

# PRINCE ALBERT MUNICIPALITY



## SUPPLY CHAIN MANAGEMENT POLICY

**DRAFT POLICY**

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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 –

**“Award points”** means the points referred to in the Preferential Procurement Regulations, 2022 and the Preferential Procurement section of this policy, also referred to as “evaluation points”.

**“All applicable taxes”** includes value-added tax, pay as you earn, income tax, unemployment insurance fund contributions and skills development levies.

**“Annual Bid / Term Bid”** means a rates-based bid for the supply of goods, services or construction works, which are of an ad-hoc or repetitive nature where the individual rates are approved for use over a predetermined period of time.

**“Asset”** means a tangible or intangible resource capable of ownership.

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

**“B-BBEE Status Level of Contributor”** means the B-BBEE status 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.

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

**“Bidder”** means any person submitting a bid.

**“Capital Asset”** means:

- a) any immovable asset such as land, property or buildings; or
- b) any movable asset that can be used continuously or repeatedly for more than one year in the production or supply of goods or services, for rental to others or for administrative purposes, and from which future benefit can be derived, such as plant, machinery and equipment.

**“Central Supplier Database”** means a single database that serves as the source of all supplier information for all spheres of government.

**“Closing Time”** means the time and day specified in the bid documents for the receipt of bids.

**“Comparative Price”** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.

**“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.

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

**“Construction Works”** in terms of the CIDB Regulations: means any work in connection with:

- a) the erection, maintenance, alteration, renovation, repair, demolition or dismantling of or addition to a building or any similar structure;
- b) the installation, erection, dismantling or maintenance of a fixed plant;
- c) the construction, maintenance, demolition or dismantling of any bridge, dam, canal, road, railway, sewer or water reticulation system or any similar civil engineering structure; or
- d) the moving of earth, clearing of land, the making of an excavation, piling or any similar type of work.

**“Consultant”** means a person or entity providing services requiring knowledge-based expertise and includes professional service providers.

**“Contract”** means the agreement which is concluded when the Prince Albert Municipality accepts, in writing, a bid or quote submitted by a provider.

**“Contractor”** means any person or entity whose bid or quote has been accepted by Prince Albert Municipality.

**“Contract manager”** means a line manager or budget cost centre manager or officials in the Project Management Unit with delegated authority.

**“Day(s)”** means calendar days unless the context indicates otherwise.

**“Delegated Authority”** means any person or committee delegated with authority by Prince Albert Municipality in terms of the provisions of the Municipal Finance Management Act.

**“Emergency dispensation”** means emergency as referred to in paragraph 36(a)(i)

- a) the conditions warranting Emergency dispensation should include the existence of one or more of the following:
  - i) the possibility of human injury or death;
  - ii) the prevalence of human suffering or deprivation of rights;
  - iii) the possibility of damage to property, or suffering and death of livestock and animals;
- b) the interruption of essential services, including transportation and communication facilities or support services critical to the effective functioning of the Municipality as a whole;
- c) the possibility of serious damage occurring to the natural environment;
- d) the possibility that failure to take necessary action may result in the Municipality not being able to render an essential community service; and

- e) the possibility that the security of the state could be compromised.
- f) the prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal procurement process. Emergency dispensation shall not be granted in respect of circumstances other than those contemplated above.

**“ePortal / eTender”** means an electronic web portal is one specially designed web site that brings information together from diverse sources in a uniform way. The electronic portal is administrated by National Treasury and will be used to advertise bids, publish opening results of bids and awards.

**“Evaluation of Bids”** in respect of bids that exceed R200 000, shall be deemed to take place when the Bid Evaluation Committee meets to make a recommendation to the Bid Adjudication Committee.

**“Evaluation Points”** also referred to as “award points.

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

**“Firm Price”** means 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 the 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.

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

**“Functionality”** means the measurement according to predetermined norms, as set out in the bid or quotation documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a bidder. “Functionality” is also referred to as “Quality”.

**“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 an employee of Parliament or a provincial legislature;

**“Joint Venture or Consortium”** means an association of persons formed for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract or contracts. The Joint Venture must be formalised by agreement between the parties.

**“Long term contract”** means a contract with a duration period exceeding one year.

**“Long term nature”** means a contract that exceeds the duration of three years and Section 33 of the MFMA is applicable.

**“List of accredited prospective providers”** means the list of accredited prospective providers that is registered on the CSD.

**“Obtain”** means to come into possession of; get, acquire, or procure, as through an effort or by a request.

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

- a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003);
- c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- d) Value Added Tax Act, 1991 (Act 89 of 1991);
- e) Promotion of Access to Information Act (PAIA), 2000 (Act 2 of 2000);
- f) Public Protector Act, 1994 (Act 23 of 1994);
- g) Public Office Bearers Act, 1998 (Act 20 of 1998);
- h) State Information Technology Agency Act (SITA), 1998 (Act 88 of 1998);
- i) Competition Act (CA), 1998 (Act 89 of 1998).

**“Plight of the poor”** means the plight of a group of people or a section of a community where the majority of the households in a specific area qualify as indigent or poor in terms of the Municipality’s Indigent Policy.

**“Policy”** means this Supply Chain Management Policy as amended as prescribed in Municipal Supply Chain Management Regulations.

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

**“Preferential Procurement Policy Framework Act” (PPPFA):** means the Preferential Procurement Policy Framework Act, 2000.

**“Preferential Procurement Regulations”** means the regulations pertaining to the PPPFA.

**“Promotion of Administrative Justice Act”** means the Promotion of Administrative Justice Act, 3 of 2000.

**“Quality”** also referred to as “Functionality”.

**“Rand Value”** means the total estimated value of a contract in South African currency, calculated at the time of bid invitations, and includes all applicable taxes and excise duties.

**“Ratification of minor breaches of the procurement process”** means the authority that the accounting officer has in terms of regulation 36(1)(b) of the Municipal Supply Chain Management Regulations to ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely technical in nature. In this instance the accounting officer can only rely on this provision if the official or committee who committed the breach had the delegated authority to perform the function in terms of the municipality’s adopted System of Delegations, which must be consistent with the MFMA and its regulations.

**“Republic”** means the Republic of South Africa.

**“SARS”** means the South African Revenue Services.

**“Sole providers”** can be broadly defined as manufacturers, licence holders, publishers, intellectual property holders or service providers appointed by a sole provider as their sole agent or distributor in a specific area.

**“Sub-contractor”** means any person or entity that is employed, assigned, leased or contracted by the prime contractor to carry out work in support of the prime contractor in the execution of a contract.

**“Single source”** refers to when competition exist in the market, but from a selected few suppliers due to technical capabilities and abilities to comply with the requirements of the municipality.

**“Sole Supplier”** refers to instances where there is no competition and only one service provider exist in the market, with sole distribution rights and/or patent rights or manufacturer.

**“Supplier”** is a generic term which may include suppliers of goods and services, contractors and/or consultants.

**“Systems Act”** means the Local Government: Municipal Systems Act, 32 of 2000.

**“Technical nature”** refers to a breach by a delegated official in terms of Regulation 36(1)(b) that has occurred in contravention with the adopted Supply Chain Management Policy due to a nondeliberate or unintentional oversight.

**“Tender/Tenderer”** means “bid/bidder” in the context of construction works procurement.

**“Transaction Value”** means the actual contract value (the bid sum or price) in South African currency, inclusive of all applicable taxes in respect of the goods, services or construction works that are contracted for.

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

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

**“the Regulations”** means the Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005.

**“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.

**“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.

**“Unsolicited Bid”** means an offer submitted by any person at its own initiative without having been invited by the Prince Albert Municipality to do so.

Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, closed corporations and firms, unless the context clearly indicates otherwise. All amounts/limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).

## **CHAPTER 1 - IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

### **2. ADOPTION AND AMENDMENT OF SUPPLY CHAIN MANAGEMENT POLICIES**

- (1) The Council of Prince Albert Municipality resolves in terms of section 111 of the Act to adopt the following proposal as the Supply Chain Management Policy of Prince Albert Municipality.
- (2) The Municipal Manager shall in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that Prince Albert Municipality implement this Policy.
- (3) All officials and other role players in the supply chain management system of Prince Albert Municipality must implement this Policy in a way that –
  - a) gives effect to –
    - i) section 217 of the Constitution; and
    - ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - b) is fair, equitable, transparent, competitive and cost effective;
  - c) enhance the economic development of local communities, SMME's, women-owned enterprises and disabled-owned enterprises within the area of jurisdiction;
  - d) complies with –
    - i) the Regulations; and
    - ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act; and
  - e) is consistent with other applicable legislation.
  - f) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - g) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (4) This Policy is applicable to the entire Prince Albert Municipality and must be adhered to when –
  - a) procuring goods or services;
  - b) procuring infrastructure;
  - c) disposing of redundant goods; and/or
  - d) selecting service providers other than in circumstances where Chapter 8 of the Systems Act applies.

- e) in the case of a municipality, 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.

(5) This Policy does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

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

### **3. AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY**

- (1) The Municipal Manager, through the Chief Financial Officer or duly authorised person, must annually review the implementation of the Policy.
- (2) The Municipal Manager must submit a draft policy or subsequent amendments to the Council for approval. Such policy or subsequent amendments must be in line with the model policy and Regulations as compiled by National Treasury. Deviations from the model policy or Regulations must in terms of Regulation 3 be reported to National and Provincial Treasury.
- (3) When preparing or amending the supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses.
- (4) The accounting officer must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that a supply chain management policy as set out in regulation 2 is implemented.

### **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) Chapters 8, 10 and 11 of the Act;
    - ii) this Policy;
  - b) to maximise administrative and operational efficiency in the implementation of this Policy;
  - c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

- d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
  
- (2) Sections 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The Council or accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of municipality.
- (4) This policy may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

## **5. SUB-DELEGATIONS**

- (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
  
- (2) The power to make a final award –
  - a) above R 10 million (VAT included) may not be subdelegated by the accounting officer;
  - b) above R 2 million (VAT included), but not exceeding R 10 million (VAT included), may be subdelegated but only to –
    - i) the chief financial officer;
    - ii) a senior manager; or
    - iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or.
  
  - c) not exceeding R 2 million (VAT included) may be subdelegated but only to –
    - i) the chief financial officer;
    - ii) a senior manager;
    - iii) a bid adjudication committee;
    - iv) a manager directly accountable to the chief financial officer or a senior manager.

- (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph 2 must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including –
- a) the amount of the award;
  - b) the name of the person to whom the award was made; and
  - c) the reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- a) to the municipal manager, in case of an award by –
    - i) the chief financial officer;
    - ii) a senior manager; or
    - iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member; or
  - b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
    - i) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.
- (5) Subparagraphs (3) and (4) of this paragraph do not apply to procurements out of petty cash.
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding system provided for in paragraph 26 of this Policy.
- (7) No decision-making in terms of any supply chain management powers and duties may be delegated to an advisor or consultant.

## **6. OVERSIGHT ROLE OF COUNCIL**

- (1) The Council has and must maintain an oversight role over the implementation of this Policy. 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 this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and

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

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

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

## **7. SUPPLY CHAIN MANAGEMENT UNIT**

(1) The accounting officer must establish a supply chain management unit to implement this Policy.

(2) The supply chain management unit must operate 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.

## **CHAPTER 2 - IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

### **9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM**

This Policy provides systems for:

- a) Demand Management;
- b) Acquisition Management;
- c) Logistics Management;
- d) Disposal Management;
- e) Risk Management; and
- f) 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 acquired by Prince Albert Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

(2) The demand management system must –

- a) include planning and management processes to ensure that the resources required by the municipality are;
  - i) quantified;
  - ii) budgeted for;
  - iii) timely and effectively delivered at the right locations and at the critical dates;
  - iv) of the appropriate quality and quantity; and
  - v) at fair cost;
- b) provide for the compilation of clearly articulated requirements and specifications that meet the needs and expectations of multiple users. The specifications shall be unbiased, functional and not brand specific; and
- c) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature.

- (3) Officials should undertake appropriate industry analysis and research, where necessary, to ensure that innovations and technological benefits are maximized.

## ***Part 2 – Acquisition Management***

### **11. SYSTEM OF ACQUISITION MANAGEMENT**

- (1) The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –
- a) that goods and services are procured by the Municipality in accordance with authorised processes only;
  - b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the act;
  - c) that the threshold values for the different procurement processes are complied with;
  - d) that bid documentation, evaluation and adjudication criteria, and general conditions of contract, are in accordance with any applicable legislation; and
  - e) that any Treasury guidelines on acquisition management are properly taken into account.
- (2) The following information will be made public when procuring goods and services contemplated in section 110(2) of the Act other than through its supply chain management system:
- a) the kind of goods or services; and
  - b) the name of the supplier.

### **12. RANGE OF PROCUREMENT PROCESSES**

Prince Albert Municipality shall only procure goods and services by way of –

- a) petty cash purchases, up to a transaction value of R 2 000 (VAT included);
  - b) formal written price quotations for procurement of a transaction value over R 2 000 up to R 300 000 (VAT included), in the case of a local municipality;
  - c) a competitive bidding process for procurement above a transaction value of R 300 000 (VAT included), in the case of a local municipality.
- d) The accounting officer may, in writing –
- (i) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (ii) direct that –

- aa) formal written price quotations be obtained for any specific procurement of a transaction value lower than R 10 000; or
- bb) competitive bidding process be followed for any specific procurement of a transaction value lower than the competitive bidding thresholds specified in sub-regulation 1(c)(ii)
- e) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

### **13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS**

A written quotation, formal written quotation or tender may not be considered unless the provider who submitted the quotation, formal written quotation or tender –

(1) Has furnished that provider's –

- (a) Full name;
- (b) Identification number or company or other registration number; and
- (c) Tax reference number and VAT registration number, if any;

(2) Has indicated –

- (a) 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;
- (b) 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
- (c) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the State, or has been in the service of the State in the previous twelve months.

(3) In the case of formal written quotations and tenders, that is transactions exceeding R 15 000, including VAT:

- (a) A valid original Tax Clearance Certificate or a copy of the Tax Verification Pin must accompany the bid documents unless the bidder is registered on the Central Supplier Database or the Municipality has a valid original Tax Clearance Certificate for the bidder there on record. The

onus is on the bidder to ensure that the Municipality has a valid original Tax Clearance Certificate on record. If the South African Revenue Services (SARS) cannot provide a valid original Tax Clearance Certificate; the bidder must submit a letter from SARS on an original SARS letterhead that their tax matters are in order.

- (b) If the bid of the preferred bidder is not supported by a valid original Tax Clearance Certificate or Tax Verification Pin, either as an attachment to the bid documents or on record in the case of suppliers registered on the Central Supplier Database, the Municipality reserves the right to obtain such document, within a time as specified by the Municipality, after the closing date to verify that the bidder's tax matters are in order. If no such document can be obtained, the bid will be disqualified;

#### **14. ACCREDITED PROSPECTIVE PROVIDERS**

- (1) The Supply Chain Management Policy must instruct the accounting officer:
- (a) to keep a list of accredited prospective service providers of goods and services that must be used for the procurement requirements of the municipality or municipal entity through formal written price quotations;
  - (b) at least once a year through newspapers commonly circulating locally, the website of the municipality or municipal entity and any other appropriate ways, to invite prospective providers of goods and services to apply for evaluation and listing as accredited prospective providers;
  - (c) specify the listing criteria for accredited prospective providers; and
  - (d) disallow the listing of any prospective provider whose name appears on the National's Treasury database as a person prohibited from doing business with the public sector.
- (2) The Central Supplier Database is currently utilised for the successful registration and validation of prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1)(b) of the Municipal SCM Regulations.
- (3) The web based Central Supplier Database (CSD) will primarily be used for performing validation functions of key supplier information of suppliers registered as prospective suppliers.
- (4) The CSD supplier number (MAAA) is auto generated by the Central Database System after successful registration and validation of the prospective provider. This number will be used as a

mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1)(b) of the Municipal Supply Chain Management Regulations.

- (5) The CSD will be used to automatically validate the following registration documents:
  - (a) Confirmation and status of Business Registration Documents
  - (b) Proof of Bank Account Registration
  - (c) Tax compliance status
  - (d) Employee in the service of state as defined in the Municipal SCM Regulations with information only available in the PERSAL system at this time, namely National and Provincial officials
  - (e) Identity Documentation
  - (f) Tender defaulters and restrictions status
  
- (6) The following verification is not yet performed by the CSD therefore it will be validated by the municipal SCM unit before the supplier will be considered as a prospective supplier:
  - (a) BBEE Status (not yet available, municipalities are required to continue with their current and existing process)
  - (b) CIDB (not yet available, municipalities are required to continue with their current and existing process)
  - (c) Municipal Account status (not yet available, municipalities are required to continue with their current and existing process)
  
- (7) Should the preferred supplier not be registered on the CSD, the supplier may still be utilised if the comply with the listing criteria for accrediting prospective providers.\

## **15. PETTY CASH PURCHASES**

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

- (a) Only officials duly delegated to authorise quotations and certify invoices for payments may authorise the request for petty cash and authorise the expenditure incurred via a petty cash transaction;

- (b) Each Senior Manager is only allowed a maximum of 15 petty cash transactions per month; and amounts above R200 up to R2,000 will be paid by EFT or cheque either as individual payment or as part of the monthly account payment where the municipality has an account with the vendor;
- (c) No expenditure is excluded from petty cash but deliberate splitting of transactions is not allowed as per section 12; and
- (d) No request for petty cash transactions may be lodged for items that is held as inventory in the municipal stores.
- (e) a monthly reconciliation report from the head expenditure must be provided to the Chief Financial Officer, including:
  - (i) the total amount of petty cash purchases in cash for that month; and
  - (ii) receipts and appropriate documents for each purchase.
  - (iii) the report can be submitted as part of the reimbursement process for petty cash and does not have to be performed on a specific date in the month unless no reimbursement was made in a specific month.

**16. FORMAL WRITTEN PRICE QUOTATIONS (BETWEEN R 2 000.00 AND R 30 000.00)**

- (1) The conditions for the procurement of goods or services through formal written price quotations are as follows:
  - (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers or the Central Supplier Database (CSD);
  - (b) All procurement will be centralised within the Supply Chain Management (SCM) department. User departments must submit their request and detailed specifications to the SCM department , from where SCM will request all quotations.
  - (c) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria.
  - (d) 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;

- (e) offers below R 30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services (including construction works and consultant services) and lowest price.
  - (f) The preferential point system will be applied to procurement greater than R 2 000 and less than R 30 000 (VAT included) unless valid reasons are documented for instances where it is impractical to do so. Awards will be made to the service provider scoring the highest number of points.
  - (g) all reasonable steps must be taken to ensure that the procurement of goods and services (including construction works and consultant services) through written quotations is not abused.
- (2) A designated official referred to in subparagraph (1)(c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that subparagraph.

## **17. PROCEDURE FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS**

- (1) A supply chain management policy must determine the procedure for the procurement of goods or services through formal written price quotations and must stipulate-
- (a) when using either the list of accredited prospective providers or the Central Supplier Database, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - (b) that all requirements in excess of R30 000.00 (VAT included) procured by means of formal written price quotations, must in addition to the requirements of paragraph 17, be advertised for at least seven days with a predetermined closing date and time on the website and an official notice board of the municipality;
  - (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts

- (d) that the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations or 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 formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (f) offers equal to or below R 300 000 (VAT included) must be awarded based on compliance to specification and ability and capability to deliver the goods and services and lowest price;
- (g) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points; and
- (h) proper records must be kept.
- (i) a lockable safe tender box must be kept at the main municipal buildings in which quotations and/or tender or bid documents can be deposited from Monday to Friday, 07h30 to 15h30.

## **18. COMPETITIVE BIDS**

A supply chain management policy must specify -

- a) that goods and services above a transaction value of R 300 000 (VAT Included), in the case of a local municipality; may only be procured by the municipality or municipal entity only through a competitive bidding process, subject to regulation 11(2); and
- b) that no requirement for goods or services above an estimated transaction value of R 300 000 (VAT Included), in the case of a local municipality 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.

## **19. PROCESS FOR COMPETITIVE BIDDING**

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

- (a) Compilation of bidding documentation;

- (b) Public invitation of bids;
- (c) Site meetings or briefing sessions;
- (d) Handling of bids submitted in response to public invitation;
- (e) Evaluation of bids;
- (f) Award of contracts;
- (g) Administration of contracts;
- (j) After approval of a bid, the accounting officer and the bidder must enter into a written agreement;
- (h) Proper record keeping;
  - (i) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes.

## **20. 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 preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
  - (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
  - (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish –
    - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements
      - (aa) for the past three years; or
      - (bb) since their establishment, if established during the past three years;

- (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
- (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
- (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.

## **21. PUBLIC INVITATION FOR COMPETITIVE BIDS**

- (1) The procedure for the invitation of competitive bids is as follows:
  - (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, Prince Albert Municipality's website or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin); and e-Tender.
  - (b) the information contained in a public advertisement must include –
    - i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;
    - ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
    - iii) date, time and venue of any proposed site meetings or briefing sessions;
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30- or 14-days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official process.
- (3) Bids submitted must be sealed.

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

## **22. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS**

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 should be returned unopened immediately.
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders 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; and
  - iii) publish the entries in the register and the bid results on the website.

## **23. NEGOTIATIONS WITH PREFERRED BIDDERS**

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

#### **24. 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.

#### **25. COMMITTEE SYSTEM FOR COMPETITIVE BIDS**

- (1) The Committee system for competitive bids consists of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
  - (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee.
  
- (2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
  
- (3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee only when this is appropriate for ensuring fairness and promoting transparency.
  
- (4) The committee system must be consistent with –
  - (a) Paragraph 28, 29 and 30 of this Policy; and
  - (b) any other applicable legislation.
  
- (5) The accounting officer may apply the committee system to formal written price quotations.

## **26. BID SPECIFICATION COMMITTEES**

- (1) A bid specification committee must compile the specifications (for competitive bidding or any other procurement of a technical nature) for goods or services by the municipality.
- (2) Specifications –
  - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
  - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
  - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
  - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
  - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2022; and;
  - (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of public invitation for competitive bids.
- (3) A bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
- (4) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

## **27. BID EVALUATION COMMITTEES**

- (1) A bid evaluation committee must –

- (a) evaluate bids in accordance with –
    - i) the specifications for a specific procurement; and
    - ii) the points system;
  - (b) evaluate each bidder's ability to execute the contract;
  - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
  - (d) submit to the adjudication committee a report and recommendations regarding the awarding of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of –
- a) officials from departments requiring the goods or services, should it be required; and
  - b) at least one supply chain management practitioner of the municipality.

## **28. BID ADJUDICATION COMMITTEES**

- (1) A bid adjudication committee must consider the report and recommendations of the bid evaluation committee and either –
- (a) make a final award; or
  - (b) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least four (4) senior managers of the municipality, which must include-
- (a) the chief financial officer or, if he/she is not available, another manager in the budget and treasury office, reporting directly to the chief financial officer and designated by him/her; and
  - (b) at least one senior supply chain management practitioner, who is an official of the municipality; and
  - (c) if deemed necessary, a technical expert in the relevant field, who is an official, if such an expert is available.

- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5)
  - (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
    - i) check in respect of the preferred bidder, whether that bidder's municipal taxes and municipal service charges are not in arrears; and
    - ii) notify the accounting officer
  - (b) The accounting officer may –
    - i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
    - ii) if the decision of the bid adjudication committee is rejected, refer the decision 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 the committee for reconsideration of the recommendation.
- (7) The accounting officer must shall, in terms of section 114 of the Act, notify the Auditor-General, the Provincial Treasury and National Treasury within 10 working days where a bid, other than the one recommended in the normal course of implementing this Policy, has been approved.

## **29. PROCUREMENT OF BANKING SERVICES**

- (1) A contract for banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.

- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- (3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22 (1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

### **30. 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
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and Prince Albert Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

### **31. 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.

### **32. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS**

- (1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

### **33. PROUDLY SA CAMPAIGN**

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

- Firstly - suppliers and businesses within the municipality
- Secondly - suppliers and businesses within the province; and
- Thirdly - suppliers and businesses within the Republic.

### **34. APPOINTMENT OF CONSULTANTS**

- (1) A supply chain management policy may allow the Accounting Officer to procure consulting services provided that any Treasury guidelines are taken into account when such procurement is made.
- (2) A contract for the provision of consultancy services to a municipality or municipal entity must be procured through competitive bids if –
  - (a) The value of the contract exceeds R 300 000 (VAT Included), in the case of a local municipality; and
  - (b) The period of the contract exceeds one year.
- (3) 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 Prince Albert Municipality.

**35. DEVIATION FROM, AND RATIFICATION OF, MINOR BREACHES OF PROCUREMENT PROCESSES**

- (1) The accounting officer may –
  - (a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
    - i) in an emergency;
    - ii) if such goods or services are produced or available from a single provider only;
    - iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile; or
    - iv) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
    - v) acquisition of animals for zoos.
  - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must record the reasons for any deviations in terms of subparagraphs (1) (a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11 (2) of this policy.

**36. UNSOLICITED BIDS**

- (1) In accordance with section 113 of the Municipal Finance Management, 2003 (Act 56 of 2003), there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
  - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;

- (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, 2000 (Act 32 of 2000), together with
- (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
- (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing Prince Albert Municipality to the bid may be entered into or signed within 30 days of the submission.

**37. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM**

(1) The accounting officer must–

- (a) take all reasonable steps to prevent abuse of the supply chain management system;
- (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
  - (i) take appropriate steps against such official or other role player; or
  - (ii) report any alleged criminal conduct to the South African 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 Prince Albert 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 of section 29 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004).

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

## **CHAPTER 3 - LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT**

### **38. LOGISTICS MANAGEMENT**

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

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and
- (e) 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;
- (f) 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;
- (g) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (h) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

### **39. DISPOSAL MANAGEMENT**

(1) A supply chain management policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.

(2) A supply chain management policy must—

- (a) specify the ways in which assets may be disposed of, including by—
  - (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  - (iii) selling the asset; or

- (iv) destroying the asset;
  
- (b) stipulate that—
  - (i) immovable property may be sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
  - (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous to the municipality or municipal entity;
  - (iii) in the case of the free disposal of computer equipment, the provincial department of education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment; and
  - (iv) 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;
  
- (3) Letting of Assets:
  - (a) All immovable property is let at market related rates, except when the public interest or the plight of the poor demands otherwise, and unless the relevant provincial treasury determines otherwise or approves the letting of property free of charge.
  
  - (b) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.
  
  - (c) The following process needs to be followed for the letting of immovable property:
    - (i) An item must be submitted to Council to obtain decision in principle to proceed with negotiations and agreement.
    - (ii) A request must be forwarded to Supply Chain Management to advertise a request for proposals (always a competitive process).
    - (iii) All requirements of the Supply Chain regulations will apply inclusive of preferential points and final award by the Supply Chain Committee System.
    - (iv) Contractual requirements need to be drafted and finalized.

#### **40. RISK MANAGEMENT**

- (1) A supply chain management policy must provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
  
- (2) Risk management must include—
  - (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
  - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.
  
- (3) General risk management measures that will be applied by Prince Albert Municipality include the following:
  - (a) Business Plans where applicable will be required for approval prior to the commencement of all projects.
  - (b) Feasibility and/or design reports will be required by the municipality before bid for projects are called.
  - (c) As far as possible tender documents will be specific and detailed.
  - (d) The applicable project standards will be made available for public perusal.
  - (e) Consultants and/or municipal officials will ensure time, cost and quality control while projects are being implemented.
  - (f) Bidders, where applicable, will be required to take public liability insurance to cover the Prince Albert Municipality.
  - (g) Variation orders to projects will require the approval of the municipal manager or a municipal official prior to execution on site.
  
- (4) Additional risk management mechanisms applicable to construction projects are provided for in the contract documentation.

(5) Cession of Payment

To provide an opportunity to service providers who cannot raise the necessary capital to procure services and goods, the municipality may at its discretion, enter into a cession of payment agreement with a service provider once approval has been received from the participating service provider and the Municipal Manager.

**41. PERFORMANCE MANAGEMENT**

(1) A supply chain management policy must provide for an effective internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes are being followed and whether the desired objectives are being achieved.

(2) The head of the municipal department which required the goods or a service in terms of a competitive bidding process must ensure that the goods had been delivered or the service completed according to the Municipality's quality and other requirements as specified in the relevant bid documentation.

(3) In the case of goods and services supplied in response to a quotation invited by the Municipality the head of the client department or section of the Municipality which requested the goods or service must certify on the supplier's invoice that the goods or service had been supplied in accordance with the Municipality's requirements before payment is made.

(4) In the case of goods or services procured through a tender process as specified in terms of paragraph 19 of this Policy, the head or section of the relevant department must within a 30 (thirty) working days of the final delivery of the required work submit a written report to the Head of Supply Chain Management on the performance of the supplier.

(5) The report must state –

(a) whether or not the performance of the supplier was satisfactory in terms of adherence to specifications and delivery or completion schedules, product or service quality and quality of workmanship;

(b) include details, supported by copies of any written notifications regarding service delivery given to the supplier.

(c) include a recommendation on any further action to be taken against the supplier in terms of paragraph 39 of this Policy.

## **CHAPTER 4 - OTHER MATTERS**

### **42. 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 R 15 000 (VAT included) is given to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order.
- (2) Before making an award to a person, a municipality or municipal entity must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within seven days such person's tax matters may for purposes of sub-regulation (1) be presumed to be in order.
- (4) In the event of the bidder being not being tax compliant at date of award:
  - i) Where the recommended bidder is not tax compliant on the date of award, the bidder should be notified of the non-compliant status and be requested to submit written proof of tax compliance from SARS within 7 working days from the date of award.
  - ii) The proof of tax compliance submitted by the bidder must be verified by the Municipality.
  - iii) The Municipality will reject a bid submitted by the bidder if such bidder fails to provide proof of tax compliance within the timeframe as set out in this sub-paragraph.

### **43. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF THE STATE**

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

- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with Prince Albert Municipality.

**44. AWARDS TO CLOSE FAMILY MEMBERS OF PERSONS IN THE SERVICE OF THE STATE**

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R 2 000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

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

**45. ETHICAL STANDARDS**

(1) A code of ethical standards as set out in the “National Treasury’s code of conduct for supply chain management practitioners and other role players”, attached as Annexure 1, is hereby established for officials and other role players in the supply chain management system of Prince Albert Municipality, in order to promote –

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

(2) A breach of the code of ethics must be dealt with as follows –

- (a) in the case of an employee, in terms of the disciplinary procedures of Prince Albert Municipality, envisaged in section 67 (1)(h) of the Municipal Systems Act; and
- (b) in the case of 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.

**46. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS TO THE MUNICIPALITY, 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 reward of a contract; or
- (b) any reward, gift, favour or hospitality to –

- (i) any official; or
  - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R 350 in value.

#### **47. SPONSORSHIPS**

The accounting officer must promptly disclose to the National Treasury and 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.

#### **48. OBJECTIONS AND COMPLAINTS**

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

#### **49. 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 Prince Albert Municipality and any other person(s) 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 person appointed in subparagraph (1) to perform his/her functions effectively.
- (3) The person appointed must –
  - (a) strive to promptly resolve 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 and/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.

#### **50. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER**

- (1) If a service provider acts on behalf of a municipality to provide any service or act as 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) cap on the compensation payable to the service provider; and
  - (b) that such compensation must be performance based.

#### **51. TENDERS TO BE EVALUATED ON FUNCTIONALITY**

- (1) An organ of state must state in the tender documents if the tender will be evaluated on functionality.
- (2) The evaluation criteria for measuring functionality must be objective.

- (3) The tender documents must specify-
  - (a) the evaluation criteria for measuring functionality;
  - (b) the points for each criterion and, if any, each sub-criterion; and the minimum qualifying score for functionality.
  
- (4) The minimum qualifying score for functionality for a tender to be considered further-
  - (a) must be determined separately for each tender; and
  - (b) may not be so-
    - (i) low that it may jeopardise the quality of the required goods or services; or
    - (ii) high that it is unreasonably restrictive.
  
- (5) Points scored for functionality must be rounded off to the nearest two decimal places.
  
- (6) A tender that fails to obtain the minimum qualifying score for functionality as indicated in the tender documents is not an acceptable tender.
  
- (7) Each tender that obtained the minimum qualifying score for functionality must be evaluated further in terms of price and the preference point system and any objective criteria envisaged in regulation 11.

## **52. CANCELLATION OF TENDER**

- (1) An organ of state may, before the award of a tender, cancel a tender invitation if-
  - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
  - (b) funds are no longer available to cover the total envisaged expenditure;
  - (c) no acceptable tender is received; or
  - (d) there is a material irregularity in the tender process.
  
- (2) The decision to cancel a tender invitation in terms of sub-regulation (1) must be published in the same manner in which the original tender invitation was advertised.
  
- (3) An organ of state may only with the prior approval of the relevant treasury cancel a tender invitation for the second time

### **53. CONSTRUCTION INDUSTRY DEVELOPMENT BOARD**

- (1) The Construction Industry Development Board (CIDB) has been established by government to promote the uniform application of policy to the construction industry.
  
- (2) When calling for construction related bids –
  - (a) the same Bid Committee system as for all other bids will be applicable;
  - (b) the prescribed CIDB (uniformity standard bid documents) may be utilised;
  - (c) only Contractors registered with the CIDB may be used;
  - (d) all tenders must be advertised on the CIDB i-tender system
  - (e) consultants used in the procurement process must adhere to the CIDB legislation;
  - (f) consultants used in the procurement process are prohibited to provide goods, works or services related to the project; and subcontract arrangements and joint venture initiatives must be aligned to CIDB guidelines and requirements.
  
- (3) When evaluating construction related bids –
  - (a) the validity of the contractor's registration and grading on the CIDB website must be verified;
  - (b) the contractor's registration will be verified and has to be valid on the day the Bid Evaluation Committee evaluates the bid;
  - (c) the bidder's documents must be assessed against the prescribed CIDB contractor requirements; and
  - (d) calculations for joint venture gradings must be done according to the CIDB prescriptions.
  
- (4) Other matters –
  - (a) all projects approved by the Municipality must be registered with the CIDB;
  - (b) contracts registered on the i-tender systems must be updated and completed;
  - (c) non-performance and non-compliance of contractors must be reported to the CIDB as per the CIDB guidelines; and
  - (d) Sub-contracting arrangements and joint-venture initiatives must be aligned to the CIDB guidelines and requirements.

### **54. ARCHIVE OF BIDDING DOCUMENTS**

- (1) Bidding documents have to be kept in a safe.
  
- (2) The following will be applicable before the destruction of any documents:

- (a) Formal written quotation documents have to be kept for a minimum of five (5) years;
- (b) The documents for tenders that were awarded for a period of less than one (1) year must be kept for a minimum of five (5) years;
- (c) The documents for tenders that were awarded for a period of more than one (1) year must be kept for a minimum of six (6) years or for a period of six (6) years after the completion of the project;
- (d) No documents can be destroyed without the written permission of the relevant director; and
- (e) No documents of successful bidders may be destroyed.

## **55. CONTRACT MANAGEMENT**

- (1) The Accounting Officer must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound. This measure is aimed at avoiding potential litigation and minimizing possible fraud and corruption.
- (2) Such contracts or agreements must be actively managed in order to ensure that both parties (the municipality and the contractors) meet their respective obligations.
- (3) All contracts entered into by the Municipality in the tender process referred to in paragraph 19 of this Policy must –
  - (a) be in writing;
  - (b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for –
    - (i) the termination of the contract or agreement in the case of non- or underperformance;
    - (ii) dispute resolution mechanisms to settle disputes between parties;
    - (iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
    - (iv) any other matter that may be prescribed.
  - (c) include the General Conditions of Contract as prescribed by National Treasury, or the Construction Industry Development Board (CIDB) regulations;
  - (d) specify the duration of the contract;
  - (e) specify the payment terms in respect of the goods or service supplied;

- (f) be monitored by the Directorate of the Municipality which requested the goods or service to ensure that all the contract requirements are met.
  
- (4) Unauthorised deviations or breaches of the contract as in paragraph 41(1)(d) above by the supplier or service provider must be reported to the Manager: Supply Chain Management for initiating appropriate action as well as to enter the details in a register for the recording of such deviations and breaches.
  
- (5) Copies must be made of original signed contracts entered into in the course of the implementation of this Policy and the original document must be forwarded to the SCM Unit for safekeeping or filing in the Documentation Centre of the Municipality together with the bid committee documentation related to the contract.

**56. MANAGEMENT OF EXPANSION OR VARIATION OF ORDERS AGAINST THE ORIGINAL CONTRACT**

- (1) Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.
  
- (2) Anything beyond the abovementioned thresholds in (1) must be reported to council.
  
- (3) Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.
  
- (4) The contents of paragraph (3) are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

**57. CONTRACTS HAVING FUTURE BUDGETARY IMPLICATIONS**

- (1) Section 33(1) of the MFMA prescribes processes that must be followed when a contract will impose financial obligations on the municipality beyond three years.

- (2) Section 33(2) of the MFMA however states that these processes do not apply to contracts in terms of which the financial obligation of the municipality is below a prescribed value, for this Municipality, this value is determined at R2 million per year, VAT included.
- (3) If a bid has been awarded for three years, and the contract period is ending, the award of this bid may be extended for a period of six months and if it needs to be extended for longer, it can only be done with the approval of Council. This extension may only be done in the following instances:
- (a) If a new bid has been invited, but can for some reason not be awarded in time;
  - (b) If practical implementation problems of the new bid occur; or
  - (c) If the nature of the contract ending is as such that it has to be handed over to a new service provider or supplier over a period of time.

**58. PROCEDURES IN THE EVENT OF NON-OR POOR PERFORMANCE OF SERVICE PROVIDERS, CONTRACTORS AND SUPPLIERS**

- (1) Non-performance applicable to service providers and supplier/service providers. These instructions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- (2) Delivery of goods and performance of service contracts:
- (a) Delivery of the goods and performance of services shall be made by the supplier/service provider in accordance with the time schedule prescribed by the Municipality in the contract.
  - (b) If at any time during the performance of the contract, the supplier/service provider or its subcontractor(s) should encounter problems that delays timely delivery of the goods or performance of services, the supplier/service provider shall promptly notify the Municipality in writing of the fact of the delay, its likely duration and its cause(s).
  - (c) If the supplier/service provider or its subcontractor(s) does not notify the Municipality in writing of delays in delivery and goods or performance of services and delivery of the goods or performance of services does not occur as agreed upon, the Municipality shall within 24 hours after the agreed upon delivery period has lapsed:
    - (i) Issue a final notification by registered mail indicating the action to be taken in terms of the contract conditions unless the supplier/service provider complies with the

contract conditions and delivers satisfactory services/supplies within a specified reasonable time.

- (ii) Such time should be decided upon by the Accounting Officer or the Chief Financial Officer and should not be less than seven (7) and not longer than fourteen (14) calendar days.
- (iii) If the supplier/service provider still does not deliver the goods or perform the service despite the final notification, the Municipality may, in addition to any contractual or other remedy, act against the supplier/service provider or elects to exercise the following:
  - (aa) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
  - (bb) Cancel the contract and claim damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation (see (g) for termination);
  - (cc) Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender;
  - (dd) The Chief Financial Officer may restrict the supplier/service provider, its shareholders and directors from obtaining business from the Prince Albert Municipality for a period not exceeding two (2) years (also refer to (g)(6) and (7)) and afford the supplier/service provider, its shareholders and directors twenty-one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000; and
  - (ee) Restrict the supplier/service provider, its shareholders and directors from obtaining business from any organ of state for a period not exceeding ten (10) years (see (g) (6) to (9)).

