NDWEDWE MUNICIPALITY

APPROVED SUPPLY CHAIN MANAGEMENT POLICY

2024/2025

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

Council resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of the Ndwedwe Local municipality**.**

Policy Approval Route

Author's Full Name_____

Signature: _____ Date: ____/___/_____

Designation: Manager of SCM

Reviewed by:_____

Signature: _____ Date: ____/___/_____

Designation: Chief Financial Officer

Reviewed and Recommended

For EXCO by: _____

Signature: _____ Date: ____/___/_____

Designation: Accounting Officer (Municipal Manager)

Quality Assurance by: _____

Signature: _____ Date: ____/___/_____

Designation: Chairperson – Audit and Risk Committee

Adopted and approved by: _____

Signature: _____ Date: ____/___/_____

Designation: Chairperson – Council

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1. **Policy Statement / Preamble**

   The Municipal Finance Management Act, (Act No.56 of 2003), as amended, makes the following provisions:

   1.1 The Municipality has a duty to take effective and pro-active measures to be financially efficient, effective, transparent and economical through its supply chain management (SCM) processes.

   1.2 It is for these reasons that Ndwedwe Local Municipality is putting this SCM Policy in place.

2. **Purpose**

   This policy aim is to regulate the SCM functions and systems of the Municipality and other connected roles thereof.

3. **Objective**

   a. The main objectives are as follows:
   b. To create a strong and enabling environment of achieving the provisions of section 217 of the Constitution of the Republic of South Africa which requires the municipality to ensure a system that is fair, equitable, transparent, competitive and cost effective.
   c. To comply with all the applicable provisions of the Municipal Finance Management Act (MFMA) and its SCM Regulations.
   d. Ensure that the municipality's strategic objectives are achieved.
   e. To ensure compliance with MFMA circulars as issued by National Treasury.
   f. To ensure procurement of infrastructure is in line all the prescripts and legislation.

4. Definitions

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

"**accounting officer**"- in relation to a municipality, means the municipal official referred to in section 60 of the MFMA and includes a person acting as the accounting officer.

''bid'' means a written offer, in the form determined by instruction, in response to an invitation for the procurement of goods or services or other form of procurement through a price quotation, a competitive bidding process, a limited bidding process or any other method envisaged in the Act;

"bidder" means any person/enterprise which has submitted a Bid;

"**Collusive Bidding/tendering**" Collusive bidding/tendering (or bid rigging) occurs when business, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/ or services for purchasers who wish to acquire goods and /or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

"competitive bidding process" means a competitive bidding process referred to in paragraph 26 (1) (d) of this SCM Policy;

"competitive bid" means a bid in terms of a competitive bidding process;

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

"formal written price quotation" means quotations referred to in paragraph 24 of this SCM Policy;

"functionality" means the ability of a tenderer to provide goods or services in accordance specifications as set out in the tender documents;

"Family member" means a parent, sibling, child or spouse of a member
"highest acceptable tender" means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;

"**Irregular expenditure**" means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including the MFMA.

"in the service of the state" means to be –

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

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

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

"list of accredited prospective providers" means the list of accredited prospective providers which the Ndwedwe Municipality must keep in terms of paragraph 21 of this SCM policy;

"Member' means a person appointed by the accounting officer/authority to a bid evaluation panel, either as the chairperson, or as an ordinary member or secretariat, for purposes of conducting the evaluation of either transaction advisor bids or PPP bids as a representative of the institution

"National Treasury" has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

"**other applicable legislation**" means any other legislation applicable to municipal supply chain management, including –

a) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
b) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);

‘**Privileged or confidential information’ means any information:**

a) determined by the institution to be privileged or confidential
a) discussed in closed session by the bid evaluation panel
b) which if disclosed would violate a person’s right to privacy
c) declared to be privileged, confidential or secret in terms of any law including, but not limited to, information contemplated in sections 34(1);35(1); 36(1); 37(1)(a); 38(a); 39(1)(a); 40 or 43(1) of the Promotion of Access to Information Act, 2000.

“people with disabilities” In terms of the Code of Good Practice on the Employment of Persons with disabilities: it is persons who have a long-term or recurring physical or mental impairment, which substantially limits their prospects of entry into, or advancement in employment.

