

CEDERBERG MUNICIPALITY



SUPPLY CHAIN MANAGEMENT POLICY

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**MUNICIPAL SUPPLY CHAIN MANAGEMENT POLICY LOCAL GOVERNMENT: MUNICIPAL
FINANCE MANAGEMENT ACT, 2003**

The Council of the Cederberg Municipality resolved on 25 May 2012 in terms of Section 111 of the Local Government: Municipal Finance Management Act (No. 56 of 2003) to adopt the following as the Supply Chain Management Policy of the Municipality:

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1. DEFINITIONS

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

NO	TERM	DEFINITION
1.1	Accounting Officer	means a person appointed by the Municipality in terms of Section 82 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) and who is the head of administration and also the Municipal Manager for the Municipality.
1.2	Act or MFMA	means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003)
1.3	Business day	means any day of the week except Saturday, Sunday and public holidays as determined in the Public Holidays Act, 1994 (Act No. 36 of 1994)
1.4	CFO	means Chief Financial Officer of the Municipality or Director: Finance in this instance
1.5	CIDB	means Construction Industry Development Board
1.6	close family member	means: (a) spouse or partner; (b) parent; (c) children.
1.7	closing date	means the time and day specified in the bid documents and/or advertisement of the receipt of bids.
1.8	competitive bidding process	means a competitive bidding process referred to in paragraph 12 (1) (f) of this Policy
1.9	competitive bid	means a bid in terms of a competitive bidding process

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1.10	Central Supplier Database	means a single database that serves as the source of all supplier information for all spheres of government. A municipality or municipal entity must keep a list of prospective suppliers in terms of Regulation 14 of the Supply Chain Management Regulations. The CSD are verifying the following information: (a) Business registration; including details of directorship and membership; (b) Bank account holder information; (c) In service of the state status (Persal); (d) Tax compliance status; (e) Identity numbers; (f) B-BBEE status level; (g) Tender defaulting and restriction status; Note: (b) Bank account information is verified for ease of transacting and compliant financial management and not as a mandatory requirement for sourcing and procurement processes. (c) In the service of the state: Please note this check is currently done on state employees who have a PERSAL number, but will also be verified for municipalities, municipal entities and public entities from 1 October 2016. (f) B-BBEE will only be verified from 1 October 2016;
1.11	contract	means the agreement that results from the acceptance of a bid by the Municipality
1.12	disability	means, in respect of a person, a permanent impairment of a physical, intellectual, or sensory function, which results in restricted, or lack of, ability to perform an activity in the manner, or within the range, considered normal for a human being
1.13	delegation	in relation to a duty, includes an instruction a request to perform or to assist in performing the duty
1.14	Emerging Enterprise	means an enterprise which is owned, managed and controlled by previously disadvantaged persons and which is overcoming business impediments arising from the legacy of apartheid.
1.15	final award	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept

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1.16	ePortal	means an electronic web portal is one specially designed web site that brings information together from diverse sources in a uniform way. The electronic portal is administrated by National Treasury and will be used to advertise bids, publish opening results of bids and awards
1.17	financial interest	means where a municipal staff member is a close family member of a person who is the owner, partner, principal shareholder or member, manager or who serves on the board of directors, etc of a tendering enterprise
1.18	formal written price quotation	means quotations referred to in paragraph 12 (1) (d) & (e) of this Policy
1.19	Gate	A control point at the end of a process where a decision is required before proceeding to the next process or activity
1.20	IDP	means Integrated Development Plan
1.21	Infrastructure	a) Immovable asset, which is acquired, constructed or results from construction operations; or b) Movable asset, which cannot function independently from purpose-built immovable asset(s).
1.22	Infrastructure Procurement	The procurement of goods or services, including any combination thereof, associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.

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1.23	in the service of the state	means to be – (a) a member of – (i) any municipal council; (ii) any provincial legislature; or (iii) the National Assembly or the National Council of Provinces; (b) a member of the board of directors of any municipal entity; (c) an official of any municipality or municipal entity; (d) an official of any national or provincial department, national or provincial public entity or institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999); (e) an executive member of the accounting authority of any national or provincial public entity; or” (f) an employee of Parliament or a provincial legislature;
1.24	long term contract	means a contract with a duration period exceeding one year
1.25	list of accredited prospective providers	means the list of accredited prospective providers which the Cederberg Municipality must keep in terms of paragraph 14 of this policy
1.26	micro-enterprise	means a very small business, often involving only the owner, some family members and at the most one or two paid employees. They usually lack ‘formality’ in terms of business licences, value-added tax (VAT) registration, formal business premises, operating permits, operating permits and accounting procedures. Most of them have a limited capital base and only rudimentary technical or business skills among their operators. However, many micro-enterprises advance into viable small businesses. Earning levels of micro-enterprises differ widely, depending on the particular sector, the growth phase of the business and access to relevant support
1.27	municipality	means the Cederberg Municipality
1.28	notice boards	means the official notice boards at the municipal offices and libraries

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1.29	other applicable legislation	means any other legislation applicable to municipal supply chain management, including – a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000); b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000); d) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); e) the Local Government: Municipal Systems Act, 2000 (Act No 32 of 2000); f) the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); g) the Prevention and Combating of Corrupt Activities Act, 2000 (Act No. 12 of 2004); h) the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003); Municipal Supply Chain Management Regulations; i) the Preferential Procurement Regulations, 2017 j) National Treasury, MFMA Circular No. 34, Municipal Finance Management Act No. 56 of 2003, Reporting of awards above R 100 000 k) National Treasury, MFMA Circular No. 46, Municipal Finance Management Act No. 56 of 2003, Checking the prohibition status of recommended bidders l) National Treasury, MFMA Circular No. 50, Municipal Finance Management Act No. 56 of 2003, Preparation of the municipal audit file (Stores & Consumables) m) National Treasury, MFMA Circular No. 52, Municipal Finance Management Act No. 56 of 2003, Prohibition of restricted practices n) National Treasury, MFMA Circular No. 53, Municipal Finance Management Act No. 56 of 2003, Amended guidelines in respect of bids that include functionality as a criterion for evaluation
1.30	Policy	means the Supply Chain Management Policy of the Cederberg Municipality
1.31	quotation	means a stated price that a supplier expects to receive for the provision of specified services, works

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		or goods
1.32	Regulations	means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 30 May 2005
1.33	SDBIP	means Service Delivery and Budget Implementation Plan
1.34	senior manager	means an employee appointed in terms of Section 56 of the Municipal Systems Act and any manager who reports directly to a Section 56 employee
1.35	single provider	Sole supplier- One and Only (Alone of its kind) Supplier (Oxford Dictionary). If such goods or services are produced or available from a single provider only. There is no competition and only one bidder exists (for example, sole distribution rights);
1.36	small business	means a separate and distinct business entity, including cooperative enterprises and non-governmental organisations, 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 mentioned in column I of the Schedule, attached as Annexure D, and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3,4 and 5 of the Schedule opposite the smallest relevant size or class as mentioned in column 2 of the Schedule
1.37	survivalist enterprise	means a business set up by people unable to find a paid job or get into an economic sector of their choice. Income generated from these activities usually falls far short of even a minimum income standard with little capital invested, virtually no skills training in the particular field and only limited opportunities for growth into a viable business. This category is characterised by poverty and the attempt to survive
1.38	supply chain management practitioners	include the Chief Financial Officer and the Supply Chain Manager;
1.39	tender	means a 'bid' or a 'quotation' in relation to a "Tender Box"
1.40	tender box	means the specified tender box at the offices of Cederberg Municipality, 2 A Voortrekker Street, Clanwilliam
1.41	Treasury guidelines	means any guidelines on supply chain management issued by the Minister in terms of section 168 of the

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		Act
1.42	Validity Period	means the period for which a bid is to remain valid and binding as stipulated in the relevant tender document
1.43	written quotations	means quotations referred to in paragraph 12(1)(c) of this Policy. • Words importing the singular shall include the plural and vice versa and words importing the masculine gender shall include females and words importing persons shall include companies, closed corporations and firms, unless the context clearly indicates otherwise. • All amounts / limits stated in this document shall be deemed to be inclusive of Value Added Tax (VAT).
1.44	Asset Transfer Regulations	means the Municipal Asset Transfer Regulations promulgated in terms of the MFMA
1.45	BEE Act	means the Broad-Based Black Economic Empowerment Act 53 of 2003
1.46	BEE	means the economic empowerment envisaged by the BEE Act of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to- a) increasing the number of black people that manage, own and control enterprises and productive assets; b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises; c) human resource and skills development; d) achieving equitable representation in all occupational categories and levels in the workforce; e) preferential procurement; and f) investment in enterprises that are owned or managed by black people.
1.47	black people	means Africans, Coloureds and Indians
1.48	local	in respect of persons, means inhabitants of

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		Cederberg Municipality and in respect of geographical area, means the jurisdictional area of Cederberg Municipality
1.49	The Systems Act	means the Local Government: Municipal Systems Act 32 of 2000

CHAPTER 1: ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY

2. Supply Chain Management Policy

2.1. All Officials and other Role Players in the Supply Chain Management System of the Cederberg Municipality must implement this Policy in a way that –

- 2.1.1.** Give effect to Section 217 of the Constitution of the Republic of South Africa by implementing a system that is fair, equitable, transparent, competitive and cost-effective.
- 2.1.2.** Complies with all applicable provisions of the Municipal Financial Management Act, 2003 (Act 56 of 2003) including the Municipal Supply Chain Management Regulation, 2005, Cost Containment Regulation, and its applicable amendments and comply with any minimum norms and standards that may be prescribed in terms of section 168 of the Act. (MFMA Circulars and MFMA Guidelines).
- 2.1.3.** to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including
 - 2.1.3.1.** the Broad-Based Black Economic Empowerment Act, 2003 (Act 53 of 2003),
 - 2.1.3.2.** the Competition Act, 1998 (Act 89 of 1998),
 - 2.1.3.3.** the Construction Industry Development Board, 2000 (Act 38 of 2000),
 - 2.1.3.4.** the Local Government: Municipal System Act, 2000 (Act 32 of 2000),
 - 2.1.3.5.** the Preferential Procurement Policy Framework Act, 2000 (Act 05 of 2000),
 - 2.1.3.6.** the Promotion of Access to Information Act, 2000 (Act 02 of 2000),
 - 2.1.3.7.** the Promotion of Administrative Justice Act, 2000 (Act 03 of 2000), and
 - 2.1.3.8.** Protection of Personal Information Act, 2013 (Act 04 of 2013).
- 2.1.4.** does not undermine the objective of uniformity in Supply Chain Management Systems between Organs of state in all spheres,
- 2.1.5.** is consistent with the National Economic Policy concerning the promotion of investments and doing business with the public sector,
- 2.1.6.** Further promotes local economic development and facilitates the creation of employment and business opportunities for Cederberg, and

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- 2.1.7.** shall adhere to the code of conduct of the Municipal staff contained in the schedule(s) of the Municipal Systems Act, and Policy's Code of Ethical Standards (Annexure A). In order to create an environment where business can be conducted with integrity and in fair and reasonable manner with the highest ethical standards.
- 2.2.** This Policy applies when Municipality –
- 2.2.1.** the procuring of goods or services, including construction works and consultants' services,
 - 2.2.2.** the disposal by Cederberg Municipality of goods no longer needed,
 - 2.2.3.** the selection of suppliers to provide assistance in the provision of municipal service otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - 2.2.4.** the selection of 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.
 - 2.2.5.** the procurement of goods and services under a current contract secured by another organ of State, provided that the relevant supplier has agreed to such procurement.
- 2.3.** Unless specifically stated otherwise, this Policy does not apply if the Cederberg Municipality's Contracts with another organ of the state in contemplated in Section 110(2) of the Act including –
- 2.3.1.** Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - 2.3.2.** Electricity from Eskom or another public entity, another municipality or a municipality entity.
- 2.4.** The Policy gives effect to the following Supply Chain Management systems:
- 2.4.1.** Demand Management System,
 - 2.4.2.** Acquisition Management System,
 - 2.4.3.** Logistics Management System,
 - 2.4.4.** Disposal Management System,
 - 2.4.5.** Risk Management System,
 - 2.4.6.** Contract Management System, and
 - 2.4.7.** Performance Management System.
- 2.5.** These systems must be adhered to in all supply chain management activities undertaken by Cederberg Municipality.
- 3. Adoption and amendment of Supply Chain Management Policy**
- 3.1.** The Accounting Officer must annually review the Implementation of this Policy and if she/he considers it necessary, submit proposals for the amendment of the Policy to the Council.

