

# WEST COAST DISTRICT MUNICIPALITY



## MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT,  
2003

**Date of adoption:** 14 December 2005

**Date of implementation:** 1 January 2006

The Council resolves in terms of section 111 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), to adopt the following proposal as Supply Chain Management Policy of the West Coast District Municipality.

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## Definitions

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

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

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

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

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

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

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

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

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

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including but not limited to the following –

- (a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000) and revised Preferential Procurement Regulations promulgated in Government Gazette 34350 on 8 June 2011;
- (b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- (c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- (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);

**“Regulations”** means the Local Government: Municipal Supply Chain Management Regulations promulgated in Government Gazette 27636 on 30 May 2005;

**“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act, including all National Treasury, MFMA Circulars relating to Supply Chain Management;

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

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

## CHAPTER 1

### ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the West Coast District Municipality must implement this Policy in the 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) The Policy applies when the West Coast District Municipality –
  - (a) procures goods or services;
  - (b) disposes goods no longer needed;

- (c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
  - (d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
  - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity;
  - (c) the acquisition of legal services subject that the acquisition of such services be dealt with in terms of the Municipality's delegations of powers and duties, as amended from time to time;

### **Amendment of the supply chain management policy**

- 3. (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 a proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –
  - (a) ensure that such 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) 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.

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

4. (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 the supply chain management policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of sub paragraph (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 West Coast District Municipality or to a committee which is not exclusively composed of officials of the West Coast District 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.

### **Sub - delegations**

- 5.(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 (VAT included) may not be sub - delegated by the accounting officer;
  - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), 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 (VAT included) may be sub delegated but only to –
  - (i) the chief financial officer;
  - (ii) a senior manager;
  - (iii) a manager directly accountable to the chief financial officer or a senior manager; or
  - (iv) 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) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–
  - (a) the amount of the award;
  - (b) the name of the person to whom the award was made; and
  - (c) proper motivation 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
    - (lii) 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) of this policy; 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 direct purchases.
- (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.

### **Oversight role of council**

6. (1) The council reserves its right to maintain oversight over the implementation of this supply chain management 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 the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality, and
  - (ii) whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council,.
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the mayor.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

## **Supply chain management unit**

7. (1) A supply chain management unit is hereby established to implement this supply chain management policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

## **Training of supply chain management officials**

8. (1) The training of officials involved in implementing the supply chain management policy should be in accordance with any Treasury guidelines on supply chain management training;
- (2) Training to be done in accordance to the skills development plan of the West Coast District Municipality;

## **CHAPTER 2**

### **FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT**

#### **Format of supply chain management**

9. This supply chain management policy provides systems for –
  - (i) demand management;
  - (ii) acquisition management;
  - (iii) logistics management;
  - (iv) disposal management;
  - (v) risk management; and
  - (vi) performance management.

## **Part 1: Demand management**

### **System of demand management**

10. (1) The accounting officer must establish and implement, through operational procedures, an appropriate and effective system of demand management in order to ensure that the resources required by West Coast District Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan (IDP).
  
- (2) The demand management system must –
  - (a) include timely planning and management processes to ensure that all goods and services required by the West Coast District 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;
  - (e) take into account the guidelines on the implementation of demand management and the submission of procurement plans in respect of advertised competitive bids as per National Treasury, MFMA Circular No.62, Municipal Finance Management Act No.56 of 2003, Supply Chain Management: Enhancing compliance and accountability as per Annexures B and C;

## Part 2: Acquisition management

### System of acquisition management

11. (1) The accounting officer must establish and implement, through operational procedures, an effective system of acquisition management in order to ensure –
  - (a) that goods and services are procured by West Coast District 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 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.

- (3) The accounting officer may on motivation of an Director extend the bid closing date, if circumstances justify the action, provided that the closing date may not be extended unless a notice is published in the same newspapers as the original advertisement as well as the municipal website and municipal notice boards, prior to the original bid closing date. All prospective bidders must be informed in writing by the relevant Director of the extension of the bid closing date.
- (4) Unless otherwise indicated in the bid documents, the municipality shall not be liable for any expenses incurred by prospective bidders in the preparation and / or submission of a bid or quotation.

### **Range of procurement processes**

- 12.(1) The procurement of goods and services through this policy is provided by way of –
- (a) direct purchases, up to a transaction value of R2 000 (VAT included);
  - (b) written or verbal quotations for procurements of a transaction value over R2 000 up to R10 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
  - (d) a competitive bidding process for–
    - (i) procurements above a transaction value of R200 000 (VAT included); and
    - (ii) the procurement of long term contracts.

- (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 R2 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 R200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

### **General preconditions for consideration of formal written quotations or bids**

13. A formal written quotation or bid may not be considered unless the provider who submitted the quotation or bid –
- (a) has furnished that provider's –
    - (i) full name;
    - (ii) identification number or company or other registration number; and
    - (iii) tax reference number and VAT registration number, if any;
  - (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 shareholders, stakeholders or trustees 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;
  - (iv) their individual identity numbers, personal tax reference numbers and employee numbers of those who are in the service of the state;

### **Lists of accredited prospective providers**

14. (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 of the West Coast District Municipality 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.

### **Direct purchases**

15. The accounting officer must establish the conditions for the procurement of goods by means of direct purchases referred to in paragraph 12 (1) (a) of this policy, which must include conditions –
- (a) at least one (1) quotation is needed up to a transaction value of R2 000 (VAT included);
  - (b) an official order number to be obtained and a invoice to be submitted for payment;

### **Written or verbal quotations**

16. The conditions for the procurement of goods or services through written or verbal quotations are as follows –
- (a) quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria in the supply chain management policy required by 14(1)(b) and (c) of this policy;

- (b) that, to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) that 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) that the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) that if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

### **Formal written price quotations**

17. (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 in the supply chain management policy required by paragraph 14(1)(b) and (c);
  - (c) that 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.

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

18. (1) The operational procedure for the procurement of goods or services through written and formal written price quotations, are as follows –
- (a) that when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers, including by inviting providers to submit quotations on a rotation basis;
  - (b) that all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 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) that 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 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;
  - (f) Acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;
  - (g) all reasonable steps must be taken to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused;
  - (h) the supply chain management unit is responsible for proper record keeping;

- (2) O original / legal copies of written or formal written price quotations should be kept in a secure place for reference purposes.
- (3) Notwithstanding the above requirements for consideration , written and formal written quotations not to specification may not be accepted;
- (4) Where no written or formal written quotation complies with the specification there must be a recall for quotations;
- (5) Only quotations complying with the set specifications will be considered to accepted, provided that there are sufficient funds within the appropriate budget;

### **Competitive bidding process**

19. (1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy; and
  - (2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

### **Process for competitive bidding**

20. 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) the award of contracts as detailed in paragraph 29;
- (g) the administration of contracts;
- (h) After approval of a bid, the accounting officer and the bidder must enter into a written agreement;
- (i) proper record keeping; **and**
- (j) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

### **Bid documentation for competitive bids**

21. The criteria to which bid documentation for a competitive bidding process must comply, must –
- (a) take into account –
    - (i) the general conditions of contract (GCC) as augmented in July 2010 and any special conditions of contract (SCC), 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 or refurbishment of buildings or infrastructure; and the general conditions of contract (GCC) issued by the CIDB should be utilised in cases of bids relating to the construction industry;
  - (b) include the preference point system to be used, as contemplated in the Preferential Procurement Regulations of 2011 and the evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) compel bidders to declare any conflict of interest they (directors / trustees / shareholders) may have in the transaction for which the bid is submitted as per Annexure D;

- (d) the special conditions of contract (SCC) to be used to cover specific goods, services and works;
- (e) where the special conditions of contract (SCC) is in conflict with the general conditions of contract the special conditions of contract (SCC) will prevail;
- (f) compel bidders to complete a certificate of independent bid determination to ensure that when bids are considered all reasonable steps are taken to deter any form of bid rigging or collusive bidding;
- (g) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
- (h) 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;

- (i) the period for which bids are to remain valid and binding must be indicated in the bid documents;
- (j) ensure that a valid original tax clearance certificate accompany the bid documents unless the bidder is registered on the accredited supplier database of the municipality and the municipality has a valid original tax clearance certificate of the bidder on record; the onus is on the bidder to ensure that the municipality has an original tax clearance certificate on record;
- (k) ensure that in the case of designated sectors, where in the award of bids local production and content is of critical importance, such bids be advertised with the specific bidding condition that only locally produced goods, services or works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered;
- (l) stipulate that bidders are required to submit original and valid B-BBEE Status Level Verification Certificate or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.

