



Supply Chain Management Policy

MASILONYANA LOCAL MUNICIPALITY

MASILONYANA LOCAL MUNICIPALITY	
Subject: Supply Chain Management Policy	Policy No: 01/2022-23
Directorate: Finance	Last Date Of Review:
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Custodian: Chief Financial Officer	Effective Date:

OBJECTIVE OF THE POLICY

The objective of this policy is to provide a policy framework within which the Accounting Officer and Chief Financial Officer can institute and maintain a supply chain management system which is transparent, efficient, equitable, competitive, which ensures best value for money for the municipality, applies the highest possible ethical standards, and promotes local economic development.

AIM OF THE POLICY

The aim of this policy is to transform the outdated procurement and provisioning practices into an integrated SCM function and to ensure that SCM forms an integral part of the financial management system of Masilonyana Local Municipality

This policy further aims to promote consistency in respect of supply chain management policy and other related policy initiatives in Government as well as aligning with global trends and ensure that South Africa adheres to international best practices.

By adopting this policy, the municipality further pledges itself and the municipal administration, to the full support of the Proudly SA campaign and to the observance of all applicable national legislation, including specifically the:

- Preferential Procurement Policy Framework Act No. 5 of 2000 and its regulations;
- Broad Based Black Economic Empowerment Act No. 53 of 2003 and any applicable code of practice promulgated in terms of that Act; and
- Municipal Finance Management Act No. 56 of 2003, including the regulations relating to the prescribed framework for supply chain management.
- The Construction Industry Development Board Act No. 38 of 2000 and its regulations.

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SECTION 1: DEFINITIONS

A-class Items	A-class items are those items that are not consumable or expendable.
Acquisition management	<p>Acquisition management is the process of procurement of goods or services</p> <ul style="list-style-type: none"> <input type="checkbox"/> in order to ensure that acquisition delegations are in place in the organization, the market strategy is assessed and a sourcing (procurement) strategy is determined, bid documents are compiled, bids are solicited, responses are received, responses are evaluated and assessed and awarded by the Bid Adjudication Committees
Affordable	<p>Affordable in relation to a PPP agreement, means that the financial obligations to be incurred by the entity in terms of the agreement can be met by:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Funds designated in the entity's budget for the current year for the activity outsourced in terms of the agreement; <input type="checkbox"/> Funds destined for that activity in accordance with the future budgetary projections of the entity; <input type="checkbox"/> Any allocations of the entity; <input type="checkbox"/> Or a combination of such funds and allocations.
Agreement	In relation to a <i>prohibited Practice in terms of the Competition Act 89 of 1998 as amended</i> , includes a contract, arrangement or understanding, whether or not legally enforceable
Asset	<p>It is a resource controlled by an entity as a result of past events and from which future economic benefits or service potential is expected to flow to the entity. It has the following characteristics:</p> <ul style="list-style-type: none"> <input type="checkbox"/> It possesses service potential or future economic benefit that is expected to flow to the entity.

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	<input type="checkbox"/> It is controlled by the entity. <input type="checkbox"/> It originates as a result of a past transaction or event.
Buy out	Pay someone to give up an ownership.
Competitive bid	Means a bid in terms of a competitive bidding process.
Competitive bidding process	Means a competitive bidding process referred to in section 24 of this policy.
Concerted Practice	Means co-operative, or coordinated conduct between <i>firms</i> , achieved through direct or indirect contact, that replaces their independent action, but which does not amount to an <i>agreement</i> .
Current asset (inventory-perishable goods)	An asset that would, in the normal course of operations, be consumed or converted to cash within 12 months after the last reporting date.
Customer service	It is the process of serving customers in accordance with acceptable, pre-determined standards in such a manner that it increases customer satisfaction and minimizes times and costs.
Demand management	Demand management ensures that the resources required to support the strategic objectives are delivered at the correct time, at the right price, location, quantity and quality that will satisfy the needs.
Depreciation	Depreciation refers to the reduction in the value of assets generally from wear and tear. The consumption of capital is recognized as a cost of production and an allowance for this is made before net profit is arrived at.
Disposal management	Disposal management is responsible to ensure that all unserviceable, redundant or obsolete assets are subjected to a formal process of doing away with movable assets in a cost-effective, but transparent and responsible manner. It also entails the maintenance of records and documents as prescribed.
E-class accountable	Accounting in respect of those stores approved by the relevant Treasury as consumables.

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E-class items	E-class items are consumable and expendable stores that cannot be repaired when it becomes unusable.
Economic principle	Obtain the highest possible output for the lowest possible use of resources.
Economy of scale	Reductions in the average cost of a product in the long run, resulting from an expanded level of output
Equipment	A-class countable stores that are issued and accounted for on an inventory.
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 sub-section 11 of section 23 of this policy.
Historically disadvantaged individual	<p>Historically Disadvantaged Individual (HDI) means a South African citizen who:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983 (Act No 10 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act no 200 of 1993) (“the Interim Constitution”); and/or <input type="checkbox"/> Is female and/or <input type="checkbox"/> Has a disability. <p>Provided that a person, who obtained South African citizenship on or after the coming into effect of the Interim Constitution, is deemed not to be an HDI.</p>
Horizontal Relationship	Means a relationship between competitors
Immovable assets	All non-produced, non-financial tangible assets, namely land, subsoil assets, water resources and some fixed tangible assets namely fixed structures (bridges, houses and roads).

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Intangible assets	Intangible assets are trademarks, licenses and/or the legally enforceable rights associated with copyright and patents.
Integrated SCM	The foundation of the integrated SCM concept is total cost analysis, which is defined, as minimizing the total cost of SCM elements.
In the service of the state	<p>Means to be:</p> <ul style="list-style-type: none"> <input type="checkbox"/> A member of <ul style="list-style-type: none"> ▪ Any municipal council, ▪ Any provincial legislature; or ▪ The National Assembly or the national Council of Provinces. <input type="checkbox"/> A member of the board of directors of any municipal entity. <input type="checkbox"/> An official of any entity or municipal entity. <input type="checkbox"/> An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No 1 of 1999). <input type="checkbox"/> A member of the accounting authority of any national or provincial public entity; or <p>An employee of Parliament or a provincial legislature.</p>
Inventories	Including stock and stores (consumable stores, maintenance materials, spare parts, WIP, education/training course materials, client services). Properties/land held for sale. Strategic stocks (fuel supplies, precious stones and metals). Seized or forfeited property.
Inventory (movable assets) management	<input type="checkbox"/> It shall be possible to determine accountability for all A-class-accountable items at all times. Records shall therefore be available to describe the full extent of the responsibility of officials for equipment belonging to the institution on personal account or sectional inventories for general usage.