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- 3.2.** This Policy is effective from the date on which it is adopted by Council. Should any Legislative provisions be enacted or be amended that conflict with any part of this Policy, such Legislative provisions will take precedence and will be implemented by Cederberg Municipality without Amending this, Policy. Such amendment of the Policy as May be required would be done as expeditiously as possible.
- 3.3.** If the Accounting Officer submits proposed amendments to the Council that differ from the model Policy issued by the National Treasury, the Accounting Officer must:
- 3.3.1.** Ensure that such proposed amendments comply with Regulations; and
- 3.3.2.** Report any deviation from the model policy to the National Treasury and the Western Cape Government's Provincial Treasury.
- 3.4.** When amending this supply chain management policy, the need for uniformity in supply chain practices, procedures

4. DELEGATION OF SUPPLY CHAIN MANAGEMENT POWERS AND DUTIES

- 4.1.** The Council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –
- 4.1.1.** To discharge the Supply Chain Management responsibilities conferred on Accounting Officers in terms of –
- 4.1.1.1.** Chapter 8 (Responsibilities of Municipal Officials) of the MFMA, (No.56 of 2003)
- 4.1.1.2.** This Policy and applicable provisions,
- 4.1.2.** To maximise administrative and operational efficiency in the implementation of this Policy,
- 4.1.3.** To enforce reasonable cost-effective measures for the prevention of fraud corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and
- 4.1.4.** To comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.
- 4.2.** The Accounting Officer has the statutory power to delegate or sub-delegate to a staff member any power conferred on the Accounting Officer in terms of the MFMA and related legislative prescripts relating to the execution of the Supply Chain Management Mandate.
- 4.3.** The Accounting Officer May not sub-delegate any Supply Chain Management decision-making Powers or duties to a person who is not an official of the Municipality or to a committee which is not exclusively composed of Officials of the Municipality.
- 4.4.** This paragraph may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided in terms of SCM Regulation 26 and paragraph 24 of this Policy.

5. SUB-DELEGATIONS

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- 5.1.** 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-delegations must be consistent with paragraph 5.2 and paragraph 4 above of this Policy.
- 5.2.** The power to make a final award –
- 5.2.1.** Above R10 million (VAT Included) may not be sub-delegate by the Accounting Officer.
- 5.2.2.** Above R 300 000 (VAT Included), but not exceeding R 10 million (VAT included), may be sub-delegated but ONLY to the bid adjudication Committee of which the Chief Financial Officer or a Senior Manager is a member.
- 5.2.3.** Above R30 000 (VAT Included) but not exceeding R 300 000 may be sub-delegated to the Official as per Cederberg Municipality's system of delegation for Supply Chain Management.
- 5.3.** An official or bid adjudication committee to which the power to make final awards has been sub-delegated in accordance with paragraph 5.2 must within five (5) days of the end of each month submit to the official referred to in paragraph 5.4 a written report containing particulars of each final award made by Cederberg Municipality during that month including –
- 5.3.1.** the amount of the award,
- 5.3.2.** the duration of the award,
- 5.3.3.** the name of the institution or persons to whom the award was made, and
- 5.3.4.** the reason why the award was made to that institution or persons.
- 5.4.** A written report referred to in paragraph 5.3 must be submitted to the Accounting Officer, in the case of an award by the Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member.
- 5.5.** Paragraphs 5.3 and 5.4 of this policy do not apply to procurement out of petty cash.
- 5.6.** This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been subdelegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraphs 4.4, 5.2.1 and 24 of this Policy.
- 5.7.** No supply chain management decision-making powers may be subdelegated to an advisor or consultant.
- 6. OVERSIGHT ROLE OF COUNCIL.**
- 6.1.** Section 117 of the MFMA prohibits Cederberg Municipality's Councilors from being a member of a Municipal bid Committee or any other committee evaluating or approving quotations or competitive bids nor may attend any such meeting as an observer.
- 6.2.** Cederberg Municipality's Council, however, has an oversight role to ensure that the Accounting Officer implements this Supply Chain Management Policy.
- 6.3.** For the purpose of such oversight the Accounting Officer shall within ten (10) days of the end of each quarter, submit a report on the implementation of this Policy to the Executive Mayor through

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the Finance Portfolio Committee and, within thirty (30) days of the end of each financial year, shall submit a similar such report to Council.

- 6.4. In addition, if any serious and material problems arise in relation to the implementation of of this Policy, the City Manager shall immediately report to Council accordingly.
- 6.5. All such reports shall be made public in accordance with Section 21A of the Local Government Municipal Systems Act, 2000 (No 32 of 2000) and in-conjunction with Section 75 of this Act.

7. SUPPLY CHAIN MANAGEMENT UNITS

- 7.1. Cederberg Municipality has established a Supply Chain Management Department to assist the Accounting Officer with the implementation of this Policy.
- 7.2. The Supply Chain Management Department operates under the direct supervision of the Chief Financial Officer or an Official to whom this duty has been delegated in terms of Section 82 of the Act.

8. TRAINING OF SUPPLY CHAIN MANAGEMENT OFFICIALS

- 8.1. The training of officials involved in implementing this Policy shall be in accordance with any National Treasury Circulars/Guidelines on Supply Chain Management training and Cederberg Municipality's SCM Procedures and Directives.
- 8.2. The Accounting Officer shall ensure that all persons involved in the Implementation of this Policy meet the prescribed competency levels, in terms of Municipal Regulations on Minimum Competency levels, 2018 (Gazette No. 41996) and where necessary shall provide relevant training.

CHAPTER 2: SUPPLY CHAIN MANAGEMENT SYSTEM

9. FORMAT OF SUPPLY CHAIN MANAGEMENT SYSTEM

- 9.1. This Policy provides systems for Supply Chain Management system –

- 9.1.1. Demand Management,
- 9.1.2. Acquisition Management,
- 9.1.3. Logistics Management,
- 9.1.4. Disposal Management,
- 9.1.5. Risk Management,
- 9.1.6. Contract Management, and
- 9.1.7. Performance Management

Part 1: DEMAND MANAGEMENT

10. DEMAND MANAGEMENT SYSTEM

- 10.1. Demand Management provides an effective system to ensure that the resources required to support the strategic operational and capital commitments of the Cederberg Municipality are

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delivered at the correct time, at the right price and the right location and that the quantity and quality satisfy the needs of the Cederberg Municipality.

- 10.2.** The Cederberg Municipality's Integrated Development Plan (IDP) is a comprehensive strategy document setting out how the Municipality will accomplish the strategic goals outlined and identify challenges and how the Municipality intends to tackle the various development challenges; and
- 10.3.** The performance Management system (PMS) must give the necessary support to ensure that the resources required, to support the strategic, operational and capital commitments of the Municipality are delivered and meet the needs of the Municipality.
- 10.4.** This policy provides for an effective demand management system to ensure that User-departments:
 - 10.4.1.** Include timely planning and management processes to ensure that all goods and services required by the Municipality are quantified, budgeted for and timeously and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
 - 10.4.2.** Take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature;
 - 10.4.3.** Provide for the compilation of the required specifications to ensure that its needs are met;
 - 10.4.4.** Undertake appropriate industry analyses and research to ensure that innovations and technological benefits are maximized;
 - 10.4.5.** As far as possible, accurately estimate the cost of the provision of services, works or goods for which an invitation for bids is to be made;
 - 10.4.6.** Determine the deliverables or performance indicators in terms of which a person awarded a contract will be assessed; and
 - 10.4.7.** Determine the appropriate preference point system to be utilised in the bid document.

Infrastructure Procurement Gate Requirements

- 10.5.** Cederberg Municipality delegated authority to make a decision to proceed or not proceed (Initiation Process) with the procurement of the infrastructure based on the following requirements has been met (**Procurement Gate 1**):
 - 10.5.1.** Establish and clarify the procurement need, aligned to the municipality's development and transformation priorities specified in the IDP.
 - 10.5.2.** Determine a suitable title for the procurement, to be applied as the project description.
 - 10.5.3.** Prepare the broad scope of work for the procurement.
 - 10.5.4.** Perform market analysis.
 - 10.5.5.** Estimate the financial value of proposed procurement and contract for budgetary purposes, based on the broad scope of work.
 - 10.5.6.** Confirm the budget.

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- 10.5.7.** Compliance with section 33 of the MFMA with respect to community and stakeholder consultation.
- 10.6.** Cederberg Municipality delegated authority to approve the procurement strategy to be adopted for the identified infrastructure procurement (**Procurement Gate 2**) with the following requirements met:
- 10.6.1.** Develop a procurement strategy aligned to the institutional procurement strategy:
- 10.6.1.1.** Establish a contracting and pricing strategy comprising of an appropriate allocation of responsibilities and risks; and the methodology for contractor payments.
 - 10.6.1.2.** Identify the service required for work.
 - 10.6.1.3.** Decide on a contracting strategy.
 - 10.6.1.4.** Decide on pricing strategy.
 - 10.6.1.5.** Decide on the form of contract.
 - 10.6.1.6.** Establish opportunities for promoting preferential procurement in compliance with legislative provisions and the Construction Sector Code.

Part 2: Acquisition Management

11. System of Acquisition Management

- 11.1.** The Accounting Officer must implement the system of acquisition management set out in this Part to ensure –
- 11.1.1.** that goods and services, including construction works and consultant services, are procured by the Cederberg Municipality only in accordance with the authorised procedures incorporated herein;
 - 11.1.2.** the expenditure on goods and services including construction works and consultant services is incurred in terms of an approved budget of Section 15 of the Act;
 - 11.1.3.** that the threshold values for the different procurement processes are complied with;
 - 11.1.4.** that bid documentation, evaluation and adjudication criteria, and general conditions of contract are in accordance with the requirements of relevant legislation including, the PPPFA and its Regulations, and any conditions of the CIDB Act and its regulations where applicable; and
 - 11.1.5.** that procurement circulars/guidelines issued by the National Treasury and specifically adopted by Council in terms of Section 168 of the Act.
- 11.2.** All requests (requisitions) for the procurement of goods and services, including construction works and consultant services shall be directed and submitted to the offices of the supply chain management unit in time for the unit to follow the procurement processes diligently and must be –
- 11.2.1.** on the specific requisition form clearly specifying –

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- 11.2.1.1. the nature of the goods, or services including construction works and consultant services required in terms of this policy;
 - 11.2.1.2. the specifications and quantity of the goods and duration of the services including construction works and consultant services;
 - 11.2.1.3. the correct vote (line item) number with sufficient funding to conclude the process;
 - 11.2.1.4. the realistic estimated cost of the goods or services including construction works and consultant services required;
 - 11.2.1.5. any requirements in terms of CIDB, B-BBEE and PPPFA;
 - 11.2.1.6. any other requirements (legislative, site meeting, contact details, etcetera).
- 11.2.2. Signed by a duly authorised Official of the User department as delegated.
- 11.2.3. When procuring goods and services including construction works and consultation services of capital goods in terms of Section 19 of this Act regarding budgeting and costing capital projects must be complied with.
- 11.2.4. When procuring goods and services including construction works and consultation services which will have future budgetary implications Sections 33 and 116 of this Act regarding contracts must be complied with.
- 11.2.5. When procuring goods and services including construction works and consultation services contemplated in Section 110(2) of this Act, the accounting Officer must make public the fact that such goods or services including construction works and consultation services otherwise than through the Municipality's Supply Chain Management system, including –
- 11.2.5.1. the kind of goods or services including construction works and consultation services; and
 - 11.2.5.2. the name of the suppliers.

12. RANGE OF PROCUREMENT PROCESSES

- 12.1. Goods and services, including construction works and consultant services shall be procured through the range of procurement processes set out below:

Petty Cash Purchases:

- 12.1.1. Petty cash purchases are required where the value is less than R 200(VAT included).
- 12.1.2. Petty cash purchases exceeding R 200 up to an amount of R 2 000 (VAT included) to be authorised by the Chief Financial Officer or his delegate.

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- 12.1.3. One written price quotation is required for procurement values between the approved Petty cash thresholds as determined by the Chief Financial Officer or his delegate.

Formal Written Price Quotations

- 12.1.4. Formal Written Price Quotations (FWPQ) are required where estimated transactions exceed R 2000 and are less than or equal to R 300 000 (VAT inclusive)
- 12.1.5. FWPQ for procurement transactions valued over R 30 000(VAT included), subjected to SCM Regulation 18.
- 12.1.6. The preferential procurement point system shall apply to all procurements equal to or above R 2 000(VAT included) as prescribed by the Preferential Procurement Policy Framework Act, 2000.

Competitive Bidding

- 12.1.7. A competitive bidding process for procurement above a transaction value of R 300 000 (VAT Included) and
- 12.1.8. A competitive bidding process for the procurement of long-term contracts, for example, longer than one year. Long-term contracts that exceed three (3) year financial obligation are subject to the condition of Sections 33 and 116 of this Act.
- 12.1.9. The preferential procurement point system shall apply to all procurements equal to or above R 300 000 (VAT included) as prescribed by the Preferential Procurement Policy Framework Act, 2000.

Reduction in Procurement Threshold Values

- 12.1.10. The Accounting Officer may only in writing –
- 12.1.10.1. Lower, but not increase, the different procuring threshold values specified in the acquisition system of this Policy; or
- 12.1.10.2. Direct that formal written price quotations be obtained for any specific procurement of a transaction value as per the SCM Regulation.
- 12.1.10.3. Direct that a competitive bidding process be followed for any specific procurement of a transaction value lower than R 300 000 or the relevant amount approved by the National Treasury.

Deliberate Splitting of Orders

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- 12.1.11. The provision of goods, services or construction works 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, services or construction works of different parts or items must as far as possible be treated and dealt with as a single transaction.

