastructure as large dams, policy studies of national significance, management studies of large government agencies); and

- (iii) Assignments that can be carried out in substantially different ways, such that proposals will not be comparable (for example, management advice, and sector and policy studies in which the value of the services depends on the quality of the analysis).
- b) In QBS, the RFP may request submission of a technical proposal only (without the financial proposal), or request submission of both technical and financial proposals at the same time, but in separate envelopes (two-envelope system). The RFP should not provide the estimated budget, but it may provide the estimated number of key staff time, specify that this information is given as an indication only, and that consultants should be free to propose their own estimates.
- c) If technical proposals alone were invited, after evaluating the technical proposals using the same methodology as in QCBS, the accounting officer should request the consultant with the highest ranked technical proposal to submit a detailed financial proposal. The accounting officer and the consultant should then negotiate the financial proposal and the contract. All other aspects of the selection process should be identical to those of QCBS. If, however, consultants were requested to provide financial proposals initially together with the technical proposals, safeguards should be built in to ensure that the price envelope of only the selected proposal is opened and the rest returned unopened, after the negotiations are successfully concluded.

*III. Selection under a fixed budget*

The method is appropriate only when the assignment is simple and can be precisely defined and when the budget is fixed. The RFP should indicate the available budget and request the consultants to provide their best technical and financial proposals in separate envelopes, within the budget. The TOR should be particularly well prepared to ensure that the budget is sufficient for the consultants to perform the expected tasks. Evaluation of all technical proposals should be carried out first as in the QCBS method where after the price envelopes should be opened in public. Proposals that exceed the indicated budget should be rejected. The consultant who has submitted the highest ranked technical proposal should be selected and invited to negotiate a contract

*IV. Least-cost selection*

This method is more appropriate to selection of consultants for assignments of a standard or routine nature (audits, engineering design of noncomplex works, and so forth) where well-established practices and standards exist, and in which the contract amount is small. Under this method, a “minimum” qualifying mark for the “functionality” is established. Proposals to be submitted in two envelopes are invited. Potential suppliers may be obtained from the list of approved service providers. Technical envelopes are opened first and evaluated. Those securing less than the minimum mark should be rejected and the financial envelopes of the rest are opened in public.

The firm with the highest points should then be selected. Under this method, the qualifying minimum mark should be established, keeping in view that all proposals above the minimum compete only on “cost” and promotion of HDIs and RDP objectives. The minimum mark to qualify should be stated in the RFP.

*V. Single-source selection*

- a) Single-source selection of consultants does not provide the benefits of competition in regard to quality and cost and lacks transparency in selection, and could encourage unacceptable practices. Therefore, single-source selection should be used only in exceptional cases. The justification for single-source selection should be examined in the context of the overall interests of the client and the project.
- b) Single-source selection may be appropriate only if it presents a clear advantage over competition
  - i for tasks that represent a natural continuation of previous work carried out by the firm;
  - ii where rapid selection is essential (for example, in an emergency operation);
  - iii for very small assignments; or
  - iv when only one firm is qualified or has experience of exceptional worth for the assignment.
- c) The reasons for a single-source selection must be recorded and approved by the accounting officer or his/her delegate prior to the conclusion of a contract.
- d) When continuity for downstream work is essential, the initial RFP should outline this prospect and if practical, the factors used for the selection of the consultant should take the likelihood of continuation into account. Continuity in the technical approach, experience acquired, and continued professional liability of the same consultant may make continuation with the initial consultant preferable to a new competition, subject to satisfactory performance in the initial assignment. For such downstream assignments, the accounting officer should ask the initially selected consultant to prepare technical and financial proposals on the basis of TOR furnished by the accounting officer, which should then be negotiated.
- e) If the initial assignment was not awarded on a competitive basis or was awarded under tied financing or reserved procurement or if the downstream assignment is substantially larger in value, a competitive process acceptable to the accounting officer should normally be followed in which the consultant carrying out the initial work is not excluded from the consideration if it expresses interest.

*VI. Selection based on consultants' qualifications*

This method may be used for very small assignments for which the need for preparing and evaluating competitive proposals is not justified. In such cases, the accounting officer should prepare the TOR, request expressions of interest and information on the consultants' experience and competence relevant to the assignment and select the firm with the most appropriate qualifications and references. Potential suppliers may be obtained from the list of accredited service providers. The selected firm should be requested to submit a combined technical-financial proposal and then be invited to negotiate the contract.

*VII. Selection of individual consultants*

- a) Individual consultants may normally be employed on assignments for which;
  - (i) teams of personnel are not required;
  - (ii) no additional outside (home office) professional support is required; and
  - (iii) the experience and qualifications of the individual are the paramount requirement.

- b) When coordination, administration, or collective responsibility may become difficult because of the number of individuals, it would be advisable to employ a firm.
- c) Individual consultants should be selected on the basis of their qualifications for the assignment. They may be selected on the basis of references or through comparison of qualifications among those expressing interest in the assignment or approached directly by the accounting officer. Individuals employed by the accounting officer should meet all relevant qualifications and should be fully capable of carrying out the assignment. Capability is judged on the basis of academic background, experience and, as appropriate, knowledge of the local conditions, such as local language, culture, administrative system, and local government environment.
- d) From time to time, permanent staff or associates of a consulting firm may be available as individual consultants. In such cases, the conflict of interest provisions described in these guidelines should apply to the parent firm.