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	Inventory (distribution) ledger accounts shall therefore be maintained for all A-class items.
Items	An individual article or unit.
Lifecycle costing	Lifecycle costing is a technique developed to identify and quantify all costs, initial and on-going, associated with a project or installation over a given period. Thus, it is a tool that forecasts the total cost of a purchase throughout its predetermined lifecycle.
List of accredited prospective providers	Means a list of accredited prospective providers which an entity or municipal entity must keep in terms of this policy.
Logistics management	Logistics management ensure that goods and services are available at the right place, time and quantities required to execute the functions of the entity.
Long term contract	Means a contract with a duration period exceeding one year.
Measurable objectives	Measurable objectives identify very specific things that the entity intends doing or delivering in order to achieve the strategic objectives and ultimately the strategic goals it has set. There must therefore be a direct causal link running from the measurable objective to one or more of the strategic objectives.
Movable assets	Movable assets are assets that can be moved (e.g. machinery, equipment, vehicles, etc.). All inventories and valuables and most fixed assets belong to this category.
Municipal functions	Means: <ul style="list-style-type: none"> <input type="checkbox"/> A municipal service. Any other activity within the legal competence of an entity.
Municipal property	In relation to an entity, includes any movable, immovable or intellectual property, owned by or under the control of: <ul style="list-style-type: none"> <input type="checkbox"/> A entity; or A municipal entity under the sole or shared control of the entity.

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Net present value (NPV)	<input type="checkbox"/> The sum that results when the discounted value of the expected costs of an investment are deducted from the discounted value of the expected returns. If the NPV is positive the project in question is potentially worth undertaking.
Obsolete	<input type="checkbox"/> No longer produced or used, out of date, to become obsolete by replacing it with something new.
Official	<p>Official means:</p> <input type="checkbox"/> An employee of an entity; <input type="checkbox"/> A person seconded to an entity to work as a member of the staff of the entity; A person contracted to an entity to work as a member of the staff of the entity otherwise than as an employee.
Operation and maintenance plan	<p>The objective of operation and maintenance plans is to ensure assets remain appropriate to programme requirements, are efficiently utilized, and are maintained in the necessary condition to support programme delivery at the lowest possible long-term cost.</p>
Other applicable legislation	<p>Means any other legislation applicable to municipal supply chain management, including:</p> <input type="checkbox"/> The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000). <input type="checkbox"/> The Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003). <input type="checkbox"/> The Construction Industry Development Board Act, 2000 (Act No 38 of 2000).
Over-utilization	<p>Over-utilization can have adverse effects in terms of deterioration in asset performance and condition, shortening productive life and increasing recurrent operating and maintenance costs.</p>
Practitioner	<input type="checkbox"/> A person who practices a profession or art.

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Private party	<p>In terms of a PPP, excludes:</p> <ul style="list-style-type: none"> <input type="checkbox"/> A entity; <input type="checkbox"/> A municipal entity; or <p>An organ of state, including an institution listed in any of the schedules of the Public Finance Management Act, 1999 (Act 1 of 1999).</p>
Procedures	<p>Policies are carried out by means of more detailed guidelines called “standard methods”. A series of actions conducted in a certain order or manner.</p>
Process	<p><input type="checkbox"/> A series of actions or steps towards achieving a particular end.</p>
Project management	<p>Project management is the planning, directing and controlling of an organization’s resources over a short term to ensure that specific objectives are successfully met.</p>
Provider	<p>A provider is the private person or institution that provides supplies, services or works to the Government.</p>
Public-private partnership	<p>Means a commercial transaction between an entity and a private party in terms of which the private party:</p> <ul style="list-style-type: none"> <input type="checkbox"/> Performs a municipal function on behalf of an entity. <input type="checkbox"/> Acquires the use of municipal property for its own commercial purposes. <input type="checkbox"/> Performs both a municipal function and acquires the use of municipal property as referred to above. <input type="checkbox"/> Assumes substantial financial, technical and operational risks in connection with the performance of the municipal function or use of municipal property <input type="checkbox"/> Receives a benefit for performing a municipal function or from utilizing municipal property, by way of: <input type="checkbox"/> Consideration to be paid by the entity.

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	<input type="checkbox"/> Charges or fees to be collected by the private party from users or customers of a service provided to them. <input type="checkbox"/> A combination of the above.
Quittance	The acknowledgement by the recipient of the receipt of issued stores, reflecting a signature, receipt voucher number and date of receipt.
Redundant	<ul style="list-style-type: none"> ▪ No longer needed or useful, superfluous (unnecessary).
SCM Regulations	Means the Local Government: Municipal Finance Management Act, 2003: Municipal Supply Chain Management Regulations.
Renewal	Replace or restore (something broken or worn out).
Risk management	Risk management may be defined as the identification, measurement and economic control of risks that threaten the assets and earnings of a business or other enterprise.
Rules	Rules are statements that a specific action must or must not be taken in a given situation.
Salvage	The Act of saving any goods or property in danger of damage or destruction.
SMME	Means a separate and distinct business entity, including co-operative enterprises and non-governmental organizations', managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy and which can be classified as a micro, a very small, a small or a medium enterprise by satisfying the criteria opposite the smallest relevant size or class.
Sourcing	Find out where to obtain.
Stores/stock	All movable state property/assets that are kept in stock for issue purposes.

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Strategic goals	Strategic goals are areas of organizational performance that are critical to the achievement of the mission. They are statements that describe the strategic direction of the organization.
Strategic objectives	Strategic objectives are more concrete and specific than strategic goals. They should give a clear indication of what the entity intends doing or producing in order to achieve the strategic goals it has set for itself. As such strategic objectives would normally describe high-level outputs or “results” of actions that the entity intends taking.
Treasury guidelines	Means the guidelines on supply chain management issued by the Minister in terms of section 168 of the Act.
The MFMA	Means the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003).
Under-utilization	Under-utilization will increase the unit cost of Program delivery and may prompt the purchase of new assets when they are not required.
Value for money	In relation to public-private partnership agreements, means that the performance of a private party in terms of the agreement will result in a net benefit to the entity in terms of cost, price, quality, quantity, risk transfer or any combination of those factors.
Written or verbal quotations	Means quotations referred to in sub-section 11 of section 23 of this policy.