13. GENERAL PRECONDITIONS FOR CONSIDERATION OF WRITTEN QUOTATIONS OR BIDS

- 13.1. A written Quotation or bid may not be considered unless the Service Provider who submitted the written quotation or bid has conducted the following:
- 13.1.1. Provide the full name (legal and trading name);
 - 13.1.2. Physical and postal address.
 - 13.1.3. Reachable communication channels (Telephone Number (Landline and or cell number), email addresses and fax numbers, where possible;
 - 13.1.4. Identification number or other registration number;
 - 13.1.5. CSD MAAA Number (Proof of Registration on the CSD database), where applicable
 - 13.1.6. Tax reference number and VAT registration number, if any and provide the Cederberg Municipality with the necessary authorization to verify and obtain a tax clearance certifying that the provider's tax matters are in order and provides the Cederberg Municipality with the Service Providers SARS Compliance Status Pin
- 13.2. All Service Providers participating in Infrastructure procurement or consultation services in terms of the Built Environment Act, Act 43 of 2000 provide the following:
- 13.2.1. Registration number in terms of Section 18(1) of the Construction Industry Development Board Act, Act 38 of 2000, and the grading level of the company and provided the municipality with the necessary permission to obtain certificate clearance from the CIDB that the provider holds a valid registration certificate issued the Board if required.
 - 13.2.2. Registration number of the National Home Builders Registration Council (NHBRC);
 - 13.2.3. Certificate of goods standing with the Department of Labour in terms of the Compensation for Occupational Injuries and Diseases Act, (Act 130 of 1993)
 - 13.2.4. Compulsory Professional Body Number prescribed under the various Profession Act in terms of the Build Environment Act, 2000.
 - 13.2.5. Provided the municipality with the necessary permission to obtain or has submitted a certificate clearance from the Health and Safety Board that the service provider holds a valid registration certificate issued by the Board if required.
- 13.3. All Service Providers conducting business with the Municipality, should acknowledge that the Municipality has the right to inspect the business premises from time to time from which the Service Provider operates, to ensure that all Service Provider meets the

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standards for tendering with the Municipality when required to do so and there is no breaches in the Cederberg Municipality's by-laws.

- 13.4. All Service Providers tendering with the Municipality should provide a certificate signed by the bidder certifying that the bidder has no undisputed commitments for Municipal services towards Cederberg Municipality or other service providers in respect of which payment is overdue for more than thirty (30) days.
- 13.5. Before making an award, Cederberg Municipality must verify the bidder's tax compliance status. Where the recommended bidder is not tax compliant, the bidder should be notified of the non-compliant status and be requested to submit to Cederberg Municipality within seven (7) working days, written proof from SARS that they have made arrangements to meet their outstanding tax obligations. The proof of tax compliance submitted by the bidder must be verified by Cederberg Municipality via CSD or e-Filing. Cederberg Municipality can consider rejecting a bid submitted by the bidder if such bidder fails to provide proof of tax compliance within the timeframe stated.
- 13.6. All Service Providers must indicate the following:
 - 13.6.1. Whether he or she is in the service of the state (National, Provincial, Local Government or any Public Entity) or has been in the service of the state in the past twelve months.
 - 13.6.2. If the provider is not a natural person, whether any of its directors (Executive or non-executive), managers principal shareholders or stakeholders are in the service of the state or has been in the service of the state in the previous twelve months.
 - 13.6.3. Whether close family members of the service provider or directors (Executive or non-executive), managers principal shareholders or stakeholders referred to in paragraph 13.3.2 are in the service of the state or have been in the service of the state in the previous twelve months.
 - 13.6.4. Whether any Municipal staff member is a close family member of an owner, his/her partner serves on the board of directors (executive and non-executive member) or is a member or trustee, of the tendering enterprise.

14. List of Accredited Prospective providers

- 14.1. The Accounting Officer must keep a list of accredited prospective providers (Central Supplier Database) of goods and services including construction works and consultation services that must be used for the procurement requirements of the Cederberg Municipality through various procurement mentioned throughout this Policy;

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- 14.2.** The Accounting Officer shall ensure that the Cederberg Municipality's Supplier Database is updated frequently and shall at least annually through newspapers commonly circulating locally, the website of the Cederberg Municipality, and any other appropriate ways, inviting prospective suppliers' goods, services, construction work and consultation services to register to the Cederberg Municipality Supplier Database.
- 14.3.** Bidders who are not registered on the Cederberg Municipality's database are not prohibited from submitting bids but must however register when called upon to do so.
- 14.4.** National Treasury Web-Based Central Supplier Database (CSD)
- 14.4.1.** All prospective bidders are required to be registered on the National Treasury web based Central Supplier Database (CSD) which can be accessed at <https://secure.csd.gov.za>.
- 14.4.2.** The CSD is the national standardised and centralized electronic supplier database administered by the National Treasury which provides information to an organ of the state.
- 14.4.3.** Prospective suppliers shall be allowed to submit applications for registration and amendments for listing on the CSD at any time and agree to the terms of conditions of the CSD.
- 14.4.4.** Bidders who are not registered on the CSD are not prohibited from submitting bids, but must however register when called upon to do so.
- 14.4.5.** Prospective suppliers must notify the Cederberg Municipality immediately upon receipt of their CSD reference Number (MAAA.....) for this to be captured on the Cederberg Municipality's supplier database.

15. PETTY CASH PURCHASES

- 15.1.** This paragraph will be read in conjunction with the Cederberg Municipality's Petty Cash policy.
- 15.2.** Petty Cash purchases are for minor items that are purchased for up to R 2000 (VAT included) where it is impractical, impossible or not cost-effective to follow a formal procurement process and is strict of a reimburse nature and not for advances.
- 15.3.** The Chief Financial Officer manages and issues all petty cash transactions and applies the conditions set out in the Petty Cash Policy for procuring goods that meet the petty cash criteria.

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- 15.4.** The Chief Financial Officer must submit a monthly petty cash reconciliation report that includes all transactions and identify commodities that should be considered for FWPQ and inventory.

16. FORMAL WRITTEN PRICE QUOTATIONS

- 16.1.** The conditions for the procurement of goods or services including construction works or services through formal written price quotations are as follows:

- 16.1.1.** Quotations must be obtained in writing from at least three (3) different providers whose names appear on the Municipality's accredited prospective providers (Centralised Supplier Database).
- 16.1.2.** Quotations may be obtained from Service Providers who are not listed, provided that such providers meet the listing criteria set out in paragraphs 13 and 14 of this Policy;
- 16.1.3.** If it is not possible to obtain at least three (3) quotations, the reasons must be recorded and approved by the chief financial officer or an official designated by the chief financial officer, and
- 16.1.4.** The accounting officer must record the names of the potential providers and their written quotations.
- 16.1.5.** Any other conditions determined by the Accounting Officer.

- 16.2.** A designated official referred to in subparagraph 16.1 must within three (3) 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 sub-delegation.

17. PROCEDURES FOR PROCURING GOODS OR SERVICES THROUGH FORMAL WRITTEN PRICE QUOTATIONS.

- 17.1.** The procedure for the procurement of goods, services or construction work through formal written price quotations is as follows:
- 17.1.1.** when using the list of accredited prospective providers (Centralised Supplier Database) the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis.
 - 17.1.2.** Quotes, of which the estimated amount is less than R 30 000 (inclusive of VAT), must be obtained from locally accredited prospective providers, where possible.

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- 17.1.3.** All requirements in excess of R 30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 16, be advertised for at least seven (7) days on the website and an official notice board of the Municipality.
- 17.1.4.** Quotes received must be evaluated on a comparative basis taking into account unconditional discounts.
- 17.1.5.** The Accounting Officer and Chief Financial Officer must monthly be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of sub-delegation.
- 17.1.6.** Quotes must be awarded based on compliance to the specifications and conditions of the contract, ability and capability to deliver the goods and services and the lowest price.
- 17.1.7.** Responsible and acceptable offers, which are subject to the preference points system (PPPFA and relevant prescripts), must be awarded to the bidder who scored the highest points.
- 17.1.8.** The Chief Financial Officer must set requirements for proper record keeping of all formal written price quotations accepted on behalf of Cederberg Municipality. The SCM Unit must comply with all requirements for proper record keeping.
- 17.2.** Notwithstanding the above requirements for consideration, quotations not to specification may not be accepted.
- 17.3.** An order may only be issued after the final award is made provided sufficient funding exists within the appropriate vote.
- 17.4.** The accounting officer, chief financial officer manager supply chain management and supply chain management practitioners must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused.
- 17.5.** No official placing a procurement requisition for goods or services shall understate the requirements of the estimated value to avoid a more stringent procurement process. This includes the deliberate splitting of requirements to reduce individual order values. The accounting officer shall promptly institute disciplinary action against any official in terms of paragraph 35 and the code of conduct and ethical standards as contemplated in this policy.
- 17.6.** No official shall engage in contact with a prospective supplier in respect of a quotation which the supplier intends to submit except where clarification of specifications is required from either party or where the accounting officer or his delegate may negotiate with identified preferred bidders. Any such communication must be recorded and appropriately filed with the bid documentation.

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18. COMPETITIVE BIDDING PROCESS.

- 18.1. Goods, Services and Construction works including consultancy services above a transaction value of R 300 000 (VAT included) or for any contract exceeding one (1) year in duration may only be procured through a competitive bidding process, subject to paragraph 11.2 of this Policy.
- 18.2. No requirement for goods, and services including construction works and consultancy services above an estimated transaction value of R 300 000 (VAT included), may deliberately be split into part or items of lesser value merely for the sake of procuring the goods and services including construction works and consultancy services otherwise than through competitive bidding process.
- 18.3. No official shall engage with a prospective bidder in respect of a bid proposal (RFB, RFWPQ or any other form) that the supplier intends to submit except where clarifications of specifications are required from either party or where the Accounting Officer may negotiate with the identified preferred bidder in terms of paragraph 23 of this Policy. Any such communication must be recorded and appropriately filed with the bid documentation in question.
- 18.4. Where standard bid/contract documentation is prescribed in terms of legislation (the CIDB Standard for uniformity, for example) such standard documentation must be used for the procurement of goods, services including construction works and consultancy services, where applicable.

Infrastructure Procurement

- 18.5. In terms of the Local Government: Framework for Infrastructure Procurement and Delivery Management (LGFIPDM), the SCM Policy will focus on the implementation of Infrastructure procurement requirements and its guidelines set out by the National Treasury Infrastructure Framework, which forms part of the Infrastructure Delivery Management.
- 18.6. However, the Accounting Officer's delegated Authority will ensure due care and focus is given to address institutional arrangements, internal controls and gaps that have been identified and value is extracted by allowing end-users to focus on the implementation of the Infrastructure project process and further develop an institutionalised LGFIPDM framework that best suit Cederberg Municipality.
- 18.7. Infrastructure procurement must be implemented in accordance with the institutional Supply Chain Management System, which promotes differentiated procurement for infrastructure and complies with CIDB legislative prescripts

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- 18.8.** Infrastructure procurement must be implemented in accordance with the procurement gates prescribed in this Policy and the Accounting Officer delegated authority will establish infrastructure project processes to effect the National Treasury guidelines.
- 18.9.** The Accounting Officer must develop and implement an effective and efficient infrastructure disposal policy in line with the Municipal Asset Transfer Regulations. The institution may consider disposal strategies aligned to their internal disposal policy, prior to proceeding with the procurement strategy.

19. PROCESS FOR COMPETITIVE BIDDING PROCESS

- 19.1.** The procedures for the following stages of a competitive bidding process are as follows:
- 19.1.1.** Compilation of bidding documentation as detailed in paragraph 20
 - 19.1.2.** Public invitation of bids as detailed in paragraph 21
 - 19.1.3.** Site meetings or briefing sessions as detailed in paragraph 22
 - 19.1.4.** Handling of bids submitted in response to public invitation as detailed in paragraph 22
 - 19.1.5.** Evaluation of bids as detailed in paragraph 26
 - 19.1.6.** Award of contracts as detailed in paragraph 27
 - 19.1.7.** Administration of contracts: After approval of a bid, the Accounting Officer and the Bidder must enter into a written agreement.
 - 19.1.8.** Proper Record Keeping: Original and legal copies of written agreements should be kept in a secure place for reference purposes.

Two-Stage/Two-Envelope Bidding Process

- 19.1.9.** A two-envelope system differs from a two-stage (Pre-qualification) bidding process in that a technical proposal and the financial offer are submitted in separate envelopes at the same place and time. The financial offers will only be opened once the technical proposals have been evaluated.
- 19.1.10.** The unopened envelope containing the financial proposal shall be stamped and endorsed with the opening official's signature, and be retained by him/her for safekeeping.
- 19.1.11.** A two-Stage Bidding Process is allowed for large complex projects or projects where it may be undesirable to prepare complete detailed technical specifications, or long-term projects within a duration period exceeding three (3) years.
- 19.1.12.** In the First stage technical proposals on conceptual designs or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

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- 19.1.13.** In the second stage, final technical proposals and priced bids should be invited. Envelopes containing financial offers/bids corresponding to non-responsive technical proposals shall be returned unopened along with the notification of the decision of the Bid Adjudication Committee.
- 19.1.14.** After being recorded in the bid opening record, the bids/technical proposals shall be handed over to the official responsible for the supervision of the processing thereof and that official shall acknowledge receipt thereof by signing the bid opening record.
- 19.1.15.** When the financial offers/bids are opened they shall be published on the Cederberg Municipality's official website as soon as practical thereafter, and all bidders shall be notified accordingly.