## **Public invitation for competitive bids**

22. The procedure for the invitation of competitive bids, are as follows:

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

- (b) the information contained in a public advertisement, must include –
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy; and
  - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality.
  - (iii) date, time and venue of any proposed site meetings or briefing sessions;
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- (6) The municipality may charge a non – refundable deposit for the provision of bid documents. The deposit is subject to annual review and will be determined by the official list of tariffs;
- (7) For bids above R 10 million the Chief Financial Officer (CFO) must prior to advertisement verify in writing that budgetary provision exists for the commencement of the particular project.

- (8) When inviting bids the municipality must indicate –
- (i) whether the bids will be evaluated on functionality;
  - (ii) the evaluation criteria for measuring functionality;
  - (iii) the weight of each criterion; and
  - (iv) the applicable values as well as the minimum threshold for functionality

### **Procedure for handling, opening and recording of bids**

23. (1) The procedures for the handling, opening and recording of bids, are as follows:
- (a) Bids–
    - (i) must be opened only in public; and
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired;
    - (iii) received after the closing time should not be considered and should be returned unopened immediately;
  - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
  - (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders at the opening of the specific bid;
  - (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 reference number of the bid, the description of the goods, services or infrastructure project, names of all bidders, the B-BBEE status level contribution of all bidders, where applicable, the local content percentages of the goods offered and where practical, total price of the

bids, by all bidders that submitted bids in relation to that particular advertisement on the municipal website;

- (iv) copies of information in (iii) should be made available at municipal offices within ten (10) working days after closure of the bid and it must remain on the municipal website for at least thirty (30) days;
- (v) with regard to successful bids, publish the contract number and description of the goods, services or infrastructure project, names of successful bidders and B-BBEE level of contribution claimed, contract price, brand names and dates for completion of contracts on the municipal website;
- (vi) ensure that prior to the award of contracts above the value of R 10 million the Chief Financial Officer (CFO) must verify in writing that budgetary provision exist for the acquisition and that it is consistent with the Integrated Development Plan (IDP);

(2) The accounting officer to ensure compliance to the following minimum requirements of the Construction Industry Development Board (CIDB) for construction related bids and procurement: -

- (a) the verification of contractor registration and grading on the CIDB website;
- (b) utilisation of contractors registered with the CIDB;
- (c) ensuring that the prescribed CIDB bid documents for construction related bids are utilised;
- (d) assessing bidding documents against the prescribed CIDB contractor requirements;
- (e) registration of every project approved by the West Coast District Municipality, consisting of construction works contracts with the CIDB;
- (f) the advertising of construction contracts on the CIDB i-tender system;
- (g) the updating and completion of contracts registered on the CIDB i-tender system;

- (h) issuing of dates in respect of completion certificates , renewals, terminations or cancellations, the settlement of all amounts owing to contractors in accordance with contracts and the submission of status reports to the CIDB;
- (i) the placing of registered contractors or any principals of that contractor under any restriction to participate in public procurement as contemplated in the CIDB regulations;
- (j) suspension and deregistration of contractors as contemplated in the CIDB regulations;
- (k) complaints and grievances by actions taken in terms of the CIDB regulations;
- (l) failure to comply with the CIDB regulations;
- (m) construction contracts arranged by consultants to adhere to all of the abovementioned requirements and CIDB regulations;
- (n) consultants remuneration is aligned to the CIDB's guidance;
- (o) consultants providing consulting services for construction related contracts and any of their affiliates to be disqualified from subsequently providing goods or works or services related to the project;
- (p) subcontracting arrangements and joint – venture (JV) initiatives to be aligned to CIDB guidelines and requirements;

### **Negotiations with preferred bidders**

24. (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.

## **Two-stage bidding process**

25. (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.

## **Committee system for competitive bids**

26. (1) The accounting officer hereby –  
establish a committee system for competitive bids consisting of the following committees for each procurement or cluster of procurements –
- (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- (2) appoints the members of each committee, taking into account section 117 of the Act; and
- (3) provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.
- (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.

## **Bid specification committees**

27. (1) The 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 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 words “equivalent”;
    - (f) must indicate the points system set out in the Preferential Procurement Regulations 2011; 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) The bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **Bid evaluation committees**

28. (1) The bid evaluation committee must –
  - (a) evaluate bids in accordance with –
    - (i) the specifications for a specific procurement; and
    - (ii) the points system set out in terms of 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) check in respect of the recommended bidder whether not listed on the national Treasury website on the list of restricted suppliers and register of tender defaulters , and;
  - (e) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as 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.

## **Bid adjudication committees**

29. (1) The bid adjudication committee must –
  - (a) consider the report and recommendations of the bid evaluation committee; and
  - (b) either –
    - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
    - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) The bid adjudication committee must consist of at least four senior managers of the municipality which must include –
  - (i) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
  - (ii) at least one senior supply chain management practitioner who is an official of the municipality; and
  - (iii) a technical expert in the relevant field who is an official, if such an expert exists.
- (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

### **Procurement of banking services**

- 30. (1) 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).

### **Procurement of IT related goods or services**

- 31. (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and the municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant provincial treasury and the Auditor General.

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

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

## **Procurement of goods necessitating special safety arrangements**

33. (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.

## **Proudly SA Campaign**

34. The accounting officer supports the Proudly SA Campaign. Preference to be given to the application of local content and production as per paragraph 7 of Annexure E ( Preferential Procurement Policy).

## **Appointment of consultants**

35. (1) The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if –
- (a) the value of the contract exceeds R200 000 (VAT included); or
  - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
- (a) all consultancy services provided to an organ of state in the last five years; and
  - (b) any similar consultancy services provided to an organ of state in the last five years.

- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality;
- (5) no consultant or adviser will take part in the final decision – making process;
- (6) no decision – making authority may be delegated to a consultant or adviser;

### **Deviation from, and ratification of minor breaches of, procurement processes**

36. (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;
    - (vi) if such goods or services have already been acquired by the Municipality from a specific supplier or service provider and subsequent maintenance, amendments, or modifications by other suppliers or service providers are prohibited, restricted or impossible because of guarantee, legal, licensing or such other requirements, or it will be impractical or uneconomical to acquire additional similar goods or services from another supplier or service provider;

- (vii) Expanded Public Works Programme (EPWP) learnership projects which have been identified and registered as such; 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.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

### **Unsolicited bids**

- 37. (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) All written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the municipality to the bid may be entered into or signed within 30 days of the submission.

### **Combating of abuse of supply chain management system**

38. The accounting officer must establish measures for the combating of abuse of the supply chain management system, which must stipulate the following:
  - (1) The accounting officer must–
    - (a) take all reasonable steps to prevent abuse of the supply chain management system;
    - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this supply chain management policy, and when justified –
      - (i) take appropriate steps against such official or other role player; or

- (ii) report any alleged criminal conduct to the South African Police Service;
- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
  - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
  - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
  - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
  - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
  - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
  - (ii) has been convicted for fraud or corruption during the past five years;
  - (iii) has will fully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or

- (iv) has been listed in the Register for Tender Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
  - (h) ensure that all written contracts or service level agreements (SLA's) that are entered into by the municipality are legally sound and are actively managed in order to ensure that both parties meet their respective obligations;
  - (i) ensure that orders are not deliberately placed and arranged with suppliers for goods, services and infrastructure projects to be invoiced and paid in another financial year;
- (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**

#### **Logistics management**

39. The accounting officer must establish 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 inclusive of direct purchases;
  - (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.

## **Disposal management**

- 40.(1) The accounting officer must establish an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, which must stipulate the following:
  - (2) 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 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 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;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and ;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (f) ensure that 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 must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment.

## **Risk management**

- 41.(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.