SECTION 2: ABBREVIATIONS

AG	Auditor-General
AO	Accounting Officer – (Chief Executive Officer)
BBBEEA	Broad Based Black Economic Empowerment Act
BBBEE	Broad Based Black Economic Empowerment
BEE	Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
DTI	Department of Trade and Industry
EME	Exempted Micro Enterprise
HDI	Historically Disadvantaged Individual
IDP	Integrated Development Plan
IT	Information Technology
LCC	Life Cycle Costing
MFMA	Municipal Finance Management Act
MM	Municipal Manager (Accounting Officer) of Mangaung Metropolitan Municipality
MSA	Municipal Systems Act
MTEF	Medium Term Expenditure Framework
NIPP	National Industrial Participation Programme
PCCAA	Prevention and Combating of Corrupt Activities Act. 2004
PPP	Public Private Partnership

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PPPFA	Preferential Procurement Policy Framework Act (Act 5 of 2000) Amendment's 201
RDP	Reconstruction and Development Program
RFI	Request for Information
RET	Radical Economic Transformation
RFP	Request for Proposal
RFQ	Request for Quotation
SANAS	South African National Accreditation Agency
SAPS	South African Police Services
SARS	South African Revenue Services
MBD	Municipal Bidding Documents
SCM	Supply Chain Management
SCM Unit	Supply Chain Management Unit
SITA	State Information Technology Agency
SLA	Service Level Agreement
SMME	Small Medium and Micro Enterprise
SP	Service Provider
TCO	Total Cost of Ownership
TOR	Terms of Reference
EME	Means an exempted micro enterprise 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;
GCC	General Condition of Contract
QSE	QSE” means a qualifying small business enterprise 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; “Rand value” means the total estimated

CHAPTER 1 SUPPLY CHAIN MANAGEMENT POLICY

SECTION 3: SUPPLY CHAIN MANAGEMENT POLICY

- (1) The Council of Masilonyana Local Municipality resolves in terms of section 111 of the MFMA to have and implement supply chain management policy that-
- (a) Gives effect to:
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the MFMA.
 - (b) Is fair, equitable, transparent, competitive and cost effective.
 - (c) Complies with:
 - (i) The regulatory framework prescribed in Chapter 2 of the Local Government: Municipal Supply Chain Management Regulations, 2005;
 - (ii) Preferential Procurement Regulations, 2000 (Act No.5 of 2000) and
 - (iii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act.
 - (d) Is consistent with other applicable legislation.
 - (e) Does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres, and
 - (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
- (2) This Policy applies when the municipality:
- (a) Procuring goods or services.
 - (b) Disposing of goods, no longer needed.
 - (c) Selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies.
 - (d) In the case of the entity, 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.

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- (3) This policy, except where provided otherwise, do not apply in respect of the procurement of goods and services contemplated in section 110(2) and 110(3) of the MFMA Act, including
- (a) Public entity, another municipality or a municipal entity and
 - (b) Electricity from Eskom or another public entity, another municipality or a municipal entity.

SECTION 4: AMENDMENT OF THE SUPPLY CHAIN MANAGEMENT POLICY

- (1) The Accounting Officer must:
- (a) At least annually review the implementation of this policy.
 - (b) When the Accounting Officer considers it necessary, submit proposals for the amendment of this policy to council.
- (2) If the Accounting Officer submits proposed amendments to the council that differs from the model policy, the Accounting Officer must-
- (a) ensure that such proposed amendments comply with the Regulations.
 - (b) Report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
- (3) When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be considered.

SECTION 5: DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- (1) The Council hereby delegate such additional powers and duties to the accounting officer so as to enable the accounting officer –
- (a) to discharge the supply chain management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 of the Act; and
 - (ii) this Policy;
 - (b) to maximise administrative and operational efficiency in the implementation of this Policy;
 - (c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism 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) The Council hereby specifically delegate to the following Officials the power to make a final award, not exceeding the amount of R 1,000,000-00 (VAT included).
 - (a) Chief Financial Officer;
- (3) Sections 79 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- (4) The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of Masilonyana Local Municipality or to a committee which is not exclusively composed of officials of the entity.
- (5) This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 25 of this Policy.

SECTION 6: SUB-DELEGATION

- (1) The accounting officer may in terms of section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 4 of this Policy.
- (2) The power to make a final award –
 - (a) above R10 million (VAT included) may not be sub-delegated by the accounting officer;
 - (b) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub-delegated but only to –
 - (i) the chief financial officer;
 - (ii) a senior manager; or
 - (iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member.
 - (c) not exceeding R2 million (VAT included) may be sub-delegated but only to –
 - (i) the chief financial officer;

- (ii) a senior manager;
 - (iii) a manager directly accountable to the chief financial officer or a senior manager; or a bid adjudication committee.

 - (3) An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with subparagraph (2) must within five days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including–
 - (a) the amount of the award;
 - (b) the name of the person to whom the award was made; and
 - (c) the reason why the award was made to that person.

 - (4) A written report referred to in subparagraph (3) must be submitted –
 - (a) to the accounting officer, in the case of an award by –
 - (i) the chief financial officer;
 - (ii) 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 manager referred to in subparagraph (2)(c)(iii); or
 - (ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

 - (5) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 25 of this Policy.

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

SECTION 7: OVERSIGHT ROLE OF COUNCIL

- (1) Masilonyana Local Municipality reserves its right to maintain oversight over the implementation of this Policy.
- (2) For the purposes of such oversight the accounting officer must –
 - (a) Within 30 days of the end of each financial year, submit a report on the implementation of this Policy to the council of the municipality.
 - (b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council of the municipality.
- (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 council of the municipality.
- (4) The reports must be made public in accordance with section 21A of the Municipal Systems Act.

SECTION 8: SUPPLY CHAIN MANAGEMENT UNIT

- (1) A supply chain management unit is hereby established to implement this Policy.
- (2) The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.
- (3) The procurement section is responsible for the co-ordination and oversight of the supply chain management function. It is headed by the Supply Chain Manager and comes under the management of the municipality's Chief Financial Officer.

SECTION 9: TRAINING OF SUPPLY CHAIN MAGEMENT 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

SECTION 10: 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.

DEMAND MANAGEMENT

SECTION 11: SYSTEM OF DEMAND MANAGEMENT

An effective system of demand management will be achieved through the successful implementation of the strategic operational commitments of the municipality, as identified in the Integrated Development Plan (IDP) and the entity's business plan. Performance Management System (PMS) must give the necessary support to ensure that the resources required to support the strategic and operational commitments of the municipality are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs of the municipality.

ACQUISITION MANAGEMENT

SECTION 12: SYSTEM OF ACQUISITION MANAGEMENT

- (1) This policy provides for an effective system of acquisition management to ensure that –
 - (a) goods and services are procured by the municipality in accordance with authorised processes only;
 - (b) expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) the threshold values for the different procurement processes are complied with;
 - (d) bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
 - (e) any Treasury guidelines on acquisition management are properly considered.

- (2) This Policy, except where provided otherwise in the Policy, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –
 - (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) When procuring goods or services through another organ of state as contemplated in section 110(2) of the Act, the municipality must make public the fact that such goods or services are procured otherwise than through the entity's supply chain management system, including –
 - (a) the kind of goods or services; and
 - (b) the name of the supplier.

- (4) All requests for the procurement of goods and services shall be submitted to Financial Management and Support unit within the Financial Department and must be:
 - (a) in writing, clearly specifying the nature and quantity/duration of the goods and services required. Preparation of specifications aimed at procuring goods or services of specific suppliers and brand names should be avoided.
 - (b) certified by a senior official or person with delegated authority in the Finance Department, that: -
 - (i) there is sufficient provision in the relevant budget for the procurement;
 - (ii) the correct vote was used.

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(5) If the procurement is for a capital project, Section 19 of the MFMA regarding budgeting and costing of capital projects must also be complied with.

