

# **PRINCE ALBERT MUNICIPALITY SUPPLY CHAIN MANAGEMENT POLICY**



**March 2019**

## PREAMBLE

The purpose of this Policy is to regulate all Supply Chain Management practices within Prince Albert Municipality. Therefore, all employees must adhere, implement and observe provisions and requirements of this policy.

The Policy seeks to promote an innovative form of targeted procurement, which will encourage socio-economic transformation within Prince Albert Municipality's region. It will empower the municipality to continue to redress the skewed distribution of wealth and assist in achieving the goals of poverty alleviation and job creation within its region.

Dit sal bereik word deur werksgeleenthede aan Histories Benadeelde Indiwidue (HDI's) en benadeelde gemeenskappe te verskaf, wat sal help om sosio-ekonomiese transformasie doelwitte te koppel aan regverdige, deursigtige, billike, kompeterende en koste-effektiewe verkrygingsprosedures.

Prins Albert Munisipaliteit se Voorsieningskanaalbestuurs-beleid implementeer die Voorsieningskanaalbestuurs-prosedures soos beoog deur die Local Government Municipal Finance Management Act, 2003 (Act No. 56 of 2003) en die Municipal Supply Chain Management Regulations, Kennisgewing 868 van 2005, uitgevaardig in terme daarvan.

Die Municipal Supply Chain Management Model Policy, wat deur Nasionale Tesourie opgestel is, in lyn met die Local Government Municipal Finance Management Act, 2003 (Act No. 56 of 2003) en die Municipal Supply Chain Management Regulations, Kennisgewing 868 van 2005, is gebruik, te same met die Preferential Procurement Policy Framework Act, 2000 en die Preferential Procurement Regulations, as 'n raamwerk vir die ontwikkeling van hierdie beleid.

The guiding principles used in developing the Prince Albert Municipality Supply Chain Management policy were sourced from the following legislation:

- The Constitution of the Republic South Africa, 1996 (as amended).
- The Municipal Finance Management Act, 2003 (Act 56 of 2003) and the Regulations on Supply Chain Management enacted in terms thereof.
- Local Government: Municipal Systems Act 32, 2002.
- The Preferential Procurement Policy Framework Act, 2000 (Act 5 of 2000).
- Preferential Procurement Policy Framework Regulations 2001.
- The Labour Relations Act, 1995 (Act 66 of 1995).
- The Construction Industry Development Board Act, 2000 (Act No 38 of 2000).
- Any other current or subsequent applicable legislation.

The annexures to the policy contain appendices that are standard contract documentation, which must be completed by all consultants, contractors or any other service provider.

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## DEFINITIONS

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

**"Accounting Officer"** in relation to a Municipality means the municipal manager as described in Section 60 of the Local Government: Municipal Finance Management Act, No 56 of 2003.

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

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

**"Broad-Based Black Economic Empowerment Act"** means the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003)

**"Commercial value"** in relation to the sale or leasing of land or property relates to land or property which has a commercial value and can be sold or sub-let on a stand-alone basis and excludes small pockets of land such as small alley ways, erven or annexures which are only of value in relation to the adjoining properties or structures.

**"competitive bidding process"** means a competitive bidding process referred to in paragraph 12 (1) (f) of this Policy.

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

**"Consultants"** mean consulting firms, engineering firms, legal firms, construction managers, management firms, procurement agents, inspection agents, auditors, other multinational organisations, investment and merchant banks, universities, research agencies, government agencies, non-governmental (NGO's) and individuals.

**"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) (d) of this Policy.

**"Designated sector"** means a sector, sub-sector or industry or product designated in terms of regulation 8(1)(a) of the Preferential Procurement Regulations, 2017

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

**“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 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 entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (e) an executive member of the accounting authority of any national or provincial public entity; or
- (f) an employee of Parliament or a provincial legislature;

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

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

**"Municipality"** means the Prince Albert Municipality

**“Municipal Systems Act”** means the Local Government: Municipal Systems Act, No 32 of 2000.

**“National Treasury”** means the National Treasury established by section 5 of the Public Finance Management Act, 1999 (Act No. 55 of 1998)

**“Organ of the state”** means –

- (a) Any department of state or administration in the national, provincial or local sphere of government; or
- (b) Any other functionary or institution
  - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution;
  - (ii) exercising a public power or performing a public function in terms of any legislation but does not include a court or judicial officer.

**“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);

**“Procurement”** is the acquisition of goods

**“Provincial Treasury”** means the Treasury of the Western Cape Province.

**“PPPFA”** means the Preferential Procurement Policy Framework Act, No 5 of 2000.

**“Price”** includes all applicable taxes less all unconditional discounts;

**“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;

**“Senior Manager”** means a manager in the employment of the Prince Albert Municipality who heads a directorate or sub-directorate or who reports to the municipal manager or a director or the head of a sub-directorate of the Municipality;

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

**“Stipulated minimum threshold”** means the minimum threshold stipulated in terms of the Preferential Procurement Regulation 2017 8(1)(b)

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

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



## CHAPTER 1

### IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

#### 2. Adoption of Policy

- (1) The Council of Prince Albert Municipality resolves in terms of section 111 of the Act to adopt the following proposal as the Supply Chain Management Policy of Prince Albert Municipality.
- (2) The Municipal Manager shall in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that Prince Albert Municipality implements this Policy.
- (3) All officials and other role players in the supply chain management system of Prince Albert Municipality must implement this Policy in a way that –
  - (a) gives effect to –
    - (i) section 217 of the Constitution; and
    - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
  - (b) is fair, equitable, transparent, competitive and cost effective;
  - (c) enhance the economic development of local communities, SMME's, women-owned enterprises and disabled-owned enterprises within the area of jurisdiction;
  - (d) complies with –
    - (i) the Regulations; and
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act; and
  - (e) is consistent with other applicable legislation.
  - (f) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and
  - (g) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (4) This Policy is applicable to the entire Prince Albert Municipality and must be adhered to when –
  - (a) procuring goods or services;
  - (b) disposing of redundant goods; and/or
  - (c) selecting service providers other than in circumstances where Chapter 8 of the Systems Act applies.
  - (d) in the case of a municipality, selecting external mechanisms referred to in section 80(1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.
- (5) This Policy does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
  - (a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
  - (b) electricity from Eskom or another public entity, another municipality or a municipal entity.

