



## **MBHASHE LOCAL MUNICIPALITY**

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All correspondence to be directed to the office of the Municipal Manager  
454 Streatfield Street, Dutywa, Eastern Cape Province  
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# **MBHASHE LM SCM POLICY**

## **2018-2019**

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## SUPPLY CHAIN MANAGEMENT POLICY

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Very Important: Verify that this is the correct version before use

### 1. POLICY STATEMENT 1.1 PURPOSE OF THE POLICY

The Purpose of this policy is to ensure sound, sustainable and accountable supply chain management practices within the Mbhashe Local Municipality, whilst promoting broad based black economic empowerment as a priority in terms of the goals and objectives of the municipality's preferential procurement policy and other empowerment strategies.

### 1.2 OBJECTIVES

The objectives of this policy are:

1.2.1 To give effect to Section 217 of the Constitution of the Republic of South

Africa;

1.2.2 To implement a policy that is fair, equitable, transparent, competitive and cost effective;

1.2.3 To comply with all applicable provisions of the Municipal Finance

Management Act;

1.2.4 To ensure consistency with all other applicable legislation including:

1.2.4.1 The Preferential Procurement Policy Framework Act 2000 (Act No. 5 of 2000);

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1.2.4.2 The Broad-Based Black Economic Empowerment Act 2003 (Act

No.53 of 2003);

1.2.4.3 The Construction Industry Development Board Act 2000 (Act

No.38 of 2000);

1.2.4.4 The Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000)

1.2.4.5 The Promotion of Administrative Justice Act 2000, and

1.2.4.6 Any regulations promulgated in terms of the legislation referred to above.

1.2.5 This policy will also strive to ensure that the objectives for uniformity in supply chain management systems between all organs of state is not undermined, and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

## 1.3 COMPLIANCE WITH ETHICAL STANDARDS

1.3.1 In order to create an environment where business can be conducted within integrity and in a fair and reasonable manner, this policy provides that all representatives of the Municipality involved in supply chain management activities shall act with integrity and in accordance with the ethical standards set out in this policy.

## 2. DEFINITIONS

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;

Words importing the singular shall include the plural and vice versa;

Words importing persons shall include companies, closed corporations and partnerships;

Words importing the masculine gender shall include the feminine gender and vice versa.

## 3. COMMENCEMENT AND REVIEW

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3.1 This policy is effective from a date to be determined by Council of the municipality.

3.2 This policy shall be reviewed annually and when considered necessary by the accounting officer, proposals for the amendment of this policy shall be submitted to Council for approval.

### 3.3 Communication with the Municipality

All correspondence with regards to this Policy shall be addressed to the Municipal

Manager and will be available at the following:

Mayoral Committee Members

All Councillors

Municipal Manager's office

All Directorates

Supply Chain Management Unit, and

Mbhashe Local Municipality Website

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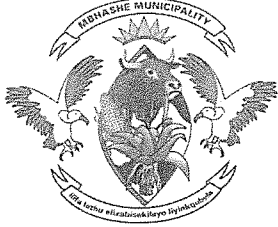
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#### 1. Definitions

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 -

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

“Central Supplier Database (CSD)” means a web based database for the registration of prospective suppliers.

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

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

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

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

“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;

“e-tender” a mechanism where all municipalities are required to advertise all their bids and publish notices of all awarded bids, cancellations and deviations, variations and extensions of existing contracts.

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

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

“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 Mbhashe Local Municipality must keep in terms of paragraph 14 of this policy;

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

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

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

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

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

“Preferential Procurement Policy Framework Act” (PPPFA): means the Preferential Procurement Policy Framework \*(Act No. 5 of 2000)

“Preferential Procurement Regulations”: means the regulations pertaining to the PPPFA. (with the latest being Preferential Procurement Regulations of 2017 gazetted on the 20th January 2017)

“Responsible Agent”: means either an internal project manager (being an employee of the Municipality) or an external consultant (appointed by the Municipality), as the case may

be, who is responsible for the implementation of a project or part thereof.

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

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

"the Act" means the Local Government: Municipal Finance Management Act,

2003 (Act No. 56 of 2003);

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

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

"written or verbal quotations" means quotations referred to in paragraph

12(1)(b) of this Policy.

## CHAPTER 1

### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### 2. Supply chain management policy

(1) All officials and other role players in the supply chain management system of the Mbhashe Local Municipality must implement this Policy in a way that - (a) gives effect to -

(i) Section 217 of the Constitution; and

(ii) Part 1 of Chapter 11 and other applicable provisions of the

Act;

(b) is fair, equitable, transparent, competitive and cost effective; (c) complies with -

(i) the Regulations; and

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

(d) is consistent with other applicable legislation;

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

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

(2) This Policy applies when the municipality –

- (a) procures goods or services;
- (b) disposes goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter

8 of the Municipal Systems Act applies; or

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

(3) This Policy, except where provided otherwise, does not apply in respect of

the procurement of goods and services contemplated in section 110(2) of the Act, including –

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

## 3. Adoption and Amendment of the supply chain management policy

(1) The accounting officer must-

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

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

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

(a) ensure that such proposed amendments comply with the

Regulations; and

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

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- (3) When amending this supply chain management policy the need for

uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

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

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

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

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

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

(ii) this Policy;

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

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

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

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

(3) The council or accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality;

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

## 5. Sub delegations

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(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 subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

(2) The power to make a final award -

(a) above R10 million (VAT included) may not be 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) 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) the reason why the award was made to that person.

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

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

(i) the chief financial officer; (ii) a senior manager; or

(iii) a bid adjudication committee of which the chief financial



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officer or a senior manager is a member; or

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

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

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

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

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

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

## 6. Oversight role of council

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

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

(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 to the council.

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

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

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

### 6.1 Councillors barred from serving on Municipal tender committee.

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(1) No councillor of the Mbhashe Local Municipality may be a member of the municipal bid specification, evaluation or adjudication committees or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer.

## 7. Supply chain management unit

(1) A supply chain management unit is hereby established to implement this Policy, the members of which shall adhere to the Code of Conduct annexed hereto marked "B"

(2) The supply chain management unit operates under the direct supervision

of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

## 8. Training of supply chain management officials

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

## CHAPTER 2

### SUPPLY CHAIN MANAGEMENT SYSTEM

#### Format of supply chain management system

9. This Policy provides systems for –

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

#### Part 1: Demand management

### 10. System of demand management

(1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan. This system includes the development of a procurement plan and reporting on the implementation thereof on a quarterly basis.

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(2) The demand management system must -

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

Part 2: Acquisition management

## 11. System of acquisition management

(1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure -

- (a) that goods and services are procured by the Mbhashe Local Municipality in accordance with

authorised processes only, which shall accord with the Acquisition

Management Directives reflected in Annexure "A" hereto.

- (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.
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(3) The supply Chain Management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including -

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

(4) The Acquisition Management Directives reflected in Annexure "A" shall not apply in respect of pre-determined tariff based professional appointments

## 12. Range of procurement processes

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

(a) petty cash purchases, up to a transaction value of 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

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

(2) 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.

12.2 Procurement of catering services, transport (flights, car hire, shuttles), accommodation (hotels, lodges, bed and breakfast, self-catering) and conference facilities or hiring venue

(1) Catering price rate are standardised are according to the following categories:

- (a) Lunch/Dinner with soft drink or juice at R90.00 (ninety rands)
- (b) Finger lunch at R70.00 (seventy rands)
- (c) Tea/coffee/breakfast at R50.00 (fifty rands)
- (d) Dessert at R30.00 (thirty rands)
- (e) Still water at R15.00 (fifteen rands)

(2) If catering services are required in an area or ward, it is recommended that service provider should come from that particular area or ward in accordance with the municipal database.

(3) Catering service must be on rotation basis, only one quotation must be obtained for procurement of food, this will enable everyone to benefit because there is a standard price.

(4) SCM unit together with Development Planning must review the rates paid for catering services annually.

(5) Transport, accommodation and conference facilities/venue hire are procured by means of a travelling agent.

(6) In cases where transport, accommodation and conference facilities/venue hire is required within Mbhashe, the normal procurement process will be followed.

12.3 Procurement educational institutions, membership fees and vehicle licensing etc.

(1) Only one quotation to be obtained for the following procurement types as it is impractical to follow processes due to nature of procurement

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- (a) Tuition fees, only institutions registered with the Department of Education and this procurement to be done in consideration of the bursary policy.
- (b) Membership fees (SALGA, IMFO and other bodies)
- (c) Donations and/or Sponsorships
- (d) Vehicle licensing fees at Municipalities who are registering authorities
- (e) Procurement of services like levies, rates and other services etc from Government institutions and parastatals (e.g Department of Labour, Department of Rural Development and Land Reform, Department of Transport, Amathole District Municipality, Mquma Municipality and others)

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

1. A written quotation or bid may not be considered unless the provider who submitted the quotation or bid -

- (a) has furnished that provider's –
  - (i) full name;
  - (ii) 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 obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated -
  - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - (iii) whether a spouse, child or parent of the provider or of a

director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

## 14. Lists of accredited prospective providers

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

(b) at least once a year through newspapers commonly circulating locally, the website of the municipality 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.