20. BID DOCUMENTATION FOR COMPETITIVE BIDS.

- 20.1.** The criteria to which bid documentation for a competitive bidding process must comply, must –
 - 20.1.1.** The General Conditions of the Contract and any special conditions of the contract, if applicable,
 - 20.1.2.** The General Conditions of Contract for Construct Works issued by SAICE, when applicable.
 - 20.1.3.** Any National Treasury guidelines on Bid Documents, together with Municipal Bid standardised Bid documents,
 - 20.1.4.** The requirements of the National Building Regulations,
 - 20.1.5.** The requirements of the Construction Industry Development Board (CIDB) Act and the Local Government Framework for Infrastructure Delivery and Procurement Management (LGFIPDM), in the case of a bid relating to construction, upgrading, or refurbishment of buildings or infrastructure,
 - 20.1.6.** Standard of Uniformity forms issued by the CIDB, and any other applicable
 - 20.1.7.** Submit a certificate from the Department of Labour indicating compliance with the Occupational Health & Safety Act, 1993 (Act 85 of 1993), when applicable.
- 20.2.** In the event, a formal construction or technical contracts(JBCC, NEC General Conditions of Contract for Construction Works, etc.) are absent in which guarantees or sureties are contained the following shall apply:
 - 20.2.1.** Where surety is required it shall be in the form of cash or a bank guarantee from a banking institution registered in terms of the Banks Act, 1990 (Act No 94 of 1990) or from an insurer registered in terms of the Insurance Act, 2000 (Act No 30 of 2000).

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- 20.3.** All Bidders must declare any conflict of interest they may have in the transaction for which the bid is submitted, in the event the Bidders provide false information, it may be subjected to their bid being null in void.
- 20.4.** Cederberg Municipality will not be liable for any expenses incurred in the preparation or submission of any bids. However, a non-refundable charge shall be raised for bid forms, plans, specifications, samples and any other bid documents, depending on the nature, magnitude and value of technical information or samples provided by the Municipality for tenders in excess of ~~R-200 000.00~~ **R300 000**
- 20.5.** Bidders documents may allow for bidders to bid for one or more items or for a part of one or more items but the Municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interest of the Municipality are best served thereby. Bid documents must be specific as certain contracts, e.g. the construction of a bridge may require that the whole contract is to be completed by the same contractor.
- 20.6.** Where bidders insert prices on price lists supplied by the Municipality they shall delete items for which they do not bid or if the price has been included elsewhere in the price list, when applicable. After bids/quotations have been opened bidders may not supplement the original offer if the original offer was incomplete, unless an error or omission has occurred that bears no material changes to the bidders offer.
- 20.7.** A provision for the termination/cancellation of the contract in the case of non or underperformance must be included in the bid documentation.
- 20.8.** A provision must be made for penalties within the contract in the case of delayed, non or underperformance within the bid documentation.

Evaluation and adjudication Criteria

- 20.9.** Bid documentation must include the evaluation and adjudication criteria, including any criteria required by any other applicable legislation.
- 20.10.** Include the preference points systems to be used as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation based on the Cederberg Municipality's Preferential Procurement Policy.

Bids Exceeding R 10 Million

- 20.11.** If the estimated value of the transaction is expected to exceed R 10 Million (VAT included) the bid documentation must require the bidders to furnish –

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- 20.11.1.** If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial years for the past three (3) years or since their establishment if established during the past three (3) years.
- 20.11.2.** A certificate signed by the bidder certifying that the bidder has no undisputed commitments for Municipal services towards a municipality or other service providers in respect of which payment is overdue for more than 30 days.
- 20.11.3.** Particulars of any contracts awarded to the bidder by an organ of state during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract, and
- 20.11.4.** A statement indicating whether any portion of the goods or services including construction works and consultancy services are expected to be sourced from outside of the Republic, and, if so what portion and whether any portion of payment from Cederberg Municipality is expected to be transferred out of the Republic.

Dispute Mechanisms

20.12. All bid documentation will 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.

20.13. All disputes process will be first subjected to paragraphs 48, 49 and 50 of this Policy.

Validity Period

20.14. All bid documentation will clearly stipulate the validity period of each individual bid being advertised by the Municipality,

20.15. All bids shall be subjected to remain valid and binding for the period indicated within the bid documentation,

20.16. The validity period is calculated from the bid closure date until the end of the final day of that period, determined by the Municipality and stipulated in the bid documentation, all bids shall remain in force and binding until such time,

20.17. However, the Municipality reserves the right to extend the validity period provided that the original validity period has not expired and that all bidders who submitted a bid proposal are given an opportunity to extend such period. All Parties will be subjected to written consent provided to the extension being requested.

20.18. Bidders who do not consent in writing in the period requested by the Municipality will automatically null in void the Supplier's Bid Proposal. In addition, Bidders who fail to respond to such requests before the validity of their bid expires shall not be considered

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further in the bid evaluation process. In the event of such a case, it will be recorded and noted to the Bid Committees of such.

20.19. If an appeal is received, the validity period is deemed to be extended until finalisation of the appeal.

21. PUBLIC INVITATION FOR COMPETITIVE BIDS.

Invitation to Bid

21.1. The procedure for the invitation of competitive bids is as follows:

21.1.1. An Invitation to Prospective Service Providers to submit bids must be by means of the National Treasury e-Tender Portal, public advertisement in newspapers commonly circulating, the Municipal Notice Boards at selected Cederberg's Municipal Office, Municipal website or any other means of advertisements (which may include an advertisement in the Government Tender Bulletin), and

21.1.2. The information contained in a public advertisement, must include –

21.1.2.1. The closure date for the submission of bids, which may not be less than one(1) calendar month in the case of transactions over R 10 Million (VAT included), or which are of a long-term nature, or fourteen (14) days in any other case, from the date on which the advertisement is placed in one of the communication means mention in paragraph 21.1.1, subject to paragraph 21.2 of this policy,

21.1.2.2. A statement that bids may only be submitted on the bid documentation provided by the Municipality, and

21.1.2.3. Date, time, and venue of any proposed site meetings or briefing sessions.

21.1.2.4. The contact details of the official should enquiries be made with regard to technical information.

21.1.2.5. Cederberg Municipality's E-tender administrator must ensure at least the following information must be advertised on the National Treasury E-Tender Portal:

21.1.2.5.1. Bid Description

21.1.2.5.2. Bid Number

21.1.2.5.3. Name of Municipality

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- 21.1.2.5.4. The physical location where the goods, services or construction works including consultancy specified in the bid are required,
 - 21.1.2.5.5. The closing date, time of the bid and the validity of the bid,
 - 21.1.2.5.6. Municipality Contact Information (Postal and Physical address, telephone number, email address etc.)
 - 21.1.2.5.7. The Physical Location where hard copies should be collected and delivered, and lastly
 - 21.1.2.5.8. The municipal bid documents (MBDs, Terms of Reference, GCC and any other relevant documents).
- 21.1.3.** The Accounting Officer may determine a closure date for submission of bids which is less than one (1) calendar month requirement, or fourteen (14) days, but only if such a 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.
- 21.1.4.** Bids submitted must be sealed and marked as indicated in the bids and must be supplemented by sealed hard copies. Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies

Clarification/Site Meetings

- 21.2.** Site meetings/ bid clarification meetings will, in general, not be compulsory. In exceptional circumstances, however, a site meeting/ bid clarification meeting may be made compulsory with the approval of the relevant director.
- 21.3.** If site meetings/ bid clarification meetings are to be held, full details must be included in the bid notice and the bid document, including whether or not the site meeting/ bid clarification meeting is compulsory.
- 21.4.** Where site meetings/bid clarification meetings are made compulsory, the date for the site meetings/ bid clarification meeting shall be not less than 7 (seven) days after the bid has been advertised.
- 21.5.** Site meetings/ bid clarification meetings will be chaired by a duly authorised representative from the Supply Chain Management Unit. The relevant line manager responsible for a specific bid or the duly appointed consulting engineering firm employee must be present at the site meetings/ bid clarification meeting in order to provide technical information and to answer technical-related questions that might arise from the prospective bidders.

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- 21.6.** The chairperson of the site meeting/clarification meeting must explain the way how the site meetings/bid clarification will be conducted and must exclude prospective bidders that arrive after the meeting has been opened.
- 21.7.** Prospective bidders present at the site meetings/bid clarification meeting, will be required to confirm their attendance by signing the attendance register as provided by the Supply Chain Management Unit.
- 21.8.** In instances where bid documentation provides for an attendance certificate, such a certificate must be signed by the representative of the Supply Chain Management Unit who was present at the site meetings/ bid clarification meeting and submitted with the bid document.
- 21.9.** If at a site meeting/ bid clarification meeting, any additional information is provided or clarification of vague points is given, such additional information or clarification must be conveyed to all bidders in writing within a time frame as determined by the municipality, but not later than 7 (seven) days before the bid closing date.
- 21.10.** Drawings and other supplements to bid documents may be provided to prospective bidders at the site meetings/bid clarification meetings.
- 21.11.** A bidder who fails to attend a compulsory site meeting/ bid clarification meeting will be disqualified from the bidding process.

Submission of Samples

- 21.12.** Bid documents may require samples that must be submitted.
- 21.13.** Where samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered separately (to the bid) to the Supply Chain Management representative mentioned in the bid document before the bid closing date.
- 21.14.** A register will be kept by the Supply Chain Management representative of samples received from prospective bidders. An acknowledgement of receipt shall be issued to the prospective bidder as proof of delivery.
- 21.15.** Bids may not be included in parcels containing samples.
- 21.16.** If samples are not submitted as required in the bid documents then the bid concerned must be declared non-responsive.

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21.17. Samples shall be supplied by a bidder at his/her own expense and risk. The municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents.

21.18. If a bid is accepted for the supply of goods according to a sample submitted by the bidder, that sample will become the contract sample. All goods/materials supplied shall comply in all respects with that contract sample. If not, it might be deemed as a breach of contract.

21.19. The municipality reserves the right not to return the contract sample and may dispose of it at its own discretion.

Cederberg Municipality's Protection of Personal Information

21.20. The Protection of Personal Information Act No.4 of 2013 commonly known as "POPIA" came into full force and effect on 1 July 2021. POPIA seeks to protect natural and juristic persons from harm by protecting their personal information. POPIA sets out eight conditions for the lawful processing of personal information. In that way, the Act seeks to balance the right to privacy against other rights, particularly the right of access to information.

21.21. In compliance with the POPIA; the Cederberg Municipality undertakes to process personal information or special personal information as defined by the POPIA as follows:

21.21.1. Personal information may only be processed in a fair and lawful manner and only with the consent of the data subject or a competent person where the data subject is a minor;

21.21.2. Personal information may only be processed for specific, explicitly defined and legitimate reasons.

21.21.3. Personal information may not be processed for a secondary purpose unless that processing is compatible with the original purpose.

21.21.4. Reasonable steps will be taken to ensure that the personal information collected is complete, accurate, not misleading and updated where necessary.

21.21.5. The data subject whose information is collected will be made aware that Cederberg Municipality is collecting such personal information and for what purpose the information will be used.

21.21.6. Processing is necessary to carry out actions for the conclusion or performance of a contract to which the data subject is party;

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21.21.7. Personal information will be kept secure against the risk of loss, unlawful access, interference, modification, unauthorized destruction and disclosure.

21.21.8. Data subjects may request whether their personal information is held, as well as the correction and/or deletion of any personal information held about them.

22. PROCEDURE FOR HANDLING, OPENING AND RECORDING OF BIDS

22.1. The following procedures will be followed for the handling, opening and recording of bids:

22.1.1. Bids (FWPQ and Competitive Bids) will be opened in Public.

22.1.2. The Bids must be opened on the same date and as soon as possible after the period the submission of bids has expired.

22.1.3. All bids received after the closing time (late bids) shall not be considered and must be returned unopened immediately.

22.1.4. An independent observer from another internal department can be requested to attend the opening of bid documents at the request of the supply chain management representative.

22.2. 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,

22.3. No information, except the provisions in paragraph 22.2, relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award, and

22.4. The Accounting Officer must ensure that all bids are recorded in a register that have been received on time and make the register available for public inspection and publish all bid received and the bid results on the website.

22.5. The Accounting Officer must notify the successful and unsuccessful bidder in writing.

Amendments before the closing date:

22.6. The Municipality is entitled to amend any bid condition, validity period specification or plan, or extend the closing date of such a bid or quotation before the closing date, provided that such amendments or extensions are advertised and/or that all bidders to whom bid documents have been issued, are advised in writing per registered post or by fax of such amendments or of the extension clearly reflecting the new closing date and time. For this reason, employees and authorised service providers issuing bids shall

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keep a record of the names, addresses and contact numbers of the persons or enterprises to whom bid documents have been issued.

23. NEGOTIATIONS WITH PREFERRED BIDDERS

23.1. 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 –

23.1.1. does not allow any preferred bidder a second or unfair opportunity;

23.1.2. is not to the detriment of any other bidder; and

23.1.3. does not lead to a higher price than the bid as submitted.

23.1.4. does not lead to a lower price in respect of sale of land / goods.

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

23.3. No unauthorised communication with bidders and prospective providers

23.3.1. Where bids and quotations have been submitted to the municipality, a bidder may not communicate with any councillor, official, or authorised service provider on any matter regarding his bid, quotation or offer other than a notice of withdrawal.

23.3.2. No municipal personnel may communicate with a bidder or any other party who has an interest in a bid, during the period between the closing date for the receipt of the bid or quotation (or date of receipt of an offer), and the date of notification of the successful bidder of acceptance of his bid, quotation or offer, except as provided for in paragraph 23.3.3 below. Every such case of unauthorised communication shall forthwith be reported to the Supply Chain Management Unit as well as the relevant chairperson of the Bid Adjudication Committee. A bid or quotation in respect of which unauthorised communication has occurred may be disqualified.

23.3.3. The chairperson of the Bid Adjudication Committee, as determined in SCM Regulation 29(2), may authorise an employee or authorised service provider, in writing, to communicate with a bidder during the period mentioned in paragraph 23.3.2 above for the purpose of:-

23.3.3.1. explaining and verification of declarations made in the bid response;

23.3.3.2. confirming technical particulars and the compliance thereof with specifications;

23.3.3.3. clarifying delivery times/quantities;

23.3.3.4. extending the validity period of a bid;

23.3.3.5. clarifying any other commercial aspect.