### **3. Amendment of the Supply Chain Management Policy**

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

### **4. Delegation of Supply Chain Management Powers and Duties**

- (1) The Council hereby delegates all powers and duties to the accounting officer which are necessary to enable the accounting officer -
  - (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
    - (i) Chapters 8, 10 and 11 of the Act;
    - (ii) this Policy;
  - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
  - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
  - (d) to comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Sections 79 and 106 of the Act apply to the subdelegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (3) The Council or accounting officer may not subdelegate any supply chain management powers or duties to a person who is not an official of the municipality or to a committee which is not exclusively composed of officials of municipality.
- (4) This policy may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this Policy.

### **5. Subdelegations**

- (1) The accounting officer may in terms of section 79 or 106 of the Act subdelegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such 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 R 10 million (VAT included) may not be subdelegated by the accounting officer;
  - (b) above R 2 million (VAT included), but not exceeding R 10 million (VAT included), may be subdelegated but only to -

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

## **6. Oversight role of Council**

- (1) The Council has and must maintain an oversight role over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must -
- (a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the supply chain management policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and
  - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.

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

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

#### **7. Supply Chain Management unit**

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

(2) The supply chain management unit must operate under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

#### **8. Training of Supply Chain Management officials**

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

### **CHAPTER 2**

#### **SUPPLY CHAIN MANAGEMENT SYSTEM**

#### **9. Format of Supply Chain Management System**

This Policy provides systems for

- (i) Demand Management;
- (ii) Acquisition Management;
- (iii) Logistics Management;
- (iv) Disposal Management;
- (v) Risk Management; and
- (vi) Performance Management.

#### **Part 1: Demand Management**

#### **10. System of Demand Management**

(1) The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources acquired by Prince Albert Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

(2) The demand management system must -

- (a) include planning and management processes to ensure that the resources required by the municipality are;
  - (i) quantified;
  - (ii) budgeted for;

- (iii) timely and effectively delivered at the right locations and at the critical dates;
  - (iv) of the appropriate quality and quantity; and
  - (v) at fair cost;
- (b) provide for the compilation of clearly articulated requirements and specifications that meet the needs and expectations of multiple users. The specifications shall be unbiased, functional and not brand specific; and
- (c) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature.
- (3) Officials should undertake appropriate industry analysis and research, where necessary, to ensure that innovations and technological benefits are maximized.

## **Part 2: Acquisition Management**

### **11. System of Acquisition Management**

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

### **12. Range of Procurement Processes**

- (1) Prince Albert Municipality shall only procure goods and services by way of –
- (a) petty cash purchases, up to a transaction value of R 2 000 (VAT included);
  - (b) written quotations for procurements of a transaction value over R 2 000 up to R 10 000 (VAT included);
  - (c) formal written price quotations for procurements of a transaction value over R 10 000 up to R 200 000 (VAT included);
  - (d) a competitive bidding process for –
    - (i) procurements above a transaction value of R 200 000 (VAT included); and
    - (ii) the procurement of long term contracts.

- (2) The accounting officer may, in writing -
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
  - (b) direct that –
    - (i) formal written price quotations be obtained for any specific procurement of a transaction value lower than R 10 000; or
    - (ii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R 200 000.
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

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

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

- (1) Has furnished that provider's -
- (a) Full name;
  - (b) Identification number or company or other registration number; and
  - (c) Tax reference number and VAT registration number, if any;
- (2) Has indicated -
- (a) Whether he or she is in the service of the State, or has been in the service of the State in the previous twelve months;
  - (b) If the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the State, or has been in the service of the State in the previous twelve months; or
  - (c) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the State, or has been in the service of the State in the previous twelve months.
- (3) In the case of formal written quotations and tenders, that is transactions exceeding R30 000, including VAT:
- (a) A valid original Tax Clearance Certificate or a copy of the Tax Verification Pin must accompany the bid documents unless the bidder is registered on the Central Supplier Database or the Municipality has a valid original Tax Clearance Certificate for the bidder there on record. The onus is on the bidder to ensure that the Municipality has a valid original Tax Clearance Certificate on record. If the South African Revenue Services (SARS) cannot provide a valid original Tax Clearance Certificate; the bidder must submit a letter from SARS on an original SARS letterhead that their tax matters are in order.
  - (b) If the bid of the preferred bidder is not supported by a valid original Tax Clearance

Certificate or Tax Verification Pin, either as an attachment to the bid documents or on record in the case of suppliers registered on the Central Supplier Database, the Municipality reserves the right to obtain such document, within a time as specified by the Municipality, after the closing date to verify that the bidder's tax matters are in order. If no such document can be obtained, the bid will be disqualified;

- (c) A copy of the bidder's municipal account (for the Municipality where the bidder pays his account) for the month preceding the quotation closure date must accompany the quotation documents. If such a copy does not accompany the bid document of the successful bidder, the Municipality reserves the right to obtain such documents (including sworn affidavits) after the closing date to verify that their municipal accounts are in order;
- (d) No bid will be awarded to any bidder which is or whose directors are in arrears for more than three months with their municipal rates and taxes or municipal charges due to any Municipality or any of its entities. If a bidder rents their premises, proof must be submitted that the rental includes their municipal rates and taxes or municipal charges and that their rent is not in arrears.
- (e) B-BBEE Certificates or Sworn Affidavits must be a valid original or certified copy of the original and must comply with the minimum validation criteria as set out by National Treasury. However, in the case where a bidder submitted a B-BBEE Certificate at the closing date and time of the bid but it was not the original or not certified as a true copy of the original, the bidder could be requested to submit the original or certified copy of the original within a specified period of time. If the required certificate is submitted within the specified time, and the certificate complies with the requirements set by National Treasury, the bidder may be awarded the points that they qualify for.