## **Performance management**

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

## **Part 4: Other matters**

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

43. (1) The accounting officer must ensure that, irrespective of the procurement process followed, no award above R 30 000 is given to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) A valid original tax clearance certificate must accompany the bid documents unless the bidder is registered on the Accredited Supplier Database of the municipality and the municipality has a valid original tax clearance certificate for the bidder on record; the onus is on the bidder to ensure that the municipality has an original tax clearance certificate on record;
- (3) If SARS cannot provide a valid original tax clearance certificate; the bidder must submit a letter from SARS on an original SARS letterhead that their tax matters are in order;
- (4) If a bid is not supported by a valid original tax clearance certificate, either as an attachment to the bid documents or on record in the case of suppliers registered on the Supplier Database of the municipality, the municipality reserves the right to obtain such document after closing date to verify that the bidder's tax matters are in order; if no such document can be obtained within a period as specified by the municipality, the bid will be disqualified;

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

44. (1) The accounting officer must ensure that irrespective of the procurement process followed, no award may be given to a person –
- (a) who is in the service of the state; or
  - (b) if that person is not a natural person, of which any director, manager, principal shareholder, trustee 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.
- (2) In the case of false declaration of interest the –
- (a) contract must be immediately suspended and payments made, recovered;
  - (b) criminal charges must be laid with the South African Police Services for further investigation;
  - (c) details to be reported to Council at its next meeting and information contained in the Annual Report of the municipality;

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

45. The notes to the annual financial statements must disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
- (a) the name of that person;
  - (b) the capacity in which that person is in the service of the state; and
  - (c) the amount of the award.

## **Ethical standards**

46. (1) A code of ethical standards as set out in the “National Treasury’s code of conduct for supply chain management practitioners and other role players involved in supply chain management is hereby established for officials and other role

players in the supply chain management system of the West Coast District Municipality in order to promote –

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

(2) A breach of the code of conduct (Annexure A) as adopted by the West Coast District Municipality must be dealt with as follows -

- (a) in the case of an employee, in terms of the disciplinary procedures of the West Coast District 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.

### **Inducements, rewards, gifts and favours to municipalities , officials and other role players**

47. (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 the supply chain management policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National

Treasury's database of persons prohibited from doing business with the public sector.

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

## **Sponsorships**

48. 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.

## **Objections and complaints**

49. 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. All objections or complaints to be referred to the Municipal Manager of the West Coast District Municipality.

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

50. (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
  - (a) to assist in the resolution of disputes between the municipality and other persons regarding –
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or

- (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- (3) The person appointed must –
  - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

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

51. 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.

## **Expansion or variation of orders against original contract values**

52. (a) Contracts may be expanded or varied by not more than 20 % for construction related goods, services and / or infrastructure projects and 15 % for all other goods and / or services of the original value of the contract;
- (b) Anything beyond the abovementioned thresholds must be reported to Council and dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

## **Contract management**

53. (a) The accounting officer must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound and that such contracts and agreements must be actively managed in order to ensure that both parties meet their respective obligations.
- (b) Contracts to be managed in terms the general conditions of contract issued by National Treasury, in July 2010 and the provisions of section 116 of the MFMA.
- (c) Measures to be put in place to avoid potential litigation and to minimize possible fraud and corruption.

## **Commencement**

54. This revised SCM policy with attached annexures take effect on the date on which it is adopted by the Council.

# WEST COAST DISTRICT MUNICIPALITY SCM 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.

### General Principles

The West Coast District 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.

- 1.1 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.
- 1.2 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.

## 2 Conflict of interest

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 West Coast District 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.

### **3 Accountability**

- 3.1 Practitioners are accountable for their decisions and actions to the public.
- 3.2 Practitioners should use public property scrupulously.
- 3.3 Only accounting officers or their delegates have the authority to commit the West Coast District Municipality to any transaction for the procurement of goods and / or services.
- 3.4 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.

Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.

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

- (i) any alleged fraud, corruption, favouritism or unfair conduct;
- (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
- (iii) any alleged breach of this code of conduct.

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.

## **4 Openness**

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.

## **5 Confidentiality**

Any information that is the property of the West Coast District 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 / contractors personal rights.

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.

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

- 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the West Coast District Municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 6.2. 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.
- 6.3 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.

6.4 No person should-

6.4.1 interfere with the supply chain management system of the West Coast District Municipality or

6.4.2 amend or tamper with any price quotation / bid after its submission.

**(j) Combative Practices**

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

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

# WEST COAST DISTRICT MUNICIPALITY

## SCM POLICY

### ANNEXURE B



#### GUIDELINES ON THE IMPLEMENTATION OF DEMAND MANAGEMENT

##### 1. PURPOSE

- 1.1 This guide aims to provide accounting officers of municipalities and municipal entities with a general understanding of the procedures to be followed when implementing demand management (DM) and the compilation of procurement plans.

##### 2. OBJECTIVE

- 2.1 The objective of this guide is to assist municipalities and municipal entities (*hereinafter referred to as "the institution"*) with the planning for the procurement of goods, works or services in a pro-active manner and to move away from merely reacting to purchasing requests.

##### 3. INTRODCUTION

- 3.1 Supply Chain Management (SCM) could be described as a business process that ensures that goods, works or services are delivered to the right place, in the right quantity, with the right quality, at the right cost and at the right time.
- 3.2 Demand Management is the first element of the SCM function. The objective is to ensure that the resources required to fulfil the needs identified in the Integrated Development Plan (IDP) of the institution are delivered at the right time, price and place and that the quantity and quality will satisfy those needs of the user (ultimately the provision of services to the community). As part of this element of SCM, a total needs analysis must be undertaken. This analysis must be included as part of the strategic planning process of the institution and will, therefore, incorporate future needs.
- 3.3 It is vital for managers to understand and utilize sound good practice techniques to assist them in their planning, implementation and control activities. As part of the strategic plan of the institution, resources required for the fulfilment of its obligations should be clearly analysed. This entails a detailed analysis of the goods, works or services required, including how much can be accomplished, how quickly and with what materials, equipment, resources, etc.
- 3.4 When implemented correctly, demand management within SCM forms an integral part of a series of activities that will contribute to achieving the measured goals of the institution by ensuring that goods, works or services are delivered as originally envisaged; with a reliable standard of quality and to the satisfaction of end-users. Correct implementation also ensures that, controls exist for management to detect variances early and rectify them in a planned and

orderly manner and to foster a culture of compliance, thereby assisting management achieve its goals and satisfy the executive and general public.

#### **4. STEPS TO BE IMPLEMENTED FOR DEMAND MANAGEMENT**

##### **4.1 Participation in the strategic planning process**

4.1.1 As part of the strategic planning exercise of an institution, the various functions to be executed must be identified. Pursuant thereto, it is necessary to determine the different resources required to execute the identified functions, i.e. water services, sanitation, refuse removal, electrical, etc. These resources must be budgeted for. It is of vital importance to know, even at this stage, the estimated costs of the required resources, including the estimated costs of the required goods, works or services.

4.1.2 Demand management must be co-ordinated by SCM officials of the institution in consultation with end-users. This includes a detailed analysis of the goods, works or services required, such as:-

- the scope of the work to be executed;
- the time required to complete the project; and
- the material, resources, equipment required to execute the project.

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.

##### **4.2 Procurement planning**

4.2.1 Procurement planning should take place at the beginning of the financial year when the institution's IDP, Service Delivery and Budget Implementation Plan (SDBIP) and annual budget have been approved. Procurement plans cannot be developed in isolation; it should instead form part of the institution's and other functional strategies. The SCM Unit must perform hand-in-hand with user departments / directorates in the formulation of procurement plans.

### **4.3 Analysis of the goods, works or services required**

- 4.3.1 During the strategic planning phase of the institution, the goods, works or services or required to execute the identified functions are determined. The SCM Unit should assist the process in ensuring that the identified goods, works or services are the optimum resources required to achieve the goals and objectives of the institution.
- 4.3.2 The SCM unit of the institution must analyse the goods, works or services required and execute, among others, the following:
- (a) List the functions to be executed by the institution;
  - (b) Conduct an analysis of the past expenditure as this exercise may, among others, contribute in determining the manner in which the institution fulfilled its needs in the past; and
  - (c) Compile as detailed list of the goods, works or services required to execute the functions listed as per sub-paragraph (a) above.