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23.3.4. In all cases where authority has been granted to communicate with bidders in terms of paragraph 23.3.3 above, it should be clearly stated in the submission to the Bid Adjudication Committee the nature of the communication as well as by whom such authority to communicate has been granted.

23.3.5. All changes and/or clarification of specifications shall be conveyed to all bidders by means or methods as specified in paragraph 21.1

24. COMMITTEE SYSTEM FOR COMPETITIVE BIDS

24.1. 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:

24.1.1. a bid specification committee;

24.1.2. a bid evaluation committee; and

24.1.3. a bid adjudication committee;

24.2. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and

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

24.4. The committee system must be consistent with –

24.4.1. paragraph 25, 26 and 27 of this Policy; and

24.4.2. any other applicable legislation.

24.5. The accounting officer may apply the committee system to formal written price quotations.

25. BID SPECIFICATION COMMITTEES

25.1. The appropriate bid specification committee must compile the specifications for each procurement transaction for goods or services by the Municipality, depending on the department involved.

25.2. Bid specifications must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services.

25.3. Bid specifications must take account of any accepted standards such as those issued by South African National Standards, the International Standards Organisation, or any

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authority accredited or recognised by the South African National Accreditation System with which the equipment or material or workmanship should comply.

- 25.4. Bid specifications shall, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design.
- 25.5. Bid specifications 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.
- 25.6. Bid specifications may not make any 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 words “or equivalent”.
- 25.7. Bid specifications must be approved by the Chief Financial Officer or relevant Senior Manager prior to publication of the invitation for bids.
- 25.8. Where specifications are based on standard documents available to bidders, a reference to those documents is sufficient, For example: CIDB, B-BBEE, General Conditions of contract for construction works etc.)

Infrastructure Procurement Gate Requirements:

- 25.9. Bid Specification Committee Members will prepare infrastructure procurement documents that are compatible with approved procurement strategies and project management design documentation for the infrastructure procurement. **(Procurement Gate: 3)**
- 25.10. Once the bidding documentation is completed and approved by the BSC, the delegated authority (BTO Official) will confirm the cash flow that has been put in place to meet the contractual obligations and establish control measures for settlements within the period in the contract. **(Procurement Gate: 4).**
- 25.11. After the BSC has approved infrastructure procurement documents, it will follow paragraphs 21 and 22 of this policy to solicit tenders for infrastructure procurement defined under the LGFIPDM model. **(Procurement Gate: 5).**

Bid Specification Committee Members:

- 25.12. A bid specification committee must be composed of one or more officials of the municipality preferably the line manager responsible for the function concerned, and may, when appropriate, include external specialist advisors.

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25.13. Where appropriate a representative of Internal Audit and Legal Services and other specialist advisors (internal or external) may form part of this committee.

25.14. 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.

26. BID EVALUATION COMMITTEES

26.1. A bid evaluation committee must evaluate in accordance with:

26.1.1. The specifications for a specific procurement,

26.1.2. The specific goals or functionality for which points must be awarded in terms of the points system set out in the Preferential Procurement Policy of Cederberg Municipality, and

26.1.3. The general criteria to evaluate technical and financial ability per Annexure B.

26.2. The Bid Evaluation Committee must evaluate each bidder's ability to execute the contract,

26.3. The Bid Abluation Committee must evaluate the tenders to ensure, efficiency, effectiveness and value for money for the Cederberg Municipality,

26.4. The Bid Evaluation Committee must check with respect to the recommended bidder whether municipal rates, taxes and municipal services charges have not been in arrears for more than three months,

26.5. The Bid Evaluation Committee must consider only those bidders who have submitted and complied with the material terms and requirements of the bid documentation;

26.6. The Bid Evaluation Committee must when calculating comparative prices, take into account any discounts which have been offered unconditionally, however, a discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is effected;

26.7. The Bid Evaluation Committee must submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

26.8. The Bid Evaluation Committee must submit to the adjudication committee a report and reasons in the event of a tender not being awarded.

Bid Evaluation Committee members:

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- 26.9.** The Bid Evaluation Committee must, as far as possible, be composed of officials from the department requiring the goods, services or construction works including consultancy services and at least one (1) Supply Chain Management Practitioner of the Municipality.

Infrastructure Procurement Gates Requirements

- 26.10.** All bid offers solicited for infrastructure procurement shall be evaluated in terms of bid specifications published in the procurement documents. The BEC shall ensure that all tender reviews meet the minimum compliance requirements and that the report submitted to the BAC demonstrates the risk analysis that has been followed and demonstrates all tender offers that have been received and that have met the minimum compliance.
- 26.11.** The BEC Chairperson will recommend the BEC report to the Bid Adjudication Committee for further approval in terms of this Policy. (**Procurement Gate 6**)

27. BID ADJUDICATION COMMITTEES

- 27.1.** A Bid Adjudication Committee must consider the BEC Evaluation Report and recommendations made by the BEC on the bidding proposal that is presented to the BAC, and may either:
- 27.1.1.** Make a final award or a recommendation to the Accounting officer to make the final award, depending on its delegations; or
 - 27.1.2.** Make another recommendation to the Accounting Officer to Proceed with the relevant procurement.
- 27.2.** BAC must consider the report and recommendations of the BEC where it is recommended that the tender not be awarded; and either
- 27.2.1.** Take a decision that the tender not be awarded for the reasons presented and that it be re-advertised or not be re-advertised; or
 - 27.2.2.** take a decision that the tender be awarded and make a final award or a recommendation to the accounting officer to make the final award.
- 27.3.** The accounting officer may appoint the CFO as 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 and will be documented in the minutes.
- 27.4.** Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- 27.5.** The chairperson 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 or considered when determining a quorum.

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- 27.6.** Members of the bid specification committee, bid evaluation committee and technical advisors may attend the bid adjudication committee to provide clarity, but has no decision making rights pertaining to the award.
- 27.7.** A quorum is of 50 % plus 1, with the Chief Financial Officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer being, at all times one of the quorum-forming members.
- 27.8.** If the bid adjudication committee decides NOT to award a bid, either in support of the recommendation by the bid evaluation committee or on their own decision, the bid adjudication committee may:-
- 27.8.1.** refer the evaluation report back to the bid evaluation committee for review and/or reconsideration or clarification, or
 - 27.8.2.** refer the bid document to bid specification to revise and advertise; or
 - 27.8.3.** cancel the bidding process.
- 27.9.** If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid-
- 27.9.1.** check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and notify the Accounting Officer.
- 27.10.** The accounting officer may, in terms of a notice received as contemplated in paragraph 29.7—
- 27.10.1.** after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to; and
 - 27.10.2.** if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 27.11.** 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.
- 27.12.** The BAC or Accounting officer is not obliged to accept the lowest or any offer, where an offer relates to more than one item accept such offer in respect of any specific item or items.
- 27.13.** The municipality may accept any offer notwithstanding the fact that the offer does not comply with the bid invitation in respect of which the offer has been made subject to the conditions of this policy and comply Section 114 of the the Act.

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- 27.14.** If a tender other than the one recommended in the normal course of implementing the supply chain management policy of a municipality is approved, the accounting officer of the municipality must, in writing, notify the Auditor-General, the relevant provincial treasury and the National Treasury of the reasons for deviating from such recommendation. However, this does not apply if a different tender was approved in order to rectify an irregularity. The accounting officer must comply with section 114 of the Act within 10 working days.
- 27.15.** If the Bid Adjudication Committee or other delegated official has resolved that a bid be accepted, the successful and unsuccessful bidders shall be notified in writing of this decision.
- 27.16.** Every notification of decision shall be sent via registered mail and either faxed or sent via electronic mail to the address chosen by the bidder, with a copy of proof of transmission kept for record purposes, or shall be delivered by hand, in which case acknowledgement of receipt must be signed and dated on a copy of such notification and kept for record purposes.
- 27.17.** The accounting officer may sub-delegate its power in terms of this policy to the bid evaluation committee, the bid adjudication committee and the Manager Supply Chain Management.
- 27.18.** After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- 27.19.** Original / legal copies of written contracts agreements must be kept in a secure place for reference purposes.

Bid Adjudication Committee Members

27.20. A BAC shall be composed of the following members:

- 27.20.1.** the chief financial officer or, if the chief financial officer is not available, a manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and
- 27.20.2.** at least one senior supply chain management practitioner who is an official of the municipality; and
- 27.20.3.** Directors of each directorate or in their absence, a duly delegated official.
- 27.20.4.** if deemed necessary, a technical expert in the relevant field who is an official, if such an expert exists.

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- 27.20.5.** The AO may utilise the services of neighbouring municipality's senior managers to serve on its BAC, in event of not having a fully composed committee.

Infrastructure Procurement Gates Requirements

- 27.20.6.** The BAC or the Accounting Officer where delegated, confirms that the tenderer has provided evidence of complying with all requirements stated in the tender data and formally accepts the tender offer in writing, and issues the contractor with a signed copy of the contract. **(Procurement Gate 7)** the following requirements should be met:

- 27.20.6.1.** Bid adjudication committee review of the BEC evaluation report.
- 27.20.6.2.** Bid Adjudication Committee makes an award.
- 27.20.6.3.** Accounting Officer approval of the tender process.
- 27.20.6.4.** Notify successful tenderer and unsuccessful tenderers of the outcome.
- 27.20.6.5.** Sign contract document.
- 27.20.6.6.** Formally accept tender offer.

28. AFTER TENDER APPROVAL PROCESS

- 28.1.** The notification to the successful bidder in terms of this Policy may require of the successful bidder to attend a compulsory briefing session with the municipality before commencement of the contract at no cost to the municipality.
- 28.2.** The purpose of the briefing session is to:
- 28.2.1.** Introduce the municipal contract manager allocated to the specific contract in terms of this policy and to meet the successful bidders contract manager;
 - 28.2.2.** Examine and analyse the bid document and contractual conditions to ensure that specific expectations of the municipality and the obligations of the successful bidder are well understood;
 - 28.2.3.** Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score.
 - 28.2.4.** Communicate and document the anticipated contract risks and challenges as perceived by both the municipality and the successful bidders;
 - 28.2.5.** To develop mitigating strategies to address and mitigate the contract risk and challenges; and
 - 28.2.6.** Communicate the contract administration process as stated in legislation and this policy.
 - 28.2.7.** Formally sign the bid contract.
- 28.3.** At least the following persons must attend the briefing session:
- 28.3.1.** The municipal contract manager;
 - 28.3.2.** The authorised municipal supply chain official;
 - 28.3.3.** The successful bidders authorised contract signatory;

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28.3.4. The successful bidders contract manager.

28.4. The notification to the successful bidder must state the date, time and place of the briefing session in writing:

28.4.1. Proper minutes must be kept of each briefing session;

28.4.2. All correspondence and documentation in relation to the briefing session must be maintained as part of the procurement documentation.

Unsuccessful bidder debriefing

28.5. The unsuccessful bidder debriefing service is offered by the municipality to unsuccessful bidders upon request.

28.6. During the debriefing unsuccessful bidders can find out how their proposal scored against required criteria and obtain comments from the evaluation team on their bid.

28.7. The debriefing should be a positive and constructive experience that explains how bidders can improve future submissions.

28.8. The debriefing an opportunity for unsuccessful bidders to:

28.8.1. Learn more about the procurement and evaluation process in an informal setting.

28.8.2. Find out how their proposal scored against the required criteria.

28.8.3. Hear the overall comments from the evaluation team on your bid.

28.8.4. Gather information on how future submissions may be improved.

28.9. The debriefing is not part of the Supply Chain complaint or appeal process in terms of this policy.

28.10. The debriefing is not legal proceeding and no legal representation is permitted at the debriefing.

28.11. At the debriefing session the unsuccessful bid is not compared to other bids, nor will information be provided to the unsuccessful bidder about other bids.

28.12. In scheduling bidders debriefings session upon the request of the unsuccessful bidder, the municipality must:

28.12.1. Confirm the date and time of the debriefing session in writing;

28.12.2. Conduct separate debriefings with each vendor;

28.12.3. Ensure that proper minutes are kept of each debriefing session;

28.12.4. Retain all correspondence and documentation relevant to the debriefing session as part of the procurement documentation.

28.13. In conducting bidders debriefings, the municipality may:

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- 28.13.1.** Provide a general overview of the evaluation process set out in the bid documents;
- 28.13.2.** Discuss the strengths and weaknesses of the bidder's submission in relation to the specific evaluation criteria and the bidders evaluated score.
- 28.13.3.** Provide suggestions on how the supplier may improve future submissions;
- 28.13.4.** Address specific questions and issues raised by the supplier in relation to their submission.

29. PROCUREMENT OF BANKING SERVICES

- 29.1.** A contract for banking services must be procured through a competitive bidding process and be consistent with Section 7 of the MFMA and may not be for more than five (5) years at a time, thus this provision is subjected to Sections 33 and 116 of the MFMA.
- 29.2.** The process for procuring a contract for banking services must commence at least nine (9) months before the end of an existing contract.
- 29.3.** 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 Cederberg Municipality advertising channels (newspapers, NT e-portal, Notice Boards and/or Municipal Website) in terms of this policy.
- 29.4.** Bids shall be restricted to banks registered in terms of the Bank Act 1990 (Act No. 94 of 1990)

30. PROCUREMENT OF IT RELATED GOODS AND SERVICES

- 30.1.** 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.
- 30.2.** Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 30.3.** The Accounting Officer must notify SITA together with a motivation of the IT needs if –
 - 30.3.1.** The transaction value of IT-related goods or services required in any financial year will exceed R 50 Million (VAT included); or
 - 30.3.2.** The transaction value of a contract to be procured whether for one or more years exceeds R 50 Million (VAT included).
- 30.4.** 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 of South Africa (AGSA).

