ELM
Elundini Local Municipality
Nqanqarhu l Ugie l Tlokoeng

Supply Chain Management Policy

JULY 2025

Policy Data

Policy	**Supply Chain Management Policy**
Version	
Policy Owner	**Budget and Treasury Office**
Policy Champion	**Supply Chain Manager** **Ms. Hlubikazi Mduzulwana** **045 932 8125**
Approving Authority	**Elundini LM Council**
Approval Date by Council	
Date of Next Review	**31 May 2026**

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PREAMBLE

This policy was adopted by the Elundini Municipality Council in terms of section 111 of the Municipal Finance Management Act, 2003 (Act No. 56 of 2003).

After PPPFA 2022 , the municipality adopted new changes in the policy in January 2022

Additionally, amendments as promulgated in Government Gazette, No. 49863 14 December 2023, Range of Procurement Processes.

The Accounting Officer must annually review the implementation of this Policy and if he considers it necessary, submit proposals for the amendment of the Policy to the Council for approval.

In line with legislation, the policy is reviewed annually and the latest review was undertaken in June 2021, June. The focus is to further enhance the policy by considering new legislation that has been enacted.

The targeted mechanism of the Policy which enhances the development of Historically Disadvantaged Individuals (HDI's) and Historically Disadvantaged Companies (HDC's) clearly demonstrates the focus of the policy.

The Preferential Procurement Regulations of 2011 have reviewed and aligned to this policy

This policy has been reviewed to incorporate all MFMA Circulars relevant to Supply Chain Management Unit including MFMA Circular 106 of National Treasury (dated, 20 September 2020) Local Government Framework for Infrastructure Delivery and Procurement Management (LGFIDPM) effective from 01 July 2021.

1. DEFINITIONS

In this policy, unless the context otherwise indicates, a word or expression to which a meaning has been assigned in the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003) has the same meaning as in the Act, and –

1.	**“Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).
2	**“Agent”** means a person mandated by another person (“the principal”) to do business for and on behalf of, or to represent in a business transaction, the principal, and thereby acquire rights for the principal against an organ of state and incur obligations binding the principal in favour of an organ of state.
3	**“allocation”** in relation to a municipality means - [a] municipality's share of the local government's equitable share referred to in Section 214 (1) (a) of the Constitution; [b] an allocation of money to a municipality in terms of Section 214 (1) (c) of the Constitution; [c] an allocation of money to a municipality in terms of a provincial budget; or [d] any other allocation of money to a municipality by an organ of state, including by another municipality, otherwise than in compliance with a commercial or other business transaction.]
4	**“Bid”** means a written offer or bid in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of services or goods.
5	**“break-out procurement”** means the procurement of goods and services for any project of the Municipality in the smallest possible quantities without compromising the quality, coverage, cost or developmental impact of the goods and services.
6	***"B-BBEE"*** means broad-based black economic empowerment, as defined in Section 1 of the *Broad-Based Black Economic Empowerment Act*;
7	***"B-BBEE status level of contributor"*** means the *B-BBEE* status of an entity in terms of good practice on black economic empowerment issued in terms of section 9(1) of the Broad- Based Black Economic Empowerment Act;
8	***“black designated groups”*** has the meaning assigned to it in the Codes of Good Practice issued in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Act;
9	***"black people”*** is a generic term that refers to Africans, Coloureds and Indians who are citizens of the Republic of South Africa by birth or descent; or who became citizens of the Republic of South Africa by naturalization before 27 April 1994 or on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalization prior to that date;
10	***“black designated groups”*** has the meaning assigned to it in the Codes of Good Practice issued in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Act;
11	***"Broad-Based Black Economic Empowerment Act"*** means the Broad-Based Black Economic Empowerment Act 53 of 2003;

12	"Competitive Bidding Process" means a competitive bidding process referred to in Regulation 12 (1) (d) of the Supply Chain Management Regulations;
12	**"competitive bid"** means a bid in terms of a competitive bidding process;
13	**"Comparative price"** means the price after the factors of a non-firm price and all unconditional discounts that can be utilized have been taken into consideration.
14	**"Consortium or joint venture"** means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity necessary for the execution of a contract.
15	**"Contract"** means the agreement that results from the acceptance of a bid by the Municipality.
16	**"Control"** the possession and exercise of legal authority and power to manage the assets, goodwill and daily operations of a business and the active and continuous expertise of appropriate managerial authority and power in determining the policies and directing the operations of the business.
17	**"Councilor"** means a member of a municipal council.
18	"Co-operative" means a co-operative registered in terms of section 7 of the Co-operatives Act, 2005 (Act no. 14 of 2005);
19	***Low-Value High-Volume Goods And Services" –*** means all quotations below R30 000
20	***"designated sector"*** means a sector, sub-sector or industry that has been designated by the Department of Trade and Industry in line with national development and industrial policies for local production, where only locally produced services, works or goods or locally manufactured goods meet the *stipulated minimum threshold* for local production and content;
21	**"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.
22	**"District municipality" means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality and which is described in section 155(1) of the Constitution as a category "C" municipality.**
23	**"Employer" means The Elundini Local Municipality.**
24	**"End user" means a person who initiates the process of acquisition management and also plays a very important role during the evaluation process.**
25	**"Executive mayor" means an executive mayor elected in terms of section 55 of the Municipal Structures Act, Act 32 of 1998.**
26	***"EME"*** means, as defined in the Preferential Procurement Policy Framework Act, 2000:
27	**"final award", in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;**
28	**"firm price" is the price that is only subject to adjustments in accordance with the actual increase or decrease resulting from the change, imposition, or abolition of customs or excise duty and any other duty, levy or tax which in terms of a law or regulation is binding on the contractor and demonstrably has an influence on the price of any supplies, or the**

	rendering costs of any service, for the execution of the contract.
29	"Formal Written Price Quotation" means a written or electronic offer to the municipality in response to an invitation to submit a quotation. "Formal Written Price Quotation", "Written Price Quotation", "Quotation" or "Quote" shall have a similar meaning. Also referred to as "Bids"
30	**"Fruitless and wasteful expenditure" means expenditure that was made in vain and would have been avoided had reasonable care been exercised.**
32	**"historically disadvantaged individual" means a South African Citizen or any service provider;** **a] who, due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa Act, 1993 (Act No. 200 of 1993) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993) ("the Interim Constitution"); and/or** **[b] who is a female; and/or** **[c] who has a disability;** **Provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution, is deemed not to be an HDI.**
33	**"in the service of the state" means to be –** **(a) a member of –** **(i) any municipal council;** **(ii) any provincial legislature; or** **(iii) the National Assembly or the National Council of Provinces;** **(b) a member of the board of directors of any municipal entity;** **(c) an official of any municipality or municipal entity;** **(d) an employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No.1 of 1999);** **(e) a member of the accounting authority of any national or provincial public entity; or** **(f) an employee of Parliament or a provincial legislature;**
34	**"irregular expenditure" in relation to a municipality or municipal entity, means** **(a) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Act, and which has not been condoned in terms of section 170 thereof;** **(b) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the Municipal Systems Act, and which has not been condoned in terms of that Act;**