(d) If the supplier/service provider does NOTIFY the Municipality:

- (i) As soon as practical after receipt of the supplier /service provider's notice, the Municipality shall evaluate the situation and may at its discretion extend the supplier /service provider's time for delivery or performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of the contract.
- (ii) The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier/service

provider's point of supply is not situated at or near the place where the goods are required, or the supplier/service provider's services are not readily available.

- (iii) Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier/service provider's expense and risk, to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier/service provider's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier/service provider.

(e) Force Majeure

- (i) Notwithstanding the provisions of paragraph (f) and (g), the supplier/service provider shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in performance or other failure to perform his obligations under the contract is the result of an event of force majeure.
- (ii) If a force majeure situation arises, the supplier/service provider shall promptly notify the purchaser in writing of such condition and the cause thereof.
- (iii) Unless otherwise directed by the purchaser in writing, the supplier/service provider shall continue to perform its obligations under the contract as far as is reasonably practical, and shall seek all reasonable alternative means for performance not prevented by the force majeure event.
- (iv) Except as provided for Force majeure, a delay by the supplier/service provider in the performance of its delivery obligations shall render the supplier/service provider liable to the imposition of penalties, unless an extension of time is agreed upon.
- (v) "*Force majeure*" means an event beyond the control of the supplier/service provider and not involving the supplier/service provider's fault or negligence and not foreseeable. Such events may include, but is not restricted to, acts of the purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions and freight embargoes.
- (vi) The supplier/service provider shall not be liable for forfeiture of its performance security, damages, or termination for default if and to the extent that his delay in

performance or other failure to perform his obligations under the contract is the result of an event of force majeure.

(f) Penalties:

- (i) If the supplier/service provider fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the Municipality shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance.
- (ii) The penalty clause does not apply in the event of Force majeure.

(g) Termination for default:

- (i) The Municipality, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier/service provider, may terminate this contract in whole or in part:
  - (aa) If the supplier/service provider fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the Municipality pursuant to paragraph (a);
  - (bb) If the supplier/service provider fails to perform any other obligation(s) under the contract; or
  - (cc) If the supplier/service provider, in the judgment of the Municipality, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
  - (dd) In the event that the Municipality terminates the contract in whole or in part, the Municipality may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier/service provider shall be liable to the Municipality for any excess costs for such similar goods, works or services. However, the supplier/service provider shall continue performance of the contract to the extent not terminated.
- (ii) Where the Municipality terminates the contract in whole or in part:

- (aa) The Municipality may decide to impose a restriction penalty on the supplier / service provider by prohibiting such supplier/service provider from doing business with the public sector for a period not exceeding 10 years (see (g) (6) to (9)) or
- (bb) The Chief Financial Officer may restrict the supplier/service provider, its shareholders and directors from obtaining business from the Prince Albert Municipality for a period not exceeding two (2) years (also refer to (g) (6) and (7)) and afford the supplier/service provider, its shareholders and directors twenty-one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000.
- (iii) If a Municipality intends imposing a restriction on a supplier/service provider or any person associated with the supplier/service provider, the supplier/service provider will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier/service provider fail to respond within the stipulated fourteen (14) days the Municipality may regard the supplier/service provider as having no objection and proceed with the restriction.
- (iv) Any restriction imposed on any person by the Municipality will, at the discretion of the Municipality, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Municipality actively associated.
- (v) If a restriction is imposed, the Municipality must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
- (aa) the name and address of the supplier/service provider and / or person restricted by the Municipality;
  - (bb) the date of commencement of the restriction
  - (cc) the period of restriction; and
  - (dd) the reasons for the restriction. These details will be loaded in the National Treasury's central database of supplier/service providers or persons prohibited from doing business with the public sector

(3) If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.

(4) Construction and construction related contracts

(a) Non- or poor performance of professional service providers related to the building and construction industry will be done in accordance with the provisions of the contract documentation.

## **59. SHORT TITLE AND COMMENCEMENT**

This policy is called the Municipal Draft Supply Chain Management Policy, and takes effect on 01 July 2025.

## **60. ANNEXURES**

ANNEXURE A - Code of Conduct for Supply Chain Management Practitioners and other role-players

ANNEXURE B - Code of Conduct for Councillors

ANNEXURE C - Code of Conduct for municipal staff members

ANNEXURE D - Framework for Infrastructure Procurement and Delivery Management

# **PRINCE ALBERT MUNICIPALITY**



## **CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT PRACTITIONERS AND OTHER ROLE PLAYERS**

**LOCAL GOVERNMENT: MUNICIPAL FINANCE  
MANAGEMENT ACT, 2003: Municipal Supply  
Chain Management Regulations**

## **PREAMBLE**

In accordance with regulation 46(4) and 46(5) of the Local Government Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations, the supply chain management policy of a municipality or municipal entity is required to take into account the National Treasury's code of conduct for supply chain management practitioners and other role players. Alternatively, a municipality or municipal entity may adopt the National Treasury code of conduct. When adopted, such code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality or municipal entity.

The purpose of this Code of Conduct is to promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

## **1. GENERAL PRINCIPLES**

- 1.1) The municipality and all municipal entities commit itself to a policy of fair dealing and integrity in the conducting of its business. Officials and other role players involved in supply chain management (SCM) are in a position of trust, implying a duty to act in the public interest. Officials and other role players should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- 1.2) Officials and other role players involved in SCM should ensure that they perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines. They should ensure that public resources are administered responsibly.
- 1.3) Officials and other role players involved in SCM should be fair and impartial in the performance of their functions. They should at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual. They should not abuse the power and authority vested in them.

## **2. CONFLICT OF INTEREST**

An official or other role player involved with supply chain management –

- (a) must treat all providers and potential providers equitably;
- (b) may not use his or her position for private gain or to improperly benefit another person;
- (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;

- (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the municipality and all municipal entities;
- (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
- (g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

### **3. ACCOUNTABILITY**

- 3.1) Practitioners are accountable for their decisions and actions to the public.
- 3.2) Practitioners should use public property scrupulously.
- 3.3) Only accounting officers or their delegates have the authority to commit the municipality and all municipal entities to any transaction for the procurement of goods and / or services.
- 3.4) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 3.5) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 3.6) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including;
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;

(ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and

(iii) any alleged breach of this code of conduct.

3.7) Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor and /or the board of directors in case of a municipal entity who must ensure that such declaration is recorded in the register.

#### **4. OPENNESS**

4.1) Practitioners should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only if it is in the public interest to do so.

#### **5. CONFIDENTIALITY**

5.1) Any information that is the property of the municipality and /or the municipal entity or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractors' personal rights.

5.2) Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

#### **6. BID SPECIFICATION / EVALUATION / ADJUDICATION COMMITTEES**

6.1) Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the municipality and /or the municipal entity in an honest, fair, impartial, transparent, cost-effective and accountable manner.

- 6.2) Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- 6.3) All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 6.4) No person should-
  - a) interfere with the supply chain management system of the municipality and /or the municipal entity; or
  - b) amend or tamper with any price quotation / bid after its submission.

## **7. COMBATIVE PRACTICES**

- 7.1) Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
  - (i) Suggestions to fictitious lower quotations;
  - (ii) Reference to non-existent competition;
  - (iii) Exploiting errors in price quotations / bids;
  - (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

# **PRINCE ALBERT MUNICIPALITY**



## **CODE OF CONDUCT FOR COUNCILLORS**

### **LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT 32 OF 2000**

#### **Schedule 1**

## **PREAMBLE**

Councillors are elected to represent local communities on municipal councils, to ensure that municipalities have structured mechanisms of accountability to local communities, and to meet the priority needs of communities by providing services equitably, effectively and sustainably within the means of the municipality.

In fulfilling this role councillors must be accountable to local communities and report back at least quarterly to constituencies on council matters, including the performance of the municipality in terms of established indicators. In order to ensure that councillors fulfil their obligations to their communities, and support the achievement by the municipality of its objectives set out in section 19 of the Act, the following Code of Conduct is established.

**1. GENERAL CONDUCT**

In this Schedule "**partner**" means a person who permanently lives with another person in a manner as if married.

**2. GENERAL CONDUCT OF COUNCILLORS**

A councillor must –

- (a) perform the functions of office in good faith, honestly and a transparent manner;  
and
- (b) at all times act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised.

**3. VOTING AT MEETINGS**

A councillor may not vote in favour of or agree to a resolution which is before the council or a committee of the council, which conflicts with any legislation applicable to local government.

**4. ATTENDANCE AT MEETINGS**

A councillor must attend each meeting of the municipal council and of a committee of which that councillor is a member, except when-

- (a) leave of absence is granted in terms of an applicable law or as determined by the rules and orders of the council; or
- (b) that councillor is required in terms of this Code to withdraw from the meeting.

**5. SANCTIONS FOR NON-ATTENDANCE OF MEETINGS**

(1) A municipal council may impose a fine as determined by the standing rules and orders of the municipal council on a councillor for-

- (a) not attending a meeting which that councillor is required to attend in terms of item 4; or
- (b) failing to remain in attendance at such a meeting

(2) A councillor who is absent from three or more consecutive meetings of a municipal council, or from three or more consecutive meetings of a committee, which that councillor is required to attend in terms of item 4, must be removed from office as a councillor.

(3) (a) Proceedings for the imposition of a fine or the removal of a councillor must be conducted in accordance with a uniform standing procedure which each municipal council must adopt for the purposes of this item.

(c) The uniform standing procedure must comply with the rules of natural justice.

## **6. DISCLOSURE OF INTERESTS**

(1) A councillor must-

(a) disclose to the municipal council, or to any committee of which that councillor is a member, any direct or indirect personal or private business interest that that councillor, or any spouse, partner or business associate of that councillor may have in any matter before the council or the committee; and

(b) withdraw from the proceedings of the council or committee when that matter is considered by the council or committee, unless the council or committee decides that the councillor's direct or indirect interest in the matter is trivial or irrelevant.

