

SUPPLY CHAIN MANAGEMENT POLICY 2020/2021



LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of adoption: [\[19/06/2020\]](#)

Council resolution C656 resolves in terms of section 111 of the Local Government Municipal Finance Management Act (No. 56 of 2003), to adopt the following proposal as the Supply Chain Management Policy of iLembe District Municipality.

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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 –

“B-BBEE” means broad based black economic empowerment as defined in Section 1 of the Broad Based Black Economic Empowerment Act.

“B-BBEE status level of contributor” means the B-BBEE status of an entity in terms of a code of good practice on black economic empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

“black designated groups” has the meaning assigned to it in the codes of good practice issued in terms of Section 9(1) of the Broad Based Black Economic Empowerment Act.

“black people” has the meaning assigned to it in Section 1 of the Broad Based Black Economic Empowerment Act.

“co-operative” means a co-operative registered in terms of Section 7 of the Co-operatives Act 2005 (Act no.14 of 2005)

“co-opted external specialist advisor” any person or official contracted by the municipality or appointed by the Accounting Officer to provide technical support to the Business Unit

“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;

“designated sector” means a sector, sub-sector or industry or product designated in terms of Regulation 8 (1) (a)

“EME” means an exempt micro enterprise with an annual turnover not more than R 10 Million.

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

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

“functionality” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents.

“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;
- (g) EPWP employees
- (h) audit committee
- (i) traditional leaders

“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, the Municipality uses the National Treasury’s Central Suppliers Database (CSD) in this regard;

“military veteran” has the meaning assigned to it in Section 1 of the Military Veterans Act of 2011 (Act no. 18 of 2011)

“A neutral or independent observer” independent / impartial, not directly involved in the supply chain management processes appointed by the Accounting Officer on an adhoc basis

“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);
- (d) the Preferential Procurement Regulations, 2017

“panel of service providers” pre-qualified list of service providers appointed through a competitive bidding process and engaged on a rotational basis.

“people with disabilities” has the meaning assigned to it in Section 1 of the Employment Equity Act of 1998 (Act no 55 of 1998)

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

“proof of BBEE status level of contributor” means:-

- (a) B-BBEE status level certificate issued by an authorized body or person
- (b) a sworn affidavit as prescribed by the B-BBEE codes of good practice
- (c) any other requirement prescribed in terms of the BBEE Act

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

“rural area” means

- (a) sparsely populated area in which people far more depend on natural resources, including villages and small towns that are dispersed through the area or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system

“S.O.P” means standard operating procedure

“stipulated minimum threshold” means the minimum threshold stipulated in terms of Regulation 8 (1) (b) of the PPR of 2017

“sub-contracting” means allocation of a portion of a contract from the principal contractor or from another party to a subcontractor chosen from the list of the SMMEs database maintained by the Municipality.

“transversal contracts” means a centrally facilitated contract arranged by the National Treasury for goods or services that are required by one or more than one institution.

“Treasury” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act no 1 of 1999)

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

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

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

“township” means an urban living area that anytime from the date 19 century until 27 April 1994, was reserved for black people including areas developed for historically disadvantaged individuals post 27 April 1994.

“QSE” means qualifying small enterprise with an annual turnover above R 10 Million but not exceeding R 50 Million.

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

“municipality” means ILembe District Municipality.

“youth” has the meaning assigned to it in Section 1 of the National Youth Development Agency Act, 2008 (Act no 54 of 2008)

CHAPTER 1

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 municipality must implement this Policy in a way that –

- (a) gives effect to –
 - (i) section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
- (b) is fair, equitable, transparent, competitive and cost effective;
- (c) complies with –
 - (i) the Regulations; and
 - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
- (d) is consistent with other applicable legislation;
- (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
- (f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

(2) This Policy applies when the municipality –

- (a) procures goods or services;
- (b) disposes of 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.

Amendment of the supply chain management policy

3.

- (1) The Municipal Manager must –
 - (a) at least annually review the implementation of this Policy; and
 - (b) when the Municipal Manager considers it necessary, submit proposals for the amendment of this Policy to the council.

- (2) If the Municipal Manager submits proposed amendments to the council that differs from the model policy issued by the National Treasury, the accounting officer must –
 - (a) ensure that such proposed amendments comply with the Regulations; and
 - (b) report any deviation from the model policy to the National Treasury and the relevant provincial treasury.

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

Delegation of supply chain management powers and duties

4.

- (1) The council hereby delegates all powers and duties to the municipal manager which are necessary to enable the Municipal Manager –
 - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act; and
 - (ii) this Policy;

- (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
 - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of sub-paragraph (1).
- (3) The Municipal Manager may not sub-delegate any supply chain management powers or duties to a person who is not an official of 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.