VIII. *Selection of particular types of consultants*

a) Use of Nongovernmental Organisations (NGO's);

NGO's are voluntarily non-profit organizations that may be uniquely qualified to assist in the preparation, management, and implementation of projects, essentially because of their involvement and knowledge of local issues, community needs, and/or participatory approaches. NGO's may be included in the short list if they express interest and provided that the accounting officer is satisfied with their qualifications. For assignments that emphasise participation and considerable local knowledge, the short list may comprise entirely NGO's. If so, the QCBS procedure should be followed, and the evaluation criteria should reflect the unique qualifications of NGO's, such as voluntarism, non-profit status, local knowledge, scale of operation, and reputation. An accounting officer may select the NGO on a single-source basis, provided the criteria outlined for single-source selection are fulfilled.

b) Inspection agents

Accounting officers may wish to employ inspection agencies to inspect and certify goods prior to shipment or on arrival on the country. The inspection by such agencies usually covers the quality and quantity of the goods concerned and reasonableness of price. Inspection agencies should be registered with the South African National Accreditation System (SANAS) and the services of these inspection agents should be obtained by means of competitive bidding.

c) Banks

Investment and commercial banks, financial firms, and fund managers hired by accounting officers for the sale of assets, issuance of financial instruments and other corporate financial transactions, notably in the context of privatization operations, should be selected under QCBS. The RFP should specify selection criteria relevant to the activity – for example, experience in similar assignments or network of potential purchasers – and the cost of the services. In addition to the conventional remuneration (called a “retainer fee”), the compensation includes a “success fee.” This fee can be fixed, but is usually expressed as a percentage of the value of the assets or other financial instruments to be sold. The RFP should indicate that the cost evaluation will take into the success fee, either in combination with the retainer fee or alone. If alone, a standard retainer fee should be prescribed for all short-listed consultants and indicated in the RFP, and the financial scores should be based on the success fee as a percentage of a pre-disclosed notional value of the assets. For the combined

evaluation (notably for large contracts), cost may be accorded as weight higher or the selection may be based on cost alone among those who secure a minimum passing mark for the quality of the proposal. The RFP should specify clearly how proposals will be presented and how they will be compared.

d) Auditors

Auditors typically carry out auditing tasks under well-defined TOR and professional standards. They should be selected according to QCBS, with cost as a substantial selection factor (40-50 points), or by the “Least-Cost Selection.” When consultants are appointed to execute an audit function on behalf of the accounting officer, the tariffs agreed by the Auditor-General and the South African Institute for Chartered Accountants (SAICA) may be used as a guideline to determine the appropriate tariff or to determine the reasonableness of the tariffs. These tariffs can be obtained from SAICA’s website under [www.saica.co.za](http://www.saica.co.za). The tariffs are captured in a circular issued by SAICA.

e) Service Delivery Contractors

Projects in the social sectors in particular may involve hiring of large numbers of individuals who deliver services on a contract basis (for example, social workers, nurses and paramedics). The job descriptions, minimum qualifications, terms of employment and selection procedures should be described in the project documentation.

IX. *Association between consultants*

Consultants may associate with each other to complement their respective areas of expertise, or for other reasons. Such an association may be for the long term (independent of any particular assignment) or for a specific assignment. The association may take the form of a joint venture or a sub-consultancy. In case of a joint venture, all members of the joint venture should sign the contract and are jointly and severally liable for the entire assignment. Once the bids or Requests for Proposals (RFP’s) from service providers are issued, any association in the form of joint venture or sub-consultancy among firms should be permissible only with the approval of the accounting officer or his/her delegate. Accounting officers should not compel consultants to form associations with any specific firm or group of firms, but may encourage associations with the aim to enhance transfer of skills.

**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;
    - (a) Circumstances that warrant emergency dispensation, includes but are not limited to -
      - (i) the possibility of human injury or death;
      - (ii) the possibility of damage to property;
      - (iii) failure to take necessary action may result in the municipality not being able to render an essential community service;
      - (iv) the interruption of services related to communication facilities or support services critical to the effective functioning of the municipality as a whole; or
      - (v) the eminent possibility of serious damage occurring to the natural environment.