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31. PROCUREMENT OF GOODS AND SERVICES UNDER CONTRACTS SECURED BY OTHER ORGANS OF STATE.

- 31.1. Cederberg Municipality may procure goods or services under a contract secured by another organ of state, but only if
- 31.1.1. The contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state,
 - 31.1.2. The municipality or entity has no reason to believe that such a contract was not validly procured,
 - 31.1.3. there are demonstrable discounts, savings or other means of benefits to the Cederberg Municipality to do so, and
 - 31.1.4. that the other organ of state and the Service provider have given prior consent to such procurement in writing.
- 31.2. Paragraph 29.1 does not apply if a municipality entity procures goods or services through a contract secured by its parent municipality, or a municipality procures goods or services by a municipality entity of which it is the parent municipality.

Use Of National/Provincial Transversal Contracts

- 31.3. Upon request, the Accounting Officer may approve the participation and use of existing transversal contracts/frameworks by other National or Provincial Departments in accordance with the National Treasury Transversal Contract guidelines.

32. PROCUREMENT OF GOODS NECESSITATING SPECIAL SAFETY ARRANGEMENTS

- 32.1. The acquisition and storage of goods in bulk (other than water), which necessitates special safety arrangements, including gases and fuel, should be avoided wherever possible.
- 32.2. 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, savings and environmental impact and must be approved by the Accounting Officer.

33. PROUDLY SA CAMPAIGN

- 33.1. The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services.
- 33.2. Bids in respect of services, works or goods that have been designated for local production and content, must contain a specific bidding condition that only locally produced goods, services or works or locally manufactured goods with a stipulated minimum threshold for local production and content will be considered.

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- 33.3.** The National Department of Trade and Industry is empowered to designate industry sectors, in line with national development and industrial policies for local production, where only locally produced goods, services or construction works, or locally manufactured goods that meet a stipulated minimum threshold for local production and content, may be used.
- 33.4.** In the case of designated sectors, where in the award of bids, local production and content are of critical importance, such bids must be advertised with a specific condition of bidding, that only locally produced goods, services or construction works or locally manufactured goods, with a stipulated minimum threshold for local production and content will be considered.
- 33.5.** Any instructions, circulars and guidelines issued by the National Treasury in the above regard must be complied with.
- 33.6.** Where there is no designated sector, bids may include, as a specific condition of bidding, that only locally produced goods, services or construction works, or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
- 33.7.** Every bid where local production and content are used, it must be measurable and audited.
- 33.8.** Bids must be evaluated in terms of the evaluation criteria stipulated in the bid documents. The amendment of the stipulated minimum threshold for local production and content after the closure of bids is not allowed as this may jeopardise the fairness of the process.

34. APPOINTMENT OF CONSULTANTS

- 34.1.** The Accounting Office may procure consulting services provided that any Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such procurement is made.
- 34.2.** A contract for the provision of consulting services to a municipality must be procured through competitive bids if
- 34.2.1.** the value of the contract exceeds R 300 000 (VAT included), in the case of a local municipality,
- 34.2.2.** the period of the contract exceeds one(1) year.
- 34.3.** In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of

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- 34.3.1.** All consultancy services provided to the municipality in the last five (5) years, and
- 34.3.2.** Any similar consultancy service provided to the municipality in the last five (5) years.
- 34.4.** The Accounting Officer shall as far as possible endeavour to realize the following cost containment measures when engaging with consultants in terms of the Municipal Cost Containment Regulation, 2019:
 - 34.4.1.** Accounting Officers shall only contract with consultants after a gap analysis report has confirmed that the municipality does not have the requisite skills or resources in its permanent employment to perform the services required.
 - 34.4.2.** Evidence of acute planning of the project must be visible to all relevant persons including the administration and political oversight mechanisms in place at the municipality.
 - 34.4.3.** Consultants, including construction and infrastructure-related services, must only be remunerated at the rates equal to or below those:
 - 34.4.3.1.** determined in the “Guidelines on fees for audits done on behalf of the Auditor-General South Africa”, issued by the South African Institute of Chartered Accountants (SAICA);
 - 34.4.3.2.** set out in the “Guide on Hourly Fee Rates for Consultants”, by the Department of Public Service and Administration (DPSA); or
 - 34.4.3.3.** Prescribed by the body regulating the profession of the consultant.
 - 34.4.4.** Ensure an exacting “specification” of the work to be accomplished, accompanies the tender and is used as a monitoring tool and appropriately recorded and monitored.
 - 34.4.5.** Ensure that contracts for consultants include retention and penalty clauses for poor performance and in this regard against the above specification, accounting officers must invoke such clauses, where deemed necessary.
 - 34.4.6.** That contracts/services are concluded based on the best “value for money” principles, i.e. matching fees against quality and against benchmarked practices.
 - 34.4.7.** The appointing of consultants on a time and cost basis with specific start and end dates.
 - 34.4.8.** Travel and subsistence costs for the appointment of consultants must be in accordance with the travel policy of the government and the contract price specifies all travel & subsistence costs.

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34.4.9. Endeavour to ensure that when travel and subsistence costs for appointed consultants are exclusive of the contract, the costs must be in accordance with the following provisions:

34.4.9.1. Hotel accommodation may not exceed the amount determined by National Treasury;

34.4.9.2. Only economy class air tickets may be purchased for flights;

34.4.9.3. Only group B vehicles or lower may be hired for engagements, as determined by National Treasury;

34.4.9.4. Kilometres claimed for the use of private vehicles may not exceed the rates approved by the National Department of Transport, as updated from time to time.

34.4.10. To develop consultancy reduction plans.

34.4.11. Undertake all engagements of consultants in accordance with the SCM Regulations and the municipality's SCM policy.

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

35.1. The Accounting Officer may –

35.1.1. Dispense with the official procurement processes established by this Policy and procure any required goods or services through any convenient process, which may include direct negotiations and through the process set out in this paragraph provided that the municipality shall adhere to fair, equitable, transparent, competitive and cost-effective, procurements to the maximum extent practicable.

35.1.2. 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 negotiation but only

35.1.2.1. Any contract relating to an emergency where it is not in the interest of Cederberg Municipality to invite any bids

35.1.2.2. Any goods or services which are available from a single service provider only

35.1.2.3. The acquisition of animals for zoos

35.1.2.4. The acquisition of special works of art or historical objects where specifications are difficult to compile or

35.1.2.5. Any other exceptional circumstances where it is impractical or impossible to follow the official procurement process, including but not limited to:

a. any contract in respect of which compliance therewith would not be in the public interest,

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- b. ad-hoc repairs to plant and equipment where it is not possible to ascertain the nature or extent of the work required in order to call for bids,
- c. in the event of a major system failure, or
- d. in the event that where the delivery of a municipal service would be significantly restricted.

35.1.3. The Accounting Officer may 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.

35.1.4. The Accounting Officer may condone a deviation from the procurement process, provided that such deviation is limited to the circumstances.

35.1.5. 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.

35.1.6. The reasons for all deviations shall be recorded and reported by the Accounting Officer to the Council at the next Council meeting and shall be included as a note to the Annual Financial Statements.

35.1.7. Any procurement activity approved in terms of a deviation process must be formalised in a written contract which describes the terms and conditions of the contract as well as the scope of work or services, or the specification, as applicable.

35.1.8. All identified possible unauthorized, irregular fruitless and wasteful expenditures must be referred to the Municipal Public Accounts Committee (MPAC) investigation and the MPAC makes recommendations to the Council with the exception of minor breaches ratified by the accounting officer.

36. UNSOLICITED BIDS

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

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

- 36.2.1.** the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
- 36.2.2.** the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
- 36.2.3.** the person who made the bid is the sole provider of the product or service; and

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- 36.2.4.** the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- 36.3.** If the accounting officer decides to consider an unsolicited bid that complies with paragraph 35.2 of this policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
- 36.3.1.** reasons as to why the bid should not be open to other competitors;
 - 36.3.2.** an explanation of the potential benefits if the unsolicited bid were to be accepted; and
 - 36.3.3.** an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 36.4.** The accounting officer must submit all written comments received pursuant to paragraph 35.3, including any responses from the unsolicited bidder to the National Treasury and the relevant provincial treasury for comment.
- 36.5.** 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.
- 36.6.** A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 36.7.** When considering the matter, the adjudication committee must take into account –
- 36.7.1.** any comments submitted by the public; and
 - 36.7.2.** any written comments and recommendations of the National Treasury or the relevant provincial treasury.
- 36.8.** 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.
- 36.9.** Such submission must be made within five business 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.

37. COMBATING OF ABUSE OF SUPPLY CHAIN MANAGEMENT SYSTEM

- 37.1.** The Accounting Officer is hereby enabled to –
- 37.1.1.** Take all reasonable steps to prevent abuse of the Supply Chain Management system;

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- 37.1.2.** Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this Policy, and when justified take appropriate steps such official or other role player or report any alleged criminal conduct to the South African Police Service;
- 37.1.3.** 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.
- 37.1.4.** Reject any bid from a bidder –
 - 37.1.4.1.** If any municipal rates and taxes or municipal services 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 (3) months, or
 - 37.1.4.2.** Who during the last (5) 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 the bidder in question on their performance that was unsatisfactory.
- 37.1.5.** 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.
- 37.1.6.** Cancel a contract awarded to a person if –
 - 37.1.6.1.** the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
 - 37.1.6.2.** 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
- 37.1.7.** reject the bid of any bidder if that bidder or any of its directors –
 - 37.1.7.1.** has abused the supply chain management system of the Municipality or has committed any improper conduct in relation to such system;
 - 37.1.7.2.** has been convicted for fraud or corruption during the past five years;
 - 37.1.7.3.** has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
 - 37.1.7.4.** 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).
- 37.2.** The Accounting Officer must inform the National Treasury and relevant Provincial Treasury in writing of any actions taken in term so paragraphs 36.1.2, 36.1.6 and 36.1.7.

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37.3. Restrictive practices are prohibited

- 37.3.1.** In terms of section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, an agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if a bidder is or a contractor was involved in collusive bidding.
- 37.3.2.** If a bidder or contractor, based on reasonable grounds or evidence obtained by the municipality, has engaged in the restrictive practice referred to above, the municipality may refer the matter to the Competition Commission for investigation and possible imposition of administrative penalties as contemplated in section 59 of the Competition Act No. 89 of 1998.
- 37.3.3.** If a bidder or contractor has been found guilty by the Competition Commission of the restrictive practice referred to above, the purchaser may, in addition and without prejudice to any other remedy provided for, invalidate the bid for such item(s) offered, and/or terminate the contract in whole or part, and/or restrict the bidder or contractor from conducting business with the public sector for a period not exceeding ten (10) years and/or claim damages from the bidder or contractor concerned.

Part 3: Logistics, Disposal, Risk, Performance and Contract Management

38. LOGISTICS MANAGEMENT

- 38.1.** The Accounting Officer must establish and implement an effective system of logistics management, which must include –
- 38.1.1.** The monitoring of spending patterns on types or classes of goods and services including construction works items incorporating where practical, the coding of items to ensure that each item has a unique number.
- 38.1.2.** The setting of inventory levels includes minimum and maximum levels and lead times wherever goods are placed in stock.
- 38.1.3.** The placing of manual or electronic orders for all acquisitions other than those from petty cash.
- 38.1.4.** Before payment is approved, certification by the delegated officer that the goods and services are received or rendered on time and in accordance with the order, the general conditions of the contract, special conditions of the contract and specifications where applicable and the price charged is as quoted in terms of the contract.

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- 38.1.5.** Appropriate internal control and warehouse management standards to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased.
- 38.1.6.** Regular checking to ensure that all assets and inventory are properly managed and maintained in terms of Cederberg Municipality Asset Management Policy; and
- 38.1.7.** Monitoring and evaluation are conducted on all suppliers' performance that render a service to the Cederberg Municipality and ensure compliance with specifications, special conditions of the contract and general conditions of goods and services.

39. DISPOSAL MANAGEMENT

- 39.1.** In terms of SCM Regulation 40, Cederberg Municipality must provide an effective system of disposal management for the disposal or letting of assets including unserviceable, redundant or obsolete assets subject to Sections 14 and 90 of the Act and the Municipality Asset Transfer Regulations.
- 39.2.** Subject to the provisions of the Municipal Asset Transfer Regulations :
 - 39.2.1.** Moveable assets may be sold either by way of written price quotations, competitive bidding process, auction or at market-related prices, whichever is the most advantageous to Cederberg Municipality.
 - 39.2.2.** Immovable Property may:
 - 39.2.2.1.** Be sold only at market-related prices except when the public interest or the plight of the poor demands otherwise
 - 39.2.2.2.** Let only at market-related rates except when the public interest or the plight of the poor demands otherwise and provided that all charges relating to the letting of immovable property are annually reviewed.
 - 39.2.3.** In the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment;
 - 39.2.4.** In the case of firearms, the National Conventional Arms Control Committee must approve any sale or donation of firearms to any person within or outside of the Republic.
 - 39.2.5.** Ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated and most advantageous to the Cederberg Municipality.