	(c) expenditure incurred by a municipality in contravention of, or that is not in accordance with a requirement of the Remuneration of Public Office-Bearers Act, 1998 (Act No. 20 of 1998); or **(d) expenditure incurred by a municipality or municipal entity in contravention of, or that is not in accordance with, a requirement of the supply chain management policy of the municipality or entity or any of the municipality's by-laws giving effect to such policy, and which has not been condoned in terms of such policy or by-law.**
35	**"Local municipality" means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls and which is described in section 155(1) of the Constitution as a category "B" municipality.**
36	**"long term contract" means a contract with a duration period exceeding one year;**
37	**"list of accredited prospective providers" means the list of accredited prospective providers which a municipality or municipal entity must keep in terms of section 21 of this policy;**
38	**"Management" in relation to an enterprise or business, means an activity inclusive of control and performed on a daily basis, by any person who is a principal executive officer of the company, by whatever name that person may be designated, and whether or not that person is a director.**
39	"Military Veteran" has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);
40	**"Municipal council or council" means a municipal council referred to in section 157(1) of the Constitution, 1996.**
41	**"municipality" when referred to as –** **[a] an entity, means a municipality as described in the definitions section, and** **[b] a geographic area, means a municipal area determined in terms of the Local Government: Municipal Demarcation Act, 1998 (Act No. 27 of 1998)**
42	**"Municipal manager" means a person appointed by the Municipality in terms of section 82 of the Municipal Structures Act and who is the head of administration and also the accounting officer for the Municipality.**
43	**"Municipal structure act" means the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998).**
44	**"Municipal systems act" means the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000).**
45	"National Treasury" has the meaning has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999;
46	**"Non-firm prices" means all prices other than "firm" prices.**
47	**"organ of state" means an organ of state as defined in section 239 of the Constitution.**
48	**"other applicable legislation" means any other legislation applicable to municipal supply chain management, including –** **(a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);** **(b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and**

	(c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
49	**"Owned" having all the customary incidents of ownership, including the right of disposition, and sharing in all the risks and profits commensurate with the degree of ownership interest, as demonstrated by an examination of the substance, rather than the form of ownership arrangements.**
50	**"Person" includes reference to a juristic person.**
51	**"privileged or confidential information" means any information:** **a) determined by the bid specification, evaluation or adjudication committee to be privileged or confidential;** **b) discussed in close sessions by any of the bid committees;** **c) disclosure of what would violate a person's right to privacy;** **d) declared to be privileged, confidential or secret in terms of any legislative framework.**
52	***"people with disabilities"*** mean people who have a long-term or recurring physical or mental impairment that substantially limits their prospects of entry into, or advancement in, employment;
53	***"price"*** includes *All applicable taxes*, less all unconditional discounts;
54	***"proof of B-BBEE status level of contributor"*** means – (a) the B-BBEE status level certificate issued by an authorised body or person; (b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or (c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;
55	*"**Qualifying Small Enterprise**"* **(QSE)** means a qualifying small business enterprise in terms of a Code of Good Practice on black economic empowerment, issued in terms of Section 9(1) of the Broad-Based Black Economic Empowerment Act;
56	**"Rand value" means the total estimated value of a contract in Rand denomination which is calculated at the time of bid invitations and includes all applicable taxes and excise duties.**
57	**"Regulation" means a Municipal Supply Chain Management Regulation published in terms of Section 168 of the Act.**
58	"Rural Area" means a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area or an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;
59	**"service providers"** **a) "Professional Service Provider":** • **Any person or body corporate that is under contract to the Employer for the provision of Professional Services.** **b) "General Service Provider":** **Any person or body that is under contract to the Employer for the provision of any type of**

	service.
60	**“SMMEs” means a separate and distinct business entity, including cooperative enterprises and non-governmental Organizations, managed by one owner or more which, including its branches or subsidiaries, if any, is predominantly carried on in any sector or sub-sector of the economy.**
61	***"stipulated minimum threshold"*** means that portion of local production and content as determined by the Department of Trade and Industry from time to time;
62	**“Sub-contracting” means the primary contractor’s assigning or leasing or making out work to, or employing, another person to support such primary contractor in the execution of part of a project in terms of the contract.**
63	**“supply chain manager” means an official appointed by Elundini Municipality to fulfill a vital role in the implementation, the monitoring and the continued application of the Elundini Municipality Supply Chain Management Policy.**
64	**“The Act” means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003).**
65	**“The constitution” means the Constitution of the Republic of South Africa Act, 1996 (Act No. 109 of 1996).**
66	**“treasury guidelines” means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;**
67	“Township” means an urban living area that at any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;
68	“Treasury” has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 18 of 1999);
69	**“Unauthorized expenditure” in relation to a municipality, means any expenditure incurred by a municipality otherwise than in accordance with Section 15 or 11(3) of the Act.** **(a) overspending of the total amount appropriated in the municipality’s approved budget;** **(b) overspending of the total amount appropriated for a vote in approved budget;** **(c) expenditure from a vote unrelated to the department of functional area covered by the vote;** **(d) expenditure of money appropriated for a specific purpose, otherwise than for that specific purpose;** **(e) spending of an allocation referred to in paragraph (b), (c) or (d) of the definition of “allocation” otherwise than in accordance with any condition of the allocation; or** **(f) a grant by the Municipality otherwise than in accordance with this Act.**
70	**“Written or verbal quotations” means quotations referred to in section 23 of this policy.**
71	**“Regulation”** means the Local Government: Municipal Supply Chain Management Regulations
72	“Youth” has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

73	**Low-Value High-Volume Goods And Services** : Procurement of goods and services below 30 000
74	**“highest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has the highest price compared to other tenders;
75	**lowest acceptable tender”** means a tender that complies with all specifications and conditions of tender and that has lowest price compared to other tenders;
76	**“price”** means an amount of money tendered for goods or services, and includes all applicable taxes less all unconditional discounts;
77	**“specific goals”** means specific goals as contemplated in section 2(1)(d) of the Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
78	**tender”** means a written offer in the form determined by an organ of state in response to an invitation to provide goods or services through price quotations, competitive tendering process or any other method envisaged in legislation;
79	**tender for income-generating contracts”** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions.
80	**“Functionality”** means the measurement according to predetermined norms of a service or commodity designed to be practical and useful, working or operating, taking into account quality, reliability, viability and durability of a service or commodity
81	**“Tender data”** means the document that establishes the tenderer's obligations in submitting a tender and the employer's undertakings in administering the tender process and evaluating tender offers
82	**‘Unforeseen circumstances’** **means** it was not expected to happen or known about beforehand.
83	**‘Material deviation’** refers to a significant departure from a standard, requirement, or expectation, particularly in contracts or bids, that affects the essence of the agreement or gives one party an unfair advantage.
84	**Expression of Interest** In the context of the Municipal Finance Management Act (MFMA) in South Africa, an "expression of interest" (EOI) is a preliminary document submitted by a supplier to demonstrate their willingness to be considered for a service contract or procurement process.
86	**Objective Criteria** means “any addition to” criteria relating to contracting with

	historically disadvantaged persons or implementing the programme of the 1994 Reconstruction and Development Programme
87	**A framework agreement** is an agreement between an Organ of State and one or more supplier / service provider, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and where appropriate, the quantity envisaged.

SUPPLY CHAIN MANAGEMENT POLICY STATEMENT

Introduction

To 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
Section 111 of the MFMA requires each municipality and municipal entity to adopt and implement a supply chain management policy, which gives effect to the requirements of the Act.
In addition, the PPPFA requires an Organ of State to determine its Preferential Procurement Policy and to implement it within the framework prescribed. This requirement is given effect to in the Preferential Procurement section of this Policy.

Desired Outcome

The desired outcome of this Policy is to provide a mechanism to ensure sound, sustainable and accountable supply chain management within Elundini Local Municipality, whilst promoting black economic empowerment, which includes general principles for achieving the following socio-economic objectives:

1) to stimulate and promote local economic development in a targeted and focused manner;
2) to facilitate creation of employment and business opportunities for the people of Elundini with particular reference to B-BBEE;
3) to promote the competitiveness of local businesses;
4) to increase the small business sector access, in general, to procurement business opportunities created by Council;
5) to implement e-Procurement as an alternative to a manual process, to enhance efficiency and service delivery;
6) to support green procurement initiatives as far as is reasonably possible.

This Policy will also strive to ensure that the objectives for uniformity in supply chain management systems between organs of state, in all spheres, is not undermined and that consistency with national economic policy on the promotion of investments and doing business with the public sector is maintained.

Regulatory Context

The objectives of this Policy are:

1) To 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) to comply with all applicable provisions of the MFMA including the Municipal Supply Chain Management Regulations published under GN868 in Government Gazette 27636 30 May 2005 and to comply with any National Treasury Circulars/Guidelines specifically adopted by Council, in terms of the MFMA;

3) to ensure consistency with all other applicable legislation and any regulations pertaining thereto, including:

    a) the Preferential Procurement Policy Framework Act;

    b) the Broad-Based Black Economic Empowerment Act;

    c) the Construction Industry Development Board Act;

    d) the Local Government: Municipal Systems Act; and

    e) the Promotion of Administrative Justice Act.

    f) the Promotion of Access to Information Act.

    g) National Treasury Practice Notes

    h) Relevant case laws.

Compliance with Ethical Standards

1) In order to create an environment where business can be conducted with integrity and in a fair and reasonable manner, this Policy will strive to ensure that the Municipal Manager and all representatives of Elundini Local Municipality involved in supply chain management activities shall act with integrity and in accordance with the highest ethical standards.

2) All supply chain management representatives shall adhere to the code of conduct of municipal staff contained in schedule 2 of the Municipal Systems Act, and this Policy's Code of Ethical Standards.

Elundini LM's Procurement Principles

Elundini Municipality shall adhere to the procurement principles as noted hereunder:

Transparency: The procurement process must be open and predictable and must afford each prospective bidder timely access to the same and accurate information

Equal treatment: All bidders and providers must be treated equally throughout the whole procurement process and must be given access to the same information.

Effectiveness: Elundini Municipality must strive for SCM system effectiveness and must carry out its procurement processes as cost-effectively as possible while meeting the commercial, regulatory and socio-economic goals of government in a balanced manner appropriate to the procurement requirement.

Efficiency: Elundini Municipality must strive to standardize and simplify procedures where appropriate to enhance SCM system effectiveness and must carry out its SCM processes as cost-effectively and efficiently as possible. Elundini Municipality must strive to build relationships with providers, must ensure good working practices and must encourage innovative solutions for providers.

Competitiveness: Elundini Municipality must satisfy its requirements through competition unless there are justifiable reasons to the contrary.

Fairness: All bidders and contractors must be dealt with fairly and without unfair discrimination. Unnecessary constraints must not be imposed on bidders/contractors and commercial confidentiality must be protected.

Ethics: All providers must be treated equally whilst promoting certain empowerment objectives, all stakeholders must conduct business and themselves professionally, fairly, reasonably and with integrity, all interests must be disclosed and all breach must be reported.

Proportionality: The product/service requirements stipulated in the specification/terms of reference and the qualification requirements attached thereto must be appropriate, necessary and in reasonable proportion to the product/service being procured.

Uniform application: Elundini Municipality must ensure the application of a SCM policy and a streamlined SCM process and documentation that is uniformly applied by Elundini Municipality, all things being equal. The procurement process must be simple and adaptable to advances in modern technology to ensure efficiency and effectiveness.

Accountability: Each practitioner must be accountable for their decisions and Actions relative to their SCM responsibilities, the SCM process as well as in the implementation of concluded contracts. Elundini Municipality must have a system, when warranted by circumstances, to investigate and hold liable both employees and relevant private parties dealing with Elundini Municipality, for their decisions and Actions relative to their procurement responsibilities, the procurement process as well as in the implementation of concluded contracts.

Openness: Elundini Municipality must ensure a procurement process and a subsequent contract award and implementation according to the predetermined specification in line with the best practice procurement principles

Value for money:	Elundini Municipality must achieve value for money through the optimum combination of life cycle cost and quality (or fitness for purpose) to meet the customer's requirements while maximizing efficiency, effectiveness and flexibility.
Health and Safety:	Elundini Municipality is committed to the health and safety of its personnel and its providers in the application of its SCM process

GENERAL PROVISIONS AND APPLICATION

Application of the Policy

This Policy applies to:

a) the procuring of goods or services, including construction works and consultant services;
b) the disposal by the municipality of goods no longer needed;
c) the selection of contractors to provide assistance in the provision of municipal services otherwise than in circumstances where chapter 8 of the Municipal Systems Act applies; or
d) 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.
e) 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.