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- (b) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.
  - (c) Procurement in the case of emergencies must be tacitly approved by the relevant director or his delegate prior to incurring the expenditure (before issuing an instruction to the supplier) and must be reported in writing to the Accounting Officer or delegated official within three business days.
    - (i) if such goods or services are produced or available from a single provider only;
    - (ii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
    - (iii) acquisition of animals for zoos and/or nature and game reserves; or
    - (iv) in any other exceptional case where it is impractical or impossible to follow the official procurement processes including, but not limited to:-
      - I. ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids;
      - II. any contract relating to the publication of notices and advertisements by the municipality where applicable legislation or applicable council policy dictates.
      - III. Membership and subscription to professional bodies and any training provided by such bodies for purposes of obtaining continuous professional development points;
      - IV. the attendance of conferences and workshops;
      - V. the use of couriers for official documents/parcels;
      - VI. Any contract relating to the publication of notices
      - VII. and advertisements by the municipality where applicable legislation or council policy dictates.
      - VIII. the acquisition of accommodation, car rental and air travel for official purposes, subject thereto that the acquisition of such services be dealt with in terms of the applicable council policy.
      - IX. Membership and subscription to preferential bodies and any training provided by such bodies for purposes of achieving the skills development plan.
      - X. Attendance of conferences and workshops.
      - XI. Extension of contracts subject to new tender process to be followed.
- 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; and
  - c) may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this Policy and which is not also a contravention of the Municipal Supply Chain Management Regulations (GG 27636 of 30 May 2005), provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.
- 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 Council Meeting 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.

### 37. Urgent Procurement

- 1) In urgent cases, Winne Madikizela-Mandela Local Municipality may dispense with the invitation of bids and may obtain the requirement by means of quotations, preferably making use of the list of prospective providers per commodity or otherwise in any manner to the best interest of the Municipality.
- 2) Irrespective of monetary value, an urgent procurement process only applies where early delivery is of critical importance and the utilisation of the standard procurement process is either impossible, or impractical.
- 3) The appropriate course of action for urgency must be justifiable for the circumstances.
- 4) The nature of the urgency and the details of the justifiable procurement process followed in the circumstances must be recorded and reported
- 5) When the user department identifies urgency, the urgent case must be certified by the manager of the user department as urgent and submitted to the SCM Unit for processing.
- 6) As part of the request, the user department must provide the SCM Unit in writing with the following:
  - a) The 3 quotations obtained from the list of accredited prospective providers, where possible.
  - b) The nature of the urgency.
  - c) The date and time thereof.
  - d) The details of the procurement action to be taken.
  - e) The envisaged result if the standard procurement procedure must be followed.
- 7) The SCM Unit must evaluate and recommend each case and submit it to the relevant award structure for the adjudication. Thus, the relevant award structure approves the appropriate procurement process, the action to be taken and the recommendation to mitigate the urgency. The SCM Unit finalises the case.
- 8) The SCM Unit must record such incidents for quarterly reporting to the Accounting Officer.

### 38. 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 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 was to be 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 sub-clause (3), including any responses from the unsolicited bidder, to the National Treasury and the Provincial Treasury for comment.
- 5) The bid 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 bid 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 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 Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 9) Such submission must be made within 7 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.

### **39. Combating of abuse of the supply chain management system**

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

### **Part 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT**

#### **40. Logistics management**

- 1) The Accounting Officer must establish and implement an effective system of logistics management, which must include -
- a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
  - b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
  - c) the placing of manual or electronic orders for all acquisitions other than those from petty cash prior to the receipt of goods and/or services. Orders must be issued by 31 July for all contracts active during July;
  - 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. Orders may be amended/issued where estimates are used to issue orders for rates/tariff-based contracts when it is impractical to determine the final amount upfront;
  - 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 are properly managed and maintained in terms of Council's Asset Management Policy; and
  - g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
  - h) Contracts will be implemented in terms of the requirements of Section 116 of the Act and Council's Contract Management Policy.

#### **41. 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.
- 2) Assets must be disposed of by, inter alia –
- a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - c) selling the asset; or
  - d) destroying the asset.
- 3) With regard to the disposal of assets in general –
- a) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - b) 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;

- c) 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
  - d) 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;
- 4) In connection with the letting of immovable property –
- a) immovable property must be let at market related rates except when the public interest or the plight of the poor demands otherwise; and
  - b) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property must be annually reviewed; and
- 5) Where assets are traded in for other assets, the highest possible trade-in price must be negotiated.
- 6) For purposes of the disposal management process, the accounting officer must ensure that the following steps are undertaken in respect of movable assets:
- a) obsolescence planning must be affected, alternatively depreciation rates per item must be calculated;
  - b) a data base of all redundant assets must be compiled and maintained;
  - c) assets identified for disposal must first be inspected for potential re-use;
  - d) a strategy must be determined for the disposal of assets; and,
  - e) the actual disposal of assets must be effected in compliance with this chapter.
- 7) Similar steps to those set out in terms of subsection (7) must be undertaken in respect of immovable assets.
- a) Assets must be disposed of in terms of the Municipal Asset Transfer Regulations, Winnie Madikizela-Mandela's Asset Management Policy and Administration of Immoveable Property Policy respectively.
  - b) Disposal Management does not represent a procurement process and is thus exempt from the prohibitions of Clause 44 of this policy. As a result, the municipality is not prohibited from selling/disposing of movable or immovable assets to persons in the service of the state
- c) **Granting of Rights**
- The granting of rights (where sections 14 and 90 of the MFMA do not apply) by the Winnie Madikizela-Mandela Municipality, shall be executed strictly in accordance with Chapter 4 of the Municipal Asset Transfer Regulations and the Administration of Immoveable Property Policy, as amended from time to time.

#### 42. Risk management

- 1) The Accounting Officer must implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system as per Council's Risk Management Policy.
- 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.

#### 43. Performance management

- 1) The Accounting Officer must 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 in terms of the Performance Management System- Implementation Policy.

- 2) For purposes of internal monitoring, at least the following may be considered –
  - a) achievement of objectives;
  - b) compliance with norms and standards;
  - c) savings generated;
  - d) stores efficiency;
  - e) cost variance per item;
  - f) possible breaches of contract;
  - g) cost of the procurement process itself;
  - h) whether supply chain objectives are consistent with national government's policies;
  - i) increasingly alignment of material construction standards with international best practice;
  - j) observance of principles of co-operative governance; and
  - k) reduction of regional economic disparities are promoted.

#### **Part 4: OTHER MATTERS**

##### **44. Prohibition on awards to persons whose tax matters are not in order**

- 1) Irrespective of the procurement process followed, the municipality may not make any award 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 Municipality must first check with SARS whether that person's tax matters are in order.
- 3) If the tax matters are found not to be in order, the municipality must inform the bidder and request them to correct their tax matters with SARS and provide proof within seven days
- 4) If SARS does not respond within seven days, such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.
- 5) If the goods or service are required within a period shorter than the seven days then the award may be made only if the bidder and the municipality agree that payment will only be processed once tax matters have been confirmed ratified.

##### **45. Prohibition on awards to persons in the service of the state**

- 1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy –
  - a) who is in the service of the state;
  - b) 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 in respect of a contract that would cause a conflict of interest.

##### **46. Awards to close family members of persons in the service of the state**

- 1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 (Incl. VAT) 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.

##### **47. Ethical standards**

- 1) A code of ethical standards for supply chain management practitioners and other role players involved in supply chain management is hereby established in accordance with sub-clause (2) in order to promote –

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- a) mutual trust and respect; and
  - b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- 2) 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 sub-clause (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 the 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 clause 47(1) of this policy; or (iii) any alleged breach of this code of ethical standards.
- 3) Declarations in terms of sub-clauses (2)(d) and (e) -
- a) must be recorded in a register which the Accounting Officer must keep for this purpose;
    - i by the Accounting Officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- 4) 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;
  - b) in the case a councillor, in terms of Schedule 1 of the Systems Act;
  - c) in the case a role player who is not an employee, or a councillor through other appropriate means in recognition of the severity of the breach; and
  - d) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

### **48. Inducements, rewards, gifts and favours to municipal 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 sub-clause (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) Sub-clause (1) does not apply to gifts less than R350 (Incl. VAT) in value.

#### **49. Sponsorships**

- 1) The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
  - a) a provider or prospective provider of goods or services; or
  - b) a recipient or prospective recipient of goods disposed or to be disposed.

#### **50. 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 subject to the payment of applicable appeal deposit as per Council's approved tariffs.

#### **51. Resolution of disputes, objections, complaints and queries**

- 1) The Accounting Officer must appoint an independent and impartial person or persons, 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;
  - 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 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 will be referred to the National Treasury for resolution.
- 6) This clause must not be read as affecting a person's rights to approach a court at any time.

#### **52. Contracts providing for compensation based on turnover**

- 1) If a service provider acts on behalf of the 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 Municipality must stipulate:-
  - a) A cap on the compensation payable to the service provider; and
  - b) That such compensation must be performance based.

**53. Public-Private Partnerships**

Public-Private Partnerships will be procured in terms of Part 2 of Chapter 11 of the Act.

**54. Contract Management**

Contracts will be implemented in terms of the requirements of Section 116 of the Act and Council's Contract Management Policy.

**55. Transversal Contracts**

All commodities, services and products covered by a transversal contract concluded by the National Treasury must be considered before approaching the market, to benefit from savings where lower prices or rates have been negotiated.

**56. Price Index**

Price Index as published by Eastern Cape Provincial Treasury from time to time will be used by Winnie Madikizela-Mandela Local Municipality as a guide when considering reasonableness of the prices of certain goods and services. This will ensure that WINNIE MADIKIZELA-MANDELA LOCAL MUNICIPALITY derives value for money when certain goods and services are procured.

**PART B**

**PREFERENTIAL PROCUREMENT POLICY** The Minister Finance has, in terms of section 5, read with section 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and with effect from 16 January 2023, made the regulations set out in the Schedule.

**WHEREAS** the Winne Madikizela-Mandela Local Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council considers the need for transparent procedures that give the effect to the principle of preferential procurement;

**AND WHEREAS** local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities;

**NOW THEREFORE** the Council of the Winnie Madikizela-Mandela Local Municipality resolves in terms of section 5, read with section 2(1)(b)(i) and (ii) and 2(1)(c), of the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000), and with effect from 16 January 2023, made the regulations set out in the Schedule embodied in the Preferential Procurement Regulations, 2022 are herewith integrated into the Winnie Madikizela-Mandela's Supply Chain Management Policy to form the basis of the evaluation criteria for quotations and competitive tenders.

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## 1. Definitions

In these policies, unless the context indicates otherwise, any word or expression to which a meaning has been assigned in the Act must bear the meaning so assigned-

<b>"highest acceptable tender"</b>	means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders
<b>"lowest acceptable tender"</b>	means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders
<b>"price"</b>	means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
<b>"Rand value"</b>	means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;
<b>"specific goals"</b>	means specific goals as contemplated in section 2(1)(d) 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
<b>"tender"</b>	means a written offer in the form determined by Winnie Madikizela-Mandela Local Municipality in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation
<b>"all applicable taxes"</b>	includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
<b>"tender for income-generating contracts"</b>	" means a written offer in the form determined by Winnie Madikizela-Mandela Local Municipality in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
<b>"B-BBEE"</b>	means Broad-Based Black Economic Empowerment as defined in Section 1 of the Broad Based Black Economic Empowerment Act;
<b>"B-BBEE status level of contributor"</b>	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;
<b>"black designated groups"</b>	has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
<b>"black people"</b>	has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;
<b>"Broad-Based Black Economic Empowerment Act" (B-BBEEA)</b>	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);

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<b>"co-operative"</b>	means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);
<b>"Comparative price"</b>	means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
<b>"Consortium or Joint Venture"</b>	means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract;
<b>"Contract"</b>	means the agreement that results from the acceptance of a tender by the Winnie Madikizela-Mandela Local Municipality;
<b>"designated group"</b>	means- (a) black designated groups; (b) black people; (c) women; (d) people with disabilities; or (e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);
<b>"designated sector"</b>	means a sector, sub-sector or industry or product designated in terms of clause 8(1)(a);
<b>"EME"</b>	means an exempted micro enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
<b>"Firm price"</b>	is 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 a 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;
<b>"Functionality"</b>	means the measurement according to predetermined norms, as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;
<b>"imported content"</b>	means that portion of the tender 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 subcontractors) and which costs are inclusive of the costs abroad, plus freight and direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;
<b>"local content"</b>	means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
<b>"military veteran"</b>	has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);
<b>"Municipality"</b>	The WINNIE MADIKIZELA-MANDELA LOCAL MUNICIPALITY;
<b>"National Treasury"</b>	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
<b>"Non-firm prices"</b>	means all prices other than "firm" prices;

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<p><b>“organ of state”</b></p>	<p>The definition of organ of state in section 1 of the Act in paragraph (a) to (e) includes-</p> <ul style="list-style-type: none"> <li>· a national or provincial department as defined in the Public Finance Management Act, 1999;</li> <li>· a municipality as contemplated in the Constitution;</li> <li>· a constitutional institution as defined in the Public Finance Management Act;</li> <li>· Parliament; a provincial legislature.</li> </ul> <p>Paragraph (f) of the definition of organ of state in section 1 of the Act includes any other institution or category of institutions included in the definition of “organ of state” in section 239 of the Constitution and recognised by the Minister by notice in the Government Gazette as an institution or category of institutions to which the Act applies. Government Notice R. 501 of 8 June 2011 recognises, with effect from 7 December 2011, all public entities listed in Schedules 2 and 3 to the Public Finance Management Act, 1999, as institutions to which the Act applies. Note should be taken of notices issued from time to time in terms of paragraph (f) of this definition. The application of these Regulations is also subject to applicable exemptions approved in terms of section 3 of the Act.</p>
<p><b>"Person"</b></p>	<p>includes reference to a juristic person;</p>
<p><b>“people with disabilities”</b></p>	<p>has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);</p>
<p><b>“Policy”</b></p>	<p>Means the Preferential Procurement Policy of the WINNIE MADIKIZELA-MANDELA LOCAL MUNICIPALITY</p>
<p><b>“price”</b></p>	<p>includes all applicable taxes less all unconditional discounts;</p>
<p><b>“proof of B-BBEE status level of contributor”</b></p>	<p>means-</p> <ol style="list-style-type: none"> <li>a. the B-BBEE status level certificate issued by an authorised body or person;</li> <li>b. a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or</li> <li>c. any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;</li> </ol>
<p><b>“QSE”</b></p>	<p>means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;</p>
<p><b>"Rand value"</b></p>	<p>means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;</p>
<p><b>“rural area”</b></p>	<p>means-</p> <ol style="list-style-type: none"> <li>(a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or</li> <li>(b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;</li> </ol>
<p><b>“stipulated minimum threshold”</b></p>	<p>means the minimum threshold stipulated in terms of clause 8(1)(b);</p>
<p><b>"Sub-Contract"</b></p>	<p>means the primary contractor's assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract;</p>

<b>"the Act"</b>	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
<b>"Total revenue"</b>	bears the same meaning assigned to this expression as 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, 2003 and promulgated in the Government Gazette on 9 February 2007;
<b>"township"</b>	means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;
<b>"treasury"</b>	has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and
<b>"Trust"</b>	means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
<b>"Trustee"</b>	means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.
<b>"youth"</b>	has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

## 2. Application

These Regulations apply to organs of state as envisaged in the definition of organ of state in section 1 of the Act.

## 3. Identification of preference point system

3.(1) An organ of state must, in the tender documents, stipulate—

(a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;

(b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

(2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

(a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or

(b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system-qualification criteria for preferential procurement

### **80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million**

4.(1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

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

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

5. The following table must be used to calculate the score out of 20 for targeted goals:

Specific Goal	Number of Points
South African	3
Black	3
Women	3.5
Youth	3.5
Leaving with disability	3.5
Military Veterans	3.5
<b>Total Points Allocated</b>	<b>20</b>

6. A tenderer must submit proof to claim points for each specific goal.

7. A tenderer failing to submit proof required in 6 above may not be disqualified, but-

- a) may only score point out of 80 for price; and
- b) scores 0 points out of 20 for specific goals.

8. A tenderer may not be awarded points for specific goals if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

9. The points scored by a tenderer for specific goals in terms of sub-clause (5) must be added to the points scored for price under sub-clause (1).

10. The points scored must be rounded off to the nearest two decimal places.

11. Subject to sub-clause (12), the contract must be awarded to the tenderer scoring the highest points.

12. If the price offered by a tenderer scoring the highest points is not market-related, the Municipality may not award the contract to that tenderer. a) The Municipality may-

- i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
- ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
- iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

b) If a market-related price is not agreed as envisaged in paragraph (a)(iii), the Municipality must cancel the tender.

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

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

$$PS=90 \left( 1 - \frac{(Pt-Pmin)}{Pmin} \right)$$

Where

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmin = Price of lowest acceptable tender.

(2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.

(3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

(4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

5. The following table must be used to calculate the score out of 10 for targeted goals:

Specific Goal	Number of Points
South African	1.5
Black	1.5
Women	1.75
Youth	1.75
Leaving with disability	1.75
Military Veterans	1.75
<b>Total Points Allocated</b>	<b>10</b>

6. A tenderer must submit proof to claim points for each specific goal.

7. A tenderer failing to submit proof required in 6 above may not be disqualified, but-

c) may only score point out of 80 for price; and

d) scores 0 points out of 10 for specific goals.

8. A tenderer may not be awarded points for specific goals if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.

9. The points scored by a tenderer for specific goals in terms of sub-clause (5) must be added to the points scored for price under sub-clause (1).

10. The points scored must be rounded off to the nearest two decimal places.

11. Subject to sub-clause (12), the contract must be awarded to the tenderer scoring the highest points.

12. If the price offered by a tenderer scoring the highest points is not market-related, the Municipality may not award the contract to that tenderer. a) The Municipality may-
- iv) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
  - v) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
  - vi) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
- b) If a market-related price is not agreed as envisaged in paragraph (a)(iii), the Municipality must cancel the tender

**80/20 preference points system for tenders for income-generating contracts with Rand value equal to or below R50 million**

6.(1) The following formula must be used to calculate the points for price in respect of an invitation for tender for income-generating contracts, with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

$$Ps = 80 \left( 1 + \frac{Pt - Pmax}{Pmax} \right)$$

Where-

- Ps = Points scored for price of tender under consideration;
- Pt = Price of tender under consideration; and
- Pmax = Price of highest acceptable tender.

- (2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
  - (3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
  - (4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.
5. The following table must be used to calculate the score out of 20 for targeted goals:

Specific Goal	Number of Points
South African	3
Black	3
Women	3.5
Youth	3.5
Leaving with disability	3.5
Military Veterans	3.5
<b>Total Points Allocated</b>	<b>20</b>

- 6. A tenderer must submit proof to claim points for each specific goal.
- 7. A tenderer failing to submit proof required in 6 above may not be disqualified, but-

- e) may only score point out of 80 for price; and
  - f) scores 0 points out of 20 for specific goals.
8. A tenderer may not be awarded points for specific goals if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
  9. The points scored by a tenderer for specific goals in terms of sub-clause (5) must be added to the points scored for price under sub-clause (1).
  10. The points scored must be rounded off to the nearest two decimal places.
  11. Subject to sub-clause (12), the contract must be awarded to the tenderer scoring the highest points.
  12. If the price offered by a tenderer scoring the highest points is not market-related, the Municipality may not award the contract to that tenderer.
    - a) The Municipality may-
      - vii) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
      - viii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
      - ix) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
    - b) If a market-related price is not agreed as envisaged in paragraph (a)(iii), the Municipality must cancel the tender

**90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million**

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

$$Ps = 90 \frac{(1 + Pt - Pmax)}{Pmax}$$

Where-

Ps = Points scored for price of tender under consideration;

Pt = Price of tender under consideration; and

Pmax = Price of highest acceptable tender.

- (2) A maximum of 10 points may be awarded to a tenderer for the specific goal specified for the tender.
  - (3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
  - (4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.
5. The following table must be used to calculate the score out of 10 for targeted goals:

Specific Goal	Number of Points
South African	1.5
Black	1.5
Women	1.75
Youth	1.75
Leaving with disability	1.75
Military Veterans	1.75
<b>Total Points Allocated</b>	<b>10</b>

6. A tenderer must submit proof to claim points for each specific goal.
7. A tenderer failing to submit proof required in 6 above may not be disqualified, but-
  - g) may only score point out of 80 for price; and
  - h) scores 0 points out of 10 for specific goals.
8. A tenderer may not be awarded points for specific goals if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract.
9. The points scored by a tenderer for specific goals in terms of sub-clause (5) must be added to the points scored for price under sub-clause (1).
10. The points scored must be rounded off to the nearest two decimal places.
11. Subject to sub-clause (12), the contract must be awarded to the tenderer scoring the highest points.
12. If the price offered by a tenderer scoring the highest points is not market-related, the Municipality may not award the contract to that tenderer.
  - a) The Municipality may-
    - x) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;
    - xi) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;
    - xii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.
  - b) If a market-related price is not agreed as envisaged in paragraph (a)(iii), the Municipality must cancel the tender

### Criteria for breaking deadlock in scoring

- 8.(1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
- (2) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

### Remedies

- 9.(1) If an organ of state is of the view that a tenderer submitted false information regarding a specific goal, it must—

- (a) inform the tenderer accordingly; and
  - (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part.
- (2) After considering the representations referred to in sub regulation (1)(b), the organ of state may, if it concludes that such information is false—
- (a) disqualify the tenderer or terminate the contract in whole or in part; and
  - (b) if applicable, claim damages from the tenderer.

### **Repeal of regulations**

- 10.(1) Subject to this regulation, the Preferential Procurement Regulations, 2017 published in Government No. 40553 of 20 January 2017, are hereby repealed with effect from the 16<sup>th</sup> of January 2023.
- (2) Any tender advertised before the date referred to in (1) above must be dealt with in terms of the Preferential Procurement Regulations, 2017.

### **12. Tenders to be evaluated on functionality**

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

### **13. Local Production and Content**

- 1) The Department of Trade and Industry may, in consultation with the National Treasury-
  - a) designate a sector, sub-sector or industry or product in accordance with national development and industrial policies for local production and content, where only locally produced services or goods or locally manufactured goods meet the stipulated minimum threshold for local production and content, taking into account economic and other relevant factors; and
  - b) stipulate a minimum threshold for local production and content.
- 2) The Municipality must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.

- 3) The National Treasury must inform organs of state of any designation made in terms of regulation 8(1) through a circular.
- 4a. If there is no designated sector, the Municipality may include, as a specific condition of the tender, that only locally produced services or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered.
- 4b. The threshold referred to in paragraph (a) must be in accordance with the standards determined by the Department of Trade and Industry in consultation with the National Treasury.
5. A tender that fails to meet the minimum stipulated threshold for local production and content is an unacceptable tender.

#### **14. Subcontracting as a condition of tender**

1. If feasible to subcontract for a contract above R30 million, the Municipality will apply subcontracting to advance designated groups.
2. If the Municipality applies subcontracting as contemplated in sub-clause (1), the Municipality must advertise the tender with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-
  - a) an EME or QSE;
  - b) an EME or QSE which is at least 51% owned by black people;
  - c) an EME or QSE which is at least 51% owned by black people who are youth;
  - d) an EME or QSE which is at least 51% owned by black people who are women;
  - e) an EME or QSE which is at least 51% owned by black people with disabilities;
  - f) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - g) a cooperative which is at least 51% owned by black people;
  - h) an EME or QSE which is at least 51% owned by black people who are military veterans
  - i) more than one of the categories referred to in sub-clauses (a) to (h).
3. The Municipality must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub-clause (2) from which the tenderer must select a supplier.

#### **15. Cancellation of tender**

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

#### **16. Circulars and guidelines**

1. The National Treasury may issue-
  - a) a circular to inform organs of state of any matter pertaining to this policy; or

b) a guideline to assist organs of state with the implementation of any provision of this policy.

**17. Short title and commencement**

This policy is called the Supply Chain Management Policy, 2023 of the Winnie Madikizela-Mandela Local Municipality.

This policy will come into effect on ...**14 December 2023 or date of council resolution adopting the policy, whichever is later**, and will be reviewed at least annually by way of a Council resolution.

## SUPPLY CHAIN MANAGEMENT POLICY – ANNEXURE A

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

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

#### 1. General Principles

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

#### **Conflict of interest**

- 4) An official or other role player involved with supply chain management –
  - a) must treat all providers and potential providers equitably;
  - b) may not use his or her position for private gain or to improperly benefit another person;
  - c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the Municipality;
  - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
  - g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
  - h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
  - i) should not take improper advantage of their previous office after leaving their official position.

#### **Accountability**

- 5) Practitioners are accountable for their decisions and actions to the public.
- 6) Practitioners should use public property scrupulously.
- 7) Only accounting officers or their delegates have the authority to commit the Municipality to any transaction for the procurement of goods and / or services.

- 8) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 9) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 10) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including a) any alleged fraud, corruption, favouritism or unfair conduct;
  - b) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - c) any alleged breach of this code of conduct.
- 11) Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the **mayor** who must ensure that such declaration is recorded in the register.

### **Openness**

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

### Confidentiality

13) Any information that is the property of the Municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.

14) Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

## **2. Bid Specification / Evaluation / Adjudication Committees**

1. Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the Municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.

2. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

3. All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

No person should-

- interfere with the supply chain management system of the Municipality; or
- amend or tamper with any price quotation / bid after its submission.

### **3. Combative Practices**

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

1. Suggestions to fictitious lower quotations;
2. Reference to non-existent competition;
3. Exploiting errors in price quotations / bids;

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

## SUPPLY CHAIN MANAGEMENT POLICY – ANNEXURE B

### ESTABLISHMENT AND UTILISATION OF PANELS

#### 1. Purpose

To ensure a readily available pool to implement projects that can be used on a rotational basis to allow and ensure wider beneficiation while adhering to national procurement legislation

To enhance the municipality's local economic development initiatives through implementation of rotational allocation processes

#### 2. Benefits

##### ***Streamlined Procurement:***

Using a panel reduces the time and resources spent on finding and evaluating contractors for each project

##### ***Pre-Qualified Contractors:***

Contractors on the panel have already demonstrated their capabilities and meet certain criteria, ensuring a higher quality of work

##### ***Efficiency:***

The municipality can quickly select contractors from the panel based on project needs, experience, and availability

##### ***Competitive Bidding:***

The panel allows for competitive bidding among pre-qualified contractors, which can lead to better pricing and project outcomes

#### 3. Establish Criteria:

The municipality defines the criteria for contractors to be included on the panel (e.g., experience, qualifications, financial stability, CIDB grading)

##### ***Call for Applications:***

The municipality invites contractors to apply for inclusion on the panel through an open tender system setting out terms and conditions of the contract and engagement type

##### ***Evaluation:***

The municipality evaluates the applications and selects contractors who meet the criteria

##### ***Panel Creation:***

Once the evaluation, adjudication and approval processes are concluded, the selected contractors are added to the panel

A list of contractors admitted to the panel is published on the municipal website

#### 4. Project Selection:

When a project arises, the municipality can choose from the panel of contractors based on project requirements and available resources. The following process is then followed:

##### ***Appointment of committees***

- The accounting officer appoints the bid specification, evaluation and adjudication committee

##### ***Bid Specification committee***

- The committee is composed of the Senior Manager for the procuring department, a SCM Official and any member deemed necessary
- Committee to develop the specification and terms of the tender for the goods to be procured
- Determine Evaluation criteria
- Accounting officer approves specification
- Supply Chain management office/delegate sends the approved specification to panel members and request quotations clearly specifying the following

- Method of submission
- Closing date and time

#### ***Bid evaluation committee***

- The committee is composed of at least one member of management from the procuring department who must chair the committee, once SCM Official, one other member of management and a scribe to record minutes of the proceedings
- The committee receives submissions received from the Supply Chain Management office
- Evaluates bids received against the approved specification
- Confirm tax compliance status for each bidder recommended
- Ensure all municipal levies are up to date before making a recommendation
- Present the evaluation report to the bid adjudication committee
- Submits a signed report to the chairperson of the bid adjudication committee

#### ***Bid adjudication committee***

- Composed of at least 4 Senior managers, a senior SCM official, chaired by the Chief Financial Officer, and a scribe
- Considers the report of the bid evaluation committee
- Adjudicates the bids received
- Submits a recommendation for final award to the Accounting Officer

### **5. The role of the Supply Chain Management Office**

- Ensure all panel members are appointment through an open tender process
- Ensure all committees have been dully appointed
- Ensure all procurement documents are approved in line with the municipality's SCM policy
- Ensure all procurement through panels is in line with the PPPFA and the Municipal SCM Regulations
- Ensure all requests for quotations are provided to all panel members
- Ensure that all bids are submitted through the channels provided
- Ensure all bidders are treated and afforded the same opportunities
- Ensure all closing registers are published on the municipal website
- Ensure that all bid outcomes are published on the municipal website

### **6. Special considerations to be used during procurement processes**

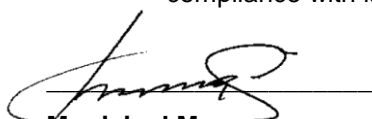
- Multiple project resources to be provided if a bidder wishes to express an interest on multiple bids to ensure capacity to implement all bids should the bidder be successful
- Panel members who have already been allocated work will be allowed to bid for other work opportunities provided they agree to a 10 points deduction on their final scores during the evaluation processes
- Where bidders score equal number of points, years of experience in the field will be used to decide which bidder is allocated the bid
- The following MBD forms will be compulsory submissions for each bid submitted
  - MDB 1, MDB 4, MBD 8 and 9
- All bidders to submit updated tax compliance documents (SARS Pin Printout)

### **7. Applicability and exclusions**

The above applies to all panels allocation of work for goods and services designated for panels, excluding attorneys and travel management companies that will continue being used on a rotations basis and in line with their area of specialization

### **8. Commencement**

This annexure is applicable for the 2024/25 financial year with the exception of item 6 above that will mainly be applicable from 2025/26 financial year onwards and will be reviewed annually to enhance its compliance with laws and address institutional needs.

  
Municipal Manager

**29 May 2026**

**Date**