### **4.4 Planning to obtain the required goods, works or services**

- 4.4.1 Together with the end-user, the SCM Unit should apply strategic sourcing principles to determine the optimum manner in which to acquire the required goods, works or services. This entails, among others, the following:
- a) Conducting an industry and market analysis of the goods, works or services to be obtained. This must include the determination of a reasonable price for the required goods, works or services;
  - b) Confirmation that sufficient funds have been allocated for the procurement of the required goods, works or services. If this is not so, the end-user must be informed accordingly. The procurement process should not proceed if funds are not available. Documentary proof must be obtained to substantiate availability of budgetary provisions;
  - c) Considering the optimum method to satisfy the need, for example whether the procurement should be by means of price quotation, advertised competitive bids; limited bids; procuring the goods, works or services from other institutions , or on transversal term contracts nor *ad hoc* contracts;
  - d) The frequency of the requirement(s) must be established in order to determine whether it would cost-effective to arrange a specific term contract for the goods, works or service;
  - e) Establishing whether it would be cost-effective to have the goods available as a store item within the institution. Should this be the case, the minimum and maximum storage levels of these items should be determined and managed; and
  - f) Establishing the lead time required by the potential suppliers to deliver the required goods, works or services after receipt of an official order.

#### 4.5 **Compilation of Procurement Plan**

4.5.1 Completion of the above-mentioned activities should result in the compilation of the procurement plan to be implemented by the SCM Unit. This plan should indicate:-

- a) a description of the goods, works or service;
- b) the end-user;
- c) the contact person representing the end-user;
- d) estimated value;
- e) date of submission of specifications;
- f) date of advertisement of the bid;
- g) closing date of the advertised bid;
- h) estimated evaluation time;
- i) envisaged date of the Bid Adjudication Committee meeting;
- j) envisaged date of Accounting Officer approval (*for all procurement above R 10 million*); and
- k) envisaged date of issuance of an official order, etc.

4.5.2 An example explaining the procedures to be followed to establish the timeframes when dealing with advertised competitive bids is contained herein.

#### 4.6 **Compilation of a bid register**

4.6.1 The SCM Unit should compile a bid register that will manage the procurement process for each requirement. This should be used as a tool to monitor and evaluate the procurement process. For all bids in excess of R 200 000, relevant information must be captured in the *template* reflecting the *schedule of the procurement plan* in respect of advertised competitive bids.

#### 4.7 **Governance, Risk and Compliance Management**

4.7.1 The SCM Unit should on a continuous basis monitors and assess the validity and accuracy of, and compliance to the procurement plan.

## **EXAMPLE OF THE PROCEDURES TO BE FOLLOWED TO ESTABLISH TIMEFRAMES WHEN DEALING WITH ADVERTISED COMPETITIVE BIDS**

### **Requirement**

The Institution is a municipality, mandated, amongst others, to render water services to residents located in the Eastern Cape Province.

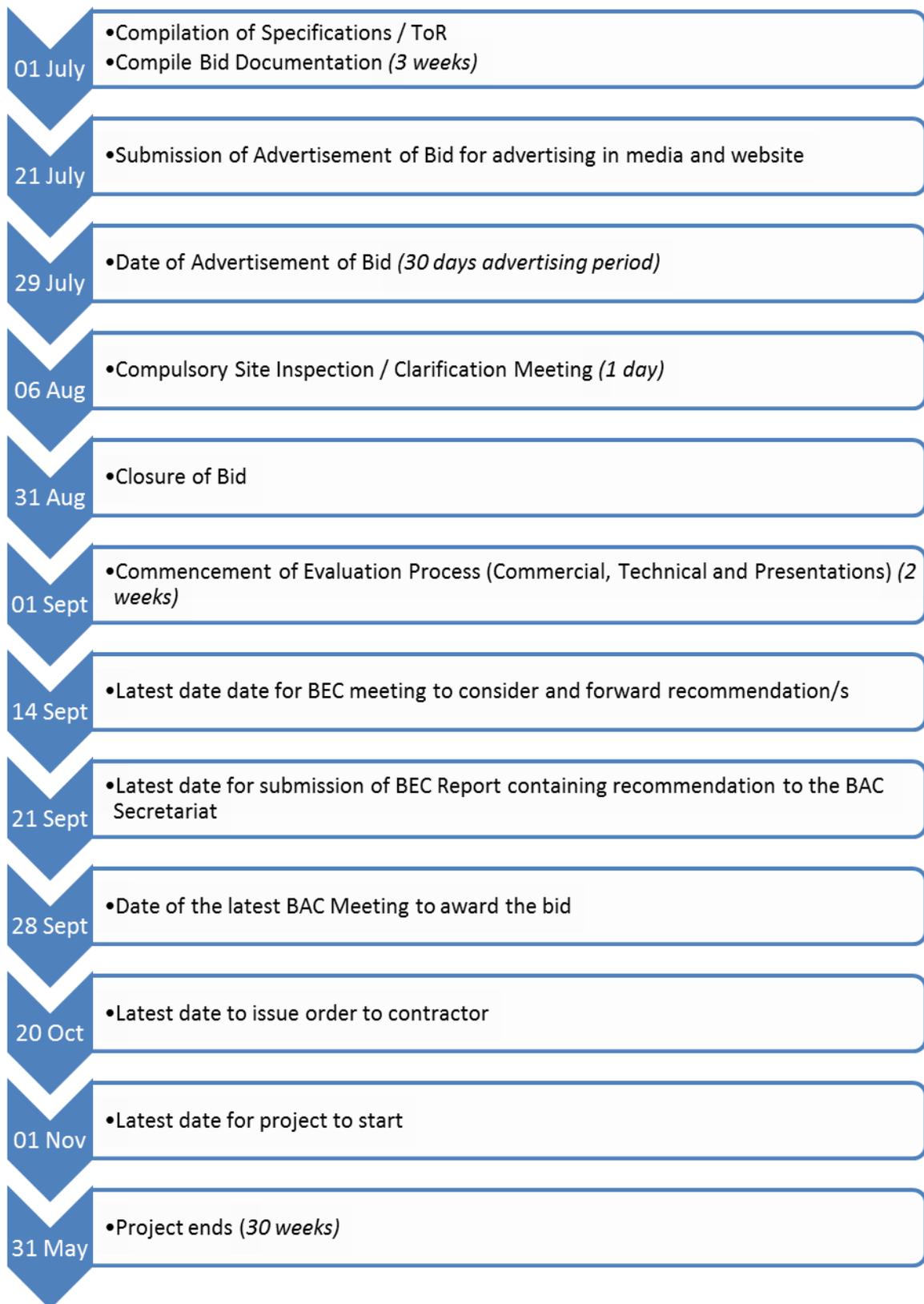
The scope of work involves new mixing channels, modifications to the settling tank, new filters, building work and the construction of two sludge ponds. Due to the specialized nature of this infrastructure project, relevant experience and expertise is required in the following areas:-

- Construction of Water Treatment Plants
- Re-enforced concrete structures
- Filter bed construction

### **Background information**

- This project is funded by the Institution's own fund amounting to R69 million.
- The project is estimated to be completed within *30 weeks* after the start date.
- The Bid Adjudication Committee (BAC) meetings are scheduled for the third Thursday of every month.
- The Bid Evaluation Committee (BEC) meetings are scheduled for every first Thursday of the month.
- Reports containing recommendations for awards must be submitted to the secretariat of the BAC six (6) working days prior to the specific BAC meeting.
- The closure date for the submission of bids may not be less than 30 days.
- The project requires a compulsory 1-day site meeting / briefing session.

The following is *Sequence of Activities by Accounting Officers of Municipalities and Municipal Entities, reflecting SCM Regulation 10 issued May 2005 in terms of the MFMA, 2004*



The results regarding the envisaged dates of advertisement of each bid should thereafter be captured on the Schedule of Procurement Plan in respect of advertised competitive bids (Annexure C) as stipulated.

**PROCUREMENT PLAN**

<b>Project Name:</b>	
<b>Prepared by:</b>	
<b>Bid Number:</b>	
<b>Date (MM/DD/YYYY):</b>	

**Project Initiation Phase** – This portion of the Procurement Plan document is used to provide the Bid Specification Committee with general information about the need to purchase of goods and services. No approval signatures are required.

<b>1. Procurement Statement</b>
<i>Describe, in general terms, what products, works or services are being considered for procurement:</i>

<b>2. Estimated Cost</b>
<i>Provide an estimated total cost of all procurements in this project. Example: R1,567,000</i>

<b>3. Supplier / Service Provider Selection</b>
<i>Describe what approach the project team will take to select a product or vendor (e.g. RFI, RFP, ).</i>

**Project Planning Phase** – This portion of the Procurement Plan document provides detailed information about how vendors, products and services will be chosen, what kind(s) of contract(s) will be used, how vendors will be managed and who will be involved at each stage of the process. This document should be approved by appropriate individuals before the actual procurement process begins.