“price” includes all applicable taxes less all unconditional discounts;

“Tender” means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;

“Tender for income-generating contracts” means a written offer in the form determined by an organ of state 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;

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

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

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

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

"SMMEs" means small businesses; as defined in section 1 of the National Small Business Act, 1996 (Act No 102 of 1996) a separate and distinct business entity, including co-operative 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 Schedule and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria 40 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.

"Specific goals" 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;

"Written or verbal quotations" means quotations referred to in paragraph 19(1)(b) of this SCM Policy.

5. Abbreviations

Abbreviation	Description
AO	Accounting Officer
B-BBEE	Broad-Based Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
CSD	Central Supply Database
MFMA	Municipal Finance Management Act
PO	Purchase Order
PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Framework Act
PPR22	Preferential Procurement Regulations 2022
SCM	Supply chain management
TOR	Terms of Reference

6. SCM Supporting Legislation

This policy is underpinned by the following pieces of legislation:

- The Constitution of the RSA, Act 108 of 1996, as amended
- Preferential Procurement Policy Framework Act, (Act No. 5 of 2000) and its Regulations;

- Municipal Finance Management Act, (Act No. 56 of 2003), as amended (MFMA)
- Municipal Supply Chain Regulations (MSCM)
- All National Treasury and KwaZulu-Natal Provincial Treasury Practice Notes, Circulars, letters and instruction notes issued from time to time
- The Broad-based Black Economic Empowerment Act,
- Public Audit Amendment Act 5 of 2018
- Construction Industry Development Board Act No 38 of 2000 and its Regulations
- The Prevention and Combating of Corrupt Activities Act
- Promotion of Administrative Justice Act, Act No 3 of 2000
- Promotion of Access to Information Act, Act No 2 of 2000
- Protected Disclosures Act, Act No 26 of 2000
- The Competition Act, Act No 89 of 1998
- MFMA SCM Circulars

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

1. 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;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

(i) the Regulations; and

(ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) is consistent with other applicable legislation;

(e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) This Policy applies when the municipality:

(a) procures goods or services;

(b) disposes goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where **Chapter 8** of the Municipal Systems Act applies; or

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

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

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

(b) electricity from Eskom or another public entity, another municipality or a municipal entity.

3. Amendment of the supply chain management policy

(1) The accounting officer must –

(a) at least annually review the implementation of this Policy; and

(b) when the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the council**.**

(2) If the accounting officer submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must:-

(a) ensure that such proposed amendments comply with the Regulations; and

(b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

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

(4) (4) The accounting officer of a municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this supply chain management policy.

(5) By adopting this policy the council further pledges itself and the municipal administration, to the full support of the Proudly SA campaign and to the observance of all applicable national legislation, including specifically the:

- Preferential Procurement Policy Framework Act No,2000: Preferential Procurement Regulations, 2017
- Municipal Finance Management Act No. 56 of 2003, including the sections relating to the prescribed framework for supply chain management.
- Where applicable the council also pledges itself to observe the requirements of the Construction Industry Development Board Act No. 38 of 2000 and sections and
- National Small Business Act of 1996.

4. Delegation of supply chain management powers and duties

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

(a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –

(i) Chapter 8 or 10 of the Act; and

(ii) this Policy;

(b) to maximise administrative and operational efficiency in the implementation of this Policy;

(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

(d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(2) **Sections 79 and 106** of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (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 paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive

bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

5. Sub-delegations

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

(2) The power to make a final award –

(a) above R10 million (Including all taxes applicable) may not be sub delegated by the accounting officer;

(b) above R2 million (Including all taxes applicable), but not exceeding R10 million (Including all taxes applicable), may be sub delegated but only to –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(c) not exceeding R2 million (Including all taxes applicable) may be sub delegated but only to –

(i) the chief financial officer;

(ii) a senior manager;

(iii) a bid adjudication committee

(3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–

(a) the amount of the award;

(b) the name of the person and the to whom the award was made; and

(c) the reason why the award was made to that person.