#### **14. Accredited prospective providers**

- (1) Supply Chain Management must utilise accredited prospective providers of goods and services for the procurement requirements for the Municipality through written quotations and formal written quotations.
- (2) The Central Supplier Database is currently utilised for the successful registration and validation of prospective provider as mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1)(b) of the Municipal SCM Regulations.

#### **15. Petty cash purchases**

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

- (a) Only officials duly delegated to authorise quotations and certify invoices for payments may authorise the request for petty cash and authorise the expenditure incurred via a petty cash transaction;
- (b) Each Senior Manager is only allowed a maximum of 15 petty cash transactions per month; and Amounts above R200 up to R2,000 will be paid by EFT or cheque either as individual payment or as part of the monthly account payment where the municipality has an account with the vendor;
- (c) No expenditure is excluded from petty cash but deliberate splitting of transactions is not allowed as per section 12; and
- (d) No request for petty cash transactions may be lodged for items that is held as inventory in the municipal stores.
- (e) a monthly reconciliation report from the head expenditure must be provided to the Chief Financial Officer, including:
  - (i) the total amount of petty cash purchases in cash for that month; and
  - (ii) receipts and appropriate documents for each purchase.

- (iii) the report can be submitted as part of the reimbursement process for petty cash and does not have to be performed on a specific date in the month unless no reimbursement was made in a specific month.

**16. Written or verbal quotations**

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

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers list or Central Supplier Database as is currently in use, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria of the database;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by 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) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

**17. Formal written price quotations**

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

- (a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers or the central supplier database;
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria.
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer; and

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

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

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

- (a) when using either the list of accredited prospective providers or the Central Supplier Database, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
- (b) that all requirements in excess of R30 000.00 (VAT included) procured by means of formal written price quotations, must in addition to the requirements of paragraph 17, be advertised for at least seven days with a predetermined closing date and time on the website and an official notice board of the municipality;
- (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts and the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused;



- (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
- (e) offers equal to or below R200 000 (VAT included) must be awarded based on compliance to specification and ability and capability to deliver the goods and services and lowest price;
- (f) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points; and
- (g) proper records must be kept.
- (h) a lockable safe tender box must be kept at the main municipal buildings in which quotations and/or tender or bid documents can be deposited 24 hours a day, seven days a week.

#### **19. Competitive bids**

- (1) Goods or services above a transaction value of R200 000.00 (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 000.00 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods and services otherwise than through a competitive bidding process.

#### **20. Process for competitive bidding**

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

- (a) Compilation of bidding documentation;
- (b) Public invitation of bids;
- (c) Site meetings or briefing sessions;
- (d) Handling of bids submitted in response to public invitation;
- (e) Evaluation of bids;
- (f) Award of contracts;
- (g) Administration of contracts;
  - (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.

#### **21. Bid documentation for competitive bids**

- (1) The criteria to which bid documentation for a competitive bidding process must comply, must:
  - (a) take into account -
    - (i) the general conditions of contract and any special conditions of contract, if specified;
    - (ii) any Treasury guidelines on bid documentation; and

- (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish -
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements
    - (aa) for the past three years; or
    - (bb) since their establishment, if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality is expected to be transferred out of the Republic; and
- (e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

## **22. Public invitation for competitive bids**

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

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

### **23. Procedures for handling site meetings, information sessions or briefing sessions**

- (1) Bid documentation should indicate whether a site meeting, information or briefing session is compulsory or not.
- (2) The address and time where the meeting or session will take place as well as the contact person with contact details should be stipulated.
- (3) Prospective bidders that arrive within 15 (fifteen) minutes of the advertised time the meeting started will not be allowed to attend the meeting or to sign the attendance register unless the person chairing the meeting give permission to do so. Reasons for the chairperson's decision must be duly minuted.
- (4) Bidders that arrive within 15 (fifteen) minutes of the advertised time the meeting started, but leave before the completion of the meeting will not be allowed to sign the attendance register.
- (5) Prospective bidders that arrive after 15 (fifteen) minutes of the advertised time the meeting started will not be allowed to attend the meeting and sign the attendance register.
- (6) If the value of the bid is to be more than R10 million and a prospective bidder is delayed due to unforeseen circumstances, he/she must contact the contact person or chairperson before the meeting commence and inform him/her of the delay and state the reasons for the delay and will only be allowed to attend the meeting if the chairperson of the meeting give permission to do so. Reasons for the chairperson's decision must be duly minuted.
- (7) An attendance register must be completed at all meetings or sessions.
- (8) Minutes must be kept at all meetings or sessions and be distributed to all attendees.
- (9) Any additional information, clarifications, correction of errors or modifications to the bid documents must be distributed to all attendees in sufficient time before the closing date and time of the bid to enable bidders to take appropriate action if necessary.