<b>1. Procurement Definition</b>
<i>Describe, in specific terms, what items will be procured and under what conditions:</i>

## 2. Selection Process & Criteria

*Describe the selection process. List selection criteria. Describe any analytical selection tool that you will use.*

## 3. Project Procurement Team

*List all stakeholders who are involved in the Procurement Process, along with contact information and a description of their Procurement Role. Enter an [ X ] next to each project team member who is authorized to enter into contract agreements or purchase for the Team (insert rows as needed):*

<b>X here</b>	<b>Name:</b>	<b>Phone / email:</b>	<b>Procurement Role:</b>
[ ]			
[ ]			
[ ]			
[ ]			

## 4. Contract Type

*Document which types of contract(s) will be used and the actions required to initiate the contract.*

## 5. Conditions of Contract

*Provide the standards for documentation that will be used for each contract (eg. General Conditions of Contract, Special Conditions of Contract)*

## 6. Service Provider / Supplier Management

*Describe what steps the project team will take to ensure that the vendor provides all of the products and/or services (and only the products and/or services) that were agreed upon, and that appropriate levels of quality are maintained.*

**7. Links to related planning documents**

*Provide hyperlinks to related documents, such as the Change Request Management Plan, Vendor Payment Plan, etc., or attach as addenda.*

**8. Project Procurement Plan / Signatures**

**Project Name:**

**Project Manager:**

**Bid Number**

*I have reviewed the information contained in this Project Procurement Plan and agree:*

<b>Name</b>	<b>Role</b>	<b>Signature</b>	<b>Date (MM/DD/YY YY)</b>

*The signatures above indicate an understanding of the purpose and content of this document by those signing it. By signing this document, they agree to this as the formal Project Procurement Plan.*

**SCHEDULE OF PROCUREMENT PLANS IN RESPECT OF ADVERTISED COMPETITIVE BIDS  
(GOODS, INFRASTRUCTURE PROJECTS OR SERVICES IN EXCESS OF R200 000 INCLUDING ALL APPLICABLE TAXES)  
FOR THE ..... FINANCIAL YEAR**

Name of Municipality or Municipal Entity	
Name of Accounting Officer / Delegated Official	
Signature of Accounting Officer / Delegated Official	
Telephone Number and email address	

<b>Bid Number</b>	<b>Project Name &amp; Brief Description</b>	<b>Estimated value (including all applicable taxes)</b>	<b>Envisaged date of advertisement in the website, newspapers or other media</b>	<b>Envisaged closing date of bid</b>	<b>Envisaged date of award</b>	<b>Responsible department within municipality</b>



**WEST COAST DISTRICT MUNICIPALITY  
SCM POLICY**

**ANNEXURE D**

**DECLARATION OF INTEREST**

1. No bid will be accepted from persons in the service of the state<sup>1</sup>.
2. Any person, having a kinship with persons in the service of the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid. In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons connected with or related to persons in service of the state, it is required that the bidder or their authorised representative declare their position in relation to the evaluating/adjudicating authority.
- 3 In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.**

3.1 Full Name of bidder or his or her representative:.....

3.2 Identity Number: .....

3.3 Position occupied in the Company (director, trustee, hareholder<sup>2</sup>):.....

3.4 Company Registration Number: .....

3.5 Tax Reference Number:.....

3.6 VAT Registration Number: .....

3.7 The names of all directors / trustees / shareholders members, their individual identity numbers and state employee numbers must be indicated in paragraph 4 below.

3.8 Are you presently in the service of the state? **YES / NO**

3.8.1 If yes, furnish particulars. ....

.....

<sup>1</sup>MSCM Regulations: "in the service of the state" means to be –

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

<sup>2</sup> Shareholder” means a person who owns shares in the company and is actively involved in the management of the company or business and exercises control over the company.

3.9 Have you been in the service of the state for the past twelve months? ..... **YES / NO**

3.9.1 If yes, furnish particulars.....

.....

3.10 Do you have any relationship (family, friend, other) with persons in the service of the state and who may be involved with the evaluation and or adjudication of this bid? ..... **YES / NO**

3.10.1 If yes, furnish particulars.

.....

.....

3.11 Are you, aware of any relationship (family, friend, other) between any other bidder and any persons in the service of the state who may be involved with the evaluation and or adjudication of this bid? ..... **YES / NO**

3.11.1 If yes, furnish particulars

.....

.....

3.12 Are any of the company’s directors, trustees, managers, principle shareholders or stakeholders in service of the state? ..... **YES / NO**

3.12.1 If yes, furnish particulars.

.....

.....

3.13 Are any spouse, child or parent of the company’s directors trustees, managers, principle shareholders or stakeholders in service of the state? ..... **YES / NO**

3.13.1 If yes, furnish particulars.

.....

.....

3.14 Do you or any of the directors, trustees, managers,

principle shareholders, or stakeholders of this company have any interest in any other related companies or business whether or not they are bidding for this contract.

**YES / NO**

3.14.1 If yes, furnish particulars:

.....  
.....

4. Full details of directors / trustees / members / shareholders.

<b>Full Name</b>	<b>Identity Number</b>	<b>State Employee Number</b>

.....  
**Signature**

.....  
**Date**

.....  
**Capacity**

.....  
**Name of Bidder**

**ANNEXURE E**

# **WEST COAST DISTRICT MUNICIPALITY**

## **SCM POLICY**



## **PREFERENTIAL PROCUREMENT POLICY**

**In terms of Section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 200 and the Preferential Procurement Regulations, 2011**

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## **PART ONE**

### **GENERAL**

#### **1. ACRONYMS AND ABBREVIATIONS**

AO /AA	Accounting Officer / Accounting Authority
B-BBEEA	Broad Based Black Economic Empowerment Act, Act No 53 of 2003
BVA BEE	Verification Agency
CCA	Closed Corporations Act, Act No 69 of 1984
EMEs	Exempted Micro Enterprises
IRBA	Independent Regulatory Board of Auditors
MFMA	Municipal Finance Management Act, Act No 56 of 2003
PFMA	Public Finance Management Act, Act No. 1 of 1999 (as amended by Act 29 of 1999)
PPPFA	Preferential Procurement Policy Framework Act, No 5 of 2000
QSE	Qualifying Small Enterprise
SANAS	South African National Accreditation System
SARB	South African Reserve Bank
SARS	South African Revenue Services
SASAE	South African Standard on Assurance Engagements
SCM	SCM Supply Chain Management

## 2. PURPOSE

To implement the Preferential Procurement Regulations, 2011 issued in terms of section 5 of the Preferential Procurement Policy Framework Act, Act Number 5 of 2000 (PPPFA).

This Policy should be read and utilized in conjunction with other relevant SCM related prescripts, instructions, circulars and guidelines.

## 3. APPLICABILITY

### 3.1 Institutions

3.1.1 The Preferential Procurement Regulations, 2011 are applicable to organs of state as contemplated in section 1 (iii) of the PPPFA and all public entities listed in Schedules 2, 3A, 3B, 3C and 3D to the PFMA and municipal entities.

3.1.2 These organs of state and entities are hereafter referred to as institutions in this Policy.

### 3.2 Preference point systems

3.2.1 The 80/20 preference point system is applicable to bids with a Rand value equal to, or above R30 000 and up to a Rand value of R1 million (all applicable taxes included).

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

#### 80/20

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (80/20 system)</b>
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

The points scored by a bidder in respect of B-BBEE contribution must be added to the points scored for price and rounded off to the nearest 2 decimal places.

3.2.2 The 90/10 preference point system is applicable to bids with a Rand value above R1 million (all applicable taxes included).

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

### **90/10**

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

Where

$P_s$  = Points scored for comparative price of bid under consideration

$P_t$  = Comparative price of bid under consideration

$P_{\min}$  = Comparative price of lowest acceptable bid

In terms of Regulation 5 (2) and 6 (2) of the Preferential Procurement Regulations, preference points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

<b>B-BBEE Status Level of Contributor</b>	<b>Number of points (90/10 system)</b>
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

The points scored by a bidder in respect of B-BBEE contribution must be added to the points scored for price and rounded off to the nearest 2 decimal places.