(6) Where the procurement will have budgetary implications for future years (depreciation; contracts longer than one year, etc.), Section 33 of the MFMA regarding contracts must be complied with.

SECTION 13: RANGE OF PROCURMENT PROCESS

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

Value of purchase (Vat Inclusive)	Range of Procurement Processes	Delegated Authority
R0 up to R 30,000.00	Three formal written price quotations	- Chief Financial Officer
R 30,001.00 up to R 200 000.00	Three formal written price quotations and (i) complying with the PPPFA; (Specifically reg. 16 – TAX Clearance for amounts above R 30,000.00; Treasury Circular No: 29 of 31 January 2006) and (ii) suppliers to be used on a rotational basis; and (iii) advertised for seven (7) days on notice boards, National Treasury e-tender portal and website of the entity	- Chief Financial Officer - Manager reporting directly to the Chief Financial Officer.
R 200 001 and above	A competitive bidding process: - (i) advertised for 14 (fourteen days on notice boards, National Treasury e-tender port and website of the entity; and (ii) advertised for 30 (thirty) days on notice boards, National Treasury e-tender port and website of the entity	- Accounting Officer and - Bid Adjudication

- (2) The accounting officer may, in writing, lower but not increase, the different threshold values in subparagraph (1) as specified in regulation 12 (1)
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
- (4) Transferring of entity's funds to an organisation or body outside any sphere of government otherwise than in compliance with a commercial or other business transaction must comply with Sec.67 of the MFMA (Act No.56 of 2003).

SECTION 14: CONTRACT MANAGEMENT

- (1) Contract management focuses on what happens after a contract is concluded and signed.
- (2) According to the International Encyclopedia of the Social Sciences, management involves deciding what human, financial and technical resources an organisation will devote to various initiatives; Thus,
 - (i) a contract manager decides how the department will ensure that it does what it agreed to do in an agreement with another party and that the other party also fulfills its obligations.
- (3) After a contract has been signed there are a number of matters that should be addressed to ensure the foundation of successful contract management. It is important for those responsible for contract management to understand both the contract provisions and contractual relationships at the outset.
- (4) contract manager should be able to manage contracts with suppliers of goods and services and understand the following key task
 - (i) the benefits of undertaking effective contract management;
 - (ii) tasks to be undertaken by the contract manager during the contract management period.

SECTION 15: CONTRACT VARIATIONS / AMENDMENTS

- (1) Contracts may be amended/varied/modified according to the Accounting Officer's delegated powers to achieve the original objective of the contract.
 - (a) Amendments of contracts where the expansion or variation is not more than:
 - (i) twenty% (20%) (construction related goods, services and/or infrastructure projects), and
 - (ii) fifteen% (15%) (all other goods and/or services) of the original value of the contract, must be submitted directly to the Contract Management Office for approval with further reference to the Supply Chain Management Committee System for approval.
 - (b) Amendments of contracts where the expansion or variation is more than the threshold prescribed by National Treasury (Circular 62), must be dealt with in terms of the provisions of section 116(3) of the Local Government: Municipal Finance Management Act, 2003 (Act No 56 of 2003) (MFMA)
 - (c) Amendments may not materially alter the original objective; as such amendments should form part of a new bid invitation.
 - (d) All contractual parties must agree to the amendment in writing.
 - (e) No contract can be amended after the original contract has ceased to exist.
 - (f) The extension of a contract shall be finalized before the current expiry date of the contract.
 - (g) Where prices are amended for the extended period, the reasonableness of the prices must be established.
- (2) When an item on contract is no longer available and another item has to be substituted, this implies an amendment of the contract. Such an amendment must be submitted to the relevant delegated authority for approval.
- (3) When a contractor is no longer able to supply a contract item and he offers a substitute, which is more expensive, the amendment is to the disadvantage of the municipality unless the substitute item offers additional benefits which can be utilized by the municipality and which justify the additional cost. If not, the Accounting Officer's or delegated authority's approval must be obtained.

- (4) For the appointment of consultants, any granting of a substantial extension of the stipulated time for performance of the contract, agreeing to any substantial amendment of the scope of the services, substituting key staff, waiving the conditions of a contract, or making any changes in the contract that would in aggregate increase the original amount of the contract by more than 15 percent, will be subject to the approval of the Accounting Officer or the delegated authority.
- (5) The contractual conditions should stipulate the conditions under which amendments shall be considered and the process to be followed in such circumstance.
- (6) No variation in or modification of the conditions of contract shall be made without all the parties signing the amendment.
- (7) The user division must approach the SCM Unit with the request for amendment. The SCM Unit should contact the contractor to determine whether he/she will be amenable to an amendment to the contract within the allowable parameters.
- (8) If the contractor is prepared to amend the contract and it is confirmed in writing, the SCM Unit shall process the amendment and supply the user division with the details of the amendment.
- (9) The SCM Unit must involve legal assistance for the purpose of drawing up the amendment, if required.
- (10) The SCM Unit must facilitate the signing of the amendment by all parties.
- (11) A signed copy must be forwarded to the user division and the contractor and the SCM Unit must file the original signed amendment appropriately.

SECTION 16: INCREASE/DECREASE OF QUANTITIES OR RANGE OF SERVICES

- (1) Before calling for bids, care must be taken to establish the quantities / range of services required as reliably as possible so that the need to increase / decrease quantities / range of services during the contract period may be kept to the minimum.
- (2) Quantities / range of services may be decreased provided consensus exists between the municipality and the contractor and the unit prices remain unchanged.
- (3) After the original or officially amended quantities / services for which the contract was arranged, have been delivered, the contract ceases to exist. It is then no longer possible to purchase further items / services on the contract

SECTION 17: CONTRACT EXTENSION

- (1) Extension of contract periods is undesirable because it often leads to uncontrolled increases in the contract prices. These must therefore be restricted to the minimum.
- (2) The user division is responsible for ensuring that timely application is made to the SCM Unit for the arrangement of new contracts.
- (3) Where justifiable reasons are provided for extending a contract, the relevant application may be considered favourably and contractors may be approached with the request to indicate whether they are prepared to extend the contract period. The fact that extension of contracts might affect the schedule for other contracts must also be borne in mind.
- (4) If contractors are prepared to extend the contract period, but with amended price conditions, the reasonableness of the prices must be established.
- (5) Contracts may normally not be extended beyond the period as determined by the Accounting Officer's delegated powers.
- (6) The market must again be informally tested before the extended period has expired.