### **24. Procedure for handling, opening and recording of bids**

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

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

**25. Negotiations with preferred bidders**

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

**26. Two-stage bidding process**

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

**27. Committee system for competitive bids**

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

**27. Bid Specification Committees**

- (1) A bid specification committee must compile the specifications (for competitive bidding or any other procurement of a

technical nature) for goods or services by the municipality.

(2) Specifications –

- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
- (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organization, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;
- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or 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 Public invitation for competitive bids.

(3) A bid specification committee must be composed of one or more officials of the municipality, preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

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

**29. Bid Evaluation Committees**

(1) A bid evaluation committee must –

- (a) evaluate bids in accordance with –
  - (i) the specifications for a specific procurement; and
  - (ii) the points system ;
- (b) evaluate each bidder’s ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
- (d) submit to the adjudication committee a report and recommendations regarding the awarding of the bid or any other related matter.

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

- (a) officials from departments requiring the goods or services, **should it be required**; and
- (b) at least one supply chain management practitioner of the municipality.

**30. Bid Adjudication Committees**

- (1) A bid adjudication committee must consider the report and recommendations of the bid evaluation committee and either –
  - (a) make a final award; or
  - (b) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) A bid adjudication committee must consist of at least three senior managers of the municipality, which must include –
  - (a) the chief financial officer or, if he/she is not available, another manager in the budget and treasury office, reporting directly to the chief financial officer and designated by him/her; and
  - (b) at least one senior supply chain management practitioner, who is an official of the municipality; and
  - (c) if deemed necessary, a technical expert in the relevant field, who is an official, if such an expert is available.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) (a) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid –
  - (i) check in respect of the preferred bidder, whether that bidder's municipal taxes and municipal service charges are not in arrears; and
  - (ii) notify the accounting officer
- (b) The accounting officer may –
  - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
  - (ii) if the decision of the bid adjudication committee is rejected, refer the decision back to that committee for reconsideration.
- (6) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to the committee for reconsideration of the recommendation.
- (7) The accounting officer must shall, in terms of section 114 of the Act, notify the Auditor-General, the Provincial Treasury and National Treasury within 10 working days where a bid, other than the one recommended in the normal course of implementing this Policy, has been approved.

### **31. Procurement of banking services**

- (1) A contract for banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- (2) The process for procuring a contract for banking services must commence at least nine months before the end of an

existing contract.

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

### **32. Procurement of IT related goods or services**

- (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
  - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and Prince Albert Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

### **33. Procurement of goods and services under contracts secured by other organs of state**

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

### **34. Procurement of goods necessitating special safety arrangements**

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

### **35. Proudly SA Campaign**

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

- Firstly - suppliers and businesses within the municipality;
- Secondly - suppliers and businesses within the province; and

- Thirdly - suppliers and businesses within the Republic.

### **36. Central Supplier Database**

- (1) The web based Central Supplier Database (CSD) will primarily be used for performing validation functions of key supplier information of suppliers registered as prospective suppliers.
- (2) CSD supplier number (MAAA) is auto generated by the Central Database System after successful registration and validation of the prospective provider. This number will be used as a mandatory requirement as part of listing criteria for accrediting prospective provider in line with Section 14(1)(b) of the Municipal Supply Chain Management Regulations.
- (3) The CSD will be used to automatically validate the following registration documents:
  - Confirmation and status of Business Registration Documents
  - Proof of Bank Account Registration
  - Tax compliance status
  - Employee in the service of state as defined in the Municipal SCM Regulations with information only available in the PERSAL system at this time, namely National and Provincial officials
  - Identity Documentation
  - Tender defaulters and restrictions status
- (4) The following verification is not yet performed by the CSD therefore it will be validated by the municipal SCM unit before the supplier will be considered as a prospective supplier:
  - BBEE Status (not yet available, municipalities are required to continue with their current and existing process)
  - CIDB (not yet available, municipalities are required to continue with their current and existing process)
  - Municipal Account status (not yet available, municipalities are required to continue with their current and existing process)
- (5) Should the preferred supplier not be registered on the CSD, the supplier may still be utilised if they comply with the listing criteria for accrediting prospective providers.

### **37. Appointment of consultants**

- (1) The accounting officer may procure consulting services, provided that any Treasury guidelines in respect of consulting services are considered when such procurements are made.
- (2) Consultancy services will 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 Prince Albert Municipality.



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

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

### **39. Unsolicited bids**

- (1) In accordance with section 113 of the Municipal Finance Management, 2003 (Act 56 of 2003), there is no obligation to consider unsolicited bids received outside a normal bidding process.
- (2) The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –
  - (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- (3) If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, 2000 (Act 32 of 2000), together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- (7) When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and

- (b) any written comments and recommendations of the National Treasury or the relevant Provincial Treasury.
- (8) If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- (9) Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing Prince Albert Municipality to the bid may be entered into or signed within 30 days of the submission.

#### **40. Combating of abuse of supply chain management system**

- (1) The accounting officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;
  - (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to Prince Albert Municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
    - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has 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 Bid Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act 12 of 2004).