3.2.3 The prescribed threshold values within which AOs /AAs may procure services, works or goods by means of petty cash, verbal / written price quotations or advertised competitive bids are not affected by the Preferential Procurement Regulations, 2011.

#### **4. BROAD-BASED BLACK ECONOMIC EMPOWERMENT (B-BBEE) STATUS LEVEL CERTIFICATES**

4.1 Bidders are required to submit original and valid B-BBEE Status Level Verification Certificates or certified copies thereof together with their bids, to substantiate their B-BBEE rating claims.

4.2 Bidders who do not submit B-BBEE Status Level Verification Certificates or are non-compliant contributors to B-BBEE do not qualify for preference points for BBEE but should not be disqualified from the bidding process. They will score points out of 90 or 80 for price only and zero (0) points out of 10 or 20 for BBEE.

4.3 A trust, consortium or joint venture must submit a consolidated B-BBEE Status Level Verification Certificate for every separate bid.

4.4 Public entities and tertiary institutions must also submit B-BBEE Status Level Verification Certificates together with their bids.

4.5 If an institution is already in possession of a valid and original or certified copy of a bidder's B-BBEE Status Level Verification Certificate that was obtained for the purpose of establishing the database of possible suppliers for price quotations or that was submitted together with another bid, it is not necessary to obtain a new B-BBEE Status Level Verification Certificate each time a bid is submitted from the specific bidder.

Such a certificate may be used to substantiate B-BBEE rating claims provided that the closing date of the bid falls within the expiry date of the certificate that is in the institution's possession.

Each time this provision is applied, cross-reference must be made to the B-BBEE Status Level Verification Certificate already in possession for audit purposes.

4.6 AOs / AAs must ensure that the B-BBEE Status Level Verification Certificates submitted are issued by the following agencies:

#### 4.6.1 Bidders other than EMEs

- (a) Verification agencies accredited by SANAS; or
- (b) Registered auditors approved by IRBA.

#### 4.6.2 Bidders who qualify as EMEs

(a) A sworn affidavit or Certificate issued by the Companies and Intellectual Property Commission (CIPC) on an annual basis, confirming their annual turnover of R 10 million or less and the level of black ownership.

### 4.7 VALIDITY OF B-BBEE STATUS LEVEL VERIFICATION CERTIFICATES

#### 4.7.1 Verification agencies accredited by SANAS

4.7.1.1 These certificates are identifiable by a SANAS logo and a unique BVA number.

4.7.1.2 Confirmation of the validity of a B-BBEE Status Level Verification Certificate can be done by tracing the name of the issuing Verification Agency to the list of all SANAS accredited agencies.

The list is accessible on [http://www.sanas.co.za/directory/bbee\\_default.php](http://www.sanas.co.za/directory/bbee_default.php).

The relevant BVA may be contacted to confirm whether such a certificate was issued.

4.7.1.3 As a minimum requirement, all valid B-BBEE Status Level Verification Certificates should have the following information detailed on the face of the certificate:

- The name and physical location of the measured entity;
- The registration number and, where applicable, the VAT number of the measured entity;
- The date of issue and date of expiry;
- The certificate number for identification and reference;
- The scorecard that was used (for example EME, QSE or Generic);
- The name and / or logo of the Verification Agency;
- The SANAS logo;
- The certificate must be signed by the authorized person from the Verification Agency; and
- The B-BBEE Status Level of Contribution obtained by the measured entity.

#### 4.7.2 Registered auditors approved by IRBA

4.7.2.1 The format and content of B-BBEE Status Level Verification Certificates issued by registered auditors approved by IRBA must –

- Clearly identify the B-BBEE approved registered auditor by the auditor's individual registration number with IRBA and the auditor's logo;
- Clearly record an approved B-BBEE Verification Certificate identification reference in the format required by the SASAE;
- Reflect relevant information regarding the identity and location of the measured entity;
- Identify the Codes of Good Practice or relevant Sector Codes applied in the determination of the scores;
- Record the weighting points (scores) attained by the measured entity for each scorecard element, where applicable, and the measured entity's overall B-BBEE Status Level of Contribution; and
- Reflect that the B-BBEE Verification Certificate and accompanying assurance report issued to the measured entity is valid for 12 months from the date of issuance and reflect both the issuance and expiry date.

4.7.2.2 Confirmation of the validity of a B-BBEE Status Level Verification Certificate can be done by tracing the name of the issuing B-BBEE approved registered auditor to the list of all approved registered auditors.

The list is accessible on <http://www.thedti.gov.za> and / <http://www.irba.co.za>.

The relevant approved registered auditor may be contacted to confirm whether such a certificate was issued.

#### **4.7.3 Accounting officers as contemplated in section 60(4) of the CCA;**

4.7.3.1 These certificates will be issued in the accounting officer's letterhead with the accounting officer's practice number and contact number clearly specified on the face of the certificates.

4.7.3.2 The content of B-BBEE Status Level Verification Certificates issued by accounting officers as contemplated in the CCA is detailed in paragraph 4.8.5 below.

#### **4.8 VERIFICATION CERTIFICATES IN RESPECT OF EMEs**

4.8.1 In terms of the Generic Codes of Good Practice, an enterprise including a sole propriety with an annual total revenue of **R10** million or less qualifies as an EME.

4.8.2 In instances where Sector Charters are developed to address the transformation challenges of specific sectors or industries, the threshold for qualification as an EME may be different from the generic threshold of **R10** million.

The relevant Sector Charter thresholds will therefore be used as a basis for a potential bidder to qualify as an EME.

4.8.3 EMEs are deemed to have a B-BBEE status of "level four (4) contributor". In instances where EME's are more than **51%** owned by black people, such EMEs qualify as "B-BBEE status level **two (2)** contributors". **EME's that are 100 % black owned will qualify as "B-BBEE status level one (1) contributors".**

4.8.4 Sufficient evidence to confirm a qualifying EME is **sworn affidavit or a certificate issued by Companies and Intellectual Property Commission (CIPC) confirming their annual turnover of R 10 million or less and the level of black ownership.**

4.9 Any enquiries in respect of B-BBEE Status Level Verification Certificates may be directed to the Department of Trade and Industry (dti) as follows:

Ms Makhosazana Seate  
Director: Empowerment and Enterprise Development Division (EEDD)  
Tel: (012) 394 1694  
Fax: (012) 394 2694  
E-mail: [MSeate@thedti.gov.za](mailto:MSeate@thedti.gov.za) or

Miss Janeez Hafizulla  
Acting Director: Procurement Transformation and Verification  
Tel: (012) 394 1627  
Fax: (012) 394 2627  
E-mail: [JHafizulla@thedti.gov.za](mailto:JHafizulla@thedti.gov.za)

## **PART TWO**

### **INVITATION OF BIDS**

#### **5. PLANNING, STIPULATION OF PREFERENCE POINT SYSTEM TO BE UTILISED AND THE DETERMINATION OF DESIGNATED SECTORS**

Prior to the invitation of bids, AOs/AAs are required to:

5.1. Properly plan for the provision of services, works or goods in order to ensure that the resources that are required to fulfil the needs identified in the strategic plan of the institution are delivered at the correct time, price, place and that the quantity and quality will satisfy those needs.

5.2. As far as possible, accurately estimate the costs for the provision of the required services, works or goods. This is in order to determine and stipulate the appropriate preference point system to be utilised in the evaluation and adjudication of the bids and to ensure that the prices paid for the services, works and goods are market related.

Estimated costs can be determined by conducting an industry and commodity analysis whereby prospective suppliers may be approached to obtain indicative market related prices that may be utilised for benchmarking purposes. Based on the findings, the relevant preference point system (80/20 or 90/10) to be utilised for the evaluation of the bid must be stipulated in the bid documents; and

5.3. Determine whether the services, works or goods for which an invitation is to be made has been designated for local production and content in terms of Regulation 9 of the Preferential Procurement Regulations.

This will entail the inclusion of a specific condition in the bid documents that only locally produced services, works or 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 bid.

#### **6. BIDS BASED ON FUNCTIONALITY AS A CRITERION**

6.1 The need to invite bids on the basis of functionality as a criterion depends on the nature of the required commodity or service taking into account quality, reliability, viability and durability of a service and the bidders technical capacity and ability to execute a contract.