(2) A councillor who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose full particulars of the benefit of which the councillor is aware at the first meeting of the municipal council.

(3) This section does not apply to an interest or benefit which a councillor, or a spouse, partner, business associate or close family member, has or acquires in common with other residents of the municipality.

## **7. PERSONAL GAIN**

- (1) A councillor may not use the position or privileges of a councillor, or confidential information obtained as a councillor, for private gain or to improperly benefit another person.
- (2) No councillor may be a party to or beneficiary under a contract for the provision of goods or services to any municipality or any municipal entity established by a municipality.

## **8. DECLARATION OF INTERESTS**

- (1) When elected or appointed, a councillor must within 60 days declare in writing to the municipal manager the following financial interests held by that councillor:
  - (a) Shares and securities in any company;
  - (b) membership of any close corporation;
  - (c) interest in any trust;
  - (d) directorships;
  - (e) partnerships;
  - (f) other financial interests in any business undertaking;
  - (g) employment and remuneration;
  - (h) interest in property;
  - (i) pension; and
  - (j) subsidies, grants and sponsorships by any organisation.
- (2) Any change in the nature or detail of the financial interests of a councillor must be declared in writing to the municipal manager annually.
- (3) Gifts received by a councillor above a prescribed amount must also be declared in accordance with subitem (1).
- (4) The municipal council must determine which of the financial interests referred in subitem (1) must be made public having regard to the need for confidentiality and the public interest for disclosure.

## **9. FULL-TIME COUNCILLORS**

A councillor who is a full-time councillor may not undertake any other paid work except with the consent of a municipal council which consent shall not unreasonably be withheld.

## **10. REWARDS, GIFTS AND FAVOURS**

A councillor may not request, solicit or accept any reward, gift or favour for-

- (a) voting or not voting in a particular manner on any matter before the municipal council or before a committee of which that councillor is a member;
- (b) persuading the council or any committee in regard to the exercise of any power, function or duty;
- (c) making a representation to the council or any committee of the council; or
- (d) disclosing privileged or confidential information.

## **11. UNAUTHORISED DISCLOSURE OF INFORMATION**

(1) A councillor may not, without the permission of the municipal council or a committee, disclose any privileged or confidential information of the council or committee to any unauthorised person.

(2) For the purpose of this item 'privileged or confidential information' includes any information-

- (a) determined by the municipal council or committee to be privileged or confidential;
- (b) discussed in closed session by the council or committee;
- (c) disclosure of which would violate a person's right to privacy; or
- (d) declared to be privileged, confidential or secret in terms of law.

(3) This item does not derogate from the right of any person to access to information in terms of national legislation.

## **12. INTERFERENCE IN ADMINISTRATION**

A councillor may not, except as provided by law-

- (a) interfere in the management or administration of any department of the municipal council, unless mandated by the council;
- (b) give or purport to give any instruction to any employee of the council, except when authorised to do so;
- (c) obstruct or attempt to obstruct the implementation of any decision of the council or a committee by an employee of the council; or
- (d) encourage or participate in any conduct which would cause or contribute to maladministration in the council.

## **13. MUNICIPAL PROPERTY**

A councillor may not use, take, acquire or benefit from any property or asset owned, controlled or managed by the municipality to which that councillor has no right.

## **14. COUNCILLOR IN ARREARS**

A councillor may not be in arrears to the municipality for rates and service charges for a period longer than three months.

## **15. BREACHES OF CODE**

(1) If the speaker of a municipal council, on reasonable suspicion, is of the opinion that a provision of this Code has been breached, the speaker must-

- (a) authorise an investigation of the facts and circumstances of the alleged breach;
- (b) give the councillor a reasonable opportunity to reply in writing regarding the alleged breach; and
- (c) report the matter to a meeting of the municipal council after paragraphs (a) and (b) have been complied with.

(2) A report in terms of subitem (1) (c) is open to the public.

(3) The speaker must report the outcome of the investigation to the MEC for local government in the province concerned.

- (4) The speaker must ensure that each councillor, when taking office, is given a copy of this Code and that a copy of the Code is available in every room or place where the council meets.
- (5) If the speaker of council is the alleged perpetrator, or the speaker refuses to authorise an investigation, the council must establish a special committee, as contemplated in Item 16 (1) (b), to investigate and make a finding on any alleged breach of this Code.

## **16. INVESTIGATION OF BREACH**

- (1) A municipal council may-
  - (a) investigate and make a finding on any alleged breach of a provision of this Code;  
or
  - (b) establish a special committee-
    - (i) to investigate and make a finding on any alleged breach of this Code; and
    - (ii) to make appropriate recommendations to the council.
- (2) If the council or a special committee finds that a councillor has breached a provision of this Code, the council may-
  - (a) issue a formal warning to the councillor;
  - (b) reprimand the councillor;
  - (c) request the MEC for local government in the province to suspend the councillor for a certain period;
  - (d) fine the councillor; or
  - (e) request the MEC to remove the councillor from office.
- (3) The speaker must inform the MEC for local government in the province concerned within 14 days of the finding and sanction decided on by the council.
- (4) (a) Any councillor who has been warned, reprimanded or fined in terms of paragraph (a), (b) or (d) of subitem (2) may within 14 days of having been notified of the decision of council appeal to the MEC for local government in writing setting out the reasons on which the appeal is based.

(b) A copy of the appeal must be provided to the council by the MEC.

(c) The council may within 14 days of receipt of the appeal referred to in paragraph make any representation pertaining to the appeal to the MEC for local government in writing.

ANNEXURE C

# **PRINCE ALBERT MUNICIPALITY**



## **CODE OF CONDUCT FOR MUNICIPAL STAFF MEMBERS**

**LOCAL GOVERNMENT: MUNICIPAL  
SYSTEMS ACT 32 OF 2000**

## **1. DEFINITIONS**

In this Schedule “**partner**” means a person who permanently lives with another person in a manner as if married.

## **2. GENERAL CONDUCT**

A staff member of a municipality must at all times –

- (a) loyally execute the lawful policies of the municipal Council;
- (b) perform the functions of office in good faith, diligently, honestly and in a transparent manner;
- (c) act in such a way that the spirit, purport and objects of section 50 are promoted;
- (d) act in the best interest of the municipality and in such a way that the credibility and integrity of the municipality are not compromised; and
- (e) act impartially and treat all people, including other staff members, equally without favour or prejudice.

## **3. COMMITMENT TO SERVING THE PUBLIC INTEREST**

A staff member of a municipality is a public servant in a developmental local system, and must accordingly –

- (a) implement the provisions of section 50(2);
- (b) foster a culture of commitment to serving the public and a collective sense of responsibility for performance in terms of standards and targets;
- (c) promote and seek to implement the basic values and principles of public administration described in section 195(1) of the Constitution;
- (d) obtain copies of or information about the municipality’s integrated development plan, and as far as possible within the ambit of the staff member’s job description, seek to implement the objectives set out in the integrated development plan, and achieve the performance targets set for each performance indicator;
- (e) participate in the overall performance management system for the municipality, as well as the staff member’s individual performance appraisal and reward system, if such exists, in order to maximise the ability of the municipality as a whole to achieve its objectives and improve the quality of life of its residents.

#### **4. PERSONAL GAIN**

- (1) A staff member of a municipality may not –
  - (a) use the position or privileges of a staff member, or confidential information obtained as a staff member, for private gain or to improperly benefit another person; or
  - (b) take a decision on behalf of the municipality concerning a matter in which that staff member, or that staff member's spouse, partner or business associate, has a direct or indirect personal or private business interest.
  
- (2) Except with the prior consent of the Council of a municipality a staff member of the municipality may not -
  - (a) be a party to a contract for –
    - (i) the provision of goods or services to the municipality; or
    - (ii) the performance of any work for the municipality otherwise than as a staff member;
  - (b) obtain a financial interest in any business of the municipality; or
  - (c) be engaged in any business, trade or profession other than the work of the municipality.

#### **5. DISCLOSURE OF BENEFITS**

- (1) A staff member of a municipality who, or whose spouse, partner, business associate or close family member, acquired or stands to acquire any direct benefit from a contract concluded with the municipality, must disclose in writing full particulars of the benefit to the Council.
- (2) This item does not apply to a benefit which a staff member, or a spouse, partner, business associate or close family member, has or acquires in common with all other residents of the municipality.

## **6. UNAUTHORISED DISCLOSURE OF INFORMATION**

- (1) A staff member of a municipality may not without permission disclose any privileged or confidential information obtained as a staff member of the municipality to an unauthorised person.
- (2) For the purpose of this item “privileged or confidential information” includes any information –
  - (a) determined by the municipal Council or any structure or functionary of the municipality to be privileged or confidential;
  - (b) discussed in closed session by the Council or a committee of the Council;
  - (c) disclosure of which would violate a person’s right to privacy; or
  - (d) declared to be privileged, confidential or secret in terms of any law.
- (3) This item does not derogate from a person’s right of access to information in terms of national legislation.

## **7. UNDUE INFLUENCE**

A staff member of a municipality may not –

- (a) unduly influence or attempt to influence the council of the municipality or a structure or functionary of the council, or a council or, with a view to obtaining any appointment, promotion, privilege, advantage or benefit, or for a family member, friend or associate;
- (b) mislead or attempt to mislead the council, or a structure or functionary of the council, in its consideration of any matter; or
- (c) be involved in a business venture with a councillor without the prior written consent of the council of the municipality.

## **8. REWARDS, GIFTS AND FAVOURS**

- (1) A staff member of a municipality may not request, solicit or accept any reward, gift or favour for –
  - (a) persuading the council of the municipality, or any structure or functionary of the council, with regard to the exercise of any power or the performance of any duty;

- (b) making a representation to the council, or any structure or functionary of the council;
- (c) disclosing any privileged or confidential information; or
- (d) doing or not doing anything within that staff member's powers or duties.

(2) A staff member must without delay report to a superior official or to the speaker of the council any offer which, if accepted by the staff member, would constitute a breach of sub item (1).

#### **9. COUNCIL PROPERTY**

A staff member of a municipality may not use, take, acquire, or benefit from any property of asset owned, controlled or managed by the municipality to which that staff member has no right.

#### **10. PAYMENT OF ARREARS**

A staff member of a municipality may not be in arrears to the municipality for rates and service charges for a period longer than 3 months, and a municipality may deduct any outstanding amounts from a staff member's salary after this period.

#### **11. PARTICIPATION IN ELECTIONS**

A staff member of a municipality may not participate in an election of the council of the municipality, other than in an official capacity or pursuant to any constitutional right.

#### **12. SEXUAL HARASSMENT**

A staff member of a municipality may not embark on any action amounting to sexual harassment.

#### **13. REPORTING DUTY OF STAFF MEMBERS**

Whenever a staff member of a municipality has reasonable grounds for believing that there has been a breach of this Code, the staff member must without delay report the matter to a superior officer or to the speaker of the council.

#### **14. BREACHES OF CODE**

Breaches of this Code must be dealt with in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of this Act.

**ANNEXURE D**

**PRINCE ALBERT MUNICIPALITY**



**SUPPLY CHAIN MANAGEMENT POLICY FOR  
INFRASTRUCTURE PROCUREMENT AND DELIVERY  
MANAGEMENT**

**LOCAL GOVERNMENT: MUNICIPAL FINANCE  
MANAGEMENT ACT, 2003**

**Draft Policy**

## **PREAMBLE**

The Council resolves in terms of section 168 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), in reference to SCM Regulation 3(2), this Policy prescribes the standards and gateways system requirements and principles which municipalities must adhere to when procuring infrastructure related services linking to CIDB and ISO standards and ethos, therefore to adopt the following proposal as the SCM Policy for Infrastructure Procurement and Delivery Management of the Prince Albert Municipality.

# Prince Albert Municipality's SCM Policy for Infrastructure Procurement and Delivery Management

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## 1 Scope

This policy establishes the Prince Albert Municipality's policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It 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 P r i n c e A l b e r t M u n i c i p a l i t y 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 Terms and definitions

For the purposes of this document, the definitions and terms given in the standard and the following apply:

**agent:** person or organization that is not an employee of the Prince Albert Municipality that acts on the Prince Albert Municipality's behalf in the application of this document

**authorised person:** the municipal manager or chief executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

**conflict of interest:** any situation in which:

- a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,
- b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or
- c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

**contract manager:** person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view

**family member:** a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

**framework agreement:** an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

**gate:** a control point at the end of a process where a decision is required before proceeding to the next process or activity

**gateway review:** an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based

**gratification:** an inducement to perform an improper act

**infrastructure delivery:** the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**infrastructure procurement:** the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**maintenance:** the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

**operation:** combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

**order:** an instruction to provide goods, services or any combination thereof under a framework agreement

**organ of state:** an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

**procurement document:** documentation used to initiate or conclude (or both) a contract or the issuing of an order

**principal:** a natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

**standard:** the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

**working day:** any day of a week on which is not a Sunday, Saturday or public holiday

## 2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

## 3 General requirements

### 3.1 Delegations

**3.1.1 The Council of Prince Albert 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 or 10 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 document; 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 Prince Albert 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 the Prince Albert Municipality;
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council of Prince Albert Municipality;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the e policy to the mayor; 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 the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.

Any deviation to the provisions of this standard must be reported to National Treasury and the relevant treasury.

**3.2.2** Pre-feasibility and feasibility reports are required as end – of – stage deliverables for stages 3 and 4, respectively, where one or more of the following applies:

- a) The major capital projects is required for:
  - 1) a major public enterprise where the total expenditure exceeds R 1.5 billion, or
  - 2) an organ of state to the Municipal Finance Management Act other than a major public enterprise where the total project capital expenditure exceeds R1.0 billion including VAT, or where the expenditure per year for a minimum of three years exceeds R 250 million per annum including VAT;
- b) the project is not:
  - 1) a building project with or without related site works; or
  - 2) a process – based , somewhat repetitive or relatively standardised project where the risk of failing to achieve time , cost and quality objectives is relatively low;

**3.2.3** Stage 3 to 9 are required for where the works does not involve the provision of new infrastructure or the rehabilitation, refurbishment, alteration of existing infrastructure. Stages 5 and 6 to be omitted where there is sufficient information to proceed to stage 7 is contained in the stage 4 deliverable.

## **3.3 Supervision of the infrastructure delivery management unit**

The Infrastructure Delivery Management Unit shall be directly supervised by the chief financial officer / person delegated in terms of section 82 of the MFMA.

## **3.4 Objections and complaints**

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 municipal manager 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 Prince Albert Municipality and other persons regarding:

- a) any decisions or actions taken in the implementation of the supply chain management system;
- b) any matter arising from a contract awarded within the Prince Albert Municipality's infrastructure delivery management system; or
- c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

**3.5.2** The Senior SCMM manager or the relevant Department 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 Western Cape 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 Western Cape 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**

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

### **4.2 Additional gates**

Additional gates may be added only on approval by the municipal manager.

### **4.3 Additional requirements**

Additional requirements may be added only on approval by the municipal manager as the need arises.

### **4.4 Gateway reviews**

#### **4.4.1 Gateway reviews for major capital projects above R 50 million (VAT inclusive)**

**4.4.1.1** 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 above R 50 million (VAT inclusive) for review of the stages 1 to 4 deliverable prior to acceptance of the deliverable;

**4.4.1.2** The review teams shall comprise of not less than three persons who are not involved in the project associated with the works covered by the end of the stage 4 deliverable, and who are

familiar with the various aspects of the subject matter of the deliverable at the end of the stage under review.

**4.4.1.3** The review team shall be led by a person who has at least six years post-graduate experience in the planning of infrastructure projects and is registered either as a professional engineer in terms of the Engineering Profession Act, a professional quantity surveyor in terms of the Quantity Surveying Profession Act or a professional architect in terms of the Architectural Profession Act. The members of the team shall, as relevant, have expertise in key technical areas, cost estimating, scheduling and implementation of similar projects.

**4.4.1.4** The relevant treasury may nominate additional persons to serve on the review team.

**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	Relevant Director accepts the initiation report:
1	Infrastructure planning	Council / Municipal Manager approves the infrastructure plan
2	Strategic resourcing	Municipal Manager and the relevant Director approves the delivery and / or procurement strategy
3	Pre-feasibility	Director Technical Services and responsible division accepts the pre-feasibility report
	Preparation and briefing	Director Technical Services and responsible division accepts the strategic brief
4	Feasibility	Municipal Manager and the relevant Director accepts the feasibility report
	Concept and viability	Director Technical Services and responsible division accepts the concept report
5	Design development	Relevant Senior Manager (professional) accepts the design development report.
6	Design documentation	6A Production information Relevant Senior Manager (professional) accepts the parts of the production information which are identified when the design development report is accepted as requiring acceptance.
		6B Manufacture, fabrication and construction information The project 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 owner or end user accepts liability for the works.
9	Package completion / Close out	The project manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract. The project manager certifies final completion in accordance with the provisions of the contract. Project 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) Procurement documentation committee 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 tender committee may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard.

**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**

The committee system will be assumed to be same committees as the current supply chain management committees. Members, functions and reporting to be the same as in current/existing supply chain management committees.

**6.1.1.1.1** A committee system comprising the documentation committee, evaluation committee and tender 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 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 appointed 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 procurement documentation, evaluation or tender 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 Procurement 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; and
- b) the members of the procurement documentation committee.

**6.1.1.2.2** The procurement documentation committee shall comprise one or more persons. The chairperson shall be an employee of Prince Albert Municipality with requisite skills. Other members shall, where relevant, include a representative of the end user or the department requiring infrastructure delivery.

**6.1.1.2.3** 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 <b>PG1</b>	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.	Relevant Director
2*	Decide on procurement strategy	2.5 <b>PG2</b>	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	SCM Manager in consultation with the MM, CFO and relevant Director
3	Solicit tender offers	3.2 <b>PG3</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Procurement documentation committee
		3.3 <b>PG4</b>	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	Relevant Director / CFO
4	Evaluate tender offers	4.2 <b>PG5</b>	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	Evaluation committee
		4.7 <b>PG6</b>	Confirm recommendations contained in the tender evaluation report	Review recommendations of the evaluation committee and refer back to evaluation committee for reconsideration or make recommendation for award (below R 10 m – Tender Committee and above R 10 m the Municipal Manager)	Tender committee (below and R10 mil) Municipal Manager (above R10 mil)
5	Award contract	5.3 <b>PG7</b>	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	Tender committee / Municipal Manager
		5.5 <b>GF1</b>	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	SCM Clerks

**Table 2 (concluded)**

Activity		Sub-Activity		Key action	Person assigned responsibility to perform key action
6	Administer contracts and confirm compliance with requirements	6.4 <b>PG8A</b>	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	Municipal Manager
		6.5 <b>PG8B</b>	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	Municipal Manager
		6.6 <b>PG8C</b>	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage	Approve amount of time and cost overruns up to the threshold	<i>0-20% CFO or Municipal Manager with proper motivation from the relevant Director</i>
		6.7 <b>PG8D</b>	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a contract or the issuing of an order by more than 15% and up to 20%, respectively	Approve amount of time and cost overruns above a the threshold (15% up to 20%)	<i>0-20% CFO or Municipal Manager with proper motivation from the relevant Director</i>
		6.8 <b>PG8E</b>	Obtain approval to cancel or terminate a contract	Approve amount	Recommended by the Tender Committee for approval by Municipal Manger
		6.9 <b>PG8F</b>	Obtain approval to amend a contract	Approve proposed amendment to contract	Recommended by the Tender Committee for approval by Municipal Manger

**Table 3: Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework agreement**

Activity		Key action	Person assigned responsibility to perform key action
1 <b>FG1</b>	Confirm justifiable reasons for selecting a framework contactor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	Municipal Manager or relevant Director
3 <b>FG2</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Procurement documentation committee
4 <b>FG3</b>	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	Relevant Director in conjunction with the BTO or CFO
6 <b>FG4</b>	Authorise the issuing of the order	If applicable, review evaluation report and confirm or reject recommendations. Formally accept the offer in writing and issue the contractor with a signed copy of the order	Relevant Director

### **6.1.1.3 Evaluation committee**

**6.1.1.3.1** The municipal manager shall appoint on a procurement by procurement basis in writing:

- a) 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
- b) the members of the evaluation committee.

**6.1.1.3.2** The evaluation committee shall comprise not less than three people. The chairperson shall be an employee of Prince Albert Municipality with requisite skills. Other members shall include a supply chain management practitioner <sup>and</sup>, where relevant, include an official from the department requiring infrastructure delivery.

**6.1.1.3.3** The 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:

- a) the capability and capacity of a tenderer to perform the contract;
- b) the tenderer's tax and municipal rates and taxes compliance status;
- c) 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 procurement documentation committee or a family member or associate of such a member, may be considered by the evaluation committee.

**6.1.1.3.5** The chairperson of the 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 Tender committee**

**6.1.1.4.1** The tender committee shall comprise the following persons or their mandated delegate:

- a) CFO who shall be the chairperson;
- b) Director Technical Services
- c) Director: Corporate Services and Administration
- d) Senior Manager: Supply Chain Management
- e) Senior Manager: Human Resources

**6.1.1.4.2** 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.

**6.1.1.4.3** The tender committee shall:

- a) consider the report and recommendations of the 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 authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

**6.1.1.4.4** The tender 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.

**6.1.1.4.5** The tender committee shall consider the merits of an unsolicited offer and make a recommendation to the municipal manager;

**6.1.1.4.6** The tender committee shall report to the municipal manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.

**6.1.1.4.7** The tender 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.

**6.1.1.4.8** The tender 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 Western Cape 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**

### **6.1.2.1 Award of a contract**

**6.1.2.1** The authorised person shall, if the value of the contract inclusive of VAT is within his or her delegation, consider the report(s) and recommendations of the tender committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the relevant Director, 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.

**6.1.2.2** The authorised person shall immediately notify the municipal manager 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 Western Cape Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

### **6.1.2.3 Issuing of an order**

The authorised person 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 evaluation committee or the relevant Director 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**

#### **6.1.3.1 General requirements**

**6.1.3.1.1** All personnel and agents of Prince Albert Municipality shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement.

They shall:

- 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 Prince Albert 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) be 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 Prince Albert 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
- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

**6.1.3.1.2** 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 Prince Albert 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 the Prince Albert 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 Prince Albert Municipality's proprietary information.

**6.1.3.2.2** The employees and agents of Prince Albert 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.

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

- a) Prince Albert 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 procurement 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 Prince Albert 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 Prince Albert Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

**6.1.3.3.3 Prince Albert** Municipality's 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**

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

**6.1.3.5 Gratifications, hospitality and gifts**

**6.1.3.5.1** The employees and agents of Prince Albert 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 Prince Albert 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 Prince Albert 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 Prince Albert 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, paper-knives, 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; and

- e) gifts in kind other than those listed in a) to d) which have an intrinsic value greater than R350 unless they have declared them to the municipal manager.

**6.1.3.5.5** 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.

**6.1.3.5.6** Employees and agents of Prince Albert Municipality shall without delay report to the municipal manager or chief financial officer 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**

Employees and agents of Prince Albert Municipality shall promptly report to the municipal manager or chief financial officer 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**

The municipal manager or chief financial officer 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 Western Cape 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 is considered to have been breached;
- d) cancel a contract if:
  - 1) 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
  - 2) 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) an executive 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 P r i n c e A l b e r t M u n i c i p a l i t y 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**

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 restrictions**

**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 Prince Albert 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 Prince Albert Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

The relevant Director shall prepare a report on the matter and make a recommendation to the municipal manager for placing the c o n t r a c t o r or any of its principals under restrictions from doing business with the Prince Albert Municipality.

**6.1.7.2** 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 Prince Albert Municipality for a period of time.

**6.1.7.3** The Senior Supply Chain Manager shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Prince Albert Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and Western Cape 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 the Prince Albert Municipality's infrastructure delivery management system shall be addressed to the municipal manager. Such complaints shall be in writing.

**6.1.8.2** The relevant Director 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**

**6.2.1.1** The Prince Albert 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 Prince Albert 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 normal tender processes 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 tender 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 Prince Albert Municipality and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice;

- b) the Prince Albert Municipality has obtained comments and recommendations on the offer from the National Treasury and the Western Cape Provincial Treasury;
- c) the tender 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 Western Cape 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 Western Cape 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**

### **6.2.2.1 SARS tax clearance**

**6.2.2.1.1** No contract may be awarded or an order issued where the value of such transaction exceeds R 30 000, 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.

If the bidders applied for a Tax Clearance Certificate after 18 April 2016, than the bidder should provide the PIN that can be shared with third parties to enable third parties to verify or confirm the tax compliance status of the bidder to whom the PIN belongs.

The onus is on the bidder to ensure that their tax status is compliant at SARS.

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

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

**6.2.2.1.4** Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply, unless a person who is not tax compliant indicates to chief financial officer that it intends challenging its tax compliance status with SARS,

- a) a contract may be awarded to a non-compliant tenderer if such a tenderer is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- b) an order may be awarded to a non-compliant contractor if such a contractor is able to remedy its tax compliance status within a period not exceeding 10 working days after being duly notified of its non-compliant status;
- c) 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;
- d) 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;
- e) 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.

**6.2.2.1.5** The Prince Albert 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 6.2.2.1.4 e).

### **6.2.2.2 Municipal rates and taxes**

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.

### **6.2.3 Declarations of interest**

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 the Prince Albert 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**

**6.2.4.1** 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 the Prince Albert Municipality's website and on the National Treasury eTender Publication Portal. Advertisements shall be placed by the Supply Chain Management Unit.

**6.2.4.2** 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 are advertised on the CIDB website. Advertisements shall be placed by the Supply Chain Management Unit.

**6.2.4.3** Where deemed appropriate by Prince Albert Municipality 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 Supply Chain Management Unit.

**6.2.4.4** Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the municipal manager.

**6.2.4.5** 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**

**6.2.5.1** The Supply Chain Management Unit 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.

**6.2.5.2** The Supply Chain Management Unit shall publish within 7 working days of the award of a contract the following on the Prince Albert 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.

**6.2.5.3** The Supply Chain Management Unit shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders. Submissions shall be made by Supply Chain Management Unit.

**6.2.5.4** 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 and placed by Supply Chain Management Unit.

**6.2.6 Disposal committee**

**6.2.6.1** The municipal manager shall appoint on a disposal by disposal basis 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.

**6.2.6.2** The disposal panel shall comprise not less than three people. The chairperson shall be an employee of Prince Albert Municipality.

**6.2.6.3** The disposal committee shall make recommendations to municipal manager who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration, deciding not to proceed or to start afresh with the process.

**6.3 Reporting of infrastructure delivery management information**

The Senior Supply Chain Manager shall submit any reports required in terms of the standard to the National Treasury or Western Cape Provincial Treasury.

**6.3.1** The Supply Chain Management Unit shall report to the relevant treasury within one month of the award of a contract or the issuing of an order, all engineering and construction, supply, service and professional service contracts that are awarded , or orders that are issued, should the total of prices including VAT exceed the following thresholds;

Value of contract or order including VAT			
Services contract	Professional services	Supply	Engineering and construction works
R 25 million	R 25 million	R 50 million	R 50 million

**7 Infrastructure procurement**

**7.1 Usage of procurement procedures**

The Prince Albert Municipality shall use all applicable Supply Chain Management / procurement administrative and compliance procedures that may be applicable to infrastructure procurement and delivery management.

## **7.2 Procurement documents**

**7.2.1** The forms of contract that may be used are as follows:

Applicable contracts listed in Table 10 of Standard for Infrastructure Procurement and Delivery Management (SIPDM) may be made use of.

**7.2.2** The Prince Albert 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 relevant Director prior to being issued for tender purposes.

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

**7.2.4** Additional requirement not stated or included in the standard templates, if any must be added; e.g. use of standard access specifications and health, safety specifications, etc.

**7.2.5** 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 m including VAT.

## **7.3 Developmental procurement policy**

If the contract qualifies for any goals that have been set in Prince Albert Municipality's approved Integrated Development Plan (IDP), it must be stated upfront in the specifications for that specific contract.

## **7.4 Payment of contractors**

The Prince Albert Municipality shall settle all 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 or Evaluation Committee shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) Municipal Manager or Evaluation Committee 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 proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure.

**7.5.2** The municipal manager must nominate and authorise person to pursue a negotiated procedure in an emergency.

## **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 remain locked at all times and the keys shall be under control of the Archive Department. 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 Chief financial officer 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 open the tender box at the stipulated closing time and:

- a) 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;
- b) return submissions unopened and suitably annotated where:
  - 1) submissions are received late, unless otherwise permitted in terms of the submission data;
  - 2) submissions were submitted by a method other than the stated method,
  - 3) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and
  - 4) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;
- d) 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;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) 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 7.7.3 h).

**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**

The Prince Albert 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. The municipal manager shall make the necessary application to that organ of state to do so.

**7.9 Insurances**

**7.9.1** 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 Chief financial officer.

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

**Table 4: Minimum insurance cover**

Type of 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 the Contractor) caused by activity in connection with a contract	Not less than R20 million
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 Chief financial officer.

**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.

**7.9.5** 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 Chief financial officer in relation to the nature of the service that they provide.

**7.9.6 Prince Albert** 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.

**7.9.7** Where payment is to be made in multiple currencies, either the contractor or Prince Albert 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 shall be provided by a the relevant Director

**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, 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*;

as to why a tenderer was not considered for the award of a contract or not awarded a contract.

**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 the Prince Albert 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 Prince Albert Municipality.

**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.