MUSINA LOCAL MUNICIPALITY

DRAFT SUPPLY CHAIN MANAGEMENT POLICY – LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003.

MUSINA LOCAL MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003

Date of adoption: [12 June 2021]

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

THIS POLICY CONSISTS OF TWO PARTS:

Part A is the **Supply Chain Management Policy,** adopted in terms of section 111 of the Local Government: Municipal Finance Management Act, No. 56 of 2003 and the Municipal Supply Chain Management Regulations, Notice 868 of 30 May 2005;

Part B is the **Model Policy for Infrastructure Management,** adopted in terms of section 168 of the Municipal Finance Management Act, No. 56 of 2003 in support of Regulation 3(2) of the MFMA Supply Chain Management Regulations.

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Definitions

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

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

"competitive bid" means a bid in terms of a competitive bidding process;

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

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

"in the service of the state" means to be –

(a) a member of –

(i) any municipal council;

(ii) any provincial legislature; or

(iii) the National Assembly or the National Council of Provinces;

(b) a member of the board of directors of any municipal entity;

(c) an official of any municipality or municipal entity;

(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);

(e) a member of the accounting authority of any national or provincial public entity; or

(f) an employee of Parliament or a provincial legislature;

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

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

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

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

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

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

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

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

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

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

CHAPTER 1

IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

Supply chain management policy

2. (1) All officials and other role players in the supply chain management system of the municipality must implement this Policy in a way that

(a) gives effect to –

(i) section 217 of the Constitution; and

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

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

(i) the Regulations; and

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

(d) is consistent with other applicable legislation;

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

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

(2) This Policy applies when the municipality –

(a) procures goods or services;

(b) disposes goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(3) This Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

(b) electricity from Eskom or another public entity, another municipality or a municipal entity.

Amendment of the supply chain management policy

3. (1) The accounting officer must –

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

(b) as and when there is new circular or regulation, the accounting officer will submit proposals for the amendment of this Policy to the council.

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

(a) ensure that such proposed amendments comply with the Regulations; and

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

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

Delegation of supply chain management powers and duties

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

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

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

(ii) this Policy;

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

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

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

(2) Section 79 of the Act applies to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).

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

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

Subdelegations

5. (1) The accounting officer may in terms of section 79 or 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 subdelegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.

(2) The power to make a final award –

(a) above R10 million (VAT included) may not be subdelegated by the accounting officer;

(b) above R200 000 (VAT included), but not exceeding R10 million (VAT included), is hereby sub-delegated to –

(i) a bid adjudication committee of which the chief financial officer is a member;

(3) A 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 committee during that month, including–

(a) the amount of the award;

(b) the name of the person to whom the award was made; and

(c) the reason why the award was made to that person.

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

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

(i) a bid adjudication committee of which the chief financial officer is a member;

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

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

Oversight role of council

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

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

(i) within 30 days of the end of each financial year, submit a report on the implementation of 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

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

(3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of this policy to the executive mayor .

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

Supply chain management unit

7. (1) A supply chain management unit is hereby established to implement this Policy.

(2) The supply chain management unit operates under the supervision of the chief financial officer.

Training of supply chain management officials

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

CHAPTER 2

SUPPLY CHAIN MANAGEMENT SYSTEM

Format of supply chain management system

9. This Policy provides effective systems for –

(i) demand management;

(ii) acquisition management;

(iii) logistics management;

(iv) disposal management;

(v) risk management; and

(vi) performance management.

Part 1: Demand management

System of demand management

10. (1) The accounting officer must –

(a) establish and implement an appropriate demand management system in order to ensure that the resources required by the municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.
(b) develop a Procurement Plan to be aligned with the Service Delivery and Budget Implementation Plan
(c) submit the Procurement Plan to Provincial Treasury together with the IDP and the Budget

(2) The demand management system must –

(a) include timely planning and management processes to ensure that all goods and services required by the municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;

(b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and

(c) provide for the compilation of the required specifications to ensure that its needs are met.

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

Part 2: Acquisition management

System of acquisition management

11. (1) The 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 a contract, are in accordance with any applicable legislation; and

(e) that any Treasury guidelines on acquisition management are properly taken into account.

(2) When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the municipality's supply chain management system, including -

(a) the kind of goods or services; and

(b) the name of the supplier.

(3) The Musina Local Municipality must apply the preference points system as prescribed by the Preferential Procurement Regulation, 2017 as follows:

(a) 80/20 preference point system for acquisition of goods or services for Rand value equal to or above R30 000 and up to R50 million

(b) 90/10 preference point system for acquisition of goods or services with Rand value above R50 million

Range of procurement processes

12. (1) Goods and services must only be procured by way of –

(a) Written or verbal quotations for procurements of a transaction value over R2001 up to R10 000 (VAT included)

(b) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and

(c) a competitive bidding process for–

(i) procurements above a transaction value of R200 000 (VAT included); and

(ii) the procurement of long term contracts.

(2) Notwithstanding sub paragraph (1) above, any goods and services may be procured by way of petty cash purchases up to a transaction value of R2000 (VAT included).

(3) The accounting officer may, in writing-

(a) lower, but not increase, the different threshold values specified in subparagraph (1); or

(b) direct that –

(i) written quotations be obtained for any specific procurement of a transaction value lower than R2 000;

(ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or

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

(4) 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.

(5) When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

General preconditions for consideration of written quotations or bids

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

(a) has furnished that provider's –

(i) full name;

(ii) identification number or company or other registration number; and

(iii) tax reference number and VAT registration number, if any;

(iv) tax clearance certification;

(v) Certificate of good standing for levies.

(vi) Certificate of incorporation or founding statement, and in the case of a company – a register of directors, as the case may be;

(vii) Copies of ID's of members or directors, as the case may be;

(viii) In respect of engineering and construction works, the attached annexure "A" will be used in determining the contractor grading designations and the amounts for which they are entitled to tender on,

(b) has furnished the municipality with tax compliant status from SARS or csd report to enable the municipality to check if the service provider's tax matters are in order;

- The designated official(s) should verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation. Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing. The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above; and

(c) has indicated –

(i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;

(ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the

state, or has been in the service of the state in the previous twelve months; or

(iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

(d) the information provided in time and correct;

(f) the signatory to the tender document is duly authorized.

Lists of accredited prospective providers

14. (1) The accounting officer must –

(a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written quotations and formal written price quotations; and

(b) at least once a year through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to register on central supplier database as accredited prospective providers;

(c) specify the listing criteria for accredited prospective providers;

All suppliers are required to submit the following documents in order to be registered on the municipal database

- Suppliers are required to submit proof of compliance with SARS tax clearance
- Proof of company registration
- Proof that local municipal rates and services payments are not in arrears for more than three months;
- Certified copies of identity documents for all directors or members of the company as listed on the company registration document
- All suppliers are required to register their companies on the central supplier database

(d) Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.

(2) The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

(3) The list must be compiled per commodity and per type of service.

(e) Musina Local Municipality will utilize the central supplier database with effect from 01 July 2016

Petty cash purchases

15. 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) All petty cash acquisitions must be arranged through the Accountant Expenditure in the Finance Department

(b) The Accounting Officer must not approve total petty cash acquisitions in excess of R2, 000(VAT Included) per month for each department within the municipality;

(c) Requests for petty cash acquisitions are at the discretion of the Chief Financial Officer; and

(d) A monthly reconciliation report from the Accountant Expenditure must be provided to the chief financial officer, including –

(i) The total amount of petty cash purchases for that month; and

(ii) Receipts and appropriate documents for each purchase.

(e) All documentation should be filed and stored in secure location under the control of the Accountant Expenditure.

Written quotations

16. The conditions for the procurement of goods or services through written quotations, are as follows:

(a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers of the municipality provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this Policy;

(b) Providers must be requested to submit such quotations in writing;

(c) If it is not possible to obtain at least three quotations, there should be pre-approval by the accounting officer and the reasons thereof must be recorded and reported quarterly to the accounting officer;

(d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and

(e) verbal quotations are not permitted by this policy.

Formal written price quotations

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

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

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

© if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer.

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

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

Procedures for procuring goods or services through written

Quotations and formal written price quotations

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

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

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

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

(d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub delegation;

(f) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price;

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

(h) All written quotes are to be filed and held in a secure location under the control of the Procurement Officer so as to ensure confidentiality.

Competitive bids

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

(2) No requirement for goods or services above an estimated transaction value of R200 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

Process for competitive bidding

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

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

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

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

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

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

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

(g) Administration of contracts

  (i) 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.

Bid documentation for competitive bids

21. The criteria to which bid documentation for a competitive bidding process must comply, must –

(a) take into account –

  (i) the general conditions of contract 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 2017 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, since their establishment if established during the past three years; or

(bb) submit any annual financial statement as per the bid requirement in any other case, for transaction less than R10 million(VAT included),

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

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

(iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and

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

(f) require bidders to furnish municipal rates and taxes statement not older than three (03)months

(g) bidders to submit summery of csd report or provide the municipality with bidder's csd supplier number

Public invitation for competitive bids

22. (1) The procedure for the invitation of competitive bids, is as follows:

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

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

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

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

(ii) a statement that bids may only be submitted on the bid documentation provided by the municipality;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 procurement process.

(3) Bids submitted must be sealed.

(4) Subcontracting as condition of tender

(a) for all construction projects above R30 million, Musina Local Municipality shall apply subcontracting to advance designated groups.

(b) If Musina Local municipality applies subcontracting as contemplated in the regulation, the tender must be advertised with a specific tendering condition that the successful tenderer must subcontract a minimum of 30% of the value of the contract to-

(i) an EME or QSE;

(ii) an EME or QSE which is at least 51% owned by black people;

(iii) an EME or QSE which is at least 51% owned by black people who are youth;

(iv) an EME or QSE which is at least 51% owned by black people who are women;

(v) an EME or QSE which is at least 51% owned by black people with disabilities;

(vi) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;

(vii) a cooperative which is at least 51% owned by black people;

(viii) an EME or QSE which is at least 51% owned by black people who are military

veterans; or

(ix) more than one of the categories referred to in paragraphs (i) to (viii).

(c) Musina Local Municipality shall make available the list of all suppliers registered on a database approved by the National Treasury to provide the required goods or services in respect of the applicable designated groups mentioned in sub regulation (b) from which the tenderer must select a supplier.

Procedure for handling, opening and recording of bids

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

(a) Bids–

(i) must be opened only in public;

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

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

© 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 in writing and that bidder have accepted the award in writing; 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

(iv) publish the entries in the register and the bid results on the website.

(v) ensure that an official from the municipality's/municipal entity's bid administration section compile a checklist of documentation for all bids received as per the bid requirement and the checklist be made available for evaluation.

Negotiations with preferred bidders

24. (1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

(a) does not allow any preferred bidder a second or unfair opportunity;

(b) is not to the detriment of any other bidder; and

(c) does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

Two-stage bidding process

25. (1) A two-stage bidding process is allowed for –

(a) large complex projects;

(b) projects where it may be undesirable to prepare complete detailed technical specifications; or

(c) long term projects with a duration period exceeding three years.

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

Committee system for competitive bids

26. (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:

(a) a bid specification committee;

(b) a bid evaluation committee; and

(c) a bid adjudication committee;

(2) The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

(3) A neutral or independent observer, appointed by the accounting officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

(a) paragraph 27, 28 and 29 of this Policy; and

(b) any other applicable legislation.

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

Bid specification committees

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

(2) Specifications –

(a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;

(b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an

authority accredited or 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 labeling of conformity certification;

(e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;

(f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and

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

(3) 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.

Bid evaluation committees

28. (1) A bid evaluation committee must –

(a) evaluate bids in accordance with –

(i) the specifications for a specific procurement; and

(ii) the points system set out in terms of paragraph 27(2)(f).

(b) evaluate each bidder’s ability to execute the contract;

(c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;

(d) submit to the adjudication committee a report and recommendations regarding the award 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; and

(b) at least one supply chain management practitioner of the municipality**.**

Bid adjudication committees

29. (1) A bid adjudication committee must –

(a) consider the report and recommendations of the bid evaluation committee; and

(b) either –

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

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

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

(a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and

(b) at least one senior supply chain management practitioner who is an official of the municipality; and

(c) a technical expert in the relevant field who is an official, if such an expert exists.

(4) In a situation where the municipality has four senior managers approved in the organogram but filled less than four and the posts are funded and are not subject to a moratorium emanating from implementing cost containment measures, Musina Local Municipality will -

(a) have 12 months from the 5th of May 2020 to fill the specific positions subject to the bid adjudication committee still having a senior supply chain management practitioner and a technical expert in the relevant field as contemplated in regulation 29(2)(b) and (c);

(b) Where it is not viable for the posts in subparagraph (a) above to be filled, yet there are vacant positions, the municipality may consider appointing an official in an acting capacity to fulfil the role of senior manager in those instances;

(c) Senior Managers who are members of the bid adjudication committee will be allowed to sub-delegate, in writing, their responsibilities to competent staff members in cases where they cannot attend specific sittings of the committee.

(3) all members of bid adjudication committee must sign the code of conduct for bid adjudication committee and should adhere to the guidelines for municipal bid adjudication committees

(4) 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.

(5) 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.

(6) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –

(i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;

(ii) notify the accounting officer.

(b) The accounting officer may –

(i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and

(ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.

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

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

Procurement of banking services

30. (1) A contract for banking services –

(a) must be procured through competitive bids;

(b) must be consistent with section 7 or 85 of the Act; and

(c) may not be for a period of more than five years at a time.

(2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.

(3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

Procurement of IT related goods or services

31. (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.

(2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.

(3) The accounting officer must notify SITA together with a motivation of the IT needs if –

(a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or

(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

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

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

32. (1) The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;

(b) there is no reason to believe that such contract was not validly procured;

(c) there are demonstrable discounts or benefits to do so; and

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

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

(a) a municipal entity procures goods or services through a contract secured by its parent municipality; or

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

Procurement of goods necessitating special safety arrangements

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

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

Proudly SA Campaign

34. The 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 Limpopo;
- Thirdly – suppliers and businesses within the Republic of South Africa.

Appointment of consultants

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

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

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

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

(3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years; and

(b) any similar consultancy services provided to an organ of state in the last five years.

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

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

36. (1) The accounting officer may –

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

(i) in an emergency;

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

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

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

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

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

(2) The accounting officer must –

(a) 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.

(b) submit deviation register to Provincial Treasury on a quarterly basis

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

Unsolicited bids

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

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

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

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

(c) the person who made the bid is the sole provider of the product or service; and

(d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.

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

(a) reasons as to why the bid should not be open to other competitors;

(b) an explanation of the potential benefits if the unsolicited bid were accepted; and

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

(4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the

unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.

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

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

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

(a) any comments submitted by the public; and

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

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

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

Combating of abuse of supply chain management system

38. (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 the municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or

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

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

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

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

(ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and

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

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

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

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

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

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

Part 3: Logistics, Disposal, Risk and Performance Management

Logistics management

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

(a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;

(b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;

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

(d) before payment is approved , certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

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

(f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and

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

Disposal management

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

(a) Movable Assets:
  i) The asset is uneconomical to repair;
  ii) The asset is irreparable;
  iii) The relevant department has not further use for the asset;
  iv) No other department required the asset.

(b) Immovable assets:
  i) The relevant department has no further use for the asset;
  ii) No other department requires the asset; and
  iii) A member of the public wishing to acquire the asset can utilize the asset to the advantage of the community. *

(2) Assets may be disposed of by –
  (i) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  (ii) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
  (iii) selling the asset; or
  (iv) destroying the asset.

(3) The accounting officer must ensure that –

(a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;

(b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;

(c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;

(d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;

(e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;

(f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

(g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

Risk management

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

(a) The Internal Audit Unit is to review annually all systems including the internal controls employed and to provide a written report to council no later than 30 days after the end of the financial year.

(2) Risk management must include –

(a) the identification of risks on a case-by-case basis;

(b) the allocation of risks to the party best suited to manage such risks;

(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;

(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and

(e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

Performance management

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

Part 4: Other matters

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

43. (1) No award above R15 000 may be made in terms of this Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.

(2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.

(3) The designated official(s) should verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation. Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have made an arrangement to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing. The accounting officer should reject a

bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above

Prohibition on awards to persons in the service of the state

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

(a) who is in the service of the state;

(b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or

(c) a person who is an advisor or consultant contracted with the municipality.

2. Musina Local Municipalities shall –

(a) utilize the revised MBD 4 form when inviting bids and to verify the identity numbers of the directors / trustees / shareholders of the preferred bidder(s) in order to determine whether or not any of the directors / trustees / shareholders are employees of the municipality or municipal entity.

(b) rely on the content and disclosures made by bidders.

3. Should it come to light that a false declaration was made by the bidder after the municipality had awarded the bid, the contract must be immediately suspended and payments made, recovered. False declarations by bidders can be viewed as a criminal offence and charges must be laid by the Musina Local Municipality with the South African Police Services for further investigation. Details will be reported to Council at its next meeting and information contained in the Annual Report of the municipality.

44.1 Exemptions, as published in Government Gazette 28411, 18January 2006, adopted by council resolution 19.4.2006:

Municipalities are exempted from Regulation 44 of the Supply Chain Management Regulations, until 30 June 2010, in so far as -
No awards may be made to a person on the grounds that,

a) That person is a non-executive member of the Board of Directors of the Entity, or

b) That person as director, manager, principal shareholder or stakeholder is a non-executive member of the Board of the entity –

Subject thereto that the above exemption does not apply to the persons or directors, manage, shareholders or stakeholders serving on that entity's Board of Directors, on conditions that:

- All bidders must be required to disclose in their bids whether he/she/they serve on the Board of Directors of a municipal entity as an executive or non-executive member, and
- The name of the entity.

Such disclosure shall be placed on the web-site of the municipality or entity, and shall be noted in the financial statements of the municipality or the entity.

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

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

(a) the name of that person;

(b) the capacity in which that person is in the service of the state; and

(c) the amount of the award.

Ethical standards

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

(a) mutual trust and respect; and

(b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

(2) An official or other role player involved in the implementation of this

Policy –
(a) must treat all providers and potential providers equitably;
(b) may not use his or her position for private gain or to improperly benefit another person;
(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
(d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
(e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the municipality;
(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
(g) must be scrupulous in his or her use of property belonging to municipality;
(h) must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
(i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
(i) any alleged fraud, corruption, favouritism or unfair conduct;
(ii) any alleged contravention of paragraph 47(1) of this Policy; or
(iii) any alleged breach of this code of ethical standards.
(3) Declarations in terms of subparagraphs (2)(d) and (e) -
(a) must be recorded in a register which the accounting officer must keep for this purpose;
(b) by the accounting officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.

(c)appropriate action will be taken against any official or other role player who commits a breach of the code of ethical standards.
(4) The National Treasury's code of conduct must also be taken into account by supply chain management practitioners and other role players involved in supply chain management.
(5) A breach of the code of ethics must be dealt with as follows -
(a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
i. in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
ii. In all cases, financia misconduct must be dealt with in terms of chapter 15 of the Act.

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

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

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

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

(i) any official; or

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

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

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

Sponsorships

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

(a) a provider or prospective provider of goods or services; or

(b) a recipient or prospective recipient of goods disposed or to be disposed.

Objections and complaints

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

Resolution of disputes, objections, complaints and queries

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

(a) to assist in the resolution of disputes between the municipality and other persons regarding -

(i) any decisions or actions taken in the implementation of the supply chain management system; or

(ii) any matter arising from a contract awarded in the course of the supply chain management system; or

(b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

(2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(3) The person appointed must –

(a) strive to resolve promptly all disputes, objections, complaints or queries received; and

(b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

(4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –

(a) the dispute, objection, complaint or query is not resolved within 60 days; or

(b) no response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

(6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

51. Contract and Contract management

51.1 Contract

A contract or agreement procured through the Supply Chain Management System of

Musina Municipality must:

(a) be in writing;

(b) stipulate the terms and conditions of the contract or agreement, which must Provide for:

i. the termination of the contract or agreement in the case of breach or non- or underperformance;

ii. dispute resolution mechanisms to settle disputes between the 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 matters that may be prescribed

51.2 Management of Contracts

The Accounting Officer must take all reasonable steps to:

a) Ensure that a contract or agreement procured through the supply chain management policy of the municipality is properly enforced.

b) Monitor on a monthly basis the performance of the contractor under the contract or agreement.

c) Establish capacity to administer the contract with the necessary competencies and ,ensuring effective management of contracts.

51.3 Contract Lifecycle Management

Contract Lifecycle is a back to back process of acquisition to the award of contract.The cycle further entails execution, closure and handover of the project to the relevant official representing the municipality.

The Municipality recognises the following steps in contract lifecycle management as elaborated below:

(a) Planning

This is the first action of defining the purpose and request. The end user department will identify the need for contract creation and when this must happen to ensure delivery can occur as approved in the budget.

(b) Creation

During creation, the end user manager and legal manager will decide on the most appropriate wording to give effect to the intended outputs and outcomes and prepare the first draft of contract documentation.

(c) Collaboration

Collaboration is the drafting and negotiating process including internal and external reviews to ensure that the contract will give legal effect to the requirements of all parties to the contract.

(d) Execution

Execution is the act of signing the contract, making it legally enforceable and formalising the terms and conditions agreed to. The contracted service provider will then be allowed to perform duties as outlined in the contract document

(e) Administration

Administration includes monitoring delivery under the contract to ensure that it achieves its original objectives and effecting any necessary changes to the contract. The end user manager must ensure that all deliverables are being met and maintain compliance at all times, and that deliverables are quality assessed and controlled.

(f) Closeout / renewal

The closeout / renewal stage includes necessary actions to end or renew the agreement and associated performance review. The details should be clearly indicated on the signed agreement

51.4 Role players in contract management

(a) Contract owners

The contract owner is the end user requesting the goods and services and is often a line manager. The end user need a good understanding of the contract and may call on specialist advice depending on the level of complexity of the contract. Ultimately the contract owner should be making judgments about whether deliverables have been achieved.

Contract owners will be involved in at least the following:

i. specification development including deliverables for timing, quantity and quality;
ii. agreement of measurement mechanisms for the contract deliverables; and
iii. regular communication with contracted service provider and assessment of performance.

(b) Legal

i. The legal division perform the role of contract management for the municipality due to their role in understanding and negotiating

complex terms and conditions. Legal's role is to provide expert advice to the contract owner and accounting officer.

ii. In-house or outside specialist legal advisory services may be required, from time to time, to establish and manage contracts. Legal division develop general conditions of contract for the majority of circumstances and special conditions where required.

iii. Legal division is also involved in the following circumstances:

- dispute resolution;
- implementation of variations;
- implementation of contract changes;
- contractor distress;
- breach of contract, penalties and termination; and
- enforcement of indemnities, guarantees and contractual claims.

(c) Accounting Officer

i. Overall accountability for all contractual agreements entered into by Musina municipality resides with the accounting officer. Hence, they are required to have a general understanding of the contract classifications and associated exposure contained in the Contracts Inventory. The accounting officer must ensure that staff involved in contract management have the necessary skills and qualifications to carry out their tasks and provide appropriate and timely advice.

(d) Supply Chain Unit

The supply chain management unit ensures;

i. that manual systems are in place to ensure secure storage of and easy access to all contract documentation and the information contained in those documents.

ii. that contract documentation must be identified for each contract and may include but is not limited to:

- specification;
- request for proposals/requests for tenders;
- advertisement;
- bids and bid correspondence;
- selection and award process and results;
- contract;

(e) Budget and treasury

Budget and treasury will provide advice on budgeting and assist with preparation of in-year and annual reports and in particular with amounts committed and accrued. The role of budget and treasury also includes payments and collections and usually the systems and processes for authorisation. Budget and treasury may also be contract owner for certain types of contracts such as financing instruments.

Financial support may include but is not limited to advice on the following:

- development and review of the financial model;
- calculation of payments including penalties, incentives and terminations;
- efficient processing of payments according to the contract; and
- indexation and price variations.

51.5 Custodian of bid documents and contract document

The supply chain unit is the custodian of all bid documents and contract documents of Musina municipality

The supply chain unit must ensure that all documents and information contained in the contract documents must be appropriately recorded and filed accordingly.

51.6 Amendment / Extending of Contracts

A contract or agreement procured through the supply chain management policy of the municipality may be amended by the accounting officer, in exceptional circumstances.

It is recognized that, in exceptional cases, an accounting officer may deem it necessary to expand or vary order against the original contract.

(a) Contract(s) may be expanded or varied by not more than 20% for construction related goods, works and/or services and 15% for all other goods or services of the original value of the contract after approval by the accounting officer.

(b) Any expansion or variation of contract in excess of these thresholds must be dealt with in terms of the provision to section 116(3) of the MFMA which will be regarded as an amendment to contract and should be approved by council. However this is not applicable to transversal term contracts facilitated by the relevant treasury on behalf of the municipality

Contracts providing for compensation based on turnover

52. If a service provider acts on behalf of a municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the municipality must stipulate –

(a) a cap on the compensation payable to the service provider; and

(vi) that such compensation must be performance based.

Sureties and retention

53. Bid securities are normally required from bidders in the construction and engineering disciplines, as well as from auctioneers. The accounting officer/authority may decide whether bidders should supply securities at the bidding phase. Bid security should not be set so high as to discourage bidders. Bid security should remain valid for a period of four weeks beyond the validity period for the bids , in order to provide reasonable time for the institution to act if

the security is to be called. Should the recommended bidder or the contractor withdraw his/her bid prior to the award of the bid or commencement of the contract, the bidder/supplier may forfeit his security to the institution. Bid securities should be released to unsuccessful bidders once it is determined that they will not be awarded the contract.

(1) Sureties

Sureties shall be determined according to affordability and risk. The following sureties shall be considered appropriate for the different categories of contract:

Micro projects	-	Nil
Small projects	-	2,5%
Medium projects	-	5%
Large projects	-	10%

Where the SMME service provider could not be able to arrange sureties prior to awarding of the contract, surety amounts shall be deducted from the first progress payment certificate based on work certified.

(2) Retention

Retention money withheld from a contractor during the construction period must be affordable, according to risk. The following limits to retention shall be made applicable on the four categories of contract:

Micro projects	-	Nil
Small projects	-	2,5%
Medium projects	-	5%
Large projects	-	10%

Sale of bid document

54. Accounting officers/authorities may decide to charge a refundable or a non-refundable fee for bidding documents if and when necessary, provided that:

(a) The fee should be reasonable and reflect only the cost of the technical consulting, printing and delivery costs to prospective bidders;
(b) The fee should not be so high as to discourage prospective bidders; and

Insurance

55. The municipality shall effect and maintain insurance of the Works and Public Liability Insurance for the duration of the project. The emerging contractor shall insure all constructional plant owned, leased or hired by him which is brought onto the site. He shall also pay all contributions required in terms of the provisions of Occupational Health and Safety Act, 1993 (as amended).

Excess payments on insurance claims

56. .(1) Micro to medium projects

Excess amounts on insurance in respect of causes entirely beyond the emerging contractos's control such as rain and flood damage shall be the responsibility of the Municipality

Excess amounts on claims attributable to insufficient precautions by the emerging contractor such as theft shall be fully borne by the emerging contractor.

(2) Large Projects

All excess amounts will be the responsibility of the contractor

Penalties

57. Penalties will be a standard clause with awards. If no penalty clause was applicable, some, contracts could and probably would take years to complete. On the other hand penalties must not punish or harm an emerging contractor to such an extent that the empowerment of previously disadvantaged individuals cannot be realized.

From the above it is obvious that a balance must be found where the penalty urges and encourages the emerging contractor to complete the project on time,

but if he fails to do this, the penalties must not put himout of business. A penalty clause does not and cannot ensure that a contract will be completed timeously, but if contract completion is late, the enforcement of penalties will become a reality.

The following penalties shall be applicable:

Micro projects	-	0.02% of Contract amount/day
Small projects	-	0.04% of Contract amount/day
Medium projects	-	0.06% of Contract amount/day
Large projects	-	0.1% of Contract amount/day

Payments

58. (1) Time of payment

Payment certificates are normally payable within 30 days after being approved by the Municipal Manager (General Condition of Contract). The lack of finance is a serious constraint to SMME's and to assist in this regard payments to this group shall be fast-tracked where possible.

(2) Cessions

To further alleviate these constraints, signed cessions by the SMME's to financiers that assist SMME's shall be accepted so that payments can be made directly to those financiers, ensuring the continuous delivery of materials. Where cessions are accepted the utmost care shall be taken to ensure that the Municipality is properly indemnified.

Confidentiality

59. After pubic opening of bids, information relating to the examination, clarification and evaluation of bids and recommendations concerning awards should not be disclosed to bidders or other persons not officially concerned with the process, until the successful bidder is notified of the award.

Debriefing

60. If after notification of award, a consultant wishes to ascertain the grounds on which its proposal was not selected, it must address its request in writing to the accounting officer/authority. If the supplier is not satisfied with the explanation given by the accounting officer/authority, the supplier may refer this matter to the relevant treasury, Public protector or court of law.

Commencement

61. This Policy takes effect on 1 July 2019 and will be reviewed annually from hereon.

PART B

Musina Local Municipality SCM Policy for Infrastructure procurement and delivery management

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Scope

This policy establishes the Musina Local 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 Musina Local Municipality which are stored and issued to contractors or to employees;

b) the disposal or letting of land;

c) the conclusion of any form of land availability agreement;

d) the leasing or rental of moveable assets; and

e) public private partnerships.

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 Musina Local Municipality that acts on the Musina Local 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

General requirements[1]

3.1 Delegations

3.1.1 The council of Musina Local 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 Musina Local Municipality [2]

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 the policy and the equivalent policy of any municipal entity under the sole or shared control of the , to the council of the Musina Local Municipality within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of directors, who must then submit the report to the municipal manager of Musina Local Municipality for submission to the council;

b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council, who must then submit the report to the municipal manager of Musina Local Municipality for submission to the council;

a) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the mayor ; and

b) 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 if the National Treasury Standard for Infrastructure Procurement and Delivery Management.[3]

3.3 Supervision of the infrastructure delivery management unit[4]

The Infrastructure Delivery Management Unit shall be directly supervised by the chief financial offer.

3.4 Objections and complaints[5]

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[6]

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 Musina Local 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 Musina Local 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 designated person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

3.5.3 The person appointed in terms of 3.5.1 shall:

a) strive to resolve promptly all disputes, objections, complaints or queries received; and

b) submit monthly reports to the municipal manager on all disputes, objections, complaints or queries received, attended to or resolved.

3.5.4 A dispute, objection, complaint or query may be referred to the Limpopo 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 Limpopo Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

Control framework for infrastructure delivery management[7]

4.1 Assignment of responsibilities for approving or accepting end of stage deliverables[8]

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

4.4 Gateway reviews

4.4.1 Gateway reviews for major capital projects above a threshold

4.4.1.1*Municipal Manager* shall appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.

4.4.1.2 The requirements for a gateway review in addition to those contained in section 4.1.13 of the standard are as follows:[9]

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

No	Name		approving or accepting end of stage deliverables
0	Project initiation		*General Manager Technical Services* accepts the initiation report
1	Infrastructure planning		*General Manager Technical Services* approves the infrastructure plan
2	Strategic resourcing		*General Manager Technical Services* approves the delivery and / or procurement strategy
3	Pre-feasibility		*General Manager Technical Services* accepts the pre-feasibility report
	Preparation and briefing		*General Manager Technical Services* accepts the strategic brief
4	Feasibility		*General Manager Technical Services* accepts the feasibility report
	Concept and viability		*General Manager Technical Services* accepts the concept report
5	Design development		*General Manager Technical Services* accepts the design development report
6	Design documentation	6A Production information	*General Manager Technical Services* 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 contract manager accepts the manufacture, fabrication and construction information
7	Works		The contract manager certifies completion of the works or the delivery of goods and associated services
8	Handover		The owner or end user accepts liability for the works
9	Package completion		The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract manager certifies final completion in accordance with the provisions of the contract *General Manager Technical Services* accepts the close out report

Control framework for infrastructure procurement[10]

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: [11]

a) *Municipal Manager* shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;

b) the authorised person 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.

Infrastructure delivery management requirements

6.1 Institutional arrangements

6.1.1 Committee system for procurement[12]

6.1.1.1 General

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

6.1.1.1.4 No person who is a political officer bearer, a public office bearer including any councilor 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 Musina Local 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 **PG1**	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	*Municipal manager]*
2 *	Decide on procurement strategy	2.5 **PG2**	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	*Municipal Manager*
3	Solicit tender offers	3.2 **PG3**	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Procurement documentation committee
		3.3 **PG4**	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	*Chief Financial Officer*
4	Evaluate tender offers	4.2 **PG5**	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	*[designated person]*
		4.7 **PG6**	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	*bid adjudication committee*
5	Award	5.3	Award contract	Formally accept the tender offer in	*Municipal Manager*

Activity		Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
	contract	**PG7**		writing and issue the contractor with a signed copy of the contract	
		5.5 **GF1**	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	*Chief Financial Officer*

* Applies only to goods and services not addressed in a procurement strategy developed during stage 2 (strategic resourcing) of the control framework for infrastructure delivery management

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 **PG8A**	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	*Municipal Manager*
		6.5 **PG8B**	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	*Municipal Manager*
		6.6 **PG8C**	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or	Approve amount of time and cost overruns up to the threshold	*Municipal Manager]*

Activity		Sub-Activity		Key action	Person assigned responsibility to perform key action
			the time for completion at the award of a contract or the issuing of an order up to a specified percentage[13]		
		6.7 **PG8 D**	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 20% and 30%, respectively	Approve amount of time and cost overruns above a the threshold	*municipal manager*
		6.8 **PG8 E**	Obtain approval to cancel or terminate a contract	Approve amount	*Municipal Manager*
		6.9 **PG8 F**	Obtain approval to amend a contract	Approve proposed amendment to contract	*Municipal Manager*

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 **FG1**	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*
3 **FG2**	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	*Municipal Manager*
4 **FG3**	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	*Chief Financial Officer*
6 **FG4**	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	*Municipal Manager*

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 Musina Local Municipality with requisite skills. Other members shall include a supply chain management practitioner[14] and, 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[15]

6.1.1.4.1 The tender committee shall comprise the following persons or their mandated delegate:[16]

a) Chief Financial Officer who shall be the chairperson:

b) General Manager Technical Services

c) General Manager Corporate Services

d) General Manager Community Services

e) General Manager Economic Development and Planning

f) Senior Official from Supply Chain Management

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 municipal manager 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 municipal manager 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 Limpopo 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 municipal manager shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the tender committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the tender committee, and either:

a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or

b) decide not to proceed or to start afresh with the process.

6.1.2.2 The municipal manager shall immediately notify Auditor-General, the National Treasury and Limpopo Provincial Treasury, if a tender other than the recommended tender is awarded, save where the recommendation is changed to

rectify an irregularity. Municipal manager shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and Limpopo 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 Chief Financial Officer 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, 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[17]

6.1.3.1 General requirements

6.1.3.1.1 All personnel and agents of Musina Local 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 Musina Local 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 Musina Local 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 Musina Local 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 Musina Local 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 Musina Local Municipality proprietary information.

6.1.3.2.2 The employees and agents of Musina Local 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 Musina Local Municipality's interest to do so, submit a tender for work associated with such documents provided that:

a) Musina Local 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 Musina Local 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 Musina Local Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

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

6.1.3.4 Non-disclosure agreements

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

6.1.3.5 Gratifications, hospitality and gifts

6.1.3.5.1 The employees and agents of Musina Local 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 Musina Local 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 Musina Local 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 Musina Local 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 Musina Local Municipality shall without delay report to the municipal manager any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

6.1.3.6 Reporting of breaches

Employees and agents of Musina Local Municipality shall promptly report to the municipal manager any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

6.1.4 Measures to prevent abuse of the infrastructure delivery system[18]

The municipal manager *s*hall 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 Limpopo Provincial Treasury of those steps;

b) report to the South African Police Service any conduct that may constitute a criminal offence;

c) lodge complaints with the Construction Industry Development Board or any other relevant statutory council where a breach of such council's code of conduct or rules of conduct are considered to have been breached;

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[19]

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

a) a member of any municipal council, any provincial legislature, or the National Assembly or the National Council of Provinces;

b) a member of the board of directors of any municipal entity;

c) an official of any municipality or municipal entity;

d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

e) a member of the accounting authority of any national or provincial public entity; or

f) an employee of Parliament or a provincial legislature.

6.1.5.2 The notes to the annual financial statements of the Musina Local Municipality 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[20]

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[21]

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 Musina Local 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 Musina

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

a *General Manager Technical* shall prepare a report on the matter and make a recommendation to the municipal manager for placing the contractor or any of its principals under restrictions from doing business with the *Musina Local 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 Musina Local Municipality for a period of time.

6.1.7.3 The *Supply Chain Management Unit* shall:

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

b) notify the National Treasury and Limpopo 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 Musina Local Municipality's infrastructure delivery management system shall be addressed to the *Chief Financial Officer*. Such complaints shall be in writing.

6.1.8.2 The *[Chief Financial Officer]* shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the *[Municipal Manager* who will decide on what action to take.

6.2 Acquisition management

6.2.1 Unsolicited proposal

6.2.1.1 The Musina Local 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 Musina Local Municipality;

d) the offer is in writing and clearly sets out the proposed cost;

e) the person who made the offer is the sole provider of the goods or service; and

f) the municipal manager finds the reasons for not going through a normal tender 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 Musina Local 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 Musina Local Municipality has obtained comments and recommendations on the offer from the National Treasury and Limpopo 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 Limpopo 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 Limpopo 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[22]

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 15 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

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

6.2.2.2 Municipal rates and taxes[23]

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 Musina Local 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 Musina Local Municipality's website and on the National Treasury eTender Publication Portal.[24] Advertisements shall be placed by *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 be advertised on the CIDB website. Advertisements shall be placed by *[Supply Chain Management Unit].*

6.2.4.3 Where deemed appropriate by *[Municipal Manager*] an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by *[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[25]

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 Musina Local 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 by 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 Musina Local Municipality.

6.2.6.3 The disposal committee shall make recommendations to *[Chief Financial Officer* who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration, decide not to proceed or to start afresh with the process.

6.3 Reporting of infrastructure delivery management information

Municipal Manager shall submit any reports required in terms of the standard to the National Treasury or *[Limpopo provincial treasury]* .

Infrastructure procurement

7.1 Usage of procurement procedures[26]

The Musina Local Municipality shall not apply the following procedures:

a) *[identify procedure]*;

b) *[identify procedure];*

7.2 Procurement documents

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

Form of contract[27]	Code	Usage

7.2.2 The Musina Local 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 *[Municipal Manager]* 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.[28]

7.2.4 *[state additional requirements, if any e.g. use of standard access specifications, health and safety specifications etc.]*[29]

7.2.5 The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for:

a) consultancy services;[30] and

b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.[31]

7.3 Developmental procurement policy[32]

The following specific goals shall be proposed:

Sub-contracting to Local SMME's

7.4 Payment of contractors[33]

The Musina Local 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[34]

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

a) *[Municipal Manager]* shall authorise the use of the negotiated procedure above the thresholds provided in the standard.

b) *[Municipal Manager* shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours;

7.5.2 The person authorised to pursue a negotiated procedure in an emergency is *Municipal Manager*

7.6 Receipt and safeguarding of submissions[35]

7.6.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.[36]

7.6.2 The tender box shall be fitted with two locks and the keys kept separately by two *[designated persons].* Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

7.7 Opening of submissions[37]

7.7.1 Submissions shall be opened by an opening panel comprising two people nominated by *[Municipal Manager* 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 7.7.3h).

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

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

7.8 Use of another organ of state's framework agreement[38]

The Musina Local 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 manage or delegated official shall make the necessary application to that organ of state to do so.

7.9 Insurances[39]

7.9.1 Contractors shall be required to take out all insurances required in terms of

the contract.[40]

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 *[Municipal Manager]*.

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

Table 4: Minimum insurance cover[41]

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 *[Municipal Manager]*.

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

7.9.5 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 *[Municipal Manager]* in relation to the nature of the service that they provide.
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7.9.6 Musina Local 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 Musina Local 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 *[designated person].*

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[42]

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 Musina Local 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 Musina Local Municipality’s.

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

8. Commencement

This Policy takes effect on 1 July 2020 and will be reviewed annually from hereon.