SECTION 18: CONTRACTUAL PRICE ADJUSTMENT

- (1) The contractual conditions shall stipulate the circumstances under which price adjustments shall be considered, the intervals for adjustment, the base date for adjustments as well as the price adjustment formula and the process to be followed in such circumstances.
- (2) In cases of term contracts, price adjustments shall be considered on a yearly basis and this condition shall be indicated in the bid document.
- (3) No price adjustments should preferably be considered for a contract period less than twelve (12) months.
- (4) The prescribed formula will be used for adjustment of prices due to the fluctuation of the indices.
- (5) Rate of Exchange (ROE) fluctuations are only allowed on the imported content of the commodity.
- (6) Steel and Engineering Industries Federation of Southern Africa (SEIFSA) commodity indices
- (7) In cases where the user division received a request for price adjustment from the contractor, the request must be immediately forwarded to the SCM Unit for facilitation.
- (8) The SCM Unit is responsible for confirming that the request is in line with the contractual conditions and will verify the calculations presented.
- (9) Once the request is accepted as correct and approved by the official with the necessary delegated authority, the SCM Unit will inform the contractor in writing and will inform the user and the finance divisions of the approved amendment to demonstrate the influence of the change on the contract.
- (10) The SCM Unit must file the amendment with the original contract.
- (11) Contractual price adjustments are considered in terms of the contract conditions.
- (12) Since the GCC does not set out conditions pertaining to price increases, it is important that all bid documentation will contain the relevant special conditions pertaining to price increases.

SECTION 19: NON-CONTRACTUAL ADJUSTMENT OF PRICES

- (1) Non-contractual adjustment of prices is normally not allowed.
- (2) When contractors suffer a loss as a result of their own negligence price adjustments not covered by the contract are not favourably considered.
- (3) Non-contractual adjustment of prices will be allowed under the following circumstances:
 - (a) where a contractor suffers loss as a result of circumstances beyond control, or as a result of incorrect action by the municipality and particularly when such loss might cause his downfall, non-contractual price adjustments may be considered by the municipality.
 - (b) such adjustments are to the disadvantage of the municipality and the necessary Accounting Officer or delegated authority approval must be obtained.

SECTION 20: REDUCTION OF PRICES

The municipality must accept price reductions after award of a contract where this is advantageous to the municipality, unless the acceptance of the price reduction amounts to breach of contract.

SECTION 21: UNSATISFACTORY PERFORMANCE AND CONTRACT TERMINATION

- (1) The municipality should continuously communicate unsatisfactory performance to contractors in writing compelling the contractor to perform according to the contract and thus to rectify or to restrain from unacceptable actions.

UNSATISFACTORY PERFORMANCE: THE MUNICIPALITY'S ROLE

- (a) Unsatisfactory performance occurs when performance is not in accordance with the contractual conditions.
- (b) The user division must timely identify unsatisfactory performance in terms of the contract.
- (c) The SCM Unit must, in consultation with the user division and legal assistance if required, bring unsatisfactory performance to the attention of the contractor in writing. Also apply the *audi alteram partem* rule in the management of unsatisfactory performance.

SECTION 22: GENERAL PRECONDITIONS

(1) General preconditions for consideration of written quotations or bids

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

- (a) has furnished that provider's –
 - (i) full name and address;
 - (ii) identification number or company- or other registration number; and
 - (iii) tax reference number and VAT registration number, if any;
- (b) has authorised the municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
 - (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
 - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

SECTION 23. PRE-QUALIFICATION FOR PREFERENTIAL PROCUREMENT

23.1 The Municipality may decide to apply pre-qualifying criteria to advance certain designated groups, that municipality must advertise the tender with a specific tendering conditions that only one or more of the following tenderers may respond:

23.1.1 a tenderer having stipulated minimum B-BEE status level of contributor.

23.1.2 an EME or QSE.

23.1.3 a Tenderer subcontracting a minimum of 30% to:

23.1.4 an EME or QSE which is at least 51% owned by Black people

23.1.5 an EME or QSE which is at least 51% owned by black people who are youth.

23.1.6 an EME or QSE which is at least 51% owned by black people who are women.

23.1.7 an EME or QSE which is at least 51% owned by black people disabilities.

23.1.8 an EME or SQE which is 51% owned by black people living in rural or underdeveloped areas or township.

23.1.9 an EME or SQE which is 51% owned by which is at least owned by black people who are military veterans.

23.1.10 a cooperative which is at least 51% owned by black people.

23.1.11 A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

SECTION 24: LIST OF ACCREDITED PROSPECTIVE PROVIDERS

(1) The accounting officer must –

- (a) utilize accredited prospective providers of goods and services which are listed on the national Treasury Centralised Suppliers Database (CSD) on rotational basis to procurement requirements through written quotations and formal written price quotations; and
- (b) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- (c) The municipality utilizes National Treasury centralized supplier's database to list accredited prospective providers of goods and services that must be used for the procurement requirements through written quotations and formal written price quotations; and.

SECTION 25: 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 on National Treasury supplier's database (CSD). All quotations must be inclusive of carriage/freight costs.
- (b) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
- (c) the accounting officer must record the names of the potential providers and their written quotations.

- (2) A designated official referred to in subparagraph (1) (b) 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.

SECTION 26: PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH WRITTEN QUOTATIONS AND FORMAL WRITTEN QUOTATIONS

- (1) The procedure for the procurement of goods or services through written quotations or formal written price quotations, is as follows:
- (a) when using the list of accredited prospective providers, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
 - (b) all requirements in excess of R30,000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least **seven days** on National Treasury e-tender portal, official notice board and the municipality's website
 - (c) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
 - (d) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
 - (e) offers below R30,000 (VAT included) will not be awarded.
 - (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;
 - (g) the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written quotations or formal written price quotations is not abused.
- (2) Notwithstanding the above requirements for consideration, quotations not to specification may not be accepted.
- (3) Only quotations complying with the specifications will be considered to be accepted, provided that there are sufficient funds within the appropriate budget.
- (4) Where no quotation complies with the specification, as determined by the senior manager, the senior manager may recall the quotations.

- (5) Where the relevant senior manager has a direct or indirect interest in the procurement requirements, another senior manager must adjudicate in the manner specified above. An interest is where the relevant senior manager has direct or indirect personal advantage in the specific procurement of goods or services.

SECTION 27: COMPETITIVE BIDS

- (1) Goods or services above a transaction value of R200,000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this Policy.
- (2) The bid documentation will be prepared by the user department in consultation with supply chain management unit. After the approval of the bid specification committee the bid document will be published on National Treasury e-tender portal, the municipality's official notice boards and website, , with a closing date of at least 14 or 30 days after the date that the advertisement first appears.
- (3) No requirement for goods or services above an estimated transaction value of R200,000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

SECTION 28: PROCESS FOR COMPETITIVE BIDDING

- (1) The procedures for the stages of a competitive bidding process are as follows:
- (i) Compilation of bidding documentation as detailed in paragraph 21;
 - (ii) Public invitation of bids as detailed in paragraph 22;
 - (iii) Site meetings or briefing sessions as detailed in paragraph 22
 - (iv) Handling of bids submitted in response to public invitation as detailed in paragraph 23;
 - (v) Evaluation of bids as detailed in paragraph 28;
 - (vi) Award of contracts as detailed in paragraph 29;
 - (vii) Administration of contracts
- (2) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (i) Proper record keeping
 - (ii) Original / legal copies of written contract agreements should be kept in a secure place for reference purposes.