6.2 When an institution invites a bid that will also be evaluated on the basis of functionality as a criterion, the AO/ AA must clearly specify the following aspects in the bid documents:

(a) *Evaluation criteria for measuring functionality*

The evaluation criteria may include criteria such as the consultant's relevant experience for the assignment, the quality of the methodology;

the qualifications of key personnel; transfer of knowledge etc.

(b) *Weight of each criterion*

The weight that is allocated to each criterion should not be generic but should be determined separately for each bid on a case by case basis.

(c) *Applicable value*

The applicable values that will be utilised when scoring each criterion should be objective. As a guide, values ranging from 1 being poor, 2 being average, 3 being good, 4 being very good and 5 being excellent, may be utilised.

(d) *Minimum qualifying score for functionality.*

The minimum qualifying score that must be obtained for functionality in order for a bid to be considered further should not be generic. It should be determined separately for each bid on a case by case basis. The minimum qualifying score must not be prescribed so low that it may jeopardise the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

## 7. LOCAL PRODUCTION AND CONTENT

### 7.1 Designated Sectors

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

The Minister of Trade and Industry has designated the following sectors/sub – sectors / industries to which the minimum thresholds for local content:

Sector/Sub-sector/Industries	Minimum threshold for local content
Buses (Bus body)	80%
Textiles, clothing,leather and footwear	100%
Steel Power Pylons	100%
Canned/processed vegetables	80%
Rail Rolling Stock	65%
Set Top Boxes (STB)	30%
Office Furniture	85%
School Furniture	100%
Base and Mattress	90%
Solar Water Heater Components	70%
Electrical and telecom cables	90%
Valve Products and Actuators	70%
Pharmaceutical Products	50% to 70%

Prepaid and Post Paid Electricity Meters	70%
SMART Meters	50%
Working Vessels/Boats (all types)	60%
Transformers and Shunt Reactors	10 % to 100 %

The instruction notes issued by National Treasury with regard to minimum threshold values for the abovementioned sectors/sub-sectors/industries to be used and implemented.

7.1.2 AOs / AAs must stipulate in bid invitations that the exchange rate to be used for the calculation of local content (local content and local production are used interchangeably) must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

7.1.3 Only the South African Bureau of Standards (SABS) approved technical specification number SATS 1286:201x must be used to calculate local content. The following formula to calculate local content must be disclosed in the bid documentation:

The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286:201x as follows:

$$LC = 1 - \left[ \frac{x}{y} \right] \times 100$$

Where

x imported content

y bid price excluding value added tax (VAT)

Prices referred to in the determination of x must be converted to Rand (ZAR) by using the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the closing date of the bid.

7.1.4 For the purpose of paragraphs 7.1.1, 7.1.2 and 7.1.3 above, the MBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.

7.1.5 The Declaration Certificate for Local Content ( MBD 6.2) must be completed and duly signed.

AOs / AAs are required to verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of this Certificate.

## 7.2 Non-Designated Sectors

7.2.1 Where there is no designated sector, AOs / AAs **may** decide to include a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are

in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the dti.

7.2.2 AOs / AAs must stipulate in bid invitations that the exchange rate to be used for the calculation of local content must be the exchange rate published by the SARB at 12:00 on the date, one week (7 calendar days) prior to the date of closure of the bid.

7.2.3 Only the South African Bureau of Standards approved technical specification number SATS 1286:201x as indicated in paragraph 7.1.3 above must be used to calculate local content.

7.2.4 For the purpose of paragraphs 7.2.1, 7.2.2 and 7.2.3 above, the MBD 6.2 (Declaration Certificate for Local Content) must form part of the bid documentation.

7.2.5 The Declaration Certificate for Local Content ( MBD 6.2) must be completed and duly signed. AOs / AAs are required to verify the accuracy of the rate(s) of exchange quoted by the bidder in paragraph 4.1 of this Certificate.

7.2.6 Any enquiries in respect of Local Production and Content may be directed to the Department of Trade and Industry (dti) as follows:

Ms Basani Baloyi  
Director: Industrial Development Division (IDD)  
Tel: (012) 394 3851  
Fax: (012) 394 2851  
E-mail: [BBaloyi@thedti.gov.za](mailto:BBaloyi@thedti.gov.za)

## **8. SERVICES RENDERED BY TERTIARY INSTITUTIONS AND PUBLIC ENTITIES**

8.1 Based on thorough analysis of the market, institutions may invite written price quotations for services that can only be provided by tertiary institutions from the identified tertiary institutions.

8.2 Where the required service can be provided by tertiary institutions, public entities and enterprises from the private sector, institutions must invite competitive bids.

### **PART THREE**

## **EVALUATION OF BIDS**

### **9. DISCOUNTS**

9.1 When calculating comparative prices:

9.2 Unconditional discounts must be taken into account for evaluation purposes; and

9.3 Conditional discounts must not be taken into account for evaluation purposes but should be implemented when payment is effected.

## **10 SUB-CONTRACTING**

10.1. A bidder must not be awarded the points claimed for B-BBEE status level of contribution if it is indicated in the bid documents that such a bidder intends subcontracting more than 25% of the contract value to any other enterprise that does not qualify for at least the same number of points that the bidder qualifies for, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

10.2 A contractor is not allowed to sub-contract more than 25% of the contract value to another enterprise that does not have equal or higher B-BBEE status level, unless the intended sub-contractor is an EME that has the capability and ability to execute the sub-contract.

10.3 In relation to a designated sector, a contractor must not be allowed to subcontract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

## **11 EVALUATION OF BIDS BASED ON FUNCTIONALITY AS A CRITERION**

Bids invited on the basis of functionality as a criterion must be evaluated in two stages – first functionality must be assessed and then in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6. The evaluation must be done as follows:

### **11.1 First stage – Evaluation of functionality**

11.1.1 Bids must be evaluated in terms of the evaluation criteria embodied in the bid documents. The amendment of evaluation criteria, weights, applicable values and/or the minimum qualifying score for functionality after the closure of bids is not allowed as this may jeopardise the fairness of the process.

11.1.2 A bid will be considered further if it achieves the prescribed minimum qualifying score for functionality.

11.1.3 Bids that fail to achieve the minimum qualifying score for functionality must be disqualified.

11.1.4 Score sheets should be prepared and provided to panel members to evaluate the bids.

11.1.5 The score sheet should contain all the criteria and the weight for each criterion as well as the values to be applied for evaluation as indicated in the bid documents.

11.1.6 Each panel member should after thorough evaluation independently award his / her own value to each individual criterion.

11.1.7 Score sheets should be signed by panel members and if necessary, written motivation may be requested from panel members where vast discrepancies in the values awarded for each criterion exist.

11.1.8 If the minimum qualifying score for functionality is indicated as a percentage in the bid documents, the percentage scored for functionality may be calculated as follows:

- a. The value awarded for each criterion should be multiplied by the weight for the relevant criterion to obtain the score for the various criteria;
- b. The scores for each criterion should be added to obtain the total score; and
- c. The following formula should be used to convert the total score to percentage for functionality:

$$\frac{So}{Ps} = Ms \times 100$$

Where:

Ps = percentage scored for functionality by bid under consideration

So = total score of bid under consideration

Ms = maximum possible score

11.1.9 The percentage of each panel member should be added and divided by the number of panel members to establish the average percentage obtained by each bidder for functionality.

## **11.2 Second stage – Evaluation in terms of the 80/20 or 90/10 preference point systems**

11.2.1 Only bids that achieve the minimum qualifying score / percentage for functionality must be evaluated further in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.

## **12. EVALUATION OF BIDS BASED ON A STIPULATED MINIMUM THRESHOLD FOR LOCAL PRODUCTION AND CONTENT**

Bids that were invited on the basis of local production and content should be evaluated by following a two-stage bidding process:

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

12.1.1 Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardise the fairness of the process.

12.1.2 A bid will be disqualified if:

- the bidder fails to achieve the stipulated minimum threshold for local production and content; and.
- the Declaration Certificate for Local Content (MBD 6.2) referred to in paragraphs 7.1.4 and 7.2.4 is not submitted as part of the bid documentation.

12.1.3. Calculation of Local Content

12.1.3.1 The local content (LC) as a percentage of the bid price must be calculated in accordance with the SABS approved technical specification number SATS 1286: 201x as indicated in paragraph 7.1.3 above.