The listing criteria for accredited prospective providers are:

- Name of supplier / service provider;
- Street address;
- Postal address;
- Contact person;
- Contact person telephone number;
- Contact person fax number;
- Contact person cell number;
- email address;
- Contact person in Accounts Department;
- Vat registration yes/no;
- Vat registration number;
- Bank details;
- Valid certification for specialized services;
- Valid tax clearance certificate;
- CIDB registration if applicable;
- Valid certification of BBBEE Status
- Any other criteria that may be added

(4) The following prerequisites will apply in order to be considered for selection to be placed on the database:

(i) current original certificate of good standing in terms of rates and Services of municipal accounts.

(ii) current original certificate of good standing in terms of VAT/Income Tax and SARS status verification pin.

(iv) company registration with the registrar of businesses.

(v) professional registration with a professional body where required.

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- (vi) Food caterers must comply with the regulations governing general hygiene compliance for food premises and the transport of food, in line with Health Act, 1977 (Act No. 63 of 1977).
- (vii) Contractors must be registered with the Construction Industry Development Board (CIDB) and be in possession of a grading certificate.

## 15. Petty cash purchases

1. The conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 12 (1) (a) of this Policy, are as follows -
  - (a) The Chief Financial Officer determines the terms on which a manager may delegate responsibility for petty cash to an official reporting to the manager;
  - (b) The Chief Financial Officer determines the maximum number of petty cash purchases or the maximum amounts per month for each manager;
  - (c) The Chief Financial Officer determines any types of expenditure from petty

cash purchases that are excluded, where this is considered necessary;

and

- (d) a monthly reconciliation report from each manager must be provided to the chief financial officer, including -
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each purchase.

## 16. Written or verbal quotations

- 1 The conditions for the procurement of goods or services from R0 to R10 000 (VAT included) 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;
    - (b) Where quotations have been obtained from providers who are not listed, such providers must meet the listing criteria for registration on the Municipality's Database subject to authorisation by the Accounting Officer or any official delegated by the Accounting Officer.
    - (c) To the extent feasible, providers must be requested to submit such quotations in writing;
    - (d) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the CFO or any official designated by Chief Financial Officer, and quarterly reported must be submitted to the accounting officer or another official designated by the accounting officer;
    - (e) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
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(f) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

## 17. Formal written price quotations

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

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

(b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

(c) if it is not possible to obtain at least three quotations, the reasons must

be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and

(d) the accounting officer must record the names of the potential providers and their written quotations.

(2) A designated official referred to in subparagraph (1) (c) must within three days of the end of each month report to the chief financial officer on any approvals given during that month by that official in terms of that subparagraph.

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

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

a. when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;

b. all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven days on the website and an official notice board of the municipality.

c. offers received must be evaluated on a comparative basis taking into account unconditional discounts;

d. the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations; and

e. formal written price quotations accepted by an official acting in terms of a subdelegation



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f. 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;

g. acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points

h. the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal price written quotations is not abused

2. The CFO shall determine the requirements for proper record keeping.

## 19. Competitive bids

(1) Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.

(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.

## 20. Process for competitive bidding

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

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

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

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

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

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

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

(g) Administration of contracts

(h) Proper record keeping.

## 21 Bid documentation for competitive bids

1. The criteria to which bid documentation for a competitive bidding process must comply, must -

(a) take into account -

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- (i) the general conditions of contract and any special conditions of contract, if specified;
- (ii) any Treasury guidelines on bid documentation; and
- (iii) the requirements of the Construction Industry Development Board,

in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;

- (b) include the preference points system to be used, goals as contemplated

in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;

- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT

included), require bidders to furnish-

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

(aa) for the past three years; or

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

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

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

(iv) a statement indicating whether any portion of the goods or services

are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

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

## 22. Public invitation for competitive bids

- (1) The procedure for the invitation of competitive bids, is as follows:
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(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 and the e-tender portal or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and

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

(i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10

million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality. Bid documents may not be retyped and no bids where correction fluid is used in critical areas of the bid document, such as the pricing schedule and / or regulatory compliance documents will be accepted. Any corrections are to be crossed out and initialled. Non-initialled corrections will render the bid invalid.

(iii) date, time and venue of any proposed site meetings or briefing sessions. Where applicable, briefing / site meetings are compulsory in MLM to ensure clarity and that all bidders are treated fair and equal. In the case of compulsory site inspections, if the contractor (who is considered to be a technical representative) has not attended this session such bid will be considered invalid and be disqualified and only bids from contractors whose names appear on the attendance register will be evaluated further.

(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.

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

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

(a) Bids-

(i) may be opened only in public;

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

(iii) received after the closing time should not be considered and

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returned unopened immediately.

- (b) any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- (d) The accounting officer or designated official must –
  - (i) record in a register all bids received in time;
  - (ii) make the register available for public inspection; and
  - (iii) publish the entries in the register and the bid results on the website.

## 24. Negotiations with preferred bidders\

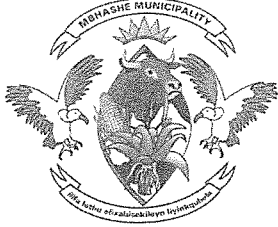
- (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
  - (a) does not allow any preferred bidder a second or unfair opportunity;
  - (b) is not to the detriment of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

## 25. Two-stage bidding process

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

## 26. Committee system for competitive bids

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
    - (a) a bid specification committee;
    - (b) a bid evaluation committee; and
    - (c) a bid adjudication committee;
  - (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
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(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

- (a) paragraph 27, 28 and 29 of this Policy; and
- (b) any other applicable legislation.

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

## 27. Bid specification committees

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

### (2) Specifications -

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued

by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms

of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;

- (e) may not make reference to any particular trade mark, name, patent,

design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of

the work, in which case such reference must be accompanied by the word “equivalent”;

- (f) must indicate each specific goal for which points may be awarded

in terms of the points system set out in the Preferential

Procurement Regulations 2017; and

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

- (h) In any tender where it is claimed or alleged that there is only one or

no company meeting the tender specifications, the specification committee may solicit the opinion of a technical expert.

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(3) A bid specification committee must be composed of one or more officials

of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

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

## 28. Bid evaluation committees

(1) A bid evaluation committee must -  
(a) evaluate bids in accordance with -

(i) the specifications for a specific procurement; and  
(ii) the points system set out in terms of paragraph 27(2)(f) and as prescribed in terms of the Preferential Procurement Policy Framework Act

(b) evaluate each bidder's ability to execute the contract;  
(c) check in respect of the recommended bidder whether municipal

rates and taxes and municipal service charges are not in arrears, and;

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

e) In the case of formal tenders being discovered that they have failed to comply with the tender specification or any general tender requirement, the Evaluation Committee has a right to issue instruction for retendering.

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

(a) officials from departments requiring the goods or services; and  
(b) at least one supply chain management practitioner of the municipality.

## 29. Bid adjudication committees

(1) A bid adjudication committee must -  
(a) consider the report and recommendations of the bid evaluation committee; and  
(b) either -

(i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or

(ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

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

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

(3) The accounting officer must appoint the chairperson of the committee. If

the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.

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

(5) 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. (a) The accounting officer may -
  - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is rejected, refer

the decision of the adjudication committee back to that committee for reconsideration.

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

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

## 30 Procurement of banking services

(1) A contract for banking services -

- (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
  - (d) must be in the name of Mbhashe municipality.
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- (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)(a) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

## 31 Procurement of IT related goods and services

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

- 3) The accounting officer must notify SITA together with a motivation of the

IT needs if –

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

or more years exceeds R50 million (VAT included).

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

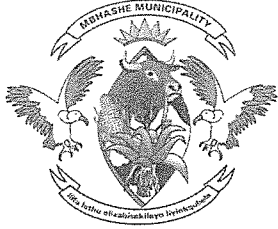
## 32) Procurement of goods and services under contracts secured by other organs of state

- (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if -
  - (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
  - (b) there is no reason to believe that such contract was not validly procured;
  - (c) there are demonstrable discounts or benefits to do so; and

- (d) that other organ of state and the provider have consented to such procurement in writing.

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

- (a) a municipal entity procures goods or services through a contract



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secured by its parent municipality; or

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

33) Procurement of goods necessitating special safety arrangements

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

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

34) Proudly SA Campaign

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

- Firstly - suppliers and businesses within Mbhashe Local Municipality or Amathole District;

- Secondly - suppliers and businesses within the Eastern Cape Province;

- Thirdly - suppliers and businesses within the Republic of South Africa.