SECTION 29: BID DOCUMENTATION FOR COMPETITIVE BIDS

- (1) The criteria to which bid documentation for a competitive bidding process must comply, must –
- (a) consider –
 - (i) the general conditions of contract (**ANNEXURE “B”**) and any special conditions of contract, if specified;
 - (j) any Treasury guidelines on bid documentation; and
 - (k) 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) include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (d) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (e) 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 –
 - (ii) for the past three years; or
 - (iii) since their establishment if established during the past three years;
 - (iv) 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;
 - (v) 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;
 - (vi) 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

- (f) 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.
- (g) a requirement to supply tax references, tax clearance certificates, VAT registration numbers and identification or registration numbers;
- (h) details of any contracts above R200,000 carried out on behalf of the municipality within the last five years;
- (i) A contract management processes and procedures including provision for the Accounting Officer to cancel the contract on the grounds of unsatisfactory performance;
- (j) any other matters as required by the MFMA and the Supply Chain Management Regulations;
- (k) performance guarantees and retention.

SECTION 30: 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 on National treasury e-tender portal, municipality's official notice board and website.
 - (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 National treasury e-tender portal, municipality's notice board and website, subject to subparagraph (2);
 - (ii) a statement that bids may only be submitted on the bid documentation provided by the municipality; and
 - (iii) date, time and venue of any proposed site meetings or briefing sessions.
- (2) The accounting officer may determine a closure date for the submission of bids which is less than the 30- or 14-days' requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- (3) Bids submitted must be sealed.
- (4) For a bid to be considered it must comply with all the requirements of the bid documentation and be placed in the official tender box of the municipality.

- (5) The council may charge a non-refundable deposit for provision of bid documents. This is subject to annual review. Values of the deposits will be determined annually and included in the official lists of tariffs.
- (6) The Chief Financial Officer or delegated official will ensure that tender boxes are sealed until the time of their official opening, and ensure that they are properly secured.
- (7) At the advertised time, the tender box will be unlocked and opened by three officials or more – one from the internal audit. This will be done in public i.e. in the presence of the bidders or other interested parties. A Supply Chain Management official will open bid documents in the presence of any other interested parties. The tender box can be opened without any members of public being present provided that the appropriate procedure for advertising the time and venue has been followed. Unmarked or incorrectly marked tenders will not be opened.
- (8) The names and total bid amounts will be read out and recorded in the tender register, which will be available for public inspection on request. A copy of the record must be kept in the Supply Chain Management unit office. In instances of bulk tender amounts that are too time consuming to read out, only those requested by bidders will be read, and a complete schedule provided as soon as is practical. Bid results will be published on the municipality's web site and official notice board.
- (9) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

SECTION 31: PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

- (1) The procedures for the handling, opening and recording of bids, are as follows:
 - (a) Bids–
 - (i) must be opened only in public;
 - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
 - (iii) received after the closing time should not be considered and returned unopened immediately.
 - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
 - (c) No information, except the provisions in 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 municipality's website.

SECTION 32: NEGOTIATIONS WITH PREFERRED BIDDER

- (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.

SECTION 33: 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.

SECTION 34: COMMITTEE SYSTEM FOR COMPETITIVE BIDS

- (1) A committee system for competitive bids is hereby established, consisting of the following committees for each procurement or cluster of procurements as the accounting officer may determine:
 - (a) bid specification committee;
 - (b) a bid evaluation committee; and
 - (c) a bid adjudication committee;

- (2) The accounting officer appoints the members of each committee, considering section 117 of the Act; and
- (3) The committee system must be consistent with –
 - (a) paragraph 27, 28 and 29 of this Policy; and
 - (b) any other applicable legislation.
- (4) The accounting officer may apply the committee system to formal written price quotations.

SECTION 35: BID SPECIFICATION COMMITTEES

- (1) A bid specification committee must compile the specifications for each procurement of goods or services by the Masilonyana Local Municipality.
- (2) Specifications –
 - (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
 - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply;
 - (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
 - (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;
 - (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word “equivalent”;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001; and

- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this Policy.
- (3) The bid specification committee must be composed of the following members:
- (1) Standing members
- (a) one or two members from within the relevant department;
 - (b) supply Chain Practitioner
 - (c) professionals with required technical expertise from the department for whom the goods or services are to be procured, as may be required for each committee meeting
 - (d) external specialists (consulting engineers, architects, etc.) as deemed necessary, provided that no person, advisor or corporate entity involved with the bid specification committee, director of such a corporate entity, may bid for any resulting contracts.
- (4) The quorum for each meeting of the specification committee is 50%+1 of standing members.
- (5) A member of the specification committee can also be a member of either the bid evaluation or bid adjudication committee, but not both committees, that considers any of the bids for the same goods or services.
- (6) 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.
- (7) The specifications must be approved by the Accounting Officer, or the official delegated by the Accounting Officer, prior to advertisement of the bid. In the absence of the Accounting Officer this may be delegated to the Accounting Officer.

SECTION 36: BID EVALUATION COMMITTEED

- (1) A bid evaluation committee must –
- (a) evaluate bids in accordance with –
 - (i) the specifications for a specific procurement;
 - (ii) compliant with requirements of the Supply Chain Management Framework including the supplier being up to date with all fees and charges due to the district municipality;
 - (iii) in accordance with the best value for money to the municipality; and

- (iv) the points system set out in terms of paragraph 28(10) ;(11).
 - (b) evaluate each bidder's ability to execute the contract and consider the prescripts of the Broad-Based Black Economic Empowerment Act.;
 - (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and;
 - (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) The bid evaluation committee must as far as possible be composed of –
- (1) Standing members;
 - (a) two officials from the relevant department requiring the goods or services;
 - (b) At least one supply chain management practitioner
 - (c) One technical expert, consultant or advisor, provided that these experts can only actively contribute to discussions, and not vote on the items evaluated.
 - (3) The chairmanship of the bid evaluation committee is to be rotated as agreed by the standing members should the appointed chairperson of the committee be absent.
 - (4) The quorum for each meeting of the bid evaluation committee is 50%+1 of standing members, provided that one is the supply chain management practitioner.
 - (5) Members cannot serve on any adjudication committee(s) that adjudicates on any of the same items that they have considered on the evaluation committee(s).
 - (6) Notwithstanding the above requirements for consideration, bids not to specification may not be accepted and the evaluation committee must recall for tenders.
 - (7) All bid documents must be submitted before closure of tender.

SECTION 37: BID ADJUDICATION COMMITTEED

- (1) A bid adjudication committee must –
 - (a) consider the report and recommendations of the bid evaluation committee; and
 - (b) either –
 - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.
- (2) The committee shall be composed of the following members:
 - (1) Standing members;
 - (a) the chief financial officer or, if the chief financial officer is not available, another official in the Finance department reporting directly to the chief financial officer and designated by the chief financial officer;
 - (b) At least one senior supply chain management practitioner who is an official of the municipality;
 - (c) Executive Manager Performance and Compliance;
 - (d) Executive Manager Retail;
 - (e) Executive Manager Engineering Wires
 - (f) any technical experts in the relevant field, when deemed necessary by the chairperson provided that these experts can only actively contribute to discussions, and not vote on the items being adjudicated.
 - (g) The quorum for each meeting of the bid adjudication committee is:
 - (i) 4 standing members.
- (3) Members of the adjudication committee(s) cannot be members on the evaluation committee(s) that consider any of the same items to be adjudicated on. This includes any members who are appointed by nomination or delegation.
- (4) Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee and clarify any uncertainties. However, such members will not have any voting power on the Bid Adjudication Committee.

MASILONYANA LOCAL MUNICIPALITY: SUPPLY CHAIN MANAGEMENT POLICY

- (5) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (6) 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.
- (7) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee,
 - (a) the bid adjudication committee must prior to awarding the bid-
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
 - (ii) notify the accounting officer.
 - (b) The accounting officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- (8) The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- (9) The accounting officer must comply with section 114 of the Act within 10 working days.
- (10) For all quotations and tenders with an estimated value between R 30,001 and not exceeding R50,000,000 preference points will be allocated as follows:

	POINTS	ANNEXURE "C"
Value for money substantially to specification price	80	
Other Preference points	<u>20</u>	
Total	<u>100</u>	

- (11) Other preference points will be as per the Balanced Scorecard provided in the Procurement Regulations of the Preferential Procurement Policy Framework Act, 2000. This scorecard is provided in the Annexures to this policy. If all bids exceed R50,000,000 the bid invitation is to be cancelled and re-invited with the correct preference points.
- (12) Prior to the award of a bid, the municipality may cancel the bid due to changed circumstances, or if there are insufficient funds to proceed, or if no acceptable bid is received.
- (13) For all tenders with an estimated value above R 50,000,000 preference points will be allocated as follows:

	POINTS	ANNEXURE "C"
Value for money substantially to specification price	90	
Other Preference points	<u>10</u>	
Total	<u>100</u>	

- (15) Other preference points will be as per the Balanced Scorecard provided in the Procurement Regulations of the Preferential Procurement Policy Framework Act, 2000. This scorecard is provided in the Annexure to this policy. If all bids are less than R50,000,001 the bid invitation is to be cancelled and re-invited with the correct preference points.

SECTION 38: ADVISING OF RESULTS

All approved bids will be listed on the municipality's website and on the official notice board in the week following their approval, for a period of 7 days.

SECTION 39: PROCURMENT OF BANKING SERVICE

- (1) A contract for banking services –
 - (a) must be procured through competitive bids;
 - (b) must be consistent with section 7 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).

SECTION 40: PROCURMENT OF IT RELATED GOODS OR SERVICE

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

SECTION 41: PROCURMENT OF GOODS AND SERVICE UNDER CONTRACT SECURED BY OTHER ORGAN OF STATE

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

SECTION 42: PROCURMENT 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.

SECTION 43: PROUDLY SA CAMPAIGN

- (1) The Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:
 - Firstly – suppliers and businesses within the municipality or district;
 - Secondly – suppliers and businesses within the relevant province;
 - Thirdly – suppliers and businesses within the Republic.

SECTION 44: 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. (Detailed guidelines are available in the National Treasury's Supply Chain Management Office, Practice Note Number SCM 3 of 2003. This incorporates the provision to establish a panel of consultants/list of approved service providers for the rendering of services required on a recurring basis. This panel should be reviewed at least every two years). **Chapter 5: "A Guide for Accounting Officers of Municipalities" issued by National Treasury (Circular 25 – October 2005).**
- (2) Consultancy services must be procured through competitive bids if –
 - (a) the value of the contract exceeds R200,000 (VAT included); or
 - (b) the duration period of the contract exceeds one year.
- (3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - (a) all consultancy services provided to an organ of state in the last five years; and
 - (b) any similar consultancy services provided to an organ of state in the last five years.
- (4) The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.
- (5) The appointment of advisors must also follow the same competitive bidding process as set out in this Policy.
- (6) No advisor will take any part in the final decision-making process regarding the award of bids.
- (7) No decision-making authority can be delegated to an advisor.

SECTION 45: 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) Where the accounting officer determines that it is impractical to invite competitive bids for specific procurement such as urgent or emergency cases, or in the case of a sole supplier, the Accounting Officer may in consultation with the Chief Financial Officer procure the goods or services by other means such as price quotations or negotiations, or reduce the required advertising period from 14 days to an appropriately deemed period. The reasons for deviation from inviting competitive bids must be recorded and approved by the Accounting Officer.
 - (iii) Where it can be demonstrated that only one service provider can supply a particular service then a contract can be awarded by the Accounting Officer to that service provider subject to approval by the Bid Adjudication Committee
 - (iv) for the acquisition of special works of art or historical objects where specifications are difficult to compile;
 - (v) acquisition of animals for zoos and/or nature and game reserves; or
 - (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes; and
 - (b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- (2) The accounting officer must 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 12(2) of this policy.

SECTION 46: UNSOLICITED BIDS

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

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

SECTION 47: 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, favoritism, unfair or irregular practices or failure to comply with this Policy, and when justified
 - (i) take appropriate steps against such official or other role player; or
 - (ii) report any alleged criminal conduct to the South African Police Service;
 - (c) check the National Treasury’s database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
 - (d) reject any bid from a bidder–
 - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or
 - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
 - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
 - (f) cancel a contract awarded to a person if –

- (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- (g) reject the bid of any bidder if that bidder or any of its directors –
- (i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- (h) No person placing a procurement requisition for goods or services shall understate the requirements of the estimated value with the intention of avoiding a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. Procurement is limited to R 200,000 per commodity type per month unless a competitive bidding process has been undertaken. The Municipal Manager shall promptly institute disciplinary action against any person infringing this requirement.
- (i) No official shall engage in contact with a prospective supplier in respect of a quotation or tender which the supplier intends to submit except where clarification of requirements is required from either party, or where the accounting officer may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.
- (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.

SECTION 48: LOGISTICS, DISPOSAL, RISK AD PERFORMANCE MANAGEMENT

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

- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
- (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
- (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
- (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;
- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.

SECTION 49: DISPOSAL

- (1) The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, and council's GRAP policy and procedures.
- (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) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;
 - (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
 - (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
 - (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.
- (4) In disposing of movable assets, the disposal committee will determine the most advantageous method for sale and adhere to the communication requirements prescribed for quotations. If deemed necessary notification may also be by advertisement in a widely circulated local newspaper, but not limited thereto. In sales by private treaty the disposal committee will approve quotations received.