Sub-delegations

5.

- (1) The Municipal Manager 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 sub-paragraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) (a) The power to make a final award –
- (i) to Managers on the Staff Establishment of the Municipality up to a value of R30 000,00 (including VAT) provided that Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds are available for such purchase;

(ii) to the Senior Managers of the Municipality up to a value of R200 000,00 (including VAT) provided that Budget provision exists for such purchase and that the Finance Department has certified that sufficient funds are available for such purchase;

(b) Authority is delegated to the Bid Adjudication Committee to make recommendations to the Accounting Officer for the final award of any bid submitted to it for adjudication above a value of R200 000,00 (including VAT) provided that:-

- (i) Budget provision exists for such purchase, and;-
- (ii) that the Finance Department has certified that sufficient funds exist for such purchase.

(c) authority is delegated to the Chief Financial Officer to authorise the acceptance of a quotation in circumstances where it is not possible to obtain at least three quotations for such goods or services;

(d) the authority of the Accounting Officer to authorise the closure of competitive bids within a period of less than 14 or 30 days in an urgent or emergency cases remains with the Accounting Officer;

(e) the authority of the Accounting Officer to negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders in terms of paragraph 24 remains with the Accounting Officer unless delegated by the Accounting Officer to the Bid Adjudication Committee.

(f) The authority to award bids in excess of R10 million remains with the Accounting Officer.

(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) directors, deputy directors, district engineers and managers on the staff establishment of the Municipality; or
 - (iii) a bid adjudication committee of which the chief financial officer or a director on the staff establishment of the iLembe District Municipality is a member;

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

(5) 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.

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

Oversight role of council

6.

- (1) The council of a municipality must maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the Municipal Manager must –
 - (a)
 - (i) Within 30 days of the end of each financial year, submit a report on the implementation of this policy, to the council of ILembe District Municipality; and
 - (ii) Whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council.
- (3) The Municipal Manager 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 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.**

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

System of Demand Management

10.

- (1) The Municipal Manager must establish and implement an appropriate demand management system in order to ensure that the resources required by iLembe District Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
- (2) The demand management system must –
 - (a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
 - (c) provide for the compilation of the required specifications to ensure that its needs are met.

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

Part 2: Acquisition management

System of Acquisition Management

11.

- (1) The Municipal Manager must implement the system of Acquisition Management set out in this Part in order to ensure –
- (a) That goods and services are procured by the municipality in accordance with authorised processes only;
 - (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) That the threshold values for the different procurement processes are complied with;
 - (d) That bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation;
- and
- (e) That any Treasury guidelines on acquisition management are properly taken into account.
- (2) When procuring goods or services contemplated in section 110(2) of the Act, the Municipal Manager must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, 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.

.Range of procurement processes

12.

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

- (a) petty cash purchases, up to a transaction value of R 2000 (VAT included);
 - (b) three written quotations for procurements of a transaction value of R2000 up to R30 000 (VAT included); and
 - (c) formal written price quotations for procurements of a transaction value over R30 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 Municipal Manager may, in writing-
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) direct that –
 - (i) written quotations be obtained for any specific procurement transaction value lower than R2000;
 - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 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.
- (4) In respect of 12(1)(b) and 12(1)(c) a Munsoft electronic rotational system based on the registered database of suppliers or CSD will be utilized for the respective goods or services to be procured.
 - (5) The following goods or services shall be procured preferably in terms of the objective criteria as stated in Section 2(1)(f) of the PPPFA through the local municipality / clusters in which the goods or services

are required for, i.e., catering, marques, chairs and sound equipment for ward/cluster based meetings.

- (i) Catering and associated goods or services for ward based events
 - (ii) Transportation from the relevant area based taxi associations.
- (6) No competitive bidding shall be utilized for goods or services that are price regulated e.g. fuel / gas; or provided by a manufacturing agent or RMI Accredited or AA (for all vehicles outside factory warranty) e.g. servicing / repairing vehicles;
- (i) training conducted by other organs of state and affiliation fees with professional bodies.
 - (ii) repairs to assets/vehicles and other assets by the original manufacturers in a way that enhances the asset's lifespan.
 - (iii) advertisements of notices on the local newspapers on a rotational basis.
- (7) (a) The Municipality may apply Section 2(1)(f) of the PPPFA to empower entities operating within the district using the objective criteria approach for entities that are at least 51% owned by youth, women, people living with disabilities, cooperatives, military veterans, EMEs, QSEs etc as outlined by the Preferential Procurement Regulations of 2017 pertaining to the PPPFA (No.5 of 2000).
- (b) The Accounting Officer will advertise and call for local entities referred to in (b) above to be registered on the National Treasury Central Supplier Database and the Municipal SMMEs database.
- (c) Only QSE's or EME's who operate within the iLembe District Municipal area of jurisdiction and who appear on the local SMMEs database will be considered for the application of the objective criteria and subcontracting.