(4) A written report referred to in subparagraph (3) must be submitted –

(a) to the accounting officer, in the case of an award by –

(i) the chief financial officer;

(ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –

(i) a manager referred to in subparagraph (2)(c)(iii); or

(ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

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

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

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

6. Oversight role of council

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

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

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

(ii) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.

(3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.

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

7. **Supply chain management unit**

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

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

8. **Training of supply chain management officials**

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

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides systems for –

    (i) demand management;

    (ii) acquisition management;

    (iii) logistics management;

    (iv) disposal management;

    (v) risk management; and

    (vi) performance management.

Part 1: Demand management

10. System of demand management

(1) The accounting officer is hereby establishing 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.

(2) The demand management system must –

    (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

    (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and

    (c) provide for the compilation of the required specifications to ensure that its needs are met.

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

Part 2: Acquisition management

11. System of acquisition management

(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, specifications, 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 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

(1) Goods and services may only be procured by way of –

(a) petty cash purchases, up to a transaction value of R3 000 (Including all taxes applicable);

(b) at least three written or verbal quotations for procurements of a transaction value over R3 000.00 up to R10 000 (Including all taxes applicable);

(c) three written price quotations must be obtained for procurements of a transaction value over R10 000.00 up to R30 000 (Including all taxes applicable)

(d) three written price quotations must be obtained for procurements of a transaction value over R30 000.00 up to R300 000 (Including all taxes applicable), and this must be advertised for at least 7 working days.

(e) All procurement regardless of the threshold, accept that of petty cash, must apply preference points and specific goals must be used in allocation and evaluation of preference points.

(f) a competitive bidding process for–

(i) procurements above a transaction value of R300 000 (Including all taxes applicable); and

(ii) the procurement of long-term contracts.

(2) The accounting officer may, in writing-

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

(b) direct that –

(i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R3 000;

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

(iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R300 000.

(4) 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.

(5) In a case where the municipality advertises the projects of the similar nature in different wards/ areas, each project will be allocated a different Supplier for the development of the Local SMMEs and completing the projects at the same time.

(6) A written quotation or bid must be rejected–

(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

13 Evaluation of bids on Functionality

1) The municipality will indicate in the bid/ tender document if that bid will be evaluated on functionality.

2) The evaluation criteria for measuring functionality must be objective.

3) Functionality must not be too high that it prejudices other bidders.

4) Functionality must not be too low that it places the project at risk of none completion.

5) When evaluating bids on functionality, the following must be considered: -

a) evaluation criteria for measuring functionality;

b) weight of each criterion;

c) applicable values; and

6) minimum qualifying score for functionality, must be clearly specified in the bid document.

7) The minimum qualifying score for functionality for a tender to be considered further

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.

7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria indicated on the bid document.

Purchase requisition authorizing and approval threshold limits shall be as outlined on the SCM Procedural Manual

13. General preconditions for consideration of written quotations or bids

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

(a) has furnished that provider's –

(i) full name;

(ii) identification number or company or other registration number; and

(iii) relevant tax reference number and including VAT registration number, if applicable;

(b) has indicated –

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

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

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

14. Lists of accredited prospective providers

(1) The accounting officer must –

(a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and 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;

(c) specify the listing criteria for accredited prospective providers; and

(d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

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

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

(4) All providers on the prospective list must be registered on National Treasury Central Supplier Database (CSD) in terms of MFMA Circular no 81 to register on the National Treasury Central Supplier Database. Ndwedwe Local Municipality will not consider or award any bid or conduct business with service providers not registered on the CSD.

(5) Bid/ tenders must be advertised on the new and enhanced e-Tender Publication Portal.

15. Petty cash purchases

The accounting officer must establish the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, which include the following –

(a) the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;

(b) the maximum number of petty cash purchases or the maximum amounts per month for each senior manager; ***(as Petty Cash Policy)***

(c) any types of expenditure from petty cash purchases that are excluded, where this is considered necessary; and

(d) a monthly reconciliation report from each Principal Creditors clerk must be provided 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.

16. Written or verbal quotations

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

(a) Quotations must be obtained from suppliers that appear on the CSD.