Transfer or Permanent Disposal of Assets and the granting of usage rights in terms of MATR

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- 39.3.** Non-exempted Capital Asset shall be transferred or permanently disposed of strictly in accordance with Chapter 2 of the Municipality Asset Transfer Regulations (MATR) and all other applicable legislation of Cederberg Municipality.
- 39.4.** Exempted Capital Assets shall be transferred strictly in accordance with Chapter 3 of the Municipality Asset Transfer Regulations and all other relevant Cederberg Municipality's Policies.
- 39.5.** The granting of Rights (where Sections 14 and 90 of the MFMA do not apply) by Cederberg Municipality, shall be executed strictly in accordance with Chapter 4 of the MATR and all other relevant Cederberg Municipality Policies.

40. RISK MANAGEMENT

- 40.1.** The risk pertaining to Supply Chain Management should at all times comply with the criteria laid down in the Risk Management Policies of the Cederberg Municipality.
- 40.2.** Risk Management must provide for an effective system of identification, consideration and avoidance of potential risks in Cederberg Municipality's Supply Chain Management system.
- 40.3.** Managing Risk must be part of the Municipality practices and business plans and should not be viewed or practised as a separate activity in isolation from line managers.
- 40.4.** The risk management process shall be applied to all stages of supply chain management, be it the conceptual stages, project scope definition, specification preparation, acquisition approval or implementation to completion but not limited to these areas.
- 40.5.** Risk management is an integral part of good management of acquisition activities and cannot be effectively performed in isolation from other aspects of acquisition management.
- 40.6.** Appropriate Risk Management conditions should therefore be incorporated in contracts.

Key SCM Risk Principles

- 40.7.** The key principles of managing risk in supply chain management include:
- 40.7.1.** Early and systematic identification of risk on a case-by-case basis, analysis and assessment of risks, including conflicts of interest and the development of plans for handling them,
 - 40.7.2.** Allocation and acceptance of responsibility to the party best placed to manage risk,
 - 40.7.3.** Management of risks in a pro-active manner and the provision of adequate cover for residual risks

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- 40.7.4. Assignment of relative risks to the contracting parties through clear unambiguous contract documentation,
- 40.7.5. Acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it, and
- 40.7.6. Ensuring that the costs incurred in managing risks are commensurate with the importance of the purchase and the risks to Cederberg Municipality's Operations.

41. PERFORMANCE MANAGEMENT

- 41.1. The Accounting Officer must establish and implement an internal monitoring system to determine the basis of a retrospective analysis of whether the authorised Supply Chain Management processes were followed and whether the objectives were achieved.
- 41.2. Performance Management shall accordingly be characterised by a monitoring process and retrospective analysis to determine whether:
 - 41.2.1. Value for Money has been attained,
 - 41.2.2. Proper processes have been followed,
 - 41.2.3. Desired objectives have been achieved,
 - 41.2.4. There is an opportunity to improve the process,
 - 41.2.5. Suppliers have been assessed and what that assessment is, and
 - 41.2.6. There has been deviation from procedures and, if so what the reasons for the deviation are.
- 41.3. The quarterly report and annual report on the implementation of this policy, the monitoring of the service delivery and implementation plan(SDBIP) and the Annual Report may be used as tools to perform a retrospective analysis of SCM processes.
- 41.4. The Performance management system shall accordingly focus on, amongst others
 - 41.4.1. Achievement of Goals,
 - 41.4.2. Compliance with norms and standards,
 - 41.4.3. Savings generated,
 - 41.4.4. Cost variances per item,
 - 41.4.5. Non-compliance with contractual conditions and requirements, and
 - 41.4.6. The cost efficiency of the procurement process itself.
- 41.5. Supplier (Bidder) Performance
 - 41.5.1. Each Project Manager shall monitor the active contracts that are assigned to the relevant department in conjunction with the supplier's compliance and performance to the set specification stipulated in the contract and bid responses approved.
 - 41.5.2. All evaluations and information regarding the supplier performance and the details of the active contracts will be kept and made available for future evaluation and motivation purposes, contract negotiations and regular feedback will be provided to the Service Provider and SCM.

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- 41.5.3. If the Supplier fails to deliver in accordance with the contract specifications the Municipality reserves the right to make use of remedies at its disposal in terms of applicable law to execute the relevant contract remedies.
- 41.5.4. In the event the supplier fails to perform in accordance with the contract, the Project Manager is obligated to report the supplier to SCM and in writing request the supplier to provide reasonings for non-compliance and how the supplier will rectify the non-compliance or furnish the supplier the opportunity to give reasons why Cederberg Municipality should not terminate the contract.

Unsatisfactory Performance of Contractor

41.6. Unsatisfactory performance occurs when performance is not in accordance with the contract conditions, e.g.:

- 41.6.1. If the contractor fails to deliver any or all the goods, works or services within the period(s) specified in the contract, or within extension thereof granted by the SCMU pursuant to GCC;
- 41.6.2. If the contractor fails to perform any other obligation(s) under the contract, e.g.: If, during the guarantee period, a supplier does not comply with the requirements because of faulty material used during manufacture, or faulty finishing, or any deficiency, latent or otherwise, the contractor must be requested without delay, by registered mail, to replace or repair the supply depending on the circumstances. Supplies thus replaced or repaired or services thus rendered must be guaranteed for the same period as the original supplies or services.
- 41.6.3. If the contractor, in the judgement of the SCMU, has engaged in corrupt or fraudulent practices in competing for or in executing the contract.

Procedure Applicable to Non-Performance

- 41.7. Should the contractor not adhere to the contract conditions (non-delivery, delivery of an inferior product, etc.), the following procedure should be followed:
 - 41.7.1. A registered letter must be sent to the supplier to inform him/her that he/she did not honour the contract conditions. The waybill number of the letter must be quoted on the relevant SCMU copy.
 - 41.7.2. The letter must be typed and concept letters should not be used. Each case should be handled individually.
 - 41.7.3. The intention must be clearly stated in the letter (e.g. reprimand him on his delivery; etc.).
 - 41.7.4. The contents of GCC paragraph 21 must be quoted for the contractor's convenience.
 - 41.7.5. The bid/contract number, order number, description of the item(s), quantities and value of the contract must be indicated in the letter.

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- 41.7.6.** The contractor must be afforded an opportunity of at least fourteen (14) but not less than seven (7) days to comment.
- 41.7.7.** If the supplier fails to deliver any or all of the goods or to perform the service within the period(s) specified in the contract, the purchaser shall, without prejudice to its other remedies under the contract, deduct from the contract price, as a penalty, a sum calculated on the delivered price of the delayed goods or unperformed services using the current prime interest rate calculated for each day of the delayed until actual delivery or performance. The purchaser may also consider contract termination pursuant to GCC clause 23.
- 41.8.** Whilst the above-mentioned procedure is in process and there is a need for the item/service, the minimum quantity must be purchased in accordance with delegated powers and properly recorded to be able to recover any adverse cost from the contractor.

42. CONTRACT MANAGEMENT

- 42.1.** Contract Administration includes all activities and administrative duties associated with a contract that has arisen through one of the acquisition or procurement processes described in this Policy.
- 42.2.** Department Heads are fully responsible for contract management and administration. End-Users shall be responsible for ensuring that a contract manager who will be an internal official is assigned to ensure effective management of the contract. The contract manager will typically be the internal project manager assigned to the contract as a whole, but may also be a cost centre owner or other responsible official.
- 42.3.** A contract manager must be assigned to each contract and, where possible, should be involved from the earliest stages of the acquisition process.
- 42.4.** The contract manager's duties and powers shall be governed by the conditions of the contract and the general law.
- 42.5.** In administering a contract, the contract manager will be required to form opinions and make decisions which, while in the Cederberg Municipality's best interests, must be fair to all parties concerned.
- 42.6.** Directors shall be responsible for ensuring that contract managers are:
 - 42.6.1.** Assigned to all contracts within the Director's areas of responsibility, and
 - 42.6.2.** Adequately trained so that they can exercise the necessary level of responsibility in the performance of their duties.

Contract Manager's Duties:

- 42.7.** The Contract Manager must assume the following duties:

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- 42.7.1. ensure that all the necessary formalities in signing the contract and/or issuing the purchase order(s) are adhered to;
- 42.7.2. ensure that purchase orders are captured on the municipality's financial system in the form in accordance with the pricing schedule;
- 42.7.3. ensure that all original contract documentation is lodged with Archives for record purposes;
- 42.7.4. monitor monthly the performance of the service provider to ensure that all of the terms and conditions of the contract are met;
- 42.7.5. regularly report to the accounting officer on the management of the contract and the performance of the service provider;
- 42.7.6. conduct contract risk assessments for contracts longer than 3 months as stated in this Policy;
- 42.7.7. where necessary, take appropriate action where a service provider is underperforming or is in default or breach of the contract and to report such failures promptly to the accounting officer;
- 42.7.8. where appropriate, authorise payments due in terms of the contract by processing payment certificates (if applicable), and ensuring that the necessary Service Entry Sheets or Goods Received Notes are lodged with the Finance Department for capturing on the municipality's financial system;
- 42.7.9. contract variation or change procedures are approved by the accounting officer in writing which must be in line with the applicable general conditions of the contract and this policy;
- 42.7.10. for construction contracts, ensure that all contract administrative requirements of the CIDB is complied with.
- 42.7.11. administer disputes, in consultation with the Supply Chain Management Unit, in terms of this policy and the applicable conditions of contract;
- 42.7.12. conduct, as appropriate, post-contract reviews;
- 42.7.13. maintain adequate records (paper and/or electronic) in sufficient detail on an appropriate contract file to provide an audit trail;
- 42.7.14. act with care and diligence and observe all accounting and legal requirements;
- 42.7.15. inform the Asset Management section of the location of newly procured assets for asset register and insurance purposes; and
- 42.7.16. provide contract information to the Supply Chain Management Unit, as determined by the unit, after a contract has ended.

Contract Price Adjustment

- 42.8. In general, if contract periods do not exceed twelve (12) months, the bid shall be a fixed price bid and not subject to contract price adjustment. A bid Specification Committee may however request approval from the Accounting Officer to allow contract price adjustment for contract periods less than twelve (12) months, only if sufficient reasoning can be provided for Price increase. In such instances, an appropriate contract price adjustment formula must be specified in the bid documents.

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42.9. For all contract periods exceeding twelve (12) months in duration, contract price adjustment will be applicable, only from the 13th month of the contract. An appropriate contract price adjustment formula must be specified in the bid documents. The Director: SCM may consider a contract price adjustment formula in instances within the first twelve (12) months of the contract period, under exceptional and motivated circumstances,

Expansion or Variation of Orders against original contract Value

42.10. Contracts may be expanded or varied by not more than 20 % for construction-related goods, services and/or infrastructure projects and 15 % for all other goods and/or services of the original value of the contract;

42.11. Anything beyond the abovementioned thresholds must be reported to the Council and dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

Cancellation of Contracts

42.12. If acceptable reasons exist, in the event the amount exceeds R300 000.00 (inclusive of VAT), the Bid Adjudication Committee has the power to resile (“daaruit terugtree”) from an agreement without detracting from any of the Municipality’s rights and in appropriate cases, to claim compensation.

42.13. Cancellation of a contract may be considered for a variety of reasons, such as wrong preferences claimed, non-compliance with contract conditions, delayed deliveries, bribery, death or sequestration/liquidation of the contractor, etc.

42.14. Cancellation of a contract is usually prejudicial to the Municipality. Therefore serious thought must be given to the grounds for considering cancellation. Clarity must be reached beforehand on the question of whether the contractor will have a claim against the Municipality or not, and if so, whether cancellation can be justified. If cancellation is decided upon, the matter must be explained fully in a memorandum to the CFO and, in the event the amount exceeds R300 000.00 (inclusive of VAT), the Bid Adjudication Committee and the following must be addressed:

42.14.1. The particular contract condition or section of the Act empowering the action;

42.14.2. what further arrangements will be made for completing the contract; and

42.14.3. whether additional costs will be recovered from the contractor

42.15. If the additional costs cannot be determined precisely, a careful estimate must be made and mentioned in the submission to the relevant Bid Adjudication Committee.

42.16. Any claim for the recovery of additional costs must be limited to the minimum actual amounts. Therefore, in such cases, purchasing organisations cannot summarily authorise purchasing to the best advantage of the Municipality, since this might prejudice the

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recovery of the additional costs from the original contractor. There may be other avenues of action, which might result in lower additional costs. Consequently, thought must also be given to the possibility of considering the next lowest acceptable bid received in response to the particular bid invitation, for acceptance. As an alternative, a fresh contract may be concluded through the normal bid procedures. In this process, account must be taken of the time elapsed between the closing of bids and the cancellation of the contract and the effect of the cancellation on the Municipality's schedules.