General preconditions for consideration of written quotations or bids

13.

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

- (a) has furnished –
 - (i) full name;
 - (ii) identification number or company or other registration number;
 - (iii) Central Supplier Database (CSD), and;
 - (iii) tax reference number and VAT registration number, if any;
- (b) has submitted 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.

Lists of accredited prospective providers

14.

- (1) The Municipality will source goods or services directly from the Central Supplier Database (CSD) which is implemented by National Treasury.
- (2) A list of local EMEs and QSEs (operating within the iLembe's area of jurisdiction) must be implemented by the Municipality for subcontracting purposes.

Petty cash purchases

15.

The conditions for procurement of goods by means of petty cash referred to in paragraph 12 (1) (a) of this Policy, are as follows –

- (a) verbal quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the Central Supplier Database (CSD),
- (b) If it is not possible to obtain at least three verbal quotations the reason must be recorded and reported monthly to the Chief Financial Officer or another official designated by the accounting officer;
- (c) the names of and prices quoted by the potential suppliers must be recorded and the order must only be placed against a written confirmation from the selected supplier
- (d) the Chief Financial Officer must set the maximum number of petty cash purchases or the maximum amounts per month for each Department and these numbers or amounts must be reviewed each month by the accounting officer;
- (e) the manager reporting directly to the Chief Financial Officer may delegate responsibility for the petty cash in writing to an official reporting directly to him; and
- (f) a monthly petty cash reconciliation report 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.
- (g) the accounting officer must review the monthly petty cash reconciliation

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 for procurement ranges of between R2 000 and R10 000 whose names appear on the CSD;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations for procurements above R2 000 the reasons must be recorded and approved by the Chief Financial Officer;
- (d) the SCM Unit must record the names of the potential providers requested to provide such quotations with their quoted prices;
- (e) if a quotation was submitted verbally, the order may be placed only against written price confirmation from the chosen bidder;

Formal quotations

17.

- (1) The conditions for the procurement of goods or services through formal quotations are as follows:
 - (a) quotations above R10 000 must be obtained in writing from at least three different providers whose names appear on the Treasury's Central Supplier Database;
 - (b) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer,
 - (c) the SCM Unit must record the names of the potential providers and their written quotations,
 - (d) when using the list of accredited prospective providers on the Central Supplier Database, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis; and;
- (2) A designated official referred to in subparagraph (1) (c) must within 10 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 the formal written price quotations

18.

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

- (a) 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;
- (b) the Accounting Officer must take all reasonable steps to ensure that the procurement of goods or services through written or verbal quotations or formal written price quotations is not abused.
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- (e) offers below R200 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 acceptable price;
- (f) subject to sub-regulation 9 and Regulation 11 of the PPR 2017, the contract must be awarded to the tenderer scoring the highest points.;

Competitive bids

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.
- (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.

(3) The municipality may not enter into any contract that will impose financial obligations beyond the three years covered in the annual budget for that financial year, unless the requirements of section 33 of the Municipal Finance Management Act have been fully complied with.

(4) No contract shall be extended for more than six months from the date of expiry.

(5) Validity period for all projects is 90 days (consecutive calendar days).

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) Award of contracts as detailed in paragraph 29;
- (g) Administration of contracts
- (h) After approval of a bid, the accounting officer and the bidder must enter into a written agreement or a Service Level Agreement (SLA).
- (i) Proper record keeping should be exercised.
- (j) Original / legal copies of written contract agreements should be kept in a secure place for reference purposes.

Bid documentation for competitive bids

21.

The criteria with which bid documentation for a competitive bidding process must–

- (a) take into account –
 - (i) the general conditions of contract and any special conditions of contract, if specified;
 - (ii) any Treasury guidelines on bid documentation; and
 - (iii) the requirements of the Construction Industry Development Board (CIDB), in the case of a bid relating to construction, upgrading 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 90 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 ILembe District Municipality 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.

Public invitation for competitive bids

22.

- (1) The procedure for the invitation of competitive bids, is as follows:
 - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement on e-Tender or newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the CIDB website); 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 eTender or a newspaper, subject to sub-paragraph (2) of this policy;
 - (ii) a statement that bids may only be submitted on the bid documentation provided by ILembe District Municipality ;and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions;
 - (iv) statement stating that no late bid proposal will be accepted.

- (2) The Municipal Manager 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.

Procedure for handling, opening and recording of bids

23.

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

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

Negotiations with preferred bidders

24.

- (1) The Municipal Manger 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.
- (3) The Municipal Manager may delegate a member(s) of the BAC, Manager: SCM, and the Head of the Business Unit or his nominee and the Project Manager to enter into negotiations in line with (1) and (2) above.
- (4) The average market prices, gazetted rates, historical costs adjusted by CPI index may be used for establishing the standard rates.

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.
- (d) When the municipality seeks to enter into a contract for the purpose of research or study or planning.
- (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) 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 Municipal Manager appoints the members of each committee, taking into account section 117 of the Act; and
- (3) A neutral or independent observer, appointed by the Municipal Manager, 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 Municipal Manager may apply the committee system to formal written price quotations and appointments based on the panels of service providers.

Bid specification committees

27.

- (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 34
- (g) must be approved by the Municipal Manager / chairperson of the bid specifications committee prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (h) The following information must be submitted by the senior manager responsible for the budget to the Chief Financial Officer prior to the public advertisement of any bids in excess of R10 million (all applicable taxes included):
 - (i) Proof that budgetary provision exists for procurement of the goods, services and/or infrastructure projects;
 - (ii) Any ancillary budgetary implications related to the bid, for example, if the project is for the acquisition of a municipal asset, does budgetary provision exist for the operation of the asset, maintenance costs relating to the asset, administration costs and rehabilitation/renewal costs;
 - (iii) Any multi-year budgetary implications, for example, if a project will take more than one financial year, the estimated expenditure per financial year.

- (i) MFMA Circular 69 makes provision for the Department of Trade and Industry to designate sectors where in the award of bids, local production and content is of critical importance. Such bids must be advertised with a specific condition that only locally produced goods, works or services or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.
 - (j) the above must be In terms of Municipal Bid document 6.2 Declaration Certificate for Local Production and Content for Designated Sectors.
- (3) A bid specification committee must be composed of:
- (a) at least four officials of the municipality who must serve as standing members; of which one must be from the Supply Chain Management Unit
 - (b) an official to be co-opted from the end user department preferably a manager and a knowledgeable official responsible for the function involved;
 - (c) co-opted external specialist advisor .
 - (d) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one other member.
- (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.
- (5) That for all projects with a threshold of R200 000.00 to R4m the following is waived:-
- The service provider must submit a letter from the Department of Labour indicating that they can be registered within seven days after receiving the award (The award shall be crafted in such way that the Municipality gives the service provider fourteen days to register with the Compensation Fund prior to the signing of the contract).

- (6) That for all projects with a threshold exceeding R 30 million the following shall apply:-
- (a) That a tenderer must sub-contract a minimum of 30% to:-
- (i) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people.
 - (ii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are youth
 - (iii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are women
 - (iv) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people with disabilities
 - (v) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people living in rural or under developed areas or townships
 - (vi) a co-operative which is at least 51% owned by black people
 - (vii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are military veterans
 - (viii) an EME (exempted micro enterprise) or QSE (qualifying small business enterprise)
- (b) iLembe District Municipality must apply pre-qualifying criteria to advance certain designated groups and must advertise the tender with a specific tendering conditions that only one or more of the above (a) tenderers may respond in terms of Section 4(1) of the Preferential Procurement Regulations of 2017.
- (c) That local labour must be employed in terms of EPWP guidelines shall apply.

- (d) That the Business Unit concerned must ensure that the line items that are to be subcontracted, must be specified in the bid specifications document.
- (7) The Accounting Officer may call on preferred bidders to form a joint venture with SMME's for any project.
- (8)
- (a) ILembe District Municipality can decide to apply pre-qualifying criteria to advance designated groups. That tender must be advertised with a specific tendering condition that only one or more of the following designated groups may respond-
- i. an EME or QSE which is at least 51% owned by black people;
 - ii. an EME or QSE which is at least 51% owned by black people who are youth;
 - iii. an EME or QSE which is at least 51% owned by black people who are women;
 - iv. an EME or QSE which is at least 51% owned by black people with disabilities;
 - v. an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
 - vi. a co-operative which is at least 51% owned by black people;
 - vii. an EME or QSE which is at least 51% owned by black people who are military veterans;
- (9) A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.
- (10) The BSC checklist must be completed and signed by the chairperson and its members.

Bid evaluation committees

28.

- (1) A bid evaluation committee must –
 - (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement; and
 - (ii) the points system set out in terms of paragraph 27(2)(f).
 - (b) evaluate each bidder's ability to execute the contract;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears
 - (d) If the price offered by the tenderer scoring the highest points is not market related, council may not award the contract to that tenderer but after due consultation and that other bidder has been given a chance to make representations and decision in writing;
 - (e) Council may –
 - (i) Negotiate a market related price with a tenderer scoring the highest points or cancel the tender
 - (ii) If the tenderer does not agree to a market related price, negotiate a market related price with the tenderer scoring the second highest points or cancel the tender
 - (iii) If the tenderer scoring the second highest points does not agree to a market related price, negotiate a market related price with the tenderer scoring the third highest points or cancel the tender
 - (iv) If a market related price is not agreed as envisaged in (iii) above, council may cancel the tender;
 - (f) In the event where the evaluation of bids received are not concluded within the validity period, the municipality must arrange to extend period of validity to all bidders before the expiry date.
 - (g) Prior approval for the extension of bid validity period must be sought from Chief Financial Officer or designated official from the SCM Unit.
 - (h) In the event where the validity period of the bids received have expired with no extension of the period of tender validity being arranged with all bidders before the expiry of the validity period, then the tender is null and void and of no force and effect.

- (i) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
 - (j) A tenderer that fails to meet any pre-qualifying criteria in terms of Section 27(6) of this policy and section 4(1) & (2) of the Preferential Procurement Regulations of 2017 should be deemed as an unacceptable tender.
 - (k) Contracts above the value of R10 million (all applicable taxes included) may only be awarded to the preferred bidder after the Chief Financial Officer has verified in writing that budgetary provision exists for the acquisition of the goods, infrastructure projects and/or services and that it is consistent with the Integrated Development Plan.
- (2) A bid evaluation committee must as far as possible be composed of;
- (a) at least four officials of the municipality who must serve as standing members; one from the Supply Chain Management Unit.
 - (b) an official to be co-opted from end user department preferably a manager and a knowledgeable official responsible for the function involved ;
 - (c) co- opted external specialist advisor
 - (d) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one other member.
- (3) The BEC checklist must be completed and signed by the chairperson and its members.

Bid adjudication committees

29.

- (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 Municipal Manager to make the final award; or

- (ii) make another recommendation to the Municipal Manager how to proceed with the relevant procurement in terms of S114 of the MFMA.
 - (iii) subject to Section 28(1)(e) of this policy, sub-regulation 9 and Regulation 11 of the PPR 2017, the contract must be awarded to the tender scoring the highest points.
- (2) A bid adjudication committee must consist of at least four senior managers of the municipality which must include –
 - (a) 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.
 - (b) Executive Directors or senior managers of which one must be a senior supply chain management official
 - (c) the quorum must be equal to 50% of the number of permanent (as opposed to co-opted) committee members, plus one other member.
- (3) The Municipal Manager 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 Municipal Manager.
 - (b) The Municipal Manager 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 Municipal Manager 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 Municipal Manager must comply with section 114 of the Act within 10 working days.
- (8) The BAC checklist must be completed and signed by the chairperson and its members.

Procurement of banking services

30.

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 or 85 of the Act; and
 - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

31.

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

- (d) that other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraphs (1)(c) and (d) do not apply if –
 - (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.
 - (c) a municipality procures goods or services through a transversal contract secured by National Treasury

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.

- (1) (a) ILembe District Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from vendors operating with the Republic of South Africa.
- (2) ILembe District Municipality shall comply with MFMA circular 69 on promotion of local production and content in the designated sectors as pronounced by the Department of Trade and Industry and any other items designated by National Treasury as and when listed on the Office of the Chief Procurement Officer website.

Appointment of consultants

35.

- (1) The Municipal Manager 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 Municipal Manager 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.

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

- (1) The Municipal Manager may –
 - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (ii) if such goods or services are produced or available from a single provider only;
 - (iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;

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

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

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

(2) The Municipal Manager 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.

In the event of regulation 36 (1)(i) application of section 36 must be done within 7 days from date of incident

PROCEDURE TO FOLLOW

Poor planning does not constitute an emergency.

In cases where it is impractical or impossible to follow the official procurement process it must be shown where and how the market was tested, why it is impractical to go to tender, the provider chosen was undertaken in a fair manner so as not to prejudice other potential providers, etc. where it would be against the Municipality's best interest to follow the proper procurement process

All reports of this nature are to be signed by the Manager: SCM and Chief Financial Officer who will check:

- **Is the motivation valid?**
- **Is there sufficient reason for not going out to tender?**
- **Is there adequate finance?**
- **Is the process fair, equitable, as transparent as can be, cost effective?**
- **Can the Municipality adequately account for making such a decision**

Accounting Officer to Approve prior to implementation with the exception of an emergency

Supply Chain Unit to issue official order number.

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 Municipal Manager 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 Municipal Manager 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 Municipal Manager 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 Municipal Manager 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 ILembe District 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.

- (1) The Municipal Manager 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 Police Service;
- (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
- (d) reject any bid from a bidder–
- (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
- (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ

of state after written notice was given to that bidder that performance was unsatisfactory;

- (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
- (f) cancel a contract awarded to a person if –
 - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (h) Where any of the conditions of the contract have not been fulfilled, an organ of state must take action against a contractor; and in addition to any other contractual or other remedy that it may have against the contractor, an organ of state may:
 - (i) disqualify the contractor from the tendering process;

- (ii) recover all costs, losses or damages it has incurred or suffered as a result of that contractor's performance;
 - (iii) cancel the contract and claim any damages which it has suffered as a result of having to make less favorable arrangements due to such cancellation;
 - (iv) restrict the contractor, its shareholders and directors from obtaining business from any organ of state for a period not exceeding 10 years, after the audi alteram partem (hear the other side) rule has been applied; and
 - (v) forward the matter for criminal prosecution
 - (vi) That the municipality must comply with MFMA Circular 43 to invoke above.
- (i) All action taken in terms of (h) above may be shared with all municipalities within the ILembe Region.
 - (2) The Municipal Manager 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 Municipal Manager 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.

Disposal management

40.

(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:

- (i) An obsolescence plan must be determined for each asset to ensure that when the asset can no longer be maintained or used for its original purpose, that there is a plan to replace it.
- (ii) A renewal plan must be determined for assets that have reached the end of its useful life.
- (iii) Asset disposal decisions must be made within an integrated, service and financial planning framework.

(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) ILembe District Municipality must establish a disposal strategy to determine the best mechanism of disposal for each asset and the Municipal Manager must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

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

Risk management

41.

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.
- (f) Contracts may be expanded or varied by not more than 20% for construction related goods, services and infrastructure projects and 15% for all other goods or services of the original value of contract. Anything exceeding the above mentioned thresholds must be reported to council. Any expansion or variation on excess of these thresholds must be dealt with in terms of the provisions of Section 116(3) of the MFMA which would be regarded as an amendment to the contract.

Performance management

42.

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

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

43.

- (1) No award above R30 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 Municipal Manager 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.
- (4) In terms of MFMA Circular 90, the following shall apply:-
 - (i) The CSD or tax compliance status PIN are the approved methods to be used to prove tax compliance.
 - (ii) The Accounting Officer may therefore, accept printed or copies of Tax Clearance Certificates submitted by bidders and verify them on e-Filing. The verification result should be filed and attached for audit purposes for that specific tender or order.
 - (iii) Where a supplier does not submit a tax compliance status PIN but provides a CSD number, the accounting officer should utilise the CSD

number via its website www.csd.gov.za to access the supplier records and verify tax compliance status. A printed screen view at the time of verification should then be attached to the supplier's records for audit purposes.

- (iv) Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. This function must be performed by the SCM Practitioner: Demand and Acquisition Management.
- (v) The proof of tax compliance status submitted by the bidder to the municipality must be verified via the CSD or e- Filing.
- (vi) The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.

Prohibition on awards to persons in the service of the state

44.

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 ILembe District Municipality wherein the awarding of contract would result in a conflict of interest and put in question the integrity of the municipal systems of sound governance..

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

45.

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

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

Ethical standards

46.

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the supply chain management system 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 the supply chain management policy –
 - (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding 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 the municipality
 - (h) must assist the accounting officer in combating fraud, corruption, favoritism 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, favoritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct will 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 will be dealt with as follows -
- (a) in the case of an employee, in terms of the disciplinary procedures of the
- ILembe 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, in recognition of the severity of the breach by:
 - (i) listing in the register of defaulters by the municipality and/or
 - (ii) listing in the provincial and national treasury of defaulters and/or
 - (iii) removal from ILembe District Municipality's database.

- (c) In all cases, financial misconduct will be dealt with in terms of chapter 15 of the Act and Regulations on Financial Misconduct and Criminal Proceedings issued on 30 May 2014.
- (6) A breach of the code of conduct adopted by the municipality must be dealt with in accordance with schedule 2 of the Systems 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 ILembe District 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 Municipal Manager 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 Municipal Manager 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) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, within 72 hours refer the written objection or complaint to the independent and impartial person referred to in paragraph 50 for resolution.

Resolution of objections and complaints against procurement process

50.

- (1) The Accounting Officer must appoint an independent and impartial committee, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding -
 - (a) the implementation of the procurement process in terms of the supply chain management system; or
 - (b) any matter arising from the implementation of the procurement process in terms of the supply chain management system.
- (2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed committee members effectively.
- (3) The committee appointed must –
 - (a) strive to resolve promptly all objections and complaints

- received; and
- (b) submit monthly reports to the accounting officer on all such objections and complaints received, attended to or resolved.
 - (4) If the independent (internal) and impartial committee referred to in paragraph 50.(1), cannot resolve the matter internally, then the Accounting Officer must appoint an external appeals committee made up of members within the ILembe District Municipalities.
 - (5) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:
 - (a) the objection or complaint is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.
 - (6) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

Contracts providing for compensation based on turnover

51.

If a service provider acts on behalf of ILembe District 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 ILembe District Municipality must stipulate –

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

CALCULATION OF THE PREFERENT POINT SYSTEM

52. The 80/20 or 90/10 Preference Point System

Preference point systems

- (a) 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 R50 million (all

applicable taxes included). Institutions may apply the 80/20 preference point system to price quotations with a value less than R30 000 if and when appropriate.

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

(c) Calculation of points for price

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.

The formulae to be utilised in calculating points scored for price are as follows:

80/20 Preference point system [(for acquisition of services, works or goods up to a Rand value of R50 000 000.00) (all applicable taxes included)]

$$Ps = 80(1 - \frac{Pt - Pmin}{Pmin})$$

Where

Ps = Points scored for comparative price of bid or offer under consideration

Pt = Comparative price of bid or offer under consideration

Pmin = Comparative price of lowest acceptable bid or offer.

Preference point system [(for acquisition of services, works or goods with a Rand value above R50 million) (all applicable taxes included)]

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

Where

Ps = Points scored for comparative price of bid or offer under consideration

Pt = Comparative price of bid or offer under consideration

P_{min} = Comparative price of lowest acceptable bid or offer.

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

(d) Calculation of points for B-BBEE status level of contributor

Points must be awarded to a bidder for attaining the B-BBEE status level of contribution in accordance with the table below:

B-BBEE Status Level of Contributor	Number of points (90/10 system)	Number of points (80/20 system)
1	10	20
2	9	18
3	6	14
4	5	12
5	4	8
6	3	6
7	2	4
8	1	2
Non-compliant contributor	0	0

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

(e) Calculation of total points scored for price and B-BBEE status level of contribution

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.

(f) Evaluation of bids that scored equal points

- (i) 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.
- (ii) If two or more bids have equal points, including equal preference points for BBEE, the successful bid must be the one scoring the highest score for functionality, if functionality is part of the evaluation process.
- (iii) In the event that two or more bids are equal in all respects, the award must be decided by the drawing of lots.

53. Cancellation and re-invitation of bids

(1)

- (a) In the application of the 80/20 preference point system, if **all** bids received exceed R50 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are within the R50 000 000 threshold, all bids received must be evaluated on the 80/20 preference point system.
- (b) In the application of the 90/10 preference point system, if **all** bids received are equal to or below R50 000 000, the bid must be cancelled. If one or more of the acceptable bid(s) received are above the R50 000 000 threshold, all bids received must be evaluated on the 90/10 preference point system.
- (c) If a bid was cancelled in terms of paragraph (a) or (b), the correct preference point system must be stipulated in the bid documents of the re- invited bid.

(2) A municipality may, prior to the award of a bid, cancel the bid if:

- (a) Due to changed circumstances, there is no longer a need for the services, works or goods requested. [AOs / AAs must ensure that only goods, services or works that are required to fulfill the needs of the institution are procured]; or
- (b) Funds are no longer available to cover the total envisaged expenditure. [AO has to ensure that the budgetary provisions exist]; or

- (c) No acceptable bids are received. [If all bids received are rejected, the institution must review the reasons justifying the rejection and consider making revisions to the specific conditions of contract, design and specifications, scope of the contract, or a combination of these, before inviting new bids].
 - (d) There is a material irregularity in the tender process
- (3) The decision to cancel a tender in terms of subsections must be published in the media in which the original tender was advertised.
- (4) An organ of state may only with the prior approval of the relevant Treasury cancel a tender invitation for the second time.
- (5) In terms of CIDB clause F.1.5.2 The employer may not subsequent to the cancellation or abandonment of a tender process or the rejection of all responsive tender offers re-issue a tender covering substantially the same scope of work within a period of six months unless only one tender was received and such tender was returned unopened to the tenderer.

54. Award of contracts

- (a) A contract must be awarded to the bidder who scored the highest total number of points in terms of the preference point systems, or a bidder who did not score the highest number of points may be awarded the contract but if an objective criteria in terms of Section 2(1)(f) of the PPPFA is applied and was stated in the bid invitation documents.
- (b) 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.
- (c) Contracts may be expanded or varied by not more than 20% for construction related goods, services and infrastructure projects and

15% for all other goods or services of the original value of contract. Anything the above mentioned thresholds must be reported to council. Any expansion or variation on excess of these thresholds must be dealt with in terms of the provisions of Section 116(3) of the MFMA which would be regarded as an amendment to the contract.

(d) MFMA Circular 49 issued in 2009 and Section 65 (2) (e) of the Municipal Finance Management Act of 2003 states “that all monies owing by the municipality be paid within 30 days of receiving the relevant invoice or statement, unless prescribed otherwise for certain categories of expenditure.

55. Green procurement

1. Eco procurement, or green procurement, is procurement that takes into account environmental criteria when goods and services are purchased, so that the related environmental impact is minimised.

2. Eco procurement aims to:

- a) Encourage a decrease in energy and resource use,
- b) Promote environmental best practice in terms of waste minimisation and management, water and energy efficiency and conservation, pollution reduction and socio-economic development, and
- c) Encourage suppliers to change their behaviour and to provide for environmental issues in the design, manufacture and disposal of their products.

56. Cost Containment

1. The municipality shall annually develop cost containment measures taking into accounts its operation and cost drivers.

57. Sub –Contracting

1. In line with the Preferential Procurement Regulations of 2017 pertaining to the PPPFA (Act 5 of 2000), Regulation 9 allows for subcontracting as a

condition of tender. Council has resolved that for all projects exceeding R30m, all taxes inclusive, the minimum 30% subcontracting requirement must be applied to advance designated groups.

2. If an organ of state applies subcontracting as contemplated in sub section (1) above, the municipality must advertise the tender with specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of contract to-

- a. An EME or QSE
- b. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people.
- c. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are youth
- d. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are women
- e. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black with disabilities
- f. an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people living in rural or under developed areas or townships
- g. a co-operative which is at least 51% owned by black people an EME (exempted micro enterprise) or QSE (qualifying small business enterprise) which is at least 51% owned by black people who are military veterans
- h. more than one of the categories refereed in paragraphs (a) to (h).

3. The municipality must make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub section (2) from which the tenderer must select a supplier for subcontracting purposes.

4. A bidder who does not comply with the schedule for sub-contracting shall be deemed as a non-responsive tender and should be disqualified.

5. In all projects below R30m, a negotiated approach with the most responsive service provider should be followed in order to identify the aspects of the project that can be subcontracted.

58. Remedies

1. Upon detecting that a tenderer submitted false information regarding its B-BBEE status level, Local production and content, misrepresentation of information or any other matter required in terms of the PPR of 2017 which will affect or has affected the evaluation of a tender, or where a tenderer has failed to declare any subcontracting arrangements, the organ of state must-

- a. Inform the tenderer accordingly
- b. Give the tenderer an opportunity to make representation within 14 days as to why-
 - i. the tender submitted should not be disqualified, or if already awarded the contract, give reasons as to why the contract should not be terminated in whole or in part;
 - ii. if the tenderer subcontracted a portion of the tender without disclosing it, the tenderer should not be penalized more than 10% of the value of the contract; and

The Municipality may restrict the tenderer for a period to be determined by the Accounting Officer on a case by case basis. The tenderer may ask for a review of a sanction.

- c. If it concludes, after considering the representations referred to in the above sub section (1)(b), that-
 - i. Such false information was submitted by the tenderer-

- aa) Disqualify the tenderer or terminate the contract in whole or in part; and
- bb) If applicable, claim damages from the tenderer; or

ii. The successful tenderer subcontracted a portion of the tender to another person without disclosing; penalize the tenderer up to 10% of the value of the contract

2.

a. The Municipality must-

- i. Inform National Treasury in writing of any actions taken in terms of sub-section (1).
- ii. Provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
- iii. Submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

b. The National Treasury may then request an organ of state to submit further information pertaining to sub section(1) within a specified period.

3. The National Treasury must-

- a. After considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any organ of state for a period not exceeding 10 years
- b. Maintain and publish on its official website a list of restricted suppliers.

Commencement

This Policy takes effect on [01/07/ 2020]

Annexure A: Subcontracting Procedures

Annexure B: Contract Management Procedure Manual

Annexure C: Cession of contracts