(b) to the extent feasible, providers must be requested to submit such quotations in writing;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;

(d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

(e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

17. Formal written price quotations

(1) The conditions for the procurement of goods or services through formal written price quotations, are as follows:

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;

(b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this 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 subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

(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 (Including all taxes applicable) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality;

(c) offers 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 written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;

(e) offers below R30 000 (Including all taxes applicable) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services, price and preference points;

19. Competitive bids

(1) Goods or services above a transaction value of R300 000 (Including all taxes applicable) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.

(2) No requirement for goods or services above an estimated transaction value of R200 000 (Including all taxes applicable), 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.

20. Process for competitive bidding

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

(a) Compilation of bidding documentation as detailed in paragraph 21;

(b) Public invitation of bids as detailed in paragraph 22;

(c) Site meetings or briefing sessions as detailed in paragraph 22;

(d) Handling of bids submitted in response to public invitation as detailed in paragraph 23;

(e) Evaluation of bids as detailed in paragraph 28;

(f) Award of contracts as detailed in paragraph 29;

(g) Administration of contracts

(i) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.

(h) Proper record keeping

(i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

21. Bid documentation for competitive bids

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

(a) take into account –

(i) the general conditions of contract and any special conditions of contract, if specified;

(ii) any Treasury guidelines on bid documentation; and

(iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

(b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Sections and 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 (Including all taxes applicable), require bidders to furnish–

(i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –

(aa) for the past three years; or

(bb) since their establishment if established during the past three years;

(ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

(iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

(e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

22. Public invitation for competitive bids

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

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

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

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (Including all taxes applicable), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality**; and**

(iii) date, time and venue of any proposed site meetings or briefing sessions.;

(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) Bids submitted must be sealed.

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

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

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

(i) Bids must be opened only in public;

(ii) Bids must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and

(iii) Bids received after the closing time should not be considered and returned **unopened immediately**.

(a) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;

(b) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and

(c) The accounting officer or delegated official 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.

24. Negotiations with preferred bidders

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

(a) does not allow any preferred bidder a second or unfair opportunity;

(b) is not to the detriment of any other bidder; and

(c) does not lead to a higher price than the bid as submitted.

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

25. Two-stage bidding process

(1) A two-stage bidding process is allowed for –

(a) large complex projects;

(b) projects where it may be undesirable to prepare complete detailed technical specifications; or

(c) long term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

26. Committee system for competitive bids

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

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee;

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

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

(4) The committee system must be consistent with –

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

(2) Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards

Organisation, 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 rather than in terms of descriptive characteristics for design;

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Sections 2022; and

(g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

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

(4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

28. Bid evaluation committees.

(1) A bid evaluation committee must –

(a) evaluate bids in accordance with –

(i) the specifications for a specific procurement; and

(ii) the points system set out in terms of paragraph 27(2)(f).

(b) evaluate each bidder's ability to execute the contract;

(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

(d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

(2) A bid evaluation committee must as far as possible be composed of-

(a) officials from departments requiring the goods or services; and

(b) at least one supply chain management practitioner of the municipality.

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

(a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

(b) at least one senior supply chain management practitioner who is an official of the municipality; and

(c) a technical expert in the relevant field who is an official, if such an expert exists.

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

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

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

i. check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

ii. notify the accounting officer.

(b) The accounting officer may –

i. after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and

ii. if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

(6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication

committee back to that committee for reconsideration of the recommendation.

(7) The accounting officer must comply with section 114 of the Act within 10 working days

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 or 85 of the Act; and

(c) may not be for a period of more than five years at a time.

(2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. Procurement of IT related goods or services

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

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

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

(a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (Including all taxes applicable); or

(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (Including all taxes applicable).

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

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) Sub-paragraphs (1)(c) and (d) do not apply if –

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

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

33. Procurement of goods necessitating special safety arrangements

(1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

(2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

34. Proudly SA Campaign

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

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

35. Appointment of consultants

(1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

(2) Consultancy services must be procured through competitive bids if

(a) the value of the contract exceeds R300 000 (Including all taxes applicable); or

(b) the duration period of the contract exceeds one year.

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years; and

(b) any similar consultancy services provided to an organ of state in the last five years.

(4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.

36. Deviation from, and ratification of minor breaches of, procurement processes

(1) The accounting officer may –

(a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –

i. in an emergency;

ii. if such goods or services are produced or available from a single provider only;

iii. for the acquisition of special works of art or historical objects where specifications are difficult to compile;

iv. acquisition of animals for zoos and/or nature and game reserves; or

v. in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and

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

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

(6) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

37. Unsolicited bids

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

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

(a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;

(b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;

(c) the person who made the bid is the sole provider of the product or service; and

(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

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

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

(b) an explanation of the potential benefits if the unsolicited bid were accepted; and

(c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.

(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the

unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

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

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

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

(a) any comments submitted by the public; and

(b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.

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

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

38. Combating of abuse of supply chain management system

(1) The accounting officer must–

(a) take all reasonable steps to prevent abuse of the supply chain management system;

(b) investigate any allegations against an official or other role player of fraud, corruption, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified –

(i) take appropriate steps against such official or other role player; or

(ii) report any alleged criminal conduct to the South African Police Service;

(c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;

(d) reject any bid from a bidder–

(i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or

(ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

(e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;

(f) cancel a contract awarded to a person if –

(i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or

(ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

(g) reject the bid of any bidder if that bidder or any of its directors –

(i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;

(ii) has been convicted for fraud or corruption during the past five years;

(iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

(iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).

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

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management

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

(a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

(b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;

(c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;

(d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

(e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;

(f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

(g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

40. Disposal management

(1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.

(2) Assets may be disposed of by –

(i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

(ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

(iii) selling the asset; or

(iv) destroying the asset.

(3) The accounting officer must ensure that –

(a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

(c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

(d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

(e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;

(f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

(g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

41. Risk management

(1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.

(2) Risk management must include –

(a) the identification of risks on a case-by-case basis;

(b) the allocation of risks to the party best suited to manage such risks;

(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. Performance management

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

Part 4: Other matters

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

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

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

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

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

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

(a) who is in the service of the state;

(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) a person who is an advisor or consultant contracted with the municipality.

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

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

(a) the name of that person;

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

(c) the amount of the award.

46. Ethical standards

(1) A code of ethical standards as set out in **subparagraph (2)** is hereby established for officials and other role players in the supply chain management system of **Ndwedwe Local Municipality** in order to promote –

(a) mutual trust and respect; and

(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

Note:

It is recommended that the municipality or municipal entity adopt the 'National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management'. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity. A copy of the National Treasury code of conduct is available on the website ***www.treasury.gov.za/mfma*** *located under "legislation". This code of conduct must be adopted by council or board of directors to become binding.*

Important*:*

If the council or board of directors adopts the National Treasury code of conduct, subparagraphs (2), (3) and (4) below ***are to be deleted*** *from the policy and renumber subparagraph (5) to subparagraph (2). Alternatively, should the National Treasury code not be adopted, subparagraphs (2), (3) and (4) must be retained as the minimum code of ethics.*

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

(a) must treat all providers and potential providers equitably;

(b) may not use his or her position for private gain or to improperly benefit another person;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

(d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

(e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;

(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;

(g) must be scrupulous in his or her use of property belonging to municipality;

(h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and

(i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –

(i) any alleged fraud, corruption, favouritism or unfair conduct;

(ii) any alleged contravention of paragraph 47(1) of this Policy; or

(iii) any alleged breach of this code of ethical standards.

(3) Declarations in terms of subparagraphs (2) (d) and (e) -

(a) must be recorded in a register which the accounting officer must keep for this purpose;

(b) by the accounting officer must be made to the mayor of the municipality **who** must ensure that such declarations are recorded in the register.

(4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.

(5) A breach of the code of ethics must be dealt with as follows -

(a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;

(b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.

(c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

47. Inducements, rewards, gifts and favours to municipalities officials and other role players

(1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

(a) any inducement or reward to the municipality for or in connection with the award of a contract; or

(b) any reward, gift, favour or hospitality to –

(i) any official; or

(ii) any other role player involved in the implementation of this Policy.

(2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

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

48. Sponsorships

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

(a) a provider or prospective provider of goods or services; or

(b) a recipient or prospective recipient of goods disposed or to be disposed.