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

#### **41. Contract Management**

- (1) The Accounting Officer must ensure that all written contracts or service level agreements that are entered into by their respective institutions are legally sound. This measure is aimed at avoiding potential litigation and minimizing possible fraud and corruption.
- (2) Such contracts or agreements must be actively managed in order to ensure that both parties (the municipality and the contractors) meet their respective obligations.
- (3) All contracts entered into by the Municipality in the tender process referred to in paragraph 19 of this Policy must -
  - (a) be in writing;
  - (b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for –
    - (i) the termination of the contract or agreement in the case of non- or underperformance;
    - (ii) dispute resolution mechanisms to settle disputes between parties;
    - (iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
    - (iv) any other matter that may be prescribed.
  - (c) include the General Conditions of Contract as prescribed by National Treasury.
  - (d) specify the duration of the contract;
  - (e) specify the payment terms in respect of the goods or service supplied;
  - (f) be monitored by the Directorate of the Municipality which requested the goods or service to ensure that all the contract requirements are met.
- (4) Unauthorised deviations or breaches of the contract as in paragraph 41(1)(d) above by the supplier or service provider must be reported to the Head: Legal Services for initiating appropriate action as well as to the SCM Unit which must enter the details in a register for the recording of such deviations and breaches.
- (5) Copies must be made of original signed contracts entered into in the course of the implementation of this Policy and the original document must be forwarded to the SCM Unit for safekeeping or filing in the Documentation Centre of the Municipality together with the bid committee documentation related to the contract.
- (6) Contracts, with the exception of transversal contracts, may not be expanded or varied by more than 20% for constructions related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract. Anything above the mentioned thresholds must be reported to council.
- (7) Any expansion or variation in excess of the thresholds stated above must be dealt within terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment of the contract.

#### **42. Performance Management**

- (1) The head of the municipal department which required the goods or a service in terms of a competitive bidding process must ensure that the goods had been delivered or the service completed according to the Municipality's quality and other requirements as specified in the relevant bid documentation.
- (2) In the case of goods and services supplied in response to a quotation invited by the Municipality the head of the client

department or section of the Municipality which requested the goods or service must certify on the supplier's invoice that the goods or service had been supplied in accordance with the Municipality's requirements before payment is made.

- (3) In the case of goods or services procured through a tender process as specified in terms of paragraph 19 of this Policy, the head or section of the relevant department must within a 30 (thirty) working days of the final delivery of the required work submit a written report to the Head of Supply Chain Management on the performance of the supplier.
- (4) The report must state –
  - (a) whether or not the performance of the supplier was satisfactory in terms of adherence to specifications and delivery or completion schedules, product or service quality and quality of workmanship;
  - (b) include details, supported by copies of any written notifications regarding service delivery given to the supplier.
  - (c) include a recommendation on any further action to be taken against the supplier in terms of paragraph 39 of this Policy.

#### **43. Procedures in the event of non-or poor performance of service providers, Contractors and suppliers**

- (1) Non-performance applicable to service providers and supplier/service providers.  
These instructions are applicable to all bids, contracts and orders including bids for functional and professional services (excluding professional services related to the building and construction industry), sales, hiring, letting and the granting or acquiring of rights, but excluding immovable property, unless otherwise indicated in the bidding documents.
- (2) Delivery of goods and performance of service contracts:
  - (a) Delivery of the goods and performance of services shall be made by the supplier/service provider in accordance with the time schedule prescribed by the Municipality in the contract.
  - (b) If at any time during the performance of the contract, the supplier/service provider or its subcontractor(s) should encounter problems that delays timely delivery of the goods or performance of services, the supplier/service provider shall promptly notify the Municipality in writing of the fact of the delay, its likely duration and its cause(s).
  - (c) If the supplier/service provider or its subcontractor(s) does not notify the Municipality in writing of delays in delivery and goods or performance of services and delivery of the goods or performance of services does not occur as agreed upon, the Municipality shall within 24 hours after the agreed upon delivery period has lapsed:
    - (i) Issue a final notification by registered mail indicating the action to be taken in terms of the contract conditions unless the supplier/service provider complies with the contract conditions and delivers satisfactory services/supplies within a specified reasonable time.
    - (ii) Such time should be decided upon by the Accounting Officer or the Chief Financial Officer and should not be less than seven (7) and not longer than fourteen (14) calendar days.
    - (iii) If the supplier/service provider still does not deliver the goods or perform the service despite the final notification, the Municipality may, in addition to any contractual or other remedy, act against the supplier/service provider or elects to exercise the following:
      - Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
      - Cancel the contract and claim damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation (see (g) for termination);
      - Impose a financial penalty more severe than the theoretical financial preference associated with the claim which was made in the tender;
      - The Chief Financial Officer may restrict the supplier/service provider, its shareholders and directors from obtaining business from the Prince Albert Municipality for a period not exceeding two (2) years (also refer to (g)(6) and (7)) and afford the supplier/service provider, its

shareholders and directors twenty one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000; and

- Restrict the supplier/service provider, its shareholders and directors from obtaining business from any organ of state for a period not exceeding ten (10) years (see (g) (6) to (9)).

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

- (i) As soon as practical after receipt of the supplier /service provider's notice, the Municipality shall evaluate the situation and may at its discretion extend the supplier /service provider's time for delivery or performance, with or without the imposition of penalties, in which case the extension shall be ratified by the parties by amendment of the contract.
- (ii) The right is reserved to procure outside of the contract small quantities or to have minor essential services executed if an emergency arises, the supplier/service provider's point of supply is not situated at or near the place where the goods are required, or the supplier/service provider's services are not readily available.
- (iii) Upon any delay beyond the delivery period in the case of a goods contract, the purchaser shall, without cancelling the contract, be entitled to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier/service provider's expense and risk, to purchase goods of a similar quality and up to the same quantity in substitution of the goods not supplied in conformity with the contract and to return any goods delivered later at the supplier/service provider's expense and risk, or to cancel the contract and buy such goods as may be required to complete the contract and without prejudice to his other rights, be entitled to claim damages from the supplier/service provider.

(e) Force Majeure

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

(f) Penalties:

- (i) If the supplier/service provider fails to deliver any or all of the goods or to perform the services within the period(s) specified in the contract, the Municipality shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum

calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delay until actual delivery or performance.

(ii) The penalty clause does not apply in the event of Force majeure.

(g) Termination for default:

(i) The Municipality, without prejudice to any other remedy for breach of contract, by written notice of default sent to the supplier/service provider, may terminate this contract in whole or in part:

- If the supplier/service provider fails to deliver any or all of the goods within the period(s) specified in the contract, or within any extension thereof granted by the Municipality pursuant to paragraph (a);
- If the supplier/service provider fails to perform any other obligation(s) under the contract; or
- If the supplier/service provider, in the judgment of the Municipality, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.
- In the event that the Municipality terminates the contract in whole or in part, the Municipality may procure, upon such terms and in such manner, as it deems appropriate, goods, works or services similar to those undelivered, and the supplier/service provider shall be liable to the Municipality for any excess costs for such similar goods, works or services. However, the supplier/service provider shall continue performance of the contract to the extent not terminated.
- Where the Municipality terminates the contract in whole or in part:
  - (i) The Municipality may decide to impose a restriction penalty on the supplier/service provider by prohibiting such supplier/service provider from doing business with the public sector for a period not exceeding 10 years (see (g) (6) to (9)) or
  - (ii) The Chief Financial Officer may restrict the supplier/service provider, its shareholders and directors from obtaining business from the Prince Albert Municipality for a period not exceeding two (2) years (also refer to (g) (6) and (7)) and afford the supplier/service provider, its shareholders and directors twenty one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000.
- If a Municipality intends imposing a restriction on a supplier/service provider or any person associated with the supplier/service provider, the supplier/service provider will be allowed a time period of not more than fourteen (14) days to provide reasons why the envisaged restriction should not be imposed. Should the supplier/service provider fail to respond within the stipulated fourteen (14) days the Municipality may regard the supplier/service provider as having no objection and proceed with the restriction.
- Any restriction imposed on any person by the Municipality will, at the discretion of the Municipality, also be applicable to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Municipality actively associated.
- If a restriction is imposed, the Municipality must, within five (5) working days of such imposition, furnish the National Treasury, with the following information:
  - (i) the name and address of the supplier/service provider and / or person restricted by the Municipality;
  - (ii) the date of commencement of the restriction
  - (iii) the period of restriction; and
  - (iv) the reasons for the restriction. These details will be loaded in the National Treasury's central database of supplier/service providers or persons prohibited from doing business with the public sector

- (3) If a court of law convicts a person of an offence as contemplated in sections 12 or 13 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004, the court may also rule that such person's name be endorsed on the Register for Tender Defaulters. When a person's name has been endorsed on the Register, the person will be prohibited from doing business with the public sector for a period not less than five years and not more than 10 years. The National Treasury is empowered to determine the period of restriction and each case will be dealt with on its own merits. According to section 32 of the Act the Register must be open to the public. The Register can be perused on the National Treasury website.
- (4) Construction and construction related contracts
- (a) These instructions are applicable to professional services related to the building and construction industry, unless otherwise indicated in the bidding documents.
  - (b) In case of non- or poor performance, the Municipality shall within 24 hours after becoming aware of the situation:
    - (i) Issue a final notification by registered mail indicating the action to be taken in terms of the contract conditions unless the contractor complies with the contract conditions and ` satisfactory works within a specifies reasonable time.
    - (ii) Such time should be decided upon by the Accounting Officer and should not be less than seven (7) and not longer than fourteen (14) calendar days.
  - (c) If the supplier/service provider still does not deliver the goods or perform the service despite the final notification, the Municipality may, in addition to any contractual or other remedy, act against the supplier/service provider or elect to exercise the following:
    - (i) Recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
    - (ii) Cancel the contract and claim damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation.
    - (iii) Impose a financial penalty not more severe than the theoretical financial preference associated with the claim which was made in the tender,
    - (iv) Restrict the supplier/service provider, its shareholders and directors from obtaining business from the Prince Albert Municipality for a period not exceeding two (2) years and afford the supplier/service provider, its shareholders and directors twenty one (21) days to object against the decision in terms of Section 62 of the Municipal Systems Act, Act 32 of 2000 (also refer to (g)(6) and (7)); and
    - (v) Restrict the supplier/service provider or service provider, its shareholders and directors from obtaining business from any organ of state for a period not exceeding ten (10) years (see (g) (6) to (9)).

### **Part 3: Logistics Management**

#### **44. Logistics Management**

- (1) The accounting officer must establish and implement an effective system of logistics management that provides for the placing of orders, receiving and distribution of goods, inventory management, speedy settlement of orders, transport management, monitoring of supplier performances, maintenance and contract administration.

### **Part 4: Disposal Management**

#### **45. Asset Disposal Management**

- (1) The accounting officer must establish and implement an effective system for the disposal and letting of assets, including inadaptable, redundant or obsolete assets, subject to sections 14 and 90 of the Act.
- (2) Assets may be disposed of by –
- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
  - (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;

- (c) selling the asset; or
- (d) destroying the asset.

(3) The accounting officer must ensure that –

- (a) immovable 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) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (e) in the case of 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.

(4) Letting of Assets:

- (a) All immovable property is let at market related rates, except when the public interest or the plight of the poor demands otherwise, and unless the relevant provincial treasury determines otherwise or approves the letting of property free of charge.
- (b) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.
- (c) The following process needs to be followed for the letting of immovable property:
  - (i) An item must be submitted to Council to obtain decision in principle to proceed with negotiations and agreement.
  - (ii) A request must be forwarded to Supply Chain Management to advertise a request for proposals (always a competitive process).
  - (iii) All requirements of the Supply Chain regulations will apply inclusive of preferential points and final award by the Supply Chain Committee System.
  - (iv) Contractual requirements need to be drafted and finalized.

## **Part 5: Risk Management**

### **46. Risk Management**

- (1) The accounting officer must develop and implement an effective system of risk management in order to identify, consider and avoid possible risks in the supply chain management system.
- (2) Risk management must include:
  - (a) the identification of risks on a case-by-case basis;
  - (b) the allocation of risks to the party best suited to manage such risks;
  - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
  - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and



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

(3) General risk management measures that will be applied by Prince Albert Municipality include the following:

(a) Business Plans where applicable will be required for approval prior to the commencement of all projects.

(b) Feasibility and/or design reports will be required by the municipality before bid for projects are called.

(c) As far as possible tender documents will be specific and detailed.

(d) The applicable project standards will be made available for public perusal.

(e) Consultants and/or municipal officials will ensure time, cost and quality control while projects are being implemented.

(f) Bidders, where applicable, will be required to take public liability insurance to cover the Prince Albert Municipality.

(g) Variation orders to projects will require the approval of the municipal manager or a municipal official prior to execution on site.

(4) Additional risk management mechanisms applicable to construction projects includes surety, retention and cessions.

(a) Sureties are normally required for construction projects.

(i) Surety requirements are classified under the following categories:

<b>AMOUNT</b>	<b>PERCENTAGE</b>
Up to R300 000	Nil
R 300 000 to R1 000 000	2,5 %
R1 000 000 to R3 000 000	5,0 %
R3 000 000 to R5 000 000	7,5 %
Above R5 000 000	10,0 %

(ii) In the event that a contractor is unable to raise the required surety, the Chief Financial Officer may allow such surety to be deducted in full or part from monies that are to become due to the contractor. This may take the form of deductions from the first three [3] payment certificates due to the contractor.

(iii) At the discretion of Prince Albert Municipality, it may waive the requirement for a surety on construction contracts that are estimated to be equal to or lower than one million rand [R1 000 000]. The municipality would only consider waiver of sureties to assist and facilitate the entry of emerging entrepreneurs in the small works sector of the construction industry. The waiver will be allowed in exceptional cases where a surety, guarantee or bridging finance cannot be accessed through any financial institution and written proof thereof must be submitted to the municipality. In the event surety is waived Prince Albert Municipality will underwrite the risk of such contracts in order to provide opportunities that will target HDIs. Service providers/Contractors will not be allowed to engage in more than two contracts at a time where sureties have been waived.

(iv) Surety will be released on application to the municipality, subsequent to the municipality approving the completion certificate for the contract.

**(b) Retention**

(i) The municipality requires a percentage of the project costs for all construction projects to be set aside as

retention. A 10% retention fee up to a maximum of 5% of the contract sum will be applied on all contracts.

- (ii) Half of the retention amount will be released on issue of the completion certificate for the contract.
- (iii) The balance of the retention will be released on the completion of the defects liability period of the contract.
- (iv) All contracts must include a penalty clause.

**(c) Cession of Payment**

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

**Part 6: Performance Monitoring**

**47. Performance Management**

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

**Part 7: Other Matters**

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

(1) The Accounting Officer must ensure that, irrespective of the procurement process followed, no award above R30 000 (VAT included) is given to a person whose tax matters have not been declared by the South African Revenue Service (SARS) to be in order.

**49. Prohibition on awards to persons in the service of the state**

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

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

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

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

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

**51. Ethical standards**

- (1) A code of ethical standards as set out in the “National Treasury’s code of conduct for supply chain management practitioners and other role players”, attached as Annexure 1, is hereby established for officials and other role players in the supply chain management system of Prince Albert Municipality, in order to promote -
  - (a) mutual trust and respect; and
  - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) A breach of the code of ethics must be dealt with as follows –
  - (a) in the case of an employee, in terms of the disciplinary procedures of Prince Albert Municipality, envisaged in section 67 (1)(h) of the Municipal Systems Act; and
  - (b) in the case of a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
  - (c) In all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

## **52. Inducements, rewards, gifts and favours to the municipality, officials and other role players**

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
  - (a) any inducement or reward to the municipality for or in connection with the reward of a contract; or
  - (b) any reward, gift, favour or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury’s database of persons prohibited from doing business with the public sector.
- (3) Subparagraph (1) does not apply to gifts less than R 350 in value.

## **53. Sponsorships**

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

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

## **54. Objections and Complaints**

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

## **55. Resolution of disputes, objections, complaints and queries**

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
  - (a) to assist in the resolution of disputes between Prince Albert Municipality and any other person(s) regarding –
    - (i) any decisions or actions taken in the implementation of the supply chain management system; or
    - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
  - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- (2) The accounting officer or another official designated by the accounting officer is responsible for assisting the person appointed in subparagraph (1) to perform his/her functions effectively.
- (3) The person appointed must –
  - (a) strive to promptly resolve all disputes, objections, complaints or queries received; and
  - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to and/or resolved.
- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
  - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
  - (b) no response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

#### **56. Contracts providing for compensation based on turnover**

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

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

#### **57. Construction Industry Development Board**

- (1) The Construction Industry Development Board (CIDB) has been established by government to promote the uniform application of policy to the construction industry.
  - (a) When calling for construction related bids -
    - (i) the same Bid Committee system as for all other bids will be applicable;
    - (ii) the prescribed CIDB (uniformity standard bid documents) may be utilised;
    - (iii) only Contractors registered with the CIDB may be used;
    - (iv) all tenders must be advertised on the CIDB i-tender system
    - (v) consultants used in the procurement process must adhere to the CIDB legislation;

(vi) consultants used in the procurement process are prohibited to provide goods, works or services related to the project; and subcontract arrangements and joint venture initiatives must be aligned to CIDB guidelines and requirements.

(b) When evaluating construction related bids -

- (i) the validity of the contractor's registration and grading on the CIDB website must be verified;
- (ii) the contractor's registration will be verified and has to be valid on the day the Bid Evaluation Committee evaluates the bid;
- (iii) the bidder's documents must be assessed against the prescribed CIDB contractor requirements; and
- (iv) calculations for joint venture gradings must be done according to the CIDB prescriptions.

(2) Other matters -

- (a) all projects approved by the Municipality must be registered with the CIDB;
- (b) contracts registered on the i-tender systems must be updated and completed;
- (c) non-performance and non-compliance of contractors must be reported to the CIDB as per the CIDB guidelines; and
- (d) Sub-contracting arrangements and joint-venture initiatives must be aligned to the
  - (i) CIDB guidelines and requirements.

#### **58. Archive of bidding documents**

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

#### **59. Management of expansion or variation of orders against the original**

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

#### **60. Contracts having future budgetary implications**

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

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

**61. Commencement**

This Policy takes effect on **1 July 2019**.

**Municipal Manager's confirmation**

As approved by council at a meeting held on \_\_\_\_ May 2019

Signed at Prince Albert on \_\_\_\_ May 2019

\_\_\_\_\_

Municipal Manager

# Prince Albert Municipality

## CODE OF CONDUCT FOR SUPPLY CHAIN MANAGEMENT

### PRACTITIONERS AND OTHER ROLE PLAYERS

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

#### 1. General Principles

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

#### 2. Conflict of interest

- 2.1 An official or other role player involved with supply chain management -
- (a) must treat all providers and potential providers equitably;
  - (b) may not use his/her position for private gain or improperly benefit another person;
  - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
  - (d) must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
  - (e) must declare to the accounting officer details of any private or business interest which that person or to any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by Prince Albert 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 declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;

- (h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- (i) should not take improper advantage of their previous office after leaving their official position.

### **3. Accountability**

- 3.1 Practitioners are accountable for their decisions and actions to the public.
- 3.2 Practitioners should use public property scrupulously.
- 3.3 Only the accounting officer or his delegates have the authority to commit the municipality to any transaction for the procurement of goods and/or services;
- 3.4 All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 3.5 Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 3.6 Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including -
  - (i) any alleged fraud, corruption, favouritism or unfair conduct;
  - (ii) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
  - (iii) any alleged breach of this code of conduct.
- 3.7 Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the mayor, who must ensure that such declaration is recorded in the register.

### **4. Openness**

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

### **5. Confidentiality**

- 5.1 Any information that is the property of Prince Albert Municipality or its providers should be protected at all times. No information regarding any bid / contract / bidder / contractor may be revealed if such an action will infringe on the relevant bidder's / contractor's personal rights.
- 5.2 Matters of confidential nature in the possession of officials and other role players involved in SCM should be kept confidential unless legislation, the performance of duty or the provisions of law requires otherwise. Such restrictions also apply to officials and other role players involved in SCM after separation from service.

### **6. Bid Specification / Evaluation / Adjudication Committees**

- 6.1 Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of Prince Albert Municipality in an honest, fair, impartial, transparent, cost-effective and accountable manner.



6.2 Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.

6.3 All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.

6.4 No person should –

- (a) interfere with the supply chain management system of Prince Albert Municipality; or
- (b) amend or tamper with any price quotation / bid after its submission.

## **7. Combative Practices**

7.1 Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:

- (i) Suggestions to fictitious lower quotations;
- (ii) Reference to non-existent competition;
- (iii) Exploiting errors in price quotations / bids;
- (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.

**ANNEXURE 2**  
**EVALUATION OF TENDERS**

**1. Preference Points System**

1.1 The principles embodied in the Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) (PPPFA) and the Preferential Procurement Regulations, 2017, form the basis of the evaluation criteria for quotations and formal bids.

1.2 Formal and informal tenders will be evaluated and adjudicated by means of a points scoring system.

1.3 The limits set in the PPPFA regulations are as follows:

- ◆ The 80/20 preference point system is applicable to price quotations and tenders with a Rand value equal to, or above R 30 000.00 and up to R 50 000 000.00
- ◆ The 90/10 preference point system is applicable to bids with a value above R 50 000 000.00

1.4 Preference points for any bid or quotation above R 30 000 shall be awarded for:

- (a) Price;
- (b) Bee;
- (c) Functionality for awards over R 200 000 or contract longer than year;
- (d) Specific contract participation goals, if deemed appropriate by the bid specification committee

1.5 Regarding specific contract participation goals, points are awarded for:

- (a) Historically Disadvantaged Individuals (HDI's):
  - (i) who had no franchise in national elections before the 1983 and 1993 constitutions;
  - (ii) who is a female; and/or
  - (iii) who has a disability; and
- (b) Other specific goals (RDP goals):
  - (i) Promotion of SMMEs;
  - (ii) Human resource development;
  - (iii) Upliftment of communities; and
  - (iv) Enterprises located within Prince Albert municipal area.

1.6 Subject to Regulations 6 and 7 of the Preferential Procurement Regulations, 2017, the tender obtaining the highest amount of points will be awarded the Contract.

1.7 Points scored will be rounded off to two decimal places.

1.8 In the event that two or more tenders have scored equal points, the successful tender must be the one scoring the highest number of preference points for a specific goal. Should this also be equal, the tender will be awarded on an equitable distribution basis to the tenderer who has done the least work for Prince Albert Municipality in the past.

**2. Allocation of points**

The allocation of points will be agreed by the bid specification committee and included in the tender documents or request for quotation

**ANNEXURE 3**

**REFER TO THE INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT POLICY**