SECTION 50: RISK MANAGEMENT

- (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.
- (2) Risk management must include –
- (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
 - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

SECTION 51: PERFORMANCE MANAGEMENT

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

CHAPTER 3
OTHER MATTERS

SECTION 52: PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER

- (1) No award above R 30 000 may be made in terms of this Policy and *regulation* 16 of the Preferential Procurement Policy Framework Act, 2000 to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (2) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (3) If SARS does not respond within 7 days such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

SECTION 53: PROHIBITION ON AWARDS TO PERSONS IN SERVICE OF STATE

- (1) Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy
 - (a) who is in the service of the state;
 - (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
 - (c) a person who is an advisor or consultant contracted with the Municipality.

SECTION 54: PROAWARD TO CLOSE FAMILY MEMBERS OF PERSONS IN SERVICE OF THE STATE

- (1) The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R 2000.00 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.

SECTION 55: ETHICAL STANDARDS

- (1) A code of ethical standards as set out in subparagraph (2) is hereby established for officials and other role players in the supply chain management system of the Municipality in order to promote –
- (a) mutual trust and respect; and
 - (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- (2) An official or other role player involved in the implementation of this Policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favor, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2) (c), must declare to the accounting officer details of any reward, gift, favor, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
 - (e) must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a contract by, the Municipality
 - (f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - (g) must be scrupulous in his or her use of property belonging to Municipality

- (h) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favoritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards (i) must assist the accounting officer in combating fraud, corruption, favoritism and unfair and irregular practices in the supply chain management system; and
 - (i) must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favoritism or unfair conduct;
 - (ii) any alleged contravention of paragraph 47(1) of this Policy; or
 - (iii) any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraphs (2)(d) and (e) -
- (a) must be recorded in a register which the accounting officer must keep for this purpose;
 - (b) by the accounting officer must be made to the council of the Municipality who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct (**ANNEXURE "E"**) must also be considered by supply chain management practitioners and other role players involved in supply chain management.
- (5) A breach of the code of ethics must be dealt with as follows -
- (a) in the case of an employee, in terms of the disciplinary procedures of the municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
 - (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

SECTION 56: INDUCEMENTS, REWARDS, GIFTS AND FAVORS TO THE MUNICIPALITY'S OFFICIALS AND OTHER ROLE PLAYERS

- (1) No person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - (a) any inducement or reward to the municipality for or in connection with the award of a contract; or
 - (b) any reward, gift, favor or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector
- (3) Subparagraph (1) does not apply to gifts less than R350 in value.

SECTION 57: SPONSORSHIPS

The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is a provider or prospective provider of goods or services; or a recipient or prospective recipient of good disposed or to be disposed.

SECTION 58: OBJECTIONS AND COMPLAINTS AND QUERIES

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.

- (1) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes –
 - (a) to assist in the resolution of disputes between the municipality and other persons regarding -
 - (i) any decisions or actions taken in the implementation of the supply chain management system; or
 - (ii) any matter arising from a contract awarded in the course of the supply chain management system; or
 - (b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
 - (c) Suppliers must provide details of the reasons for their appeal including any noncompliance with this Policy, the MFMA and related legislation. The Accounting Officer shall provide written acknowledgement of the receipt of appeals to the appellant and endeavor to finalize appeals within 10 working days of their receipt. Where this is not possible, the Accounting Officer shall advise the appellant in writing of the reasons for the delay.
 - (d) If the appeal is based on a technically complex matter, the Accounting Officer may engage an impartial external advisor, provided that their engagement is compliant with this Policy and sufficient budgetary provision exists. The Accounting Officer is not bound by any opinion provided.
 - (e) The Accounting Officer will decide if an appeal constitutes sufficient grounds for delay of procurement from the approved supplier, and if a delay is practical. If the Accounting Officer determines there are grounds for delay, the approved supplier will be advised in writing of the reasons for the delay
 - (f) When a ruling on an appeal has been made, the Accounting Officer will advise the appellant in writing of the outcome.
- (2) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

- (3) The person appointed must –
 - (a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - (b) submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.

- (4) A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
 - (a) the dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) no response is forthcoming within 60 days.

- (5) If the national 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.

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

SECTION 59: UNBUDLING STRATEGIES

In order to encourage increased participation and the sustainable growth of the small business sector, the unbundling of larger projects into smaller, more manageable, contracts is encouraged. Unbundling must however be considered in the context of:

- economies of scale being lost,
- abortive work becoming necessary,
- additional demands (not only financial) being placed on the areas resources,
- the risk of later phases not being completed as a result of budget cuts becoming necessary in the future. Unbundling, and all of its associated

Implications, must therefore be carefully considered at the planning stage of any project and the budgets for, and design thereof, should be structured accordingly. It is important to note that while it is the municipality's

policy to procure works in the smallest practicable quantities, the practice of breaking out projects in order to circumvent the formal tender process is not permitted.

SECTION 60: INCREASING EMPLOYMENT OPPORTUNITIES

- It should be noted that one of the municipality's key socio-economic objectives is to facilitate the creation of employment for the people of Masilonyana Local Municipality. Increasing employment opportunities through procurement may be achieved by specifying labour friendly technologies and/or labour intensive methods of construction in the tender documents. The options available in this regard should be investigated to evaluate the positive versus negative impact of any proposals, and to specify labour friendly technologies and/or methods where appropriate.

SECTION 61: SURETIES FOR DUE PERFORMANCE

Obtaining sureties (guarantees) from financial institutions is one of the major obstacles preventing emerging businesses from participating in Local Government Procurement. The value of the sureties required by the municipality, or waived altogether, in accordance with the class (value) of the contract.

The sureties required for each class of contract are as follows:

- **Micro** waived (that is, no surety is required)
- **Minor (under R 500 000)** 2.5% of the tender sum
- **Major (over R 500 000)** 5% of the tender sum

Sureties in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above.

SECTION 62: RETENTION

Having a large percentage of the value of work carried out withheld as retention, presents most contractors with serious cash flow problems, especially in the case of the higher value Major contracts. In order therefore, to lessen the impact of retention monies withheld and to assist less established contractors in the execution of a contract, retention, on Major contracts only, should be limited to 5% of the tender sum. In order however, to protect the municipality's interests on Minor contracts, where the value of the surety required has been reduced, or even waived, the usual 10% retention shall apply. The value of retention deducted will therefore be as follows:

- **Micro and Minor:** 10% of the value of work carried out with no limit, reducing to 5% for the duration of the maintenance period.
- **Major :** 10 % of the value of the work carried out, up to a limit of 5% of the tender sum, with no reduction for the duration of the maintenance period. Retention in respect of the procurement of goods and services will not generally be called for, but where required, will be in accordance with the limits described above. Financial guarantees may be submitted in lieu of retention.

SECTION 63: PAYMENT TERMS

Payments to SMMEs/HDI's will be made within 14 days of invoice. Other payments will be made within 30 days in terms of the MFMA.

(In order to qualify for more frequent or earlier payments, a contractor must be classified as a SMME with a HDI equity ownership of not less than 50 %).

SECTION 64: COMMENCEMENT

This Policy takes effect on the date it is approved by Council