49. Objections and complaints

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

(a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, within 24 hours refer the written objection or complaint to the independent and impartial person referred to in paragraph 50 for resolution; or

(b) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 50A.

50. Resolution of disputes, objections, complaints, queries and management of defaulters

(1) The council hereby adopting the Municipal Bid Appeals Tribunal.

(2) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.

(3) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.

(4) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.

(5) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 50.3.

(6) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal."

(7) Management of defaulters

a. The municipality will follow the process set out by the National Treasury to restrict service providers defaulting on tenders.

51. Contracts providing for compensation based on turnover

If a service provider acts on behalf of a 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.

52. Use of the Panel of service providers

(1) The appointment of service providers to the panel will be done by the accounting officer.

(2) The appointment of service providers from the panel of service providers will be done on rotation basis.

(3) Appointment of service providers from the panel will be done by the respective head of department in consultation with the chief financial officer.

Part 5: Other matters
Preferential Procurement

1. LEGISLATIVE BACKGROUND

Preferential Procurement must be implemented within the confines of the Constitution of the Republic of South Africa, Act 108 of 1996, particularly section 217 (2) and (3) of the Act. The Constitution is then supported by the Preferential Procurement Policy Framework Act; Act No. 5 of 2000 and its Regulations.

1.1 The Constitution of the Republic of South Africa, Act 108 of 1996

Section 217 of the Constitution provides for the following:

(1) When an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.

(2) Subsection (1) does not prevent the organs of state or institutions referred to in that subsection from implementing a procurement policy providing for—

(a) categories of preference in the allocation of contracts; and

(b) the protection or advancement of persons, or categories of persons, disadvantaged by unfair discrimination.

(3) National legislation must prescribe a framework within which the policy referred to in subsection (2) must be implemented.

1.2 The Preferential Procurement Policy Framework Act No. 5 Of 2000 (PPPFA)

In line with section 217 (3) of the Constitution, the PPPFA has provided a framework within which the policy referred to in subsection (2) of Section 217 of the Constitution must be implemented. Section 2 of the PPPFA provides for the following:

1.3 Section 2 of the PPPFA: Framework for implementation of preferential procurement policy. –

(1) An organ of state must determine its preferential procurement policy and implement it within the following framework:

(a) A preference point system must be followed;

(b) (i) for contracts with a Rand value above a prescribed amount a maximum of 10 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 90 points for price;

(ii) for contracts with a Rand value equal to or below a prescribed amount a maximum of 20 points may be allocated for specific goals as contemplated in paragraph (d) provided that the lowest acceptable tender scores 80 points for price;

(c) any other acceptable tenders which are higher in price must score fewer points, on a pro rata basis, calculated on their tender prices in relation to the lowest acceptable tender, in accordance with a prescribed formula;

(d) the specific goals may include:

(i) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;

(ii) implementing the programmes of the Reconstruction and Development Programme as published in *Government Gazette* No. 16085 dated 23 November 1994;

(e) any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender;

(f) the contract must be awarded to the tenderer who scores the highest points, unless objective criteria in addition to those contemplated in paragraphs *(d)* and *(e)* justify the award to another tenderer; and

(g) any contract awarded on account of false information furnished by the tenderer in order to secure preference in terms of this Act, may be cancelled at the sole discretion of the organ of state without prejudice to any other remedies the organ of state may have.

(2) Any goals contemplated in subsection (1) *(e)* must be measurable, quantifiable and monitored for compliance.

2 APPLICATION OF GOALS AS PROVIDED FOR BY THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT (PPPFA)

a. Section 2 (1) of the Act requires that an organ of state must determine its preferential procurement policy and implement it within the following framework:

(d) the specific goals may include:

i. contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability;

ii. implementing the programmes of the Reconstruction and Development Programme as published in *Government Gazette No. 16085 dated 23 November 1994;*

b. Ndwedwe Local Municipality will set specific goals at policy level and at each tender planning stage to advance the Persons Historically Disadvantaged.

c. Where procurement opportunities for designated groups have been identified, the invitation to tender will clearly indicate the specific goals for which a point may be awarded.

3 NDWEDWE LOCAL MUNICIPALITY SPECIFIC GOALS

3.1 Goal 1

3.1.1 Ownership as specific goal

A maximum of 20 points (80/20 preference points system) or 10 (90/10 preference points system), may be allocated. Bidder may score preference points based on company ownership. In a case the municipality applies ownership as specific goal, the municipality must advertise the tender with a specific tendering preferential procurement requirement that in order for a tenderer to claim 10 / 20 points for specific goals, a tendering company must have the following ownership:

- race or
- gender or;
- disability;

proof of ownership verification may be conducted in line with the CIPC, CSD, B-BBEE Certificate or sworn affidavit attributes or by any other legally recognized means.

3.2 Goal 2

3.2.1 RDP Goals

Over and above the awarding of preference points in favour of Persons Historically Disadvantaged, the municipality intends on recognizing the following activities as a contribution towards achieving the goals of the RDP (published in *Government Gazette* No. 16085 dated 23 November 1994):

a. The promotion of South African owned enterprises;
b. The promotion of export orientated production to create jobs;
c. The promotion of SMMEs;
d. The creation of new jobs or the intensification of labour absorption;

e. The promotion of enterprises located in a specific province for work to be done or services to be rendered in that province;
f. The promotion of enterprises located in a specific region for work to be done or services to be rendered in that region;
g. The promotion of enterprises located in a specific municipal area for work to be done or services to be rendered;
h. The promotion of enterprises located in rural areas;
i. The empowerment of the work force by standardising the level of skill and knowledge of workers;
j. The development of human resources, including by assisting in tertiary and other advanced training programmes, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills; and
k. The upliftment of communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations.

4 FORMULAE FOR PROCUREMENT OF GOODS AND SERVICES

4.1 POINTS AWARDED FOR PRICE

4.1.1 THE 80/20 OR 90/10 PREFERENCE POINT SYSTEMS

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$Ps = 80\left(1 - \frac{Pt - P\,min}{P\,min}\right) \text{ or } \quad Ps = 90\left(1 - \frac{Pt - P\,min}{P\,min}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

4.1.2 FORMULAE FOR DISPOSAL OR LEASING OF STATE ASSETS AND INCOME GENERATING PROCUREMENT

4.1.3 POINTS AWARDED FOR PRICE

A maximum of 80 or 90 points is allocated for price on the following basis:

80/20 **or** **90/10**

$$Ps = 80\left(1 + \frac{Pt - P\,max}{P\,max}\right) \text{ or } \qquad Ps = 90\left(1 + \frac{Pt - P\,max}{Pmax}\right)$$

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmax = Price of highest acceptable tender

5 POINTS AWARDED FOR SPECIFIC GOALS

5.1 In terms of Regulation 4(2); 5(2); 6(2) and 7(2) of the Preferential Procurement Regulations, preference points must be awarded for specific goals stated in the tender. For the purposes of this tender the tenderer will be allocated points based on the goals stated in table 1 below as may be supported by proof/ documentation stated in the conditions of this tender:

5.2 In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, 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,

then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system.

Point split (examples)

This split is not exhaustive.

The specific goals allocated points in terms of this tender	**Number of points allocated (90/10 system)**	**Number of points allocated (80/20 system)**
Race (CIPC, CSD, B-BBEE Certificate or sworn affidavit)	4	8
Gender (CIPC, CSD, B-BBEE Certificate or sworn affidavit)	3	6
Disability (Proof Copy of the Dr's Note)	3	6
Total	**10**	**20**

RDP Split

The specific goals allocated points in terms of this tender	**Number of points allocated (90/10 system)**	**Number of points allocated (80/20 system)**

Bidder must be from a specific municipal area for work is to be done. (proof -municipal utility bill/ proof of residence etc.)	4	8
The promotion of SMMEs	3	6
The creation of new jobs or the intensification of labour absorption;	3	6
Total	**10**	**20**

POLICY IMPLEMENTATION

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

Policy adoption date	31 May 2024
Policy implementation date	1 July 2024
Next Review date	May 2025
Signed by……	**Date…**……