Restrictions

- 42.17.** Circumstances may exist when it might be an option to restrict a person/contractor or organisation from obtaining business from the public sector.
- 42.18.** Should the Municipality opt to restrict the contractor and/or any other person(s) from obtaining business from the public sector, the Municipality must:
- 42.18.1.** inform the contractor or person(s) by registered mail or by delivery of the notice by hand of the intention to impose the restriction, provide the reasons for such decision and the envisaged period of restriction;
 - 42.18.2.** allow the contractor and/or person(s) fourteen (14) days to provide reasons why the envisaged restriction should not be imposed;
 - 42.18.3.** consider any reasons, submitted by the contractor and/or person(s) in terms of paragraph 41.10.2 above;
 - 42.18.4.** impose the restriction or amended restriction; and
 - 42.18.5.** inform the National Treasury within five (5) working days of such imposition of the name of the restricted person(s); the reason for restriction; the period of restriction and the date of commencement of the restriction.
- 42.19.** Any restriction imposed on any person by the Municipality will, at the discretion of the Municipality also apply to any other enterprise or any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise of the first-mentioned person, and with which enterprise or person the first-mentioned person, is or was in the opinion of the Municipality actively associated.
- 42.20.** However, when considering the restriction of a contractor/person, care must be taken that the prescribed procedures have been strictly adhered to since the court may find that an administrative action, such as the imposition of a restriction, is not valid in cases where the person or organisation, for example, has not been given a reasonable time to put the other side of the case or has not been fully informed of the results of his failure to react. It is also possible that, where contradictions or ambiguities exist, the court will give the benefit of the doubt to the persons or organisations against whom a restriction has been imposed and may pass judgment in their favour.

Infrastructure Procurement Gate Requirements

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- 42.21.** The delegated person shall capture the contract completion and termination data (Close out reports and relevant documents) including payment certificates due. The contract will be administered and monitored according to its deliverables and the end-user will ensure compliance with contractual requirements and the finance department will ensure the following (**Procurement Gate 8**):
- 42.21.1.** Capture contract award data.
 - 42.21.2.** Manage cash flow projection.
 - 42.21.3.** Administer contract in accordance with the terms and provisions of the contract.

Part 4: Other Matters

43. PROHIBITION ON AWARDS TO PERSONS WHOSE TAX MATTERS ARE NOT IN ORDER.

- 43.1.** Bids in excess of R30 000 will only be evaluated if the municipality is in possession of a Master Registration Number or tax compliance status PIN of the bidder to enable the municipality to verify the bidder's tax compliance status
- 43.2.** The designated official(s) should verify the bidder's tax compliance status prior to the finalisation of the award of the bid or price quotation.
- 43.3.** Where the recommended bidder is not tax compliant, the bidder should be notified of their non-compliant status and the bidder must be requested to submit to the municipality or municipal entity, within 7 working days, written proof from SARS of their tax compliance status or proof from SARS that they have arranged to meet their outstanding tax obligations. The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-filing.
- 43.4.** The accounting officer should reject a bid submitted by the bidder if such a bidder fails to provide proof of tax compliance status within the timeframe stated above.
- 43.5.** Where goods or services have been delivered satisfactorily without any dispute, the accounting officer should not delay processing payment of invoices due to outstanding tax matters.

44. PROHIBITION ON AWARDS TO PERSONS IN THE SERVICE OF STATE.

- 44.1.** Irrespective of the procurement process followed, no award may be made to a person in terms of this Policy
- 44.1.1.** who is in the service of the state;
 - 44.1.2.** 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
 - 44.1.3.** a person who is an advisor or consultant contracted with the Municipality in respect of a contract that would cause a conflict of interest.

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- 44.2.** In the case of a false declaration of interest the –
- 44.2.1.** contract must be immediately suspended and payments made, recovered;
 - 44.2.2.** criminal charges must be laid with the South African Police Services for further investigation;
 - 44.2.3.** details to be reported to the Council at its next meeting and information contained in the Annual Report of the municipality.

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

- 45.1.** The municipality does not encourage the awarding of contracts by employees in decision-making positions to close family members or friends. To this extent, the municipality requires all employees to make full disclosures of businesses owned by close family members and/ or friends and it is further expected that such individuals must not directly or indirectly be involved in the awarding of such business.
- 45.2.** The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 (VAT included) to a close family member of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
- 45.2.1.** the name of that person;
 - 45.2.2.** the capacity in which that person is in the service of the state; and
 - 45.2.3.** the amount of the award.

46. ETHICAL STANDARDS

- 46.1.** A code of ethical standards for supply chain management practitioners and other role players involved in supply chain management is hereby established in accordance with paragraph 45.2 in order to promote –
- 46.1.1.** Mutual Trust and respect; and an environment where business can be conducted with integrity and in a fair and reasonable manner.
- 46.2.** An Official or other role player involved in the implementation of the Supply Chain Management Policy –
- 46.2.1.** must treat all providers and potential providers equitably;
 - 46.2.2.** may not use his or her position for private gain or to improperly benefit another person;
 - 46.2.3.** may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;

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- 46.2.4.** notwithstanding paragraph 45.2.3, must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- 46.2.5.** 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;
- 46.2.6.** 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;
- 46.2.7.** must be scrupulous in his or her use of property belonging to the municipality;
- 46.2.8.** must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
- 46.2.9.** must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - 46.2.9.1.** any alleged fraud, corruption, favouritism or unfair conduct;
 - 46.2.9.2.** any alleged contravention of paragraph 46.1 of this policy; or
 - 46.2.9.3.** any alleged breach of this code of ethical standards.
- 46.3.** Declarations in terms of paragraphs 45.2.4 and 45.2.5 must be recorded in a register which the Accounting Officer must keep for this purpose.
 - 46.3.1.** The accounting officer must make all declarations available to the Mayor of Cederberg Municipality and must ensure that such declarations are recorded in the register.
 - 46.3.2.** Contain measures to ensure that appropriate actions are taken against any official or other role player who commits a breach of the code of ethical standards.
- 46.4.** A breach of the Code of ethics must be dealt with as follows-
 - 46.4.1.** 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;
 - 46.4.2.** in the case of a councillor, in terms of Schedule 1 of the Systems Act;
 - 46.4.3.** in the case of a role player who is not an employee, or a councillor through other appropriate means in recognition of the severity of the breach; and
 - 46.4.4.** in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

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46.4.5. in the case of SCM practitioners and the other role players involved in SCM, in terms of National Treasury's code of conduct.

47. INDUCEMENTS, REWARDS, GIFTS AND FAVOURS

47.1. No person who is a Service Provider or Prospective Service Provider of goods or services including construction works and consultancy services, or a recipient or prospective recipient of goods disposed of or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –

47.1.1. Any inducements or reward to the Municipality for or in connection with the award of a contract; or

47.1.2. Any reward, gift, favour or hospitality to any official or any other role player involved in the implementation of this Policy.

47.2. The Accounting Officer must promptly report any alleged contravention of paragraph 46.1 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.

47.3. Paragraph 46.1 does not apply to gifts less than R350.00 in value.

48. SPONSORSHIPS

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

48.1.1. a provider or prospective provider of goods or services; or

48.1.2. a recipient or prospective recipient of goods disposed of or to be disposed of.

48.2. The Accounting Officer should ensure that all sponsorships are in line with the Municipal Cost Containment Regulation 10, 2019.

49. OBJECTIONS AND COMPLAINTS

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

50. RESOLUTION OF DISPUTES, OBJECTIONS, COMPLAINTS AND QUERIES

50.1. The accounting officer must appoint an independent and impartial person or persons, not directly involved in the supply chain management processes –

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- 50.2.** 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.
- 50.3.** The person appointed must –
- 50.3.1.** strive to resolve promptly all disputes, objections, complaints or queries received; and
 - 50.3.2.** submit monthly reports to the accounting officer on all disputes, objections, complaints or queries received, attended to or resolved.
- 50.4.** A dispute, objection, complaint or query may be referred to the relevant provincial treasury if –
- 50.4.1.** the dispute, objection, complaint or query is not resolved within 60 days; or
 - 50.4.2.** no response is forthcoming within 60 days.
- 50.5.** If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query will be referred to the National Treasury for resolution.
- 50.6.** This paragraph must not be read as affecting a person's right to approach a court at any time.

51. RIGHT OF APPEAL

- 51.1.** In terms of Section 62 of the Municipal Systems Act (Act 32 of 2000 as amended), a person whose rights are affected by a decision taken by the municipality, in terms of a delegated authority, in the implementation of its supply chain management system, may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of receipt of the notification of the decision.
- 51.2.** Bid documents must state that any appeal in terms of this policy must be submitted to the Municipal Manager, and must contain the following:
- 51.2.1.** Reasons and/or grounds for the appeal,
 - 51.2.2.** How the appellants' right have been affected, and
 - 51.2.3.** The remedy sought by the appellant.
- 51.3.** The Municipal manager shall establish an appropriate appeal authority in terms of section 62 of the Systems Act, to consider appeals received in terms of Section 64(1) of the MSA.
- 51.4.** The appeal authority must consider the appeal, and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.

52. CONTRACTS PROVIDING FOR COMPENSATION BASED ON TURNOVER.

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52.1. If a service provider acts on behalf of Cederberg 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 Cederberg Municipality must stipulate-

52.1.1. a cap on the compensation payable to the service provider; and

52.1.2. that such compensation must be performance-based.

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ANNEXURE A

GENERAL PRINCIPLES GOVERNING THE MUNICIPALITY IN ITS INTERACTION WITH BIDDERS

In dealing with bidders bidding for municipal work, the municipality will adhere to the basic principles of:

1 Efficiency

- a) The municipal officials must administer the procurement process in the most efficient manner possible, avoiding time delays and duplication of activities.
- b) Where such delays are unavoidable, the municipal officials must inform all bidders of the nature of the delay and the revised time frames.

2 Courtesy

All staff members of the Municipality will deal with bidders in a courteous and respectful manner.

3 Transparency

- a) All bid processes will be open to the legal scrutiny of the public and interested parties.
- b) The Municipality will take all reasonable steps to ensure that the processes are clearly defined and understandable to all interested parties.

4 Access to information

The Municipality will take reasonable steps to ensure that all bidders have equal access to information on the goods or services to be bid for, as well as the bid process itself.

5 Fair distribution of work

The Municipality will take reasonable steps to make sure that the procurement of goods or services is fairly distributed amongst the service providers in the event of equality of bids. This will be done to avoid the excessive procurement of goods or services from one provider/supplier only.

6 Competition

The municipality will encourage fair competition between suppliers that provide goods and services to it.

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ANNEXURE B

CRITERIA TO EVALUATE TECHNICAL AND FINANCIAL ABILITY

Regardless of the scope and value of the contracts involved, all contracts will be judged on the grounds of:

1. Compliance with Bid Conditions

- a) Bids submitted on time.
- b) Bid forms signed.
- c) All essential information provided

2. Meeting technical specifications and compliance with bid conditions

- a) Where requested in bid documentation, bidders must describe how they will produce the required outputs outlined in the bid documentation in terms of either goods or services.
- b) The ability to produce the required goods or services within the stated time frame may be included as criteria for compliance.

3. Infrastructure and resources available

Bidders must indicate their capacity i.e. the extent of infrastructure under their control and resources available to enable them to execute the contract.

4. Quality /Durability

- a) Where requested, bidders must provide evidence that they will be able to adhere to generally accepted levels of quality in the provision of the product or services under consideration.
- b) Where bidders are so requested, they must clearly explain their mechanisms for quality assurance and review.

5. Size of enterprise and current workload

- a) Bidders must give an indication of the resources available for the contract they are bidding on.
- b) Bidders must give an indication of the number and value of other contracts being undertaken by them at the date of bid, as to enable the Municipality to ascertain their ability to execute the contract.

6. Staffing Profile

- a) Bidders must indicate the number of full-time employees employed by the company in Cederberg and West Coast at the time of bidding. Such information must include a breakdown in terms of race and gender at top and middle management levels.
- b) Bidders must also indicate the experience of top and middle management staff, especially where the experience of the company as a whole is limited.
- c) Bidders must indicate the number of disabled persons employed.

7. Previous Experience

- a) Bidders must indicate the number of years that they have been operating their business.

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- b) Bidders must provide evidence of previous experience in providing the goods or services under consideration, by providing a minimum of three contactable and relevant references.

8. Financial Ability to execute the contract

- a) Bidders must indicate the revenue generated by their company in the previous financial year.
- b) Bidders must provide an indication of their financial ability to execute the contract.

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Annexure C

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

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

1. General Principles

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

2. Conflict of interest

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

- 2.1. must treat all providers and potential providers equitably;
- 2.2. may not use his or her position for private gain or to improperly benefit another person;
- 2.3. may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
- 2.4. must declare to the accounting officer details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that person or to any close family member, partner or associate of that person;
- 2.5. must declare to the accounting officer details of any private or business interest which that person, or any close family member, partner or associate, may have in any proposed procurement or disposal process, or in any award of a contract by the **municipality / municipal entity** *select which is applicable* ;
- 2.6. 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;
- 2.7. must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
- 2.8. should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
- 2.9. should not take improper advantage of their previous office after leaving their official position.

3. Accountability

- 3.1. Practitioners are accountable for their decisions and actions to the public.
- 3.2. Practitioners should use public property scrupulously.

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

4. Openness

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

5. Confidentiality

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

6. Bid Specification / Evaluation / Adjudication Committees

- 6.1. Bid specification, evaluation and adjudication committees should implement supply chain management on behalf of the **municipality** in an honest, fair, impartial, transparent, cost-effective and accountable manner.
- 6.2. Bid evaluation / adjudication committees should be familiar with and adhere to the prescribed legislation, directives and procedures in respect of supply chain management in order to perform effectively and efficiently.
- 6.3. All members of bid adjudication committees should be cleared by the accounting officer at the level of "CONFIDENTIAL" and should be required to declare their financial interest annually.
- 6.4. No person should –
 - (i) interfere with the supply chain management system of the **municipality**; or
 - (ii) amend or tamper with any price quotation / bid after its submission.

7. Combative Practices

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

- 7.1. Suggestions to fictitious lower quotations;
- 7.2. Reference to non-existent competition;
- 7.3. Exploiting errors in price quotations / bids;
- 7.4. Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters