



KANNALAND
MUNISIPALITEIT | MUNICIPALITY

SUPPLY CHAIN MANAGEMENT POLICY

2022/23



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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 –

“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;

“contracts of a long-term nature” means a contract with a duration exceeding three years;

“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;

“Fronting Practice (Also referred to as Tokenism or Window dressing)” means a transaction, arrangement or other act or conduct that directly or indirectly undermines or frustrates the achievement of the objectives of the B-BBEE Act or the implementation of any of the provisions of the B-BBEE Act, including but not limited to practices in connection with a B-BBEE initiative:

- a) in terms of which black persons who are appointed to an enterprise are discouraged or inhibited from substantially participating in the core activities of that enterprise;
- b) in terms of which the economic benefits received as a result of the broad-based black economic empowerment status of an enterprise do not flow to black people in the ratio specified in the relevant legal documentation;
- c) involving the conclusion of a legal relationship with a black person for the purpose of that enterprise achieving a certain level of broad-based black economic empowerment compliance without granting that black person the economic benefits that would reasonably be expected to be associated with the status or position held by that black person; or
- d) involving the conclusion of an agreement with another enterprise in order to achieve or enhance broad-based black economic empowerment status in circumstances in which:
 - i) there are significant limitations, whether implicit or explicit, on the identity of suppliers, service providers, clients or customers;

- ii) the maintenance of business operations is reasonably considered to be improbable, having regard to the resources available;
- iii) the terms and conditions were not negotiated at arm's length and on a fair and reasonable basis;

“Functionality” means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents. This is determined by the measurement according to predetermined norms, as set out in the bid documents, of the totality of features and characteristics of the goods or services that bears on the ability of thereof to satisfy the stated or implied needs. “Functionality” is also referred to as “Quality”;

“Influencing the Bid Process” means directly, indirectly or tacitly influencing or interfering with the work of relevant Municipality Officials involved in the bid process in order to influence the process in order to inter alia:

- a) influence the process and/or outcome of a bid;
- b) incite breach of confidentiality and/or the offering of bribes;
- c) cause over and under invoicing;
- d) influence the choice of procurement method or technical standards; or
- e) influence any Municipality Official in any way which may secure an unfair advantage during or at any stage of the procurement process;

“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) an executive member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature;

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

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

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

- a) The Constitution of the Republic of South Africa Act, 1996 (Act No 108 of 1996);
- b) The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000);
- c) The Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003);
- d) The Construction Industry Development Board Act, 2000 (Act No 38 of 2000);
- e) The Prevention and Combating of Corrupt Activities Act, 2004 (Act No 12 of 2004);
- f) The Preferential Procurement Regulations, 2017;
- g) The Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
- h) The Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- i) National Treasury, MFMA Circular No. 34, Municipal Finance Management Act No. 56 of 2003, Reporting of awards above R 100,000;
- j) National Treasury, MFMA Circular No. 46, Municipal Finance Management Act No. 56 of 2003, Checking the prohibition status of recommended bidders;
- k) National Treasury, MFMA Circular No. 50, Municipal Finance Management Act No. 56 of 2003, Preparation of the municipal audit file (Stores & Consumables);
- l) National Treasury, MFMA Circular No. 52, Municipal Finance Management Act No. 56 of 2003, Prohibition of restricted practices;
- m) National Treasury, MFMA Circular No. 53, Municipal Finance Management Act No. 56 of 2003, Amended guidelines in respect of bids that include functionality as a criterion for evaluation;
- n) National Treasury, MFMA Circular No. 56, Municipal Finance Management Act No. 56 of 2003, Database of restricted suppliers and training on the revised Preferential Procurement Regulations (2011);
- o) National Treasury, MFMA Circular No. 62, Municipal Finance Management Act No. 56 of 2003, Enhancing compliance and accountability;
- p) National Treasury, MFMA Circular No. 68, Municipal Finance Management Act No. 56 of 2003, Unauthorised, irregular, fruitless and wasteful expenditure;
- q) National Treasury, MFMA Circular No. 69, Municipal Finance Management Act No. 56 of 2003, Invitation and evaluation of bids based on a stipulated minimum threshold for local production and content;
- r) National Treasury, MFMA Circular No. 82, Municipal Finance Management Act No. 56 of 2003, Cost Containment Measures (as qualified under section 35.5);

- s) National Treasury, MFMA Circular No. 81, Municipal Finance Management Act No. 56 of 2003, Web Based Central Supplier Database (CSD);
- t) National Treasury, MFMA Circular No. 83, Municipal Finance Management Act No. 56 of 2003, Advertisement of bids and the publication of notices in respect of awarded bids, cancelled bids, variations and extensions of existing contracts on the eTender publication portal; and
- u) National Treasury, MFMA Circular No. 90, Municipal Finance Management Act No. 56 of 2003, Tax Compliance Status;

“Regulations” means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations 2005;

“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); and

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

CHAPTER 1: ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply Chain Management Policy

1. The principles of this policy are that it -
 - a) gives effect to –
 - i) section 217 of the Constitution; and
 - ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - b) is fair, equitable, transparent, competitive and cost effective;
 - c) complies with –
 - i) the regulations; and
 - ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - d) is consistent with other applicable legislation;
 - e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
 - f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
2. The municipality pledges effective and efficient service delivery by acquiring goods and services of optimum value through best purchasing practices. The acquisition of goods works and / or services are dealt with in accordance with the municipality's Preferential Procurement Policy and the revised PPPFA Regulations.
3. The municipality further supports the creation and maintenance of a good, sound business relationship with the bidding public in general, as well as with its valued supplier base, without which it cannot survive in a competitive market.
4. The municipality also seeks to develop and maintain positive, long term relationships based on mutual trust and respect with those suppliers who demonstrate their commitment to the municipality's shared goals. The municipality also commits itself to clarity in its communication of requirements, and to be professional, courteous, fair, factual and responsive in its business dealings.
5. The municipality may not act otherwise than in accordance with this policy when –
 - a) procuring goods or services;
 - b) disposing of goods no longer needed;

- c) selecting 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) selecting 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.

6. This Policy, except where, provided otherwise, does not apply in respect of:

- a) the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - i) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - ii) electricity from ESKOM or another public entity, another municipality or a municipal entity;
 - iii) or any other such entities, including the South African Post Office.
- b) the acquisition of services of management consultants, relating to information and communication technology as well as financial systems (SAMRAS/Bytes) subject thereto that the acquisition of such services be dealt with in terms of the delegated powers as provided for in the Municipality's delegation register, as amended from time to time;
- c) insurance claims;
- d) repairs and servicing of vehicles, where the vehicles must be repaired and or serviced by the relevant agency/authorized dealer or manufacturer;
- e) training, courses, seminars, conferences and/or workshops presented by the municipality's systems providers or a single provider;
- f) provision of material for structural damage in a disaster situation in terms of the Municipality's Disaster Management Plan;
- g) machinery or other equipment serviced and repaired by the agent of that machinery or equipment;
- h) Pauper burials and cremations;
- i) The acquisition of services of medical specialists as may be required from time to time and in terms of the Pension Funds Amendment Act, Act 65 of 2001 and related regulations and amendments;
- j) refresher training courses where initial training has already been provided by the same supplier; and

k) machinery and equipment that have to be stripped before a quote can be obtained.

3. Adoption and Amendment of The Supply Chain Management Policy

1. The Accounting Officer must –
 - a) at least annually review the execution of provisions contained in this policy; and
 - b) when the Accounting Officer considers it necessary, submit proposals for the amendment of this policy to the Council.
2. If the Accounting Officer submits a draft policy to the Council that differs from the model policy issued by the National Treasury, the Accounting Officer must -
 - a) ensure that such draft policy complies 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 policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
4. The Accounting Officer must, in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the municipality has and implements this 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 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. Section 79 and 106 of the Act applies to the sub delegation of powers and duties delegated to the Accounting Officer in terms of paragraph 4(1) of this policy.
- 3. The Council or Accounting Officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of the municipality.
- 4. This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

5. Sub Delegations

- 1. The Accounting Officer may in terms of section 79 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 paragraph 4 and paragraph 5(2) 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 bid adjudication committee of which the Chief Financial Officer or Director of a department is a member.
 - c) not exceeding R2 million (VAT included) may be sub delegated, but only to -
 - i) the Chief Financial Officer;
 - ii) an official directly accountable to the Chief Financial Officer; or
 - iii) a bid adjudication committee.
- 3. An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with paragraph 5(2) of this policy must within five (5) working days of the end of each month submit to the official referred to in paragraph

- 5(4) of this Policy a written report containing particulars of each final award made by such official or committee during that month, including –
- a) the amount of the award;
 - b) the name of the supplier or person to whom the award was made; and
 - c) the reason why the award was made to that supplier or person.
4. A written report referred to in paragraph 5(3) of this Policy must be submitted –
- a) to the Accounting Officer, in the case of an award by –
 - i) the Chief Financial Officer; or
 - ii) a bid adjudication committee of which the Chief Financial Officer or a Director is a member; or
 - b) to the Chief Financial Officer or the Director responsible for the relevant bid, in the case of an award by –
 - i) an official referred to in paragraph 5(2)(c)(iii) of this policy; or
 - ii) a bid adjudication committee of which the Chief Financial Officer or a Director is not a member.
5. Paragraphs 5(3) and 5(4) do not apply to procurements by way of direct purchases described in paragraph 15 of this policy.
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.
8. The power to cancel bids on recommendation by the relevant department.

6. Oversight Role of Council

1. The Council must maintain oversight over the implementation of this policy.
2. For the purposes of such oversight the Accounting Officer must –
 - a) within 30 days of the end of each financial year, submit a report on the implementation of the Supply Chain Management Policy of the municipality to the council of the municipality; and

- b) whenever there are serious and material problems in the implementation of such Supply Chain Management Policy, immediately submit a report to the Council.
- 3. The Accounting Officer must, within ten (10) working 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.

7. Supply Chain Management Unit

- 1. One 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.

8. Training of Supply Chain Management Officials

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

- a) The accounting officer and all other officials of the municipality involved in the implementation of the supply chain management policy of the municipality or municipal entity must meet the prescribed competency levels.
- b) The municipality must for the purposes of subsection (a) provide resources or opportunities for the training of officials referred to in that subsection to meet the prescribed competency levels.
- c) The National Treasury or a provincial treasury may assist municipalities and municipal entities in the training of officials referred to in subsection (a).

CHAPTER 2: FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT SYSTEM

9. Format of Supply Chain Management System

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.
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 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;
 - c) provide for the compilation of the required specifications to ensure that its needs are met; and
 - d) undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximised.

Part 2: Acquisition management

11. System of acquisition management

1. The Accounting Officer must implement an effective system of acquisition management in order to ensure that –
 - a) goods and services are procured by the municipality in accordance with authorised processes only;
 - b) expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - c) the threshold values for the different procurement processes are complied with;
 - d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - e) 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 supply chain management system, including -
 - a) the kind of goods or services; and
 - b) the name of the supplier.

12. Range of procurement processes

1. Goods and services may only be provided by way of –
 - a) direct purchases, up to a transaction value of R2 000 (VAT included);
 - b) written quotations for procurements of a transaction value over R2,000 up to R30,000 (VAT included);
 - c) formal written price quotations for procurements of a transaction value over R30,000 up to R200,000 (VAT included), subject to paragraph 18(b); 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 paragraph 12(1); or direct that –
 - i) written quotations be obtained for any specific procurement of a transaction value lower than R2,000 (VAT included);
 - ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R30,000 (VAT included); or
 - iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200,000 (VAT included).
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 this 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.

13. General preconditions for consideration of written quotations or bids

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

- a) has furnished that provider's –
 - i) full name;
 - ii) identification number or company or other registration number;
 - iii) tax reference number and VAT registration number, if any; and
 - iv) tax clearance from the South African Revenue Services that the provider's tax matters are in order; in those cases where the quotation or bid is more than R30,000 (VAT included)
- b) has indicated –
 - i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in paragraph 13(b)(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

The municipality utilises the Web based Central Supplier Database of National Treasury in combination with the SCM database of Kannaland Municipality.

15. Direct purchases

Direct purchases to the value up to R2 000, VAT included -

1. The conditions for the procurement of goods by means of direct purchases referred to in paragraph 12(1) (a) of this policy, are that –
 - a) minor items are purchased for up to a transaction value of R2 000 (VAT included) where it is impractical, impossible or not cost-effective to obtain written or formal quotations, subject to normal internal control procedures;
 - b) orders must be placed with providers whose names appear on the list of accredited prospective providers of the municipality, if they are capable to deliver the required goods; or from providers who are not listed but who meet the listing criteria referred to in paragraph 14(1)(c), and
 - c) the procurement is made by the supply chain management unit.
2. A monthly reconciliation report from the supply chain management unit must be provided to the Chief Financial Officer, including –
 - i) the total amount of direct purchases for that month; and
 - ii) goods receipt notes and appropriate documents for each purchase.

16. Written quotations

Transaction value more than R2 000 up to R30 000 Vat included -

1. The conditions for the procurement of goods or services through written quotations are as follows -
 - a) quotations must be obtained from at least three different providers preferably from, but not limited to providers whose names appear on the list of accredited prospective providers of the municipality; provided that if quotations are obtained from providers

who are not listed, such providers must meet the listing criteria referred to in paragraph 14(1) of this policy;

- b) to the extent feasible providers must be requested to submit such quotations in writing;
- c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the Accounting Officer or an official designated by the Accounting Officer; and
- d) the Accounting Officer must record the names of the potential providers requested to provide such quotations with their written quoted prices.

17. Formal written price quotations

Transaction value more than R2 000 up to R200 000 VAT included –

1. The conditions for the procurement of goods or services through formal written price quotations are as follow -
 - 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; provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(c) of this Policy;
 - b) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer; and
 - c) the Accounting Officer must record the names of the potential providers requested to provide such quotations and their formal written price quotations.
 - d) The designated official referred to in paragraph 17(1)(b) must within three (3) working 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 paragraph.

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

1. The procedure for the procurement of goods or services through written quotations and 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 the official notice boards of the municipality;
- c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
- d) the Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;
- e) the Accounting Officer or Chief Financial Officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;
- 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) offers with a value of R30 000 (VAT included) and above are subject to the preference points system (PPPFA and associated regulations) and must be dealt with according to the Council's Preferential Procurement Policy; and
- h) the Chief Financial Officer must set requirements for proper record keeping of all informal written and formal written price quotations accepted on behalf of the municipality.

19. Competitive bidding process

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 paragraphs 11(2) and 36 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 set out in detail in paragraph 21.
 - b) Public invitation of bids as set out in detail in paragraph 22.
 - c) Site meetings or briefing sessions, as set out in detail in paragraph 22.
 - d) Handling of bids submitted in response to public invitation, detailed in paragraph 23.
 - e) Evaluation of bids, as set out in detail in paragraph 28.
 - f) Awarding of contracts, 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.
 - i) Proper record keeping –
 - j) Original / legal copies of written contracts and agreements must be kept in a secure place for reference purposes.
2. The procedures for bids in excess of R10 million (all applicable taxes included):
 - a) **Verification by the Chief Financial Officer prior to advertisement of bids above R10 million** - The following information must be submitted by the senior manager responsible for the Vote to the CFO **prior** to the public advertisement of any bids in excess of R10 million (all applicable taxes included):
 - i) Proof that 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.

Goods, services and/or infrastructure projects above the value of R10 million (all applicable taxes included) may only be advertised after the CFO has verified in writing that budgetary provision exists for the commencement of the particular project.

Requirements may not be deliberately split into parts or items of lesser value merely to avoid the information being submitted.

b) Verification from the Chief Financial Officer prior to the award of contracts above the value of R10 million

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.

c) Confirmation of bidding process for bids in excess of R10 million (all applicable taxes included)

Internal audit units must compile risk-based audit plans, review internal control measures, and ensure that supply chain management is sufficiently and adequately covered in the annual coverage plan.

Internal auditors must be alert to fraud risks and design audit procedures and indicators that would reasonably assist in preventing and detecting potential or actual fraud and corruption.

During competitive bidding and adjudication processes or before the award of a contract, the accounting officer may, at his or her discretion, specifically request the internal audit function to carry out audit procedures and provide an opinion on compliance of the bidding process with the Municipal Supply Chain Management Regulations.

Where bids involve internal audit service, the audit of the bidding process may be outsourced to an independent external service provider or internal audit function of another organ of state, subject to the oversight of the audit committee.

The accounting officer may, at his or her discretion, decide to have a specific contract audited by external service providers prior to the award of the contract.

21. Bid documentation for competitive bids

1. The criteria to which bid documentation for a competitive bidding process must comply, must –
 - a) take into account –

- i) the general conditions of contract and any special conditions of contract, if specified;
 - ii) any Treasury guidelines on bid documentation; and
 - iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- b) include the 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 -
 - for the past three years; or
 - since their establishment if established during the past three years;
 - ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
 - iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic;
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
- f) require a surety guarantee in appropriate cases;
- g) indicate the value or extent to which the execution of the contract should or should not be subcontracted;
- h) submit a certificate from the Department of Labour indicating compliance with the Occupational Health and Safety Act, 1993 (Act No 85 of 1993); and
- i) require bidders to furnish 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 3 months.

2. A non-refundable charge in terms of the Council's approved tariff structure shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality.
3. Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interests of the municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge, may require that the whole contract is to be completed by the same contractor.
4. Where bidders insert prices on price lists supplied by the municipality, they shall delete items for which they do not bid or if the price has been included elsewhere in the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

22. Public invitation for competitive bids

1. The procedure for the invitation of competitive bids is as follows –
 - a) Any invitation to prospective providers to submit bids must be by means of National Treasury's eTender Publication Portal, a public advertisement in newspapers commonly circulating locally, the website of the municipality or any other appropriate ways (which may include an advertisement in the Government Bid 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 not less than 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to paragraph 22(2) of this Policy;
 - ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and

- iii) date, time and venue of any proposed site meetings or briefing sessions.
- c) All bids advertised on the eTender Publication Administrator must at least contain the following information:
 - Bid description;
 - Bid number;
 - Name of Municipality;
 - The physical location where the goods, services or works specified in the bid are required;
 - The closing date and time of the bid;
 - Municipality contact details (postal and physical address, telephone number, email address, etc.);
 - The physical location where hard copies of bids can be collected;
 - The physical location where bids should be delivered; and
 - The bid documents (MBDs, Terms of Reference, GCC and any other relevant documents)
- 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.
 - a) Bids submitted must be sealed.
 - b) 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) 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 paragraph 23(1)(b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
- d) The Accounting Officer must –
 - i) record in a register all bids received in time;
 - ii) make the register available for public inspection;
 - iii) publish the entries in the register and the bid results on the website;
 - iv) after the closure of any advertised competitive bid (above the threshold value of R200 000 - all applicable taxes included), publish on the municipality's website the reference number of the bid, the description of the goods, services or infrastructure project, names of all bidders, the B-BBEE status level of contribution of all bidders, where applicable, the local content percentages of the goods offered and where practical, total price of the bids, by all bidders that submitted bids in relation to that particular advertisement. Copies should be made available at municipal offices and libraries. The municipality should endeavour to publish the aforementioned information within ten (10) working days after closure of the bid and it must remain on the website of the municipality for at least thirty (30) days; and
 - v) in accordance with section 75 (1) (g) of the MFMA, place on the website all supply chain management contracts above the value of R200 000 (including all applicable taxes).

The following information on the successful bids must be made available on the municipal website:

- a) Contract numbers and description of goods, services or infrastructure projects;
- b) Names of the successful bidder(s) and the B-BBEE level of contribution claimed;
- c) The contract price(s), and;
- d) Brand names and dates for completion of contracts.
 - vi) publish the awards of all competitive bids on the eTender Publication Portal as mentioned below.

The municipality must publish the following information on successful bids within seven (7) working days of awarding the bids:

- Names of the successful bidder(s) and preference points claimed;
- Contract price(s);
- Contract period; Contact details;
- Names of Directors; and
- Date of completion/award.

In addition to the information required above, accounting officers of municipalities are required to publish information on unsuccessful bids on the eTender Publication Portal and publish the following data within the same time frame referred to above:

- Names of the unsuccessful bidder(s); and
 - Contact details.
- Notice of a cancelled bid must be published on the same day, or at the latest, the day after a municipality or municipal entity decided to cancel a bid.
 - Notice of all awards to suppliers through deviations from competitive bidding procedures must be published on the eTender Publication Portal within seven (7) working days after the award was made.
 - Notice of all awards through variations and extensions of existing contracts must be published on the eTender Publication Portal within seven (7) working days after the award was made.

Records of such publication must be retained for audit purposes.

24. Negotiations with preferred bidders and communication with prospective providers and bidders

1. The Accounting Officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
 - a) does not allow any preferred bidder a second or unfair opportunity;
 - b) is not to the detriment of any other bidder; and
 - c) does not lead to a higher price than the bid as submitted.

2. Minutes of such negotiations must be kept for record purposes and as far as practical be made part of the final contract.

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. The following committees are hereby established -
 - a) bid specification committees;
 - b) bid evaluation committees; and
 - c) a bid adjudication committee.
2. The Accounting Officer is required to appoint the members of each committee, taking into account section 117 of the Act.
3. The Accounting Officer is required to appoint a neutral or independent observer to attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
4. The committee system must be consistent with – (a) paragraphs 27, 28 and 29 of this Policy; and (b) any other applicable legislation.
5. The Accounting Officer may apply the committee system to formal written price quotations.

27. Bid Specification Committees

1. The appropriate bid specification committee must compile the specifications for the procurement of goods or services by the municipality, depending on the department involved.

a) Specifications –

- i) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- ii) 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;
- iii) where possible, must be described in terms of performance required rather than in terms of descriptive characteristics for design;
- iv) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
- v) may not make reference to any particular trademark, 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”;
- vi) 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
- vii) must be approved by the Accounting Officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.

- b) 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.

- c) 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. The bid evaluation committee must –
 - a) evaluate bids in accordance with –
 - i) the specifications for a specific procurement; and
 - ii) the points system set out in terms of paragraph 27(2)(f)
 - b) verify the following in respect of the recommended tenderer:
 - i) the capability and capacity of a tenderer to perform the contract;
 - ii) the tenderer's tax and municipal rates and taxes compliance status;
 - iii) confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;
 - iv) the Compulsory Declaration has been completed; and
 - v) the tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.
 - c) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
 - d) The bid evaluation committee must as far as possible be composed of -
 - i) officials from departments requiring the goods or services; and
 - ii) at least one supply chain management practitioner of the municipality.

29. Bid Adjudication Committees

1. The bid adjudication committee must –
 - a) consider the report and recommendations of the bid evaluation committee and:
 - 1) verify that the procurement process which was followed complies with the provisions of this document;
 - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
 - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
 - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and

- b) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the Accounting Officer on the award of a tender, with or without conditions, together with reasons for such recommendation.
2. The bid adjudication committee must consist of at least four senior managers of the municipality which must include –
- i) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager in the budget and treasury office reporting directly to the Chief Financial Officer and designated by the Chief Financial Officer; and
 - ii) at least one senior supply chain management practitioner who is an official of the municipality; and
 - iii) a technical expert in the relevant field who is an official, if such an expert exists.
3. The Accounting Officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
4. No member of the evaluation committee may serve on the tender committee. A member of an evaluation committee may, however, participate in the deliberations of a tender committee as a technical advisor or a subject matter expert.
5. If a bid committee -
- a) Decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
 - i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
 - ii) notify the Accounting Officer.
 - b) The Accounting Officer may –
 - i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph 29(5)(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. 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 sixty (60) days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No 94 of 1990).

31. Procurement of IT related goods or services

1. The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
2. Both parties must enter into a written 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 –
 - i) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - ii) 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. Paragraphs 32(1)(c) and (d) do not apply if –
 - a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

33. Procurement of goods necessitating special safety arrangements

1. The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided wherever 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. Minimum thresholds for local production and content

1. Prescribed conditions and minimum thresholds in respect of local content for designated sectors are provided for in the Preferential Procurement Policy of the municipality.

35. Appointment of consultants

Subject to the deviation allowed in paragraph 2 (6) (c) of this Policy -

1. The Accounting Officer may procure consulting services provided that any Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such procurements are made.
2. Consultancy services must be procured through competitive bids if –
 - a) the value of the contract exceeds R200 000 (VAT included); or
 - b) the duration period of the contract exceeds one year.
3. In addition to any requirements prescribed by this Policy for competitive bids, bidders must furnish particulars of –
 - a) all consultancy services provided to an organ of state in the last five years; and
 - b) any similar consultancy services provided to an organ of state in the last five years.
4. The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.
5. The Accounting Officer shall as far as possible endeavour to realize the following cost containment measures when engaging with consultants:
 - 5.1 The municipality may only appoint consultants if an assessment of the needs and requirements confirms that the municipality does not have the requisite skills or resources in its full-time employ to perform the function. For purposes of such assessment the template document as per **Annexure B** to this policy must be completed.
 - 5.2 The Accounting Officer adopts the below-mentioned reference to rates as the municipality's fair and reasonable remuneration framework for consultants, provided that where no prescribed rates are available, the municipality may from time to time adjust the rates as per prevailing market conditions, limited however to one thousand rand (R1 250) in respect of 2021/22 -
 - a) Guideline on fees for audits undertaken on behalf of the Auditor-General of South Africa, issued by the South African Institute of Chartered Accountants;

- b) "Guide on Hourly Fee Rates for Consultants", issued by the Department of Public Service and Administration;
 - c) rates as prescribed by the body regulating the profession of the consultant, including but not limited to:
 - Engineering Council of South Africa (ECSA)
 - South African Council for the Quantity Surveying Profession (SACQSP)
 - South African Council for the Architectural Profession (SACAP)
 - South African Council for the Landscape Architectural Profession (SACLAP)
 - South African Council for Project and Construction Management Professions (SACPCMP)
 - 2018 Guideline Professional Fees in terms of section 29 of the Planning Professions Act (less 30%)
 - June 2009 fee scale as per Draft Guidelines issued by PLATO and SAGI (less 30%), or
 - d) any other reasonable framework prescribed by Professional Bodies and/or spheres of Government.
- 5.3 The tender documentation for the appointment of consultants must include a clause that the remuneration rates will be subject to negotiation, not exceeding the applicable rates mentioned in 5.2.
- 5.4 Taking into account the above-mentioned rates, the Accounting Officer has delegated powers to consider and approve or reject applications to exceed these rates based on a fully motivated written and signed request by the relevant senior manager in exceptional circumstances.
- 5.5 When negotiating cost-effective consultancy rates for international consultants, the Accounting Officer may take into account the relevant international and market determined rates.
- 5.6 When consultants are appointed, the Accounting Officer or delegated official in terms of his/her System of Delegation must:
- a) appoint consultants on a time and cost basis with specific start and end dates;
 - b) where practical, appoint consultants on an output-specified basis, subject to specific measurable objectives and associated remuneration;

- c) ensure that contracts with consultants include overall cost ceilings by specifying whether the contract price is inclusive or exclusive of travel and subsistence disbursements where applicable and appropriate;
- d) ensure the transfer of skills by consultants to the relevant officials of the municipality; and
- e) undertake all engagements of consultants in accordance with the Municipal Chain Management Regulations, 2005 and the municipality's Supply Chain Management Policy.

- 5.7 The accounting officer or delegated official in terms of his/her System of Delegation must review its consultancy reduction plan on an annual basis and develop consultancy reduction plans to reduce the reliance on consultants where applicable and appropriate.
- 5.8 All contracts with consultants must include a fee retention or penalty clause for poor performance.
- 5.9 The municipality must ensure that the specifications and performance are used as a monitoring tool for the work to be undertaken and are appropriately recorded and monitored. The senior manager concerned must ensure that contractual deliverables as specified are met by the Service Provider.
- 5.10 No subsistence costs shall be paid to consultants, whereas travel costs of consultants shall be limited to a maximum tariff of R3,94 per km or the amended tariff as may be determined by the South Africa Revenue Service from time to time. This provision shall not apply in respect of contracts entered into prior to the effective date of this policy, i.e. 1 July 2021.

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 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 botanical specimens for 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.
 - c) The Accounting Officer shall consider and only when merit for such exist, approve all deviations from procurement processes with a value of R30,000.00 (including VAT) and above.
 - d) The relevant director shall after due consideration of the legal prescripts consider and approve deviations from procurement processes referred to in paragraph 36(1)(a)(i) with a value below R30,000.00 (including VAT).
 - e) The Manager: Supply Chain Management shall after having considered the merits informing a motivation received from the relevant director for a deviation from procurement processes referred to in paragraphs 36(1)(a)(ii) to 36(1)(a)(v) with a value below R30,000.00 (including VAT) be mandated to approve same, but only where the services were not procured yet and the transaction has been considered and preapproved by the relevant director.
2. The Accounting Officer must record the reasons for any deviations in terms of paragraphs 36(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. Paragraph 36(2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this Policy.
 4. In those cases where the terms of reference of a quotation or tender which had already been approved by either the supply chain manager or the bid adjudication committee in terms of delegated authority and which as a matter of sheer necessity has to be adjusted or expanded, the Accounting Officer may - in conjunction with the Chief Financial Officer – authorise the adjustment or expansion of such a contract, provided that –
 - i) a written quotation be obtained from the contractor/service provider concerned for the proposed adjustment or expansion of the contract;

- ii) the adjustment or expansion of the contract does not result in an increase of more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original approved contract amount;
- iii) the increased contract amount does not exceed the amount that had been budgeted for the procurement of such goods or services;
- iv) this delegation shall not be construed to be an authorization to apply savings on an amount budgeted for a specific purpose to meet expenditure for another purpose, whether budgeted or not.

37. Unsolicited bids

1. In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
2. The Accounting Officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
 - a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
 - c) the person who made the bid is the sole provider of the product or service; and
 - d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
3. If the Accounting Officer decides to consider an unsolicited bid that complies with paragraph 37(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 written comments received pursuant to paragraph 37(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. In order to combat the abuse of the supply chain management system 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 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 Bid Defaulters In terms section 29 of the Prevention and Combating of Corrupt Activities Act (Act No 12 of 2004).
 - h) invalidate recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by -
 - i) councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors set out in Schedule 1 to the Municipal Systems Act; or
 - ii) municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 to that Act;
2. The Accounting Officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of paragraphs 38(1)(b)(ii), (e) or (f) of this policy.
3. Restrictive practices are prohibited -
- a) In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder is or a contractor was involved in collusive bidding.

- b) If a bidder or contractor, based on reasonable grounds or evidence obtained by the municipality, has engaged in the restrictive practice referred to above, the municipality may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.
- c) If a bidder or contractor has been found guilty by the Competition Commission of the restrictive practice referred to above, the municipality may, in addition and without prejudice to any other remedy provided for, invalidate the bid for such item(s) offered, and / or terminate the contract in whole or part, and / or restrict the bidder or contractor from conducting business with the public sector for a period not exceeding ten (10) years and / or claim damages from the bidder or contractor concerned.

Part 3: Logistics, Disposal, Risk and Performance Management

39. Logistics management

1. The Accounting Officer must establish and implement an effective system of logistics management, which must include –
 - a) the monitoring of spending patterns on types or classes of goods and services which should, where practical, incorporate the coding of items to ensure that each item has a unique number for the purposes of monitoring;
 - 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;
 - 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 section 14 of the Act are as follows–
 - a) the asset is uneconomical to repair;
 - b) the asset is irreparable;
 - c) the useful life of the asset has expired;
 - d) the relevant department has no further use for the asset;
 - e) no other department requires the asset; and
2. Assets must be disposed of by–

- a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - c) selling the asset; or
 - d) destroying the asset.
3. The Accounting Officer must ensure that –
- a) immovable assets are sold or let in terms of the Municipality's Asset Transfer policy;
 - 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) 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;
 - d) in the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic;
 - e) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
 - g) where assets are traded in for other assets, the highest possible trade-in price is negotiated.

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) non-compliance by the supplier to deliver within the agreed timeframes;
 - b) supply of inferior goods or services by the supplier;
 - c) inability of the supplier to provide goods or services as ordered;
 - d) non-adherence to the municipality's Policy with regards to utilisation of preferred suppliers; and
 - e) procurement of goods or services at prices or of a quality not in the best interest of the municipality.

2. Risk management must include –

- a) the identification of risks on a case-by-case basis;
- b) the allocation of risks to the party best suited to manage such risks;
- c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

42. Performance management

1. The Accounting Officer must ensure that an effective internal monitoring system is implemented in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the measurable performance objectives linked to and approved with the budget and the service delivery and budget implementation plan were achieved.

Part 4: Other matters

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

1. The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30 000 (VAT included) is given 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 provider or bidder, a tax clearance certificate from SARS must first be provided as contemplated in paragraph 13(a)(iv).
3. The bidder's tax compliance status must be verified prior to the finalisation of the award of the bid or price quotation.
4. 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. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing.
5. 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.
6. Where goods or services have been delivered satisfactorily without any dispute, the accounting officer should not delay processing payment of invoices due to outstanding tax matters.

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

1. The Accounting Officer must ensure that irrespective of the procurement process followed, no award may be made to a person –
 - a) who is in the service of the state; or
 - b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - c) who is an advisor or consultant contracted with the municipality in respect of a contract that would cause a conflict of interest.

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

1. The notes to the annual financial statements must disclose particulars of any award of more than R2 000 (VAT included) to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
 - a) the name of that person;
 - b) the capacity in which that person is in the service of the state; and (c) the amount of the award.

46. Ethical standards

1. A code of ethical standards is hereby established, in accordance with paragraph 46(2), 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 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 paragraph 46(2)(c), must declare to the Accounting Officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - e) must declare to the Accounting Officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;

- f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - g) must be scrupulous in his or her use of property belonging to the municipality;
 - h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - i) any alleged fraud, corruption, favouritism or unfair conduct;
 - ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - iii) any alleged breach of this code of ethical standards.
3. Declarations in terms of paragraphs 46(2)(d) and (e) –
- a) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - b) by the Accounting Officer must be made to the Mayor of the municipality who must ensure that such declarations are recorded in the register.
4. The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
5. A breach of the code of ethics must be dealt with as follows -
- a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

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

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

- a) any inducement or reward to the municipality for or in connection with the award of a contract; or
 - b) any reward, gift, favour or hospitality to –
 - i) any official; or
 - ii) any other role player involved in the implementation of this Policy.
2. The Accounting Officer must promptly report any alleged contravention of paragraph 47(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. Paragraph 47(1) does not apply to gifts less than R350 in value.

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

1. 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.
2. The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
 3. The person appointed must –
 - a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
 4. A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - b) no response is forthcoming within 60 days.
 5. If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
 6. This paragraph must not be read as affecting a person's rights to approach a court at any time.

51. Contracts providing for compensation based on turnover

1. If a service provider acts on behalf of the municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –
 - a) a cap on the compensation payable to the service provider; and
 - b) that such compensation must be performance based.

52. Payment of contractors, sub-contractors or joint venture partners

1. The Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.
2. The Chief Financial Officer or an official designated by the Chief Financial Officer may consent to the direct payment of sub-contractors or joint venture partners by way of -
 - a) an approved cession; or
 - b) an agreement for direct payment.

DOCUMENT CONTROL

Summary: This document describes the Supply Chain Management Policy that will be applicable to Kannaland Municipality, with effect from 01 July 2022.

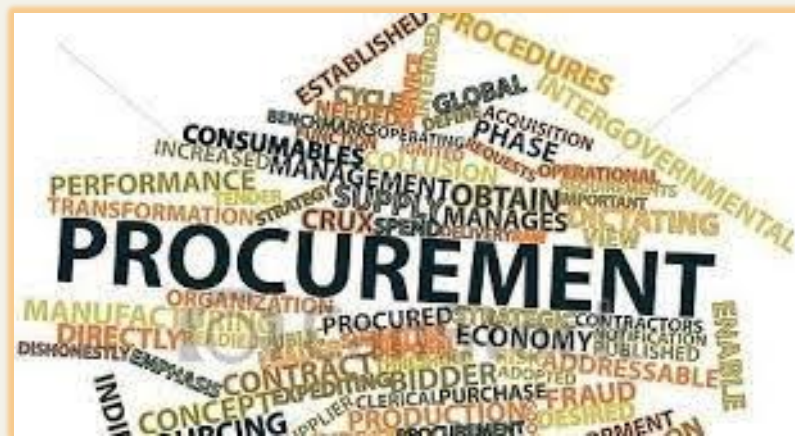
Municipal Manager

Mayor

APPENDIX A: PREFERENTIAL PROCUREMENT POLICY

Clarity on Constitutional court judgement will guide adjustments to be made.

APPENDIX B: SCM POLICY FOR INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT



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DEFINITIONS

The words in this policy shall bear a meaning as prescribed and/or ascribed by applicable legislation, and in the event of a conflict, the meaning attached thereto by National Legislation shall prevail:

- 1) **“Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000).
- 2) **“Black people”** as defined in the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003), is a generic term which means Africans, Coloured and Indians.
- 3) **“B-BBEE”** means broad-based black economic empowerment, defined as the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to:
 - a) Increasing the number of black people that manage, own and control enterprises and productive assets.
 - b) Facilitating ownership and management of enterprises and productive assets by communities, workers cooperatives and other collective enterprises.
 - c) Human resource and skills development.
 - d) Achieving equitable representation in all occupational categories and levels in the workforce.
 - e) Preferential procurement.
 - f) Investment in enterprises that are owned or managed by black people.
- 4) **“B-BBEE status level of contributor”** means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act.
- 5) **“Broad-Based Black Economic Empowerment Act”** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003).
- 6) **“Collusion”** means an intentional and unlawful agreement by two or more companies/firms which is intended or calculated to misrepresent facts or defraud with the sole purpose of influencing the procurement process thereby prejudicing the interests of the service provider.
- 7) **“Companies and Shares”** shall be read to include Close Corporations and members interest’s mutatis mutandis.

- 8) **“Comparative price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration.
- 9) **“Consortium or Joint Venture”** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill, and knowledge in an activity for the execution of a contract.
- 10) **“Contract”** means the agreement that results from the acceptance of a tender by an organ of state.
- 11) **“CFO”** means Chief Financial Officer.
- 12) **“Disability”** means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being.
- 13) **“Firm price”** is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, ‘levy, or tax, which, in terms of a law or regulation, is binding on the contractor and demonstrably has an influence on the price of any supplies, or the rendering costs of any service, for the execution of the contract.
- 14) **“Individual”** an individual shall mean a natural person.
- 15) **“Indigent”** any person who appears on the Municipality’s indigent register as of 1 July of the year under consideration.
- 16) **“Local Labour”** means South African residents who permanently resides in the Kannaland Municipal area.
- 17) **“Local Business”** means an enterprise which has an operational office located within the Kannaland Municipal area.
- 18) **“Local economic development”** means local and socio-economic development as contemplated in section 152 of the Constitution, 1998.
- 19) **“Management”** in relation to an enterprise or business, means an activity inclusive of control and performed daily, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.

- 20) **“Non-firm prices”** means all prices other than “firm” prices.
- 21) **“Person”** includes reference to a juristic person.
- 22) **“Rand value”** means the total estimated value of a contract in Rand denomination which is calculated at the time of tender invitations and includes all applicable taxes and excise duties.
- 23) **“Sub-Contracting”** means the primary contractor’s assigning or leasing or making out work to or employing another person to support such primary contractor in the execution of part of a project in terms of the contract.
- 24) **“Nominated Sub-contractor”** means contractors accredited on the Municipal database for construction related work as contemplated in the CIDBA.
- 25) **“Tender”** means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods.
- 26) **“Tender format/strategy”** means the special conditions describing the tender strategy approach in order to achieve identified targets.
- 27) **“Trust”** means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person.
- 28) **“Trustee”** means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

PART 1: INTRODUCTION

The Policy of Kannaland Municipality, in respect of sustainable procurement complementary to Local- and Socio-Economic and Preferential Procurement is that:

- 1.1. State expenditure is recognised as an instrument of government policy to achieve economic, socio-economic and development objectives. This is supported by the United Nations confirmation that public procurement in SA contributes to 29% of its GDP.
- 1.2. Procurement can be applied as an instrument of secondary redistribution to alter primary income distribution and to address historic imbalances by means of creating employment and business opportunities for historically disadvantaged groups in the South African society.
- 1.3. Local- and Socio-Economic and Preferential Procurement is Constitutionally recognised as a valid instrument for such social reform.
- 1.4. It is recognised that preferential procurement cannot be applied without cost and that such cost should be subject to the Municipal Budget and the prioritisation processes applicable to all Municipal expenditure.
- 1.5. It is the intention, that once appropriate data and trends-analysis are available that this Policy shall be applied to the procurement of all goods or services as directed by Council.
- 1.6. Ultimately, preferential procurement could go some way to providing a springboard to encourage redistribution and reducing economic concentration, which in turn would foster competition and promote effective and appropriate resource allocation.
- 1.7. The Kannaland Municipality Sustainable Procurement Policy will be reviewed on an annual basis or when new census data is available.
- 1.8. This Policy will follow a phased implementation process and with the increase in maturity of the Kannaland Municipality as well as its suppliers, it is further accepted that this Policy will also mature to the extent that visible socio- and economic benefits can be experienced by all citizens living in Kannaland.

PART 2: PREAMBLE

- 2.1. The Constitution of the Republic of South Africa, 1996, provides in sections 152(1)(c) and 152(2) that local government must promote social and economic development and that the municipality must strive within its financial and administrative capacity, to achieve the objects set out in subsection 152(1).
- 2.2. Additionally, the Constitution further provides in section 217 that an organ of state must contract for goods or services in accordance with a procurement system which is fair, equitable, transparent, competitive, and cost effective and to implement a policy to grant preferences within a framework prescribed by National Legislation.
- 2.3. A national Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000)-[PPPFA] was promulgated in response to the Constitutional provision and allow for an organ of state to develop a preferential procurement policy and to implement such policy within the PPPFA framework.
- 2.4. Kannaland Municipality acknowledges the legislative and governance mandates listed above and confirms its objective to improve the quality of life of the local community and to free the potential of each person in the municipal area. This objective will be achieved by using its procurement spent as a leverage within a regulated governance framework that facilitates service delivery, acknowledging the need for transparent procedures but also gives effect to the principles of local- and socio-economic as well as preferential procurement.
- 2.5. The Municipality acknowledges that local- and socio-economic development plays a crucial role in creating a prosperous, equitable, stable, and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities.
- 2.6. Mindful of the above legislative mandates, the Municipality will promote the principles of sustainable procurement defined by the United Nations as the: *“Process to meet needs for goods and services by achieving value for money on whole of life basis, generating benefits to government, the society, the economy and the environment.”*

- 2.7. It is therefore the intention of this policy to assist the Kannaland Municipality to:
- 2.7.1. Continue to redress the skewed employment and ownership patterns in the greater Kannaland Municipality area.
 - 2.7.2. Achieve the above by providing procurement and employment opportunities to B-BBEE – and SMME - enterprises and disadvantaged communities.
 - 2.7.3. Enable local- and socio-economic transformation objectives to be linked to fair, transparent, equitable, competitive, and cost-effective procurement practices that will encourage the entry of emerging business into the Kannaland Municipal Area.
 - 2.7.4. Establish a society based on democratic values, social justice, and fundamental human rights.

PART 3: PURPOSE AND OBJECTIVES

- 3.1. The broad purpose of the Policy is to:
- 3.1.1. Validate Kannaland Municipality's commitment to local- and socio- economic development and preferential procurement;
 - 3.1.2. Ensure effective and efficient application of resources;
 - 3.1.3. Promote accountability, transparency, and fairness;
 - 3.1.4. Create opportunities for local small, medium, and micro enterprises [SMME];
 - 3.1.5 Enhance quality of services;
 - 3.1.6 Stimulate local- and socio-economic development;
 - 3.1.7 Eliminate and counter corruption;
 - 3.1.8 Contribute towards reduction of unemployment, especially within the Kannaland Municipal Area;
 - 3.1.9 Broadening the tax base within the Kannaland Municipal Area;
 - 3.1.10 Encourage linkages between small and large enterprises;
 - 3.1.11 Promote skills transfer and training of the historically disadvantaged; and
 - 3.1.12 Protect local industry against unfair competition.
- 3.2. To achieve this, empowerment goals have been set, which aims to redress the skewed distribution of wealth and therefore contribute to the alleviation of poverty, as well as increasing usage of local resources, stimulation of skills development and transfer, fast tracking the growth and ensuring sustainability of SMME's.

3.3. The policy rests upon certain core principles of behaviour as set out in the Constitution and ratified by the Constitutional Certification Judgements. In this context, the policy will be applied in accordance with a system, which is fair, equitable, transparent, competitive, and cost-effective.

3.4. The specific objectives of the Policy are to:

- 3.4.1. Implement best procurement practises through effective planning, strategic purchasing, and contract management;
- 3.4.2. Promote B-BBEE - enterprises providing services and goods within the Kannaland Municipal Area;
- 3.4.3. Introduce a systematic approach to the appointment of service providers and to promote consistency in respect of supply chain management;
- 3.4.4. Promote SMME's, Joint Ventures, Consortiums, Co-ops, and partnerships, especially within the Kannaland Municipal Area;
- 3.4.5. Create new jobs or intensify labour absorption within the local area;
- 3.4.6. Promote enterprises located within the Kannaland Municipal Area for work to be done or services to be rendered;
- 3.4.7. Promote enterprises located in rural areas in and around the Kannaland Municipal Area;
- 3.4.8. Empower the work force by standardising the level of skill and knowledge of employees / workers;
- 3.4.9. Develop human resources, inclusive of assistance with tertiary and other advanced training programs, in line with key indicators such as percentage of wage bill spent on education and training and improvement of management skills;
- 3.4.10. Uplift local communities through, but not limited to, housing, transport, schools, infrastructure donations, and charity organisations; and
- 3.4.11. Ensure that specific goals are measurable and quantifiable, and the municipal officials must monitor the execution of the contract for compliance with such goals.

PART 4: LEGISLATIVE FRAMEWORK

Constitution, 1996 (Act 108 of 1996)

- 4.1. Sections 152(1)(c) and 152(2) of the Constitution provides that local government must promote social and economic development and that the municipality must strive within its financial and administrative capacity, to achieve the objects set out in subsection 152(1).
- 4.2. Section 217(1) of the Constitution, 1996 (Act 108 of 1996) provides that when contracting for goods and services, organs of state must do so in accordance with a system that is fair, equitable, transparent, competitive, and cost effective. Section 217(2) and (3) of the Constitution allows organs of state to grant preferences when procuring for goods and services within a Framework prescribed by National legislation.

Local Government Municipal Finance Management Act, 2003 (Act 56 of 2003) – [MFMA] and related SCM Treasury Regulations, 2005 [SCM TR]

- 4.3. The MFMA aims to regulate financial management and Supply Chain Management [SCM] of local government to ensure that all revenue, expenditure, assets, and liabilities are managed efficiently and effectively.
- 4.4. Sections 110 – 119 of the MFMA deals with SCM requirements and must be read together with the SCM TR's 1 – 52 issued in terms of section 168 of the MFMA through GG 27636 effective from 30 May 2005. Both these sets of prescripts support the application of the PPPFA.

Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000) – [PPPFA]

- 4.5. The PPPFA, 2000 took effect on 3 February 2000. The main thrust of the PPPFA, 2000 is that an organ of state **must determine its preferential procurement policy** and implement such within the preferential procurement framework, the latter which is commonly called the '80/20 of 90/10 principle'.
- 4.6. As per the recent Constitutional judgement of 17 February 2022¹ that the PPPFA Regulations of 2017 are unconstitutional and invalid in totality concluding that: *“Since **each organ of state is empowered to determine its own preferential procurement policy**, it cannot also lie with the*

¹ MINISTER OF FINANCE V AFRIBUSINESS NPC [2022] ZACC 4

Minister to make regulations that cover the same field.' According to the judgement organs of state are therefore required to determine its own preferential procurement policy.

- 4.7. The other relevant legislation and prescripts are discussed in the Municipal SCM Policy and can be obtained from the Office of the CFO.

PART 5: PRINCIPLES

5.1. The principles that underpin this policy are as follows:

- a) Sound commercial principles will underlie all transactions. There will be no compromise on quality, service delivery or any other commercial aspects related to the delivery of business objectives.
- b) All preferential procurement processes will be transparent and subjected to audit in accordance with sound business principles and practices.
- c) Kannaland Municipality will only conduct business with service providers that comply with legal requirements (registered with SARS; municipal taxes are not in arrears for more than three months; restricted suppliers; suppliers in the employment of the State, etc.)

5.2. The Policy is founded upon the following core principles:

5.2.1. Value for money

Price alone is often not a reliable indicator, and the AO will not necessarily obtain the best value for money by accepting the lowest price offer that meets mandatory requirements. Best value for money means the best available outcome when all relevant costs and benefits over the procurement cycle are considered.

5.2.2. Open and effective competition

All procurement laws, policies, practices, and procedures must be readily accessible to all parties involved in the procurement process. The procurement process must be open and transparent, and reasons must be provided for decisions in terms of current legislation.

5.2.3. Ethics and fair dealing

All procurement officials must comply with the municipal ethical standards to promote mutual trust and respect and an environment where business can be conducted in a fair and reasonable manner. The following is regarded as an acceptable ethical behaviour:

- a) Open, honest, and co-operative business relations;
- b) Confidentiality of commercial information;
- c) Avoidance of conflict of interest or a perception of bias;
- d) Disclosure of conflict of interest as soon as they arise;
- e) Fair dealing and impartiality in the conduct of tender evaluations; and
- f) Avoidance of combative or collusive practices.

5.2.4. Accountability and reporting

Procurement officials and other officials involved in SCM must be answerable for their decisions and actions to the public.

5.2.5. Equity

Kannaland Municipality will at all times strive to enhance the development of SMME's and B-BBEE enterprises to allow them to contribute meaningfully to the economy of the Kannaland Municipal Area.

PART 6: POLICY STATEMENTS

6.1. Application

- 6.1.1. This Policy will apply to all active industry sectors in the Kannaland Municipal Area. It is accepted that through the population of reliable data, trends will be evident which will continuously require a review of the Policy to ensure its relevance of all active industry sectors.
- 6.1.2. This Policy must be read and applied jointly with the Kannaland Municipality's SCM Policy and the PPPFA prescripts as maybe amended from time-to-time.
- 6.1.3. Construction tenders will also have to adhere to the requirements of the CIDBA.
- 6.1.4. The principles of this policy, where possible, must apply to deviations, sharing of contracts with other organs of state and transversal contracts.

6.2. Uniformity and simplification

- 6.2.1. Tender documents will be rationalised and simplified;
- 6.2.2. Tender documents will include all certificates, declarations, and preference requirements;
- 6.2.3. Where possible standardised contract templates will form part of tender documents; and
- 6.2.4. Contracts will include payment cycles linked to delivery and performance reporting cycles.

6.3. Database, panels, roster and/or rotation application

- 6.3.1. A supplier database or various supplier databases, dependent on the commodity, will be maintained, including preferentially the use of the CSD (Central Supplier Database);
- 6.3.2. The supplier's database(s) will be updated on an annual basis and used on a roster or rotation mechanism basis.

6.4. Unbundling

- 6.4.1. Tenders must, where practical, be unbundled into cost components and specific strategies be determined for each, e.g., for the semi- and unskilled labour portion, only locally based unemployed youth must be targeted.

6.4.2. Unbundling strategies can be afforded to the full spectrum of businesses, from those operating as labour only contractors, to those operating as primary contractors. Some of these strategies can be summarised as follows:

- a) Providing third-party management support to enterprises which are not capable of operating as prime contractors;
- b) Providing training to new entrants;
- c) Promoting learner-ships, internships, pupil-ships, etc;
- d) Obligating main contractors or service providers to engage targeted enterprises in the performance of their contracts incorporating resource specifications;
- e) Foster joint ventures that are formed between large businesses and targeted enterprises (termed as Structured Joint Ventures);
- f) Encourage local manufacturing and procurement from small businesses within the Kannaland municipal area;
- g) Unbundling of big projects and identifying opportunities and areas/scope of works that can be carried out by emerging contractors bar those from the main assignment shall be pursued vigorously.

6.4.3. Unbundling strategies do not include the breaking down of projects into smaller portions to remain below certain threshold values or more than one contract.

6.5. Targeting

6.5.1. Targeting will be regarded as a specific goal identified by Kannaland Municipality and will be reflected in Part 7 to this Policy.

6.5.2. These targets will be determined prior to the invitation of tenders and reflected as special and/or pre-qualifying conditions. Always to be considered in the spirit of Section 217 of the Constitution.

6.6. Payment cycles

6.6.1. The payment of invoices is dependent on timely invoicing, approval of invoices and on the payment administration. Responsible officials must process approved invoices within 30 days of statement, unless otherwise provided for in the contract.

- 6.6.2. Reasons for not approving an invoice must be communicated to the tenderer prior to the lapsing of the said 30 days.
- 6.6.3. Officials must endeavour to, where feasible, process invoices of SMME's within 5-7 days in order to promote their cash flow position.
- 6.6.4. Depending on the commodity and the procurement process adopted, deposits, establishment fees, etc may be allowed if provided for in the tender specifications and contract provisions. Appropriate control mechanisms and guarantees must support such payments.

6.7. Performance guarantees

- 6.7.1. The following level of sureties or guarantees will be introduced as a minimum, based on the risk exposure and type of contract, where relevant, inclusive of CIDB tenders:

TYPE	DEFINITION	LEVEL OF SURETY
Major	<ul style="list-style-type: none"> ➤ Onerous requirements ➤ High contract value ➤ Large scale development 	➤ 10% above R 10m contract value
Minor	<ul style="list-style-type: none"> ➤ Risks are judged to be acceptable ➤ Low value ➤ Straight-forward work 	➤ 3% above R 5m contract value
Micro	<ul style="list-style-type: none"> ➤ Risks are judged to be limited or non-existent ➤ Low value ➤ Limited documentation flow ➤ Short term project 	➤ 0% below R 5m contract value

6.8. Skills transfer

6.8.1. Skills transfer is promoted, and Kannaland Municipality will endeavour to support SMME's and B-BBEE enterprises skills transfer through:

- a) Proper contract management;
- b) Provision of adequate information of why tenders were not successful;
- c) Develop and provide a training programme and related sessions for small suppliers as part of the Municipal Local Economic Development [LED] programme; and
- d) Promoting access to uniform and standardised bid documents with proper instructions for completion.

6.8.2. The following skills transfer principles will be introduced as a minimum, based on the risk exposure and type of contract, where relevant, inclusive of CIDB tenders:

TYPE	DEFINITION	LEVEL OF SKILLS TRANSFER
Major	<ul style="list-style-type: none"> ➤ Onerous requirements ➤ High contract value ➤ Large scale development ➤ Above R 5m ➤ Long-term contracts 	Formal training, inclusive of accredited training; Certificates/ Diplomas/ Degrees; Interns; Learner ships; Pupil-ships and Bursaries
Minor	<ul style="list-style-type: none"> ➤ Risks are judged to be acceptable ➤ Low value ➤ Straight-forward work ➤ Above R 3 m ➤ Contracts for more than 1-year 	Informal training inclusive of Interns; Learner ships; Pupil-ships and Bursaries
Micro	<ul style="list-style-type: none"> ➤ Risks are judged to be limited or non-existent ➤ Low value ➤ Limited documentation flow ➤ Short term projects 	Basic training and certificate of jobs performed

6.9. CSI – Corporate Social Investment

- 6.9.1. Corporate social investment (CSI) is defined as contributions (either employee time and/or resources) which bring benefits over and above those directly associated with the Municipal core business activities.
- 6.9.2. Depending on the principles of fairness and cost-effectiveness, the relevant commodity required and the profile of the supply industry, the Municipality may require that specific CSI contributions be made in line with the Municipal Grant-in-Aid Policy.
- 6.9.3. The suppliers shall be expected to indicate or provide an outline of socio-economic projects to be implemented through its Corporate Social Responsibility in the Kannaland Municipal area. Proposed projects must be measurable with specific focus on vulnerable groups. Bidders can suggest or explore the following socio-economic project practices for consideration:
- a) On the job training and development of staff (learnerships), particularly for the unemployed or young people including the recruitment of long-term job seekers and handicapped people;
 - b) Young women / mother's upliftment / leadership programme;
 - c) Skills development initiatives (technical and soft skills) must be accredited with recognised institutions;
 - d) Youth leadership and empowerment projects;
 - e) Early childhood development;
 - f) Projects can be in collaboration with local CBO's, NGOs, and relevant institutions.
 - g) Business skills and enterprise support including mentoring of local enterprises; and
 - h) Development of Parks and open spaces.
- 6.9.4. It is specifically recorded that **NO CSI financial contributions will be required or accepted.**
- 6.9.5. The Municipality will adopt a uniform standard in acknowledging, monitoring, and reporting on CSI contributions.

6.10. Contract conditions

- 6.10.1. Contract conditions for each strategy needs to consider the following elements:
- a) Is an additional contract necessary and if so, what will the terms be?
 - b) What is the contract monitoring, remedial action, and reporting mechanism?

- c) Consider whether Employment contracts to be in place and how will it be monitored (to ensure minimum wages are paid and UIF, etc in place)
- d) Is LED support required?
- e) Identified contract manager and contract administrator.

6.11. Performance management

- 6.11.1. The effectiveness and efficiency of this Policy will be reviewed as per the Kannaland Municipality's SCM Policy and related performance management provisions.
- 6.11.2. Constructive and active contract management and administration will result in an increase in the capacity of suppliers and service providers as well as continuous performance improvements.

6.12. Penalties

- 6.12.1. Where a contract has been awarded based on information which, after the conclusion of the relevant agreement, is proved to have been incorrect, the municipality may, in addition to any other legal remedy it may have:
 - a) Disqualify the person from the tendering process;
 - b) Recover all costs, losses, or damages it has incurred or suffered because of the award of the contract;
 - c) Cancel the contract and claim any damages which it has suffered because of having to make less favorable arrangements due to such cancellations;
 - d) Restrict the tenderer of contractor, its shareholders, and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding ten (10) years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - e) Forward the matter for criminal prosecution.
- 6.12.2. Upon detecting that a preference in terms of the PPPFA, the Regulations or this Policy have been obtained on a fraudulent basis, or any specified goals are not attained in the performance of the contract, the Municipality shall act against the person awarded the contract.

6.12.3. The Municipality may also request the court in terms of Section 28(1)(a) of the **Prevention and Combating of Corrupt Activities Act, 2003** to add the relevant bidder's details on the Register for Tender Defaulters, as the relevant section provides that:

'A court, when convicting a person of an offence in respect of corrupt activities relating to contracts or corrupt activities relating to the procuring and withdrawal of tenders 'may', in addition to imposing sentences contemplated by the Act, order that the particulars of the person, the conviction and sentence, and any other order of the court consequent thereon, be endorsed on a Register for Tender Defaulters'.

6.13. Risk

6.13.1. Risk management will be conducted as per the Kannaland Municipality's SCM Policy and related risk management provisions.

6.14. Declarations

6.14.1. The stipulations of the PPPFA, MFMA and SCM Regulations will apply.

6.14.2. In addition to paragraph 6.14.1 above the following will also apply:

- a) In the case of joint ventures or consortium, only legally established entities may partake in the preference system. An agreement of intent will suffice as well as a separate B-BBEE certificate issued for the institution specific, to qualify for preferences. A joint BBBEE certificate must be attached to qualify for preference claims as prescribed.
- b) Preference points claimed will depend on the management participation and *profit ratio* of parties claiming such preferences.
- c) Bidders may at any time be requested by Kannaland Municipality to substantiate preference claims.

PART 7. PREFERENCE TARGETS IDENTIFIED

7.1 Considering all the data available, this Policy for the financial year under review, will strive to achieve the following targets:

POLICY OBJECTIVE	TARGET
Improve market share of local SMME's	<ul style="list-style-type: none"> ➤ By year Kannaland the market-share of SMME's to be at least 30% of all municipal procurement. ➤ By year Kannaland the market-share of SMME's to be at least 35% of all municipal procurement.
Improve the local economic market [local buying]	<ul style="list-style-type: none"> ➤ By year Kannaland the market-share of local businesses to be at least 40% of all municipal procurement. ➤ By year Kannaland the market-share of local businesses to be at least 45% of all municipal procurement
Employment of local semi-& unskilled workers	<ul style="list-style-type: none"> ➤ By year Kannaland at least 50% of construction and related sector wage and allowance costs must represent local labour. ➤ By year Kannaland at least 60% of construction and related sector wage and allowance costs must represent local labour.
Empowerment of local registered indigents	<ul style="list-style-type: none"> ➤ By year Kannaland at least 15% of Kannaland procurement must be from business that formed co-operatives with indigents. ➤ By year Kannaland at least 20% of Kannaland procurement must be from business that formed co-operatives with indigents.
Ensure equitable work distribution in Kannaland Municipal area.	<ul style="list-style-type: none"> ➤ Develop a rotation mechanism to employ Kannaland local businesses registered on the Kannaland Municipality Supplier Database for projects below R 200 000, inclusive of construction related services.
Address identified local socio - economic weakness areas i.e: - Unemployed Youth	<ul style="list-style-type: none"> ➤ By year Kannaland municipal procurement spend to unemployed youth be improved by 10% calculated from data compiled since 2021.

7.2. To determine which tender conditions will be applicable to a specific tender, the following considerations will apply:

- a) The Municipality must continue to apply the BBBEE scorecard for allocating preference points within the preference point system applicable to the tender, i.e., the 80/20 preference point system for tenders between R 30 000 and R50 million or 90/10 preference point system for tenders above R 50 million.
- b) The Municipality must determine and record its reasons whether the goods or services for which a tender is to be invited, will be evaluated based on functionality. Apply functionality as per case law best practice.
- c) The Municipality must determine targeting conditions for procurement within the thresholds as directed by Council in 7.1 above and apply such as conditions of tender and/or conditions of contract.
- d) The Municipality must determine whether and what additional objective criteria are applicable to the tender as envisaged in the PPPFA 2(1)(f).
- e) All attempts should be made to use the labour and materials from local residents per ward for projects to the benefit of such specific wards.

7.3. The LED and SCM Unit must jointly determine which data to maintain to be able to monitor and report on matters such as local buying, alignment between municipal demographics vis-à-vis SCM spent, and related factors.

PART 8: ALIGNMENT WITH THE PROCUREMENT PROCESS

- 8.1. The Municipal SCM Policy will guide the relevant SCM activities required.
- 8.2. The 'tender format/strategy' as identified in the policy statements and the targets above will be considered and where feasible included in any tender specifications as 'special conditions to tender'.

PART 9: DEVIATIONS AND EXEMPTIONS

- 9.1 Any exemption from compliance to this Policy shall be permitted only within the delegatory powers permitted by Council and as prescribed in terms of the MFMA and the PPPFA.

PART 10: COMPLAINTS, ENQUIRIES, DISPUTES OR APPEALS

- 10.1. The Kannaland Municipality SCM Policy, provides for a mechanism to deal with SCM related complaints, enquiries or disputes which will apply when bidders wish to record any complaint, enquiry, or dispute regarding this Policy.

PART 11: ACCESS TO INFORMATION AND TRAINING

- 11.1. Unsuccessful bidders will be informed of the reasons for their bid not being successful, if so, requested in writing. To ease the administrative burden a checklist will be used.
- 11.2. Bidders should be supported to obtain tender information.
- 11.3. Any prospective bidder will be entitled to receive information and/or training regarding the following:
- a) Financial support;
 - b) SCM related training;
 - c) Assistance with tendering process;
 - d) Bidding process;
 - e) Preferential procurement;
 - f) Completion of Bid documentation; and/or
 - g) Project and contract management.

11.4. Formal requests for access to information must be dealt with within the PAIA Policy of the Kannaland Municipality.

11.5. Requests for access to training must be directed to the designated official.

PART 12: ADMINISTRATION OF POLICY

12.1 Responsibility

12.1.1 Responsibility for the implementation and administration of the Policy is delegated to the Accounting Officer, who will use the support from the LED official.

12.1.2. The Accounting Officer must ensure that each budget holder assumes responsibility for the implementation of the Policy within his/her area of responsibility and that such responsibility is included in his/her Performance Indicators, if so required.

12.2 LED

12.2.1. The Accounting Officer must ensure that the organisational design of the LED Office is appropriately structured, resourced, and capacitated.

12.2.2. The data captured by the SCM Unit will be analysed and report on by the Manager: LED.

12.3 SCMU

12.3.1. The SCMU must maintain a database of requests and transactions to develop a trend-analysis and through such a process identify areas for efficiency and cost-effective improvements, e.g., minimising smaller purchases and maximising term contracts as well as determining strategies for universal commodities.

12.3.2. The data relevant to this Policy will be maintained by the SCM Unit as part of its contract register.

12.4. Oversight by Council

12.4.1. The Accounting Officer must align its reporting requirements to the Council as per SCM TR 6 to also report on progress with the implementation of the Policy.

PART 13: MAINTENANCE

- 13.1. Given the changing nature of the regulatory, control and operational environment of the Municipality, this Policy will be regularly reviewed and updated on an ongoing basis.
- 13.2. For clarification of any matter contained in this Policy, please address queries to the SCM Manager.

PART 14: IMPLEMENTATION

- 14.1. This Policy is effective from 1 July 2022
- 14.2. This Policy will be implemented in phases as follows:
 - a) For the Kannaland financial year this Policy will apply to only selected tenders in excess of R 200 000 for which formal tenders are invited [to be confirmed in Policy].
 - b) For the Kannaland financial year this Policy will apply to all tenders within a specific sector in excess of R 200 000.
 - c) For the Kannaland financial year this Policy will apply to all tenders in excess of R 30 000.
 - d) For the Kannaland financial year this Policy will apply to all procurement activities.
- 14.3. In the interim, all tenders invited in terms of the PPPFA Regulations of 2017 at the time this Policy is adopted must be evaluated and adjudicated *mutatis mutandis*, within the provisions of this Policy.
- 14.4. To achieve the above, the following implementation steps are required:
 - a) Increased capacity in the LED Office.
 - b) Commence with the development of a Municipal Emerging Contractor and Service Provider Development Policy.
 - c) Communication with the local community.
 - d) Establishment and institutionalisation of the Demand Management Committee.
 - e) Development and approval of procurement plans/tender strategies via relevant Demand Management Committee.
 - f) Identification of one major project to pilot the activation of this Policy.

DOCUMENT CONTROL

Summary: This document describes the principles of the Preferential Procurement Policy that will be acceptable to Kannaland Municipality, with effect from 1 July 2022.

Municipal Manager

Mayor

Date

Date



KANNALAND
MUNISIPALITEIT | MUNICIPALITY

SCM POLICY FOR INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT

APPENDIX B – 2022 / 2023



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1. SCOPE

- 1.1** This is the Kannaland Municipality policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. This policy must be read together with the SCM Policy, SCM regulations, MFMA and PP regulations.
- 1.2** The scope includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:
- a) the storage of goods and equipment following their delivery to Kannaland Municipality which are stored and issued to contractors or to employees;
 - b) the disposal or letting of land;
 - c) the conclusion of any form of land availability agreement;
 - d) the leasing or rental of moveable assets; and
 - e) public private partnerships.

2. TERMS, DEFINITIONS AND ABBREVIATIONS

- 2.1** In this Policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Municipal Finance Management Act, no 56 of 2003, has the same meaning as in the Act, and –

“Accounting Officer” in relation to a Municipality means the Municipal Manager as described in Section 60 of the Local Government: Municipal Finance Management Act, no 56 of 2003 as well as Section 82 of the Municipal Structures Act, no 117 of 1998.

“Bid” means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services, works or goods

“Close Family Member” means:

- a) spouse,
- b) child,
- c) parent

“Close Members of the Family for GRAP Disclosure” - means those family members who may be expected to influence or be influenced by that person in their dealings with

the entity. As a minimum, a person is considered to be a close member of the family of another person if they:

- a) are married or live together in a relationship similar to a marriage; or
- b) are separated by no more than two degrees of natural or legal consanguinity or affinity.

“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;

“Consultants” - means consulting firms, engineering firms, legal firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organizations, investments and merchant banks, universities, research agencies, government agencies, non-governmental (NGO’s) and individuals;

“Emergency” - means a serious, unexpected, unforeseen and potentially dangerous and damaging situation requiring immediate action and which is not due to a lack of planning.

“Exceptional Case” - means unusual not typical circumstances where it is impractical or impossible in practice to follow procurement processes.

“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 Section 12 (1) (c) of this Policy;

“Head Of Department” - means a person in the employment of Kannaland Municipality who heads a department or who reports to the Municipal Manager

“In the service of the State” means to be – a member of – any municipal council; any provincial legislature; or the National Assembly or the National Council of Provinces; a member of the board of directors of any municipal entity; an official of any municipality or municipal entity; 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); a member of the accounting

authority of any national or provincial public entity; or an employee of Parliament or a provincial legislature;

“Irregular Expenditure” - For the purpose of this Policy means expenditure incurred by the municipality in contravention of, or that is not in accordance with, a requirement of the Supply Chain Management Policy of the municipality, and which has not been condoned in terms of the 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 municipality must keep in terms of Section 14 of this policy;

“Municipality” - means Kannaland Local Municipality

“Municipal Systems Act”- means the Local Government: Municipal System Act 32 of 2000

“Notice Boards” - means the official notice boards at the municipal offices, libraries and any notice boards at the dedicated directorates.

“Other Applicable Legislation” - means any other legislation applicable to municipal supply chain management, including –

- i) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- ii) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- iii) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- iv) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- v) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000);
- vi) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998);
- vii) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004);
- viii) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);
- ix) Municipal Supply Chain Management Regulations; and
- x) the Preferential Procurement Regulations, 2017.

“Quotation” - means a stated price that a supplier expects to receive for the provision of specified services, works or goods;

“Sole Supplier” - means the only supplier in the South African market that can provide a particular product or service;

“Tender” - means ‘bid’ or ‘quotation’ in relation to ‘Tender Box’; and

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

2.2 Abbreviations

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

3. GENERAL REQUIREMENTS

3.1 Delegations

3.1.1 The Council of Kannaland Municipality hereby delegates all powers and duties to the Municipal Manager which are necessary to enable the Municipal Manager to:

- a) discharge the supply chain management responsibilities conferred on Accounting Officers in terms of Chapter 8 of the Local Government Municipal Finance Management Act of 2003 and this document;
- b) maximise administrative and operational efficiency in the implementation of this document;
- c) 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) comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

3.1.2 No departure shall be made from the provisions of this Policy without the approval of the Municipal Manager of Kannaland Municipality.

3.1.3 The Municipal Manager shall for oversight purposes:

- a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy, to the Council of Kannaland Municipality. This report will be included in the annual SCM report;
- b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the Council;

- c) within 10 days of the end of each quarter, submit a report on the implementation of the Policy to the Executive Mayor. This report will be included in the quarterly SCM report; and
- d) make the reports public in accordance with Section 21A of the Municipal Systems Act of 2000.

3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management

- 3.2.1** Infrastructure procurement and delivery management shall be undertaken in accordance with all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.
- 3.2.2** For the 2019/2020 financial year only the chairpersons of BEC will be according to the SIPDM policy, and the BAC will have an engineer on the panel, due to organizational capacity constraints.
- 3.2.3** Terms of BSC, BEC and BAC will continue to be used and reporting will take place as per the SCM policy.

3.3 Supervision of the infrastructure delivery management unit

- 3.3.1** The Infrastructure Delivery Management Unit shall be directly supervised by the Chief Financial Officer as delegated in terms of Section 82 of the MFMA.

3.4 Objections and complaints

- 3.4.1** Persons aggrieved by decisions or actions taken in the implementation of this Policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

3.5 Resolution of disputes, objections, complaints and queries

- 3.5.1** The Accounting Officer shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the and other persons regarding:
- a) any decisions or actions taken in the implementation of the supply chain management system; any matter arising from a contract awarded within Kannaland Municipality's infrastructure delivery management system; or
 - b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 3.5.2** The designated person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.
- 3.5.3** The person appointed in terms of 3.5.1 shall:
- a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - b) submit monthly reports to the Municipal Manager on all disputes, objections, complaints or queries received, attended to or resolved.
- 3.5.4** A dispute, objection, complaint or query may be referred to the Provincial Treasury if:
- a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - b) no response is forthcoming within 60 days.
- 3.5.5** 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.

4. CONTROL FRAMEWORK FOR INFRASTRUCTURE DELIVERY MANAGEMENT

4.1 Assignment of responsibilities for approving or accepting end of stage deliverables

- 4.1.1** The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

4.2 Gateway reviews

- 4.2.1** Gateway reviews for major capital projects above R50 million.
- 4.2.1.1** The Municipal Manager shall appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

4.2.1.2 The requirements for a gateway review in addition to those contained in Section 4.1.13 of the standard are as follows:

Table 1: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery

Stage			Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name		
0	Project initiation		The Director: Infrastructure / Technical or the Sub-Delegated official accepts the initiation report
1	Infrastructure planning		The Director: Infrastructure / Technical or the Sub-Delegated official approves the infrastructure plan
2	Strategic resourcing		The Director: Infrastructure / Technical or the Sub-Delegated official approves the delivery and / or procurement strategy
3	Pre-feasibility		The Sub-Delegated official accepts the pre-feasibility report
	Preparation and briefing		The Sub-Delegated official accepts the strategic brief
4	Feasibility		The Sub-Delegated official accepts the feasibility report
	Concept and viability		The Sub-Delegated official accepts the concept report
5	Design development		The Sub-Delegated official accepts the design development report
6	Design Documentation	6A Production information	The Director: Infrastructure / Technical, accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance
		6B Manufacture, fabrication & construction information	The contract manager accepts the manufacture, fabrication and construction information
7	Works		The contract manager certifies completion of the works or the delivery of goods and associated services
8	Handover		The contract manager certifies completion of the works or the delivery of goods and associated services
9	Package completion		The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract. The contract manager certifies final completion in accordance with the provisions of the contract. The contract manager accepts the close out report

5. CONTROL FRAMEWORK FOR INFRASTRUCTURE PROCUREMENT

5.1 The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table 2.

5.2 The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows:

- a) The Municipal Manager shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;
- b) The Bid Adjudication Committee may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard or alternatively make a recommendation to the Municipal Manager to award if the value exceeds R10 million.

5.3 The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table 3.

6. INFRASTRUCTURE DELIVERY MANAGEMENT REQUIREMENTS

6.1 Institutional arrangements

6.1.1 Committee system for procurement

6.1.1.1 General

6.1.1.1.1. A committee system comprising the Bid Documentation Committee, Bid Evaluation Committee and Bid Adjudication Committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds the financial threshold for quotations and to the putting in place of framework agreements.

6.1.1.1.2. The Bid Evaluation Committee shall, where competition for the issuing of an order amongst framework contractors takes place and the value of the order exceeds the financial threshold for quotations, evaluate the quotations received

6.1.1.1.3 The persons appoint in writing as technical advisors and subject matter experts may attend any committee meeting.

6.1.1.1.4 No person who is a political officer bearer, a public office bearer including any Councillor of a municipality, a political advisor or a person appointed in terms of Section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a Bid Documentation, Bid Evaluation or Bid Adjudication Committee.

- 6.1.1.1.5 Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterised by the lack of sustained opposition to substantial issues. Committees shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.
- 6.1.1.1.6 Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

6.1.1.2. Bid Documentation Committee

- 6.1.1.2.1 The Municipal Manager shall appoint in writing on a procurement by procurement basis:
- a) the persons to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard;
 - b) the members of the Bid Documentation Committee.
- 6.1.1.1.2 The Bid Documentation Committee shall comprise one or more persons
- 6.1.1.1.3 The chairperson shall be an employee of Kannaland Municipality with requisite skills.
- 6.1.1.1.4 Other members shall, where relevant, include a representative of the end user or the department requiring infrastructure delivery.
- 6.1.1.1.5 No member of, or technical adviser or subject matter expert who participates in the work of the any of the procurement committees or a family member or associate of such a member, may tender for any work associated with the tender which is considered by these committees.

Table 2: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold

	Activity	Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1 *	Establish what is to be procured	1.3 PG1	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	Director
2 *	Decide on procurement strategy	2.5 PG2	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	Recommended: Director Approve: MM
3	Solicit tender offers	3.2 PG3	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	MM
		3.3 PG4	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	CFO
4	Evaluate tender offers	4.2 PG5	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	BEC Chairperson
		4.7 PG6	Confirm recommendations contained in the tender evaluation report	Review recommendations of the Bid Evaluation Committee and refer back to Bid Evaluation Committee for reconsideration or make recommendation for award	Bid Adjudication Committee
5	Award contract	5.3 PG7	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	<R10 million BAC >R 10 million MM
		5.5 GF1	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	SCM Official
		6.4 PG8A	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	MM
		6.5 PG8B	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	MM
6	Administer contracts and confirm compliance requirements	6.6 PG8C	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the	Approve amount of time and cost overruns up to the threshold	MM

	Activity	Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
			award of a contract or the issuing of an order up to a specified percentage		
		6.7 PG8D	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for at award of an inflation, or the time for completion contract or the issuing of an order 20% and 30%, respectively by more than	Approve amount of time and cost overruns above the threshold	Recommend BAC Approve MM
		6.8 PG8E	Obtain approval to cancel or terminate a contract	Approve amount	MM
		6.9 PG8F	Obtain approval to amend a contract	Approve proposed amendment to contract	Recommend MM Approved by Council

6.1.1.3 Bid Evaluation Committee

6.1.1.3.1 The Municipal Manager shall appoint in writing:

- the persons to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clauses 4.2.3.2 and 4.2.3.4 of the standard, respectively; and
- the members of the Bid Evaluation Committee.

6.1.1.3.2 The Bid Evaluation Committee shall comprise not less than three people. The chairperson shall be an employee of Kannaland Municipality with requisite skills. Other members shall include a supply chain management practitioner and, where relevant, include an official from the department requiring infrastructure delivery.

6.1.1.3.3 The Bid Evaluation Committee shall review the evaluation reports prepared in accordance with sub clause 4.2.3 of the standard and as a minimum verify the following in respect of the recommended tenderer:

- the capability and capacity of a tenderer to perform the contract;
- the tenderer's tax and municipal rates and taxes compliance status;
- confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;

- d) the Compulsory Declaration has been completed; and
- e) the tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.

6.1.1.3.4 No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the Bid Documentation Committee or a family member or associate of such a member, may be considered by the Bid Evaluation Committee.

6.1.1.3.5 The chairperson of the Bid Evaluation Committee shall promptly notify the Municipal Manager of any respondent or tenderer who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.

6.1.1.4 **Bid Adjudication Committee**

6.1.1.4.1 The Bid Adjudication Committee must consist of at least four senior managers of the municipality which must include –

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

6.1.1.4.2 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.

6.1.1.4.3 No member of the Bid Evaluation Committee may serve on the Bid Adjudication Committee. A member of a Bid Evaluation Committee may, however, participate in the deliberations of a Bid Adjudication Committee as a technical advisor or a subject matter expert.

6.1.1.4.4 The Bid Adjudication Committee shall:

- a) consider the report and recommendations of the Bid Evaluation Committee;
- b) verify that the procurement process which was followed complies with the provisions of this document;
- c) confirm that the report is complete and addresses all considerations necessary to make a recommendation;

- d) confirm the validity and reasonableness of reasons provided for the elimination of tenderers;
- e) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and
- f) refer the report back to the Bid Evaluation Committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

6.1.1.4.5 The Bid Adjudication Committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

6.1.1.4.6 The Bid Adjudication Committee shall consider the merits of an unsolicited offer and make a recommendation to the municipal manager.

6.1.1.4.7 The Bid Adjudication Committee shall report to The Municipal Manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the Bid Evaluation Committee, giving reasons for making such a recommendation.

6.1.1.4.8 The Bid Adjudication Committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

- a) made a misrepresentation or submitted false documents in competing for the contract or order; or
- b) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

6.1.1.4.9 The Bid Adjudication Committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper Conduct in relation to such system. The National Treasury and the Provincial Treasury shall be informed where such tenderers are disregarded.

6.1.2 Actions of an authorised person relating to the award of a contract or an order

6.1.2.4 Award of a contract

6.1.2.4.1 The Municipal Manager shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the Bid Adjudication Committee and either:

- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or
- b) decide not to proceed or to start afresh with the process.

6.1.2.4.2 The Municipal Manager shall immediately notify the Bid Adjudication if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and the Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

6.1.2.5 Issuing of an order

6.1.2.2.1 The Head of Department shall, if the value of an order issued in terms of a framework contract, is within his or her delegation, consider the recommendation of the Bid Evaluation Committee as relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or
- b) decide not to proceed or to start afresh with the process.

6.1.3 Conduct of those engaged in infrastructure delivery

6.1.3.4 General requirements

6.1.3.4.1 All personnel and agents of Kannaland Municipality shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement. They shall:

- a) A behave equitably, honestly and transparently;
- b) discharge duties and obligations timeously and with integrity;
- c) comply with all applicable legislation and associated regulations;
- d) satisfy all relevant requirements established in procurement documents;
- e) avoid conflicts of interest; and

- f) not maliciously or recklessly injure or attempt to injure the reputation of another party.

6.1.3.1.2 All personnel and agents engaged in Kannaland Municipality's infrastructure delivery management system shall:

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) ensure that resources are administered responsibly;
- f) fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist Kannaland Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

6.1.3.1.3 An employee or agent may not amend or tamper with any submission, tender or contract in any manner whatsoever.

6.1.3.2 Conflicts of interest

6.1.3.2.1 The employees and agents of Kannaland Municipality who are connected in any way to procurement and delivery management activities which are subject to this Policy, shall:

- a) disclose in writing to the employee of Kannaland Municipality to whom they report, or to the person responsible for managing their contract, if they have, or a family member or associate has, any conflicts of interest; and
- b) not participate in any activities that might lead to the disclosure of Kannaland Municipality proprietary information.

6.1.3.4.2 The employees and agents of Kannaland Municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

6.1.3.4.3 Agents who prepare a part of a procurement document may in exceptional circumstances, where it is in Kannaland Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) Kannaland Municipality states in the tender data that such an agent is a potential tenderer;
- b) all the information, which was made available to, and the advice provided by that agent, which is relevant to the tender, is equally made available to all potential tenderers upon request, if not already included in the scope of work; and
- c) the Bid Documentation Committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

6.1.3.3 Evaluation of submissions received from respondents and tenderers

6.1.3.3.1 The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) not have any conflict between their duties as an employee or an agent and their private interest;
- b) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;
- c) deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged to Kannaland Municipality.

6.1.3.3.2 The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of Kannaland Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

6.1.3.3.3 Kannaland Municipality personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they, or any close family member, partner or associate, has any private or business interest.

6.1.3.4 Non-disclosure agreements

6.1.3.4.1 Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect Kannaland Municipality's confidential information and interests.

6.1.3.5 Gratifications, hospitality and gifts

6.1.3.5.1 The employees and agents of Kannaland Municipality shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

6.1.3.5.2 The employees and agents of Kannaland Municipality as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) money, loans, equity, personal favours, benefits or services;
- b) overseas trips; or
- c) any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

6.1.3.5.3 The employees and agents of Kannaland Municipality shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

6.1.3.5.4 All employees and agents of Kannaland Municipality may for the purpose of fostering inter-personal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paperknives, diaries, calendars, etc.;
- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature.

6.1.3.5.5 Gifts listed in a) to d) or gifts in kind which have an intrinsic value greater than R350 may not be accepted.

6.1.3.5.6 Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

6.1.3.5.7 Employees and agents of Kannaland Municipality shall without delay report to the Municipal Manager any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

6.1.3.6 **Reporting of breaches**

6.1.3.6.1 Employees and agents of Kannaland Municipality shall promptly report to the Municipal Manager any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

6.1.4 **Measures to prevent abuse of the infrastructure delivery system**

6.1.4.1 The Municipal Manager shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this Policy against an employee or an agent, a contractor or other role player and, where justified:

- a) take steps against an employee or role player and inform the National Treasury and the Provincial Treasury of those steps;
- b) report to the South African Police Service any conduct that may constitute a criminal offence;

- c) lodge complaints with the Construction Industry Development Board or any other relevant statutory Council where a breach of such Council's code of conduct or rules of conduct are considered to have been breached; cancel a contract if:
 - i) it comes to light that the contractor has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular contract or during the execution of that contract; or
 - ii) an employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

6.1.5 Awards to persons in the service of the state

6.1.5.1 Any submissions made by a respondent or tenderer who declares in the Compulsory Declaration that a principal is one of the following shall be rejected:

- a) a member of any municipal Council, any provincial legislature, or 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.

6.1.5.2 The notes to the annual financial statements of the [municipality / municipal entity] shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified in 6.1.5.1 or who has been in the previous 12 months. Such notes shall include the name of the person, the capacity in which such person served and the amount of the award.

6.1.6 Collusive tendering

6.1.6.1 Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:

- a) is not associated, linked or involved with any other tendering entity submitting tender offers; or
- b) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and

services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender shall be rejected.

6.1.7 Placing of contractors under restriction

6.1.7.1 If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) after having been notified of the acceptance of his tender, failed or refused to commence the contract;
- c) had their contract terminated for reasons within their control without reasonable cause;
- d) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards Kannaland Municipality; or
- f) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of Kannaland Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements.

6.1.7.2 The Legal services section shall prepare a report on the matter and make a recommendation to the Municipal Manager for placing the contractor or any of its principals under restrictions from doing business with Kannaland Municipality.

6.1.7.3 The Municipal Manager may, as appropriate, upon the receipt of a recommendation made in terms of 6.1.7.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to Kannaland municipality for a period of time.

6.1.7.4 The Manager SCM shall:

6.1.7.4.1 record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Kannaland Municipality who are engaged in procurement processes; and

- 6.1.7.4.2 notify the National Treasury and the Provincial Treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

6.1.8 Complaints

- 6.1.8.1 All complaints regarding Kannaland Municipality's infrastructure delivery management system shall be addressed to the Municipal Manager. Such complaints shall be in writing.
- 6.1.8.2 The Chief Financial Officer shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

6.2 Acquisition management

6.2.1 Unsolicited proposal

- 6.2.1.4 Kannaland Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:
- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
 - b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;
 - c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for Kannaland Municipality;
 - d) the offer is in writing and clearly sets out the proposed cost;
 - e) the person who made the offer is the sole provider of the goods or service; and
 - f) The Municipal Manager finds the reasons for not going through a normal tender process to be sound.
- 6.2.1.2 The Municipal Manager may only accept an unsolicited offer and enter into a contract after considering the recommendations of the Bid Adjudication Committee if:
- a) the intention to consider an unsolicited proposal has been made known in accordance with Section 21A of the Municipal Systems Act of 2000 together with the reasons why such a proposal should not be open to other competitors, an explanation of the potential benefits for the [municipality or municipal entity] and an invitation to

the public or other potential suppliers and providers to submit their comments within 30 days after the notice;

- b) Kannaland Municipality' has obtained comments and recommendations on the offer from the National Treasury and the Provincial Treasury;
- c) the Bid Adjudication Committee meeting which makes recommendations to accept an unsolicited proposal was open to the public and took into account any public comments that were received and any comments and recommendations received from the National Treasury and the Provincial Treasury; and
- d) the provisions of 6.2.1.3 are complied with.

6.2.1.3 The Municipal Manager shall, within 7 working days after the decision to award the unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the Provincial Treasury and Auditor-General. A contract shall in such circumstances not be entered into or signed within 30 days of such submission.

6.2.2 Tax and rates compliance

6.2.2.4 SARS tax clearance

6.2.2.4.1 No contract may be awarded or an order issued where the value of such transaction exceeds R30 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

6.2.2.4.2 In the case of a partnership, each partner shall comply with the requirements of 6.2.2.1.1.

6.2.2.4.3 No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. An employee of Kannaland Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

6.2.2.4.4 Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply:

- a) unless a person who is not tax compliant indicates to [designated person] that it intends challenging its tax compliance status with SARS;

- b) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
- c) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- d) no payments may be released for any amounts due in terms of the contract due to a non-compliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

6.2.2.4.5 Kannaland Municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4e).

6.2.2.5 Municipal rates and taxes

6.2.2.2.1 No contract may be awarded to a tenderer who, of the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are in arrears for more than 3 months.

6.2.2.2.2 No award may be considered to a tenderer who, of the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are outstanding for more than 30 days, if the value of the award will exceed R 10 million.

6.2.3 Declarations of interest

6.2.3.1. Tenders and respondents making submissions in response to an invitation to submit a tender or a call for an expression of interest, respectively shall declare in the Compulsory Declaration whether or not any of the principals:

- a) are an employee of Kannaland Municipality or in the employ of the state; or
- b) have a family member or a business relation with a person who is in the employ of the state.

6.2.4 Invitations to submit expressions of interest or tender offers

- 6.2.4.4 All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on Kannaland Municipality's website and on the National Treasury e-Tender Publication Portal. Advertisements shall be placed by the Municipal Manager.
- 6.2.4.5 Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by the Municipal Manager.
- 6.2.4.6 Where deemed appropriate by the Chairperson of the Bid Documentation Committee or the Municipal Manager, an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by the Municipal Manager.
- 6.2.4.7 Such advertisements shall be advertised for a period of at least 14 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the Municipal Manager.
- 6.2.4.8 Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification meeting. Procurement documents shall be made available not less than 7 days before the closing time for submissions.

6.2.5 Publication of submissions received and the award of contracts

- 6.2.5.4 The Municipal Manager shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's or municipal entity's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 30 days.
- 6.2.5.5 The SCM unit shall publish within 7 working days of the award of a contract the following on Kannaland Municipality's website:

- a) the contract number;
- b) contract title;
- c) brief description of the goods, services or works;
- d) the total of the prices, if practical;
- e) the names of successful tenderers and their B-BBEE status level of contribution;
- f) duration of the contract; and
- g) brand names, if applicable.

6.2.5.6 The SCM unit shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury e-Tender Publication Portal regarding the successful and unsuccessful tenders. Submissions shall be made by the Municipal Manager.

6.2.5.7 The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by placed by the Municipal Manager.

6.2.6 Disposal committee

6.2.6.4 The Municipal Manager shall appoint in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

6.2.6.5 The disposal panel shall comprise not less than three people. The chairperson shall be an employee of Kannaland Municipality.

6.2.6.6 The disposal committee shall make recommendations to the Municipal Manager who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration, decide not to proceed or to start afresh with the process.

6.2.7 Reporting of infrastructure delivery management information

6.2.7.1 The Municipal Manager shall submit any reports required in terms of the standard to the National Treasury or the Provincial Treasury.

7. INFRASTRUCTURE PROCUREMENT

7.1 Usage of procurement procedures

7.1.1 Kannaland Municipality shall not apply the following procedures:

- a) the storage of goods and equipment following their delivery to Kannaland Municipality which are stored and issued to contractors or to employees;
- b) the disposal or letting of land;
- c) the conclusion of any form of land availability agreement;
- d) the leasing or rental of moveable assets; and
- e) public private partnerships.

7.2 Procurement documents

7.2.1 Kannaland Municipality's preapproved templates for Part C1 (Agreements and contract data) of procurement documents shall be utilised to obviate the need for legal review prior to the awarding of a contract. All modifications to the standard templates shall be approved by [designated person] prior to being issued for tender purposes.

7.2.2 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.

7.2.3 Any additional requirements e.g. use of standard access specifications, health and safety specifications etc. as required by the bid documentation. The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for:

- a) consultancy services; and
- b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 million including VAT.

7.3 Developmental Procurement

7.3.1 The primary beneficiaries will be included in the Preferential Procurement Policy and will include at least the following:

7.3.1.1 Local emerging contractors / service providers and suppliers from previously disadvantaged individuals/communities who will be assisted with targeted contract opportunities to propel them to new heights.

7.3.1.2 Contractors must be registered with the CIDB to qualify for participation.

7.4 Payment of contractors

7.4.1 Payment of contractors Kannaland Municipality shall settle all undisputed accounts within 30 days of invoice or statement as provided for in the contract.

7.5 Approval to utilise specific procurement procedures

7.5.1 Prior approval shall be obtained for the following procurement procedures from the following persons, unless such a procedure is already provided for in the approved procurement strategy:

- a) Municipal Manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) the Bid Documentation Committee shall authorise the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure.

7.5.2 The person authorised to pursue a negotiated procedure in an emergency is the designated Head of Department/director.

7.6 Receipt and safeguarding of submissions

7.6.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.

7.6.2 The tender box shall be fitted with two locks and the keys kept separately by two SCM Practitioners.

7.6.3 Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

7.7 Opening of submissions

7.7.1 Submissions shall be opened by an opening panel comprising two people nominated by the Manager: SCM who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

7.7.2 The opening panel shall:

- a) open the tender box at the stipulated closing time;
- b) sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- c) return submissions unopened and suitably annotated where:
 - i) submissions are received late, unless otherwise permitted in terms of the submission data;
 - ii) submissions were submitted by a method other than the stated method,
 - iii) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and
 - iv) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions.
- v) record in the register submissions that were returned unopened;
- vi) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- vii) record in the register the name of any submissions that is returned with the reasons for doing so;
- viii) record the names of the tenderer's representatives that attend the public opening;
- ix) sign the entries into the register; and
- x) stamp each returnable document in each tender submission.

7.7.3 Each member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 7.7.3h).

7.7.4 Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

7.7.5 Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.

7.8 Use of another organ of state's framework agreement

7.8.1 Kannaland Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so.

7.8.2 The Municipal Manager shall make the necessary application to that organ of state to do so.

7.9 Insurances

7.9.1 Insurances Contractors shall be required to take out all insurances required in terms of the contract.

7.9.2 The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by the Municipal Manager.

7.9.3 Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

Type Insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of	Not less than R20 million

the Contractor) caused by activity in connection with a contract	
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0 million electrical, mechanical and engineering: R3,0 million architectural: R5,0 million other R3,0 million

7.9.4 The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed by the Municipal Manager

7.9.5 SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.

7.9.6 Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the in relation to the nature of the service that they provide.

7.9.7 Kannaland Municipality shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.

7.9.8 Where payment is to be made in multiple currencies, either the contractor or Kannaland Municipality should be required to take out forward cover. Alternatively,

the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

7.10 Written reasons for actions taken

7.10.1 Written reasons for actions taken Written reasons for actions taken shall be provided by a Project Manager.

7.10.2 The written reasons for actions taken shall be as brief as possible and shall as far as is possible, and where relevant, as to why a tenderer was not considered for the award of a contract or not awarded a contract shall be framed around the clauses in the -

- a) SANS 10845-3, Construction procurement - Part 3: Standard conditions of tender, and, giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or
- b) SANS 10845-4, Construction procurement - Part 4: Standard conditions for the calling for expressions of interest.

7.10.3 Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

7.11 Request for access to information

7.11.1 Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act 2 of 2000), the “requestor” should be referred to Kannaland Municipality’s Information Manual which establishes the procedures to be followed and the criteria that have to be met for the “requester” to request access to records in the possession or under the control of Kannaland Municipality’s.

7.11.2 Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.

DOCUMENT CONTROL

Summary: This document describes the principles of Infrastructure Procurement and Delivery Management that will be acceptable to Kannaland Municipality, with effect from 1 July 2022.

Municipal Manager

Mayor

Date

Date

ANNEXURE A - Standard for Infrastructure Procurement and Delivery Management

See Attached