12.1.3.2 AOs / AAs must verify the accuracy of the rates of exchange quoted by the bidder in paragraph 4.1 of the Declaration Certificate for Local Content (MBD 6.2)

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

12.2.1 Only bids that achieve the minimum stipulated threshold for local production and content must be evaluated further in accordance with the 80/20 or 90/10 preference point systems prescribed in Preferential Procurement Regulations 5 and 6.

12.2.2 Where appropriate, prices may be negotiated only with short listed or preferred bidders. Such negotiations must not prejudice any other bidders.

## **13. THE PREFERENCE POINT SYSTEMS**

### **13.1 Step 1: Calculation of points for price**

13.1.1 The PPPFA prescribes that the lowest acceptable bid will score 80 or 90 points for price. Bidders that quoted higher prices will score lower points for price on a pro-rata basis.

13.1.2 Points scored must be rounded off to the nearest 2 decimal places.

### **13.2 Step 2: Calculation of points for B-BBEE status level of contributor**

13.2.1 Points must be awarded to a bidder for attaining the B-BBEE status level of Contribution.

13.2.2 A bid must not be disqualified from the bidding process if the bidder does not submit a certificate substantiating the B-BBEE status level of contribution or is a non-compliant contributor. Such a bidder will score zero (0) out of a maximum of 10 or 20 points respectively for B-BBEE.

### **13.3 Calculation of total points scored for price and B-BBEE status level of Contribution**

13.3.1 The points scored for price must be added to the points scored for B-BBEE status level of contribution to obtain the bidder's total points scored out of 100.

### **14. EVALUATION OF BIDS THAT SCORED EQUAL POINTS**

14.1 In the event that two or more bids have scored equal total points, the successful bid must be the one that scored the highest points for B-BBEE.

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

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

### **15. CANCELLATION AND RE-INVITATION OF BIDS**

15.1 In the application of the 80/20 preference point system, if **all** bids received exceed R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R1 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system.

15.2 In the application of the 90/10 preference point system, if **all** bids received are equal to or below R1 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R1 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system.

15.3 If a bid was cancelled in terms of paragraph 15.1 or 15.2, the correct preference point system must be stipulated in the bid documents of the re-invited bid.

15.4 An AO / AA may, prior to the award of a bid, cancel the bid if:

15.4.1 Due to changed circumstances, there is no longer a need for the services, works or goods requested; or

15.4.2 Funds are no longer available to cover the total envisaged expenditure; or

15.4.3 No acceptable bids are received.

## **PART FOUR**

### **AWARD OF CONTRACTS**

### **16. AWARD OF CONTRACTS**

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

16.2 In exceptional circumstances a contract may, on reasonable and justifiable grounds, be awarded to a bidder that did not score the highest number of points.

The reasons for such a decision must be approved and recorded for audit purposes and must be defensible in a court of law.

## **PART FIVE**

### **REMEDIES, TAX CLEARANCE, BIDDING DOCUMENTS, SALE AND LETTING OF ASSETS AND TRANSITIONAL ARRANGEMENTS**

#### **17. REMEDIES**

17.1 AOs / AAs must act against the bidder or person awarded the contract upon detecting that the B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis or any of the contract conditions have not been fulfilled.

17.2 The institution may, in addition to any other remedy that it may have against the bidder or person:

17.2.1 Disqualify the bidder or person from the bidding process;

17.2.2 Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;

17.2.3 Cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;

17.2.4 Restrict the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after applying the *audi alteram partem* (hear the other side) rule; and

17.2.5 Forward the matter for criminal prosecution.

17.3 Institution's should involve their legal services when any of the remedies are applied.

17.4 The details of any restrictions imposed on bidders, persons or contractors must be forwarded to the National Treasury for inclusion on the central Database of Restricted Suppliers.

#### **18. TAX CLEARANCE**

No bid may be awarded to any bidder whose tax matters have not been declared by the SARS to be in order.

## **19. BIDDING DOCUMENTS**

19.1 AOs / AAs should customize and utilize the bidding documents ( MBDs) by incorporating the institutions name, logo and contact details.

19.2 Other changes to the MBDs, such as variations necessary to address specific contract and project issues, should be kept to a minimum. The standard wording for the Application for Tax Clearance Certificates (MBD 2) should not be amended.

The formal contract document ( MBD 7.1 to 7.3) should not form part of the bidding documents issued to every prospective bidder, but should be made applicable only to the successful bidder after adjudication and award of the bid.

19.3 The relevant MBDs must be utilized for procurement by means of written price quotations, advertised competitive bids or proposals.

## **20.SALE AND LETTING OF ASSETS**

20.1 The preference point systems prescribed in the PPPFA and the Preferential Procurement Regulations, 2011 are not applicable to the sale and letting of assets.

20.2.1 In instances where assets are sold or leased by means of advertised competitive bids or written price quotations or by auctions the award must be made to the highest bidder.

20.2.2 The tax clearance requirements referred to in paragraph 18 above applies to the sale and letting of assets as well.

## **21.SHORT TITLE**

This part of the SCM Policy is called the Preferential Procurement Policy of the West Coast District Municipality (**Annexure E**).

# WEST COAST DISTRICT MUNICIPALITY SCM POLICY

## ANNEXURE F



## GIFT POLICY

The Code of Conduct for Supply Chain Management practitioners and other role players stipulates that no employee may 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.

If they obtain or accept any private gifts, benefits or items of monetary value in excess of R350.00 from any person for him or himself during the performance of duties, these may be construed as bribes.

National Treasury Regulations stipulate that no person who is a provider or prospective provider of goods or services to a department or public entity or municipality, or a recipient or prospective recipient of goods disposed of by a department or public entity or municipality, may offer or grant either directly, or through a representative or intermediary promise, any reward, gift, favour or hospitality to an official of the department or public entity or municipality, or to any other role-player involved in the implementation of the supply-chain management policy of the department or public entity or municipality.

### **What are gifts and benefits?**

A gift or benefit is anything of value an employee is offered or any item or service other than your normal salary and employment entitlement. Gifts and benefits may be tangible or intangible.

**Tangible gifts** include consumer goods, entertainment and hospitality (such as wining-and-dining and accommodation).

**Intangible gifts** and benefits are those that have no lasting value for accounting purposes such as a personal service or preferential treatment.

Although intangible gifts and benefits cannot be seen or touched, its benefits have the same impact as tangible ones.

### **When can an employee accept, declare and keep a gift?**

Where the giving or receiving of gifts or other payments or hospitalities does not constitute an inducement to obtain an improper advantage over another, the gift can be accepted.

### **Should I declare a gift?**

A small gift (such as a pen and cap) that is received at expositions, conferences and open days that are open to all employees or the public need not be declared. If you are in any doubt whether a gift may be received or not, please liaise with your manager or SCM Unit.

### **Where must I declare a gift?**

All other gifts should be declared in the Municipality's gift register. The gift register is available at the secretary of the Municipal Manager.

# WEST COAST DISTRICT MUNICIPALITY

## ANNEXURE G



### CODE OF CONDUCT FOR BID ADJUDICATION MEMBERS

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.

#### **Rights and responsibilities of committee members**

A member's conduct at the meeting must not infringe on the rights of others. The rules of conduct are based on mutual respect for the rights of each other and respect for the purpose of the meeting.

Members must accept that –

- (a) the chairperson must be respected;
- (b) the chairperson has the right to interrupt and ask a member to stop speaking if the address is repetitive or irrelevant to the matter under discussion;
- (c) a member must stop speaking if ruled out of order by the chairperson;
- (d) decisions are taken by general consensus or by a majority show of hands when a matter is decided upon by voting;
- (e) once a decision has been taken it is final and not open for discussion unless additional information which was not available at the time of decision making can be produced;
- (f) information and documentation are confidential;
- (g) a member (including the chairperson or vice-chairperson) shall beforehand declare his/her interest regarding any matter serving before the Committee and the member

will then excuse her/himself and vacate the meeting room during the discussion of that matter. No discussion by the member concerned will be allowed prior to the serving of that submission/report and such a member may not retain that specific submission/report. Any personal interest that may infringe, or might reasonably be deemed to infringe on a member's impartiality in any matter relevant to their duties must be recorded;

- (h) outvoted members must abide by the majority decision of the Committee; and
- (i) no communication should be made with a bidder/contractor by any member prior to or after any meeting.