35) Appointment of consultants

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

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

(a) the value of the contract exceeds R200 000 (VAT included); or

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

(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.

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

(36) Deviation from, and ratification of minor breaches of, procurement processes

(1) The accounting officer may -

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

(i) in an emergency;

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

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

(iv) acquisition of animals for zoos; or

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

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

(2) The accounting officer must record the reasons for any deviations in terms

of subparagraphs (1)(a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.

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

(37) Unsolicited bids

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

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

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

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

(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.

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# MBHASHE LOCAL MUNICIPALITY

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

(a) reasons as to why the bid should not be open to other competitors; (b) an explanation of the potential benefits if the unsolicited bid were accepted; and

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

(4) The accounting officer must submit all written comments received pursuant

to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

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

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

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

(a) any comments submitted by the public; and

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

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

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

(38) Combating of abuse of supply chain management system

(1) The accounting officer must-

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

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

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

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

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Police Service;

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

(d) reject any bid from a bidder-

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

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

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

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

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

(ii) an official or other role player committed any corrupt or

fraudulent act during the bidding process or the execution of the contract that benefited that person; and

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

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

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

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

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

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

Part 3: Logistics, Disposal, Risk and Performance Management

(39) Logistics management

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(1) The logistics management policy must provide for an effective system for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores management, expediting orders, transport management, vendor performance, and maintenance and contract administration.

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

a. the monitoring of spending patterns on types or classes of goods

and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

b. the setting of inventory levels that includes minimum and maximum

levels and lead times wherever goods are placed in stock;

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

d. before payment is approved, certification by the responsible officer

that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

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

f. regular checking to ensure that all assets including official vehicles

are properly managed, appropriately maintained and only used for official purposes; and

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

(40) Disposal management

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

(2). A municipality may transfer ownership or otherwise dispose of a capital

asset other than one contemplated in subsection (1), but only after the municipal Council, in a meeting open to the public-

(a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and

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(b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset  
The accounting officer must ensure that -

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to

the letting of immovable property are annually reviewed;

- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

(3) 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.

(41) Risk management

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

- (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;
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- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

## (42) Performance management

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

## Part 4: Other matters

### (43) Prohibition on awards to persons whose tax matters are not in order

- (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

### 44) Prohibition on awards to persons in the service of the state

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy -
  - (a) who is in the service of the state;
  - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
  - (c) a person who is an advisor or consultant contracted with the municipality.

### (45) Awards to close family members of persons in the service of the state

- (1) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 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.
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## (46) Ethical standards

(1) A code of ethical standards as set out in subparagraph (2) below is hereby established for officials and other role players in the supply chain management system of the municipality in order to promote -

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of this Policy
  - (a) must treat all providers and potential providers equitably;
  - (b) may not use his or her position for private gain or to improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit

directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

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

(e) must declare to the accounting officer details of any private or

business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by the municipality;

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

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

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

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

(i) any alleged fraud, corruption, favouritism or unfair conduct; (ii) any alleged contravention of paragraph 47(1) of this Policy;

or

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

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

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

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

(c) must contain measures to ensure that appropriate action is taken against any official or other role player who commits a breach of the code of ethical standards.

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

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

(a) in the case of an employee, in terms of the disciplinary procedures

of the municipality envisaged in section 67(1)(h) of the Municipal

Systems Act;

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

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

(47) Inducements, rewards, gifts and favours to municipalities, municipal entities, officials and other role players

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

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

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

(i) any official; or

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

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

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

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## (48) Sponsorships

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

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

## (49) Objections and complaints

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

## (50) Resolution of disputes, objections, complaints and queries

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

(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.

(c) If disputes occur in all projects above R10 Million, the Director: Legal Services, will recommend an independent and impartial person to the Accounting Officer in order to mediate the dispute

(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.

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(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.

## 51. Contracts providing for compensation based on turnover

(1) 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.

## CHAPTER 3

### PROMOTING BLACK ECONOMIC EMPOWERMENT THROUGH PROCUREMENT STRATEGIES

#### 52. PREAMBLE

(1) The application of preferential procurement and broad based black economic empowerment must be consistent with;

- (a) The Municipal Finance Management Act and its regulations;
- (b) The Preferential Procurement Policy Framework Act and its Regulations; and
- (c) The Broad-based Black Economic Empowerment Act and strategy

#### 53. STRATEGY FOR ACHIEVING PPPFA OBJECTIVES IN LINE WITH BROAD BASED BLACK ECONOMIC EMPOWERMENT

(1) Mbhashe Municipality will apply a preference point system for Exempted Micro and B-BBEE Contributors in terms of the Preferential Procurement Regulations, 2017 pertaining to the Preferential Procurement Policy framework Act, Act No.5 of 2000.

(2) The 80/20 preference point system will be applicable to bids with a Rand value equal to, or above R30 000 and up to a Rand value of R50 million (all applicable taxes included).

(3) Mbhashe Municipality may apply the 80/20 preference point system to price quotations with a value less than R30 000 if and when appropriate.

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(4) The 90/10 preference point system will be applicable to bids with a Rand value above R50 million (all applicable taxes included).

(5) Mbhashe Municipality is committed to the Broad Based Black Economic Empowerment Act, Act No.53 of 2003 the gazetted Codes of Good Practice on B-BBEE which defines the seven measurable scorecard elements of:

Ownership; Management;  
Employment Equity; Skills Development;  
Preferential Procurement; Enterprise Development; and Socio-Economic Development.

## 54. OCCUPATIONAL HEALTH AND SAFETY ISSUES

(1) In terms of the Construction Regulations, 2003 (Gazette, 25207, 18 July 2003) promulgated under section 43 of the Occupational Health and Safety Act 85 of 1993, any person for whom construction work is performed for is defined as the "client". Client's duties as laid down under Construction Regulation 4 are applicable to Mbhashe Municipality.

(2) Mbhashe Municipality has a responsibility to comply with all occupational health and safety standards and establish best practice on construction projects commissioned by the Mbhashe Municipality. Contractors shall comply with all applicable standards and contract specifications when undertaking any construction project regardless of size of nature of the works.

(3) All contractors entering into contract with Mbhashe Municipality shall, as minimum requirement comply with the following:

- Occupational Health and Safety Act 85 of 1993 (As amended) and applicable regulations;
- Compensation for Occupational Injuries & Diseases Act 130 of 1993 (As amended);and
- Mine Health and Safety Act 29 of 1996, where work is carried out on a mine.

(4) Implementation

Bidders are advised to familiarize themselves with the provision of Mbhashe municipality's Construction Health and Safety Specification when compiling the bids for construction work.

(5) Specific requirement

Bidders shall meet the following requirements:

- An original copy of a letter of Good standing from the Workmen's Compensation Insurers shall be required with the Bid.
- A pre-bid Occupational Health and Safety Plan shall be required with the bid (refer to the Construction Health and Safety Specification for minimum requirements)

## 55. EXPANDED PUBLIC WORKS PROGRAMME

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The Expanded Public Works Programme (EPWP) is founded on the principle that the Implementing Agent (national or provincial department, state owned enterprise, municipality or municipal entity) is responsible for identifying and implementing suitable projects in accordance with the published EPWP Guidelines. The Mbhashe Municipality will identify specific infrastructure projects to ensure that it implements the EPWP within the organization. The projects targeted for this programme will be in line with the EPWP programme. The municipality will provide guidance on the:

- (a) identification of suitable projects;
- (b) appropriate design for labour-intensive construction;
- (c) the specification of labour-intensive works; and
- (d) the compilation of contract documentation for labour-intensive projects.

Labour-intensive infrastructure projects under the EPWP include:

- (e) using labour-intensive construction methods to provide employment opportunities to local unemployed people;
- (f) providing training or skills development to those locally employed workers;
- (g) building cost-effective and quality assets.

The employment of locally employed temporary workers on all EPWP labour-intensive infrastructure projects must be in accordance with the Code of Good Practice for Employment and Conditions of Work for Special Public Works Programmes issued in terms of the Basic Conditions of Employment Act, 1997 (Act No. 75 of 1997) and promulgated in Government Gazette Notice No. P64 of 25 January 2002

## Procurement from tertiary institutions

- (a) Where the municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process with the identified tertiary institutions.
  - (b) Tertiary institutions referred to in subparagraph (a) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
  - (c) Should the municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor will be done by means of a tendering process.
  - (d) Public entities must be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good Practice.
  - (e) For purposes of this paragraph, a tendering process includes a written offer in a prescribed or stipulated form in response to an invitation by the municipality for the provision of services, works or goods, through price quotations, advertised competitive tendering processes or proposals.
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APPROVED BY THE COUNCIL AND SIGNED BY:

MR NAKO M  
MUNICIPAL MANAGER

28 JUNE 2018

DATE

CLLR JANDA S. N.

28 JUNE 2018

DATE