Unless specifically stated otherwise, this Policy does not apply if the municipality contracts with another organ of state for:

a) the provision of goods or services to the municipality;
b) the provision of a municipal service, or assistance in the provision of a municipal service; or
c) any other contractual agreements between organs of state for whatever reasons

A report shall be submitted to the appropriate delegated authority seeking authority to contract with another organ of state.

Communication with the Municipality

All correspondence with regard to this Policy shall be addressed to the Manager: Supply Chain Management.

Availability of the Policy

A copy of this Policy and other relevant documentation is available on the municipality's website.

CHAPTER 1: ESTABLISHMENT AND IMPLEMENTATION OF THE SUPPLY CHAIN MANAGEMENT POLICY

2. Supply Chain Management Policy

1) The Elundini Local Municipality resolves in terms of section 111 of the Act to adopt and implement a supply chain management policy that:-

a) Gives effect to:-

  i. Section 217 of the Constitution; and
  ii. Part 1 of Chapter 11 and other applicable provisions of the Act;
  iii. Regulations pertaining to Supply Chain Management
  iv. The Preferential Procurement Policy Framework Act as amended
  v. The Broad Based Black Economic Empowerment Act
  vi. The Construction Industry Development Board Act

b) Is fair, equitably, transparent, competitive and cost effective

c) Complies with:-

  i. the regulatory framework prescribed in Chapter 2 of the Regulations; and
  ii. (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

d) is consistent with other applicable legislation;

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

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

2) Elundini Local Municipality may not act otherwise than in accordance with this supply chain management policy when–

a) procuring goods or services;
b) disposing of goods no longer needed;
c) selecting contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or
d) Selecting external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

3) Subparagraphs (1) and (2) of this policy do not apply in the circumstances described in section 110 (2) of the Act except where specifically provided otherwise in this policy.

3. Adoption and Amendment of the Supply Chain Management Policy

1) In line with Regulation 3 of the MFMA, the accounting officer must –
   a) at least annually review the implementation of this policy; and
   b) When the accounting officer considers it necessary, submit proposals for the amendment of this policy to the council.
2) If the accounting officer submits a draft policy to the council that differs from the model policy, the accounting officer must:-
   (a) Ensure that such draft policy complies with the Regulations.
   (b) Any amendments to the policy comply with the SCM Regulations.
   (c) The accounting officer must report any deviation from the model policy to the National Treasury and the relevant provincial treasury.
3) When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.
4) The accounting officer of Elundini Local Municipality must in terms of section 62(1)(f)(iv) of the Act, take all reasonable steps to ensure that the Elundini Local Municipality has and implements this supply chain management policy.

4. Delegation of Supply Chain Management Powers and Duties

1) Consistent with Regulation 4 of the MFMA, Council hereby delegates such additional powers and duties to the accounting officer so as to enable the accounting officer –

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

  (i) Chapter 8 or 10 of the Act; and
  (ii) The supply chain management policy;

(b) To maximize administrative and operational efficiency in the implementation of the supply chain management policy;
(c) To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favoritism and unfair and irregular practices in the implementation of the supply chain management policy; and
(d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.

(3) Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subsection (1) of this policy.

(4) The council or accounting officer may not delegate or sub delegate any supply chain management powers or duties to a person who is not an official of the Elundini Municipality or to a committee which is not exclusively composed of officials of the Elundini Municipality;

(5) This section may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in *section 33* of this policy.

5. Sub-Delegations

1) The accounting officer may in terms of section 79 or 106 of the Act sub delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of Regulation 4(1), but any such sub delegation must be consistent with Regulation 4 and Regulation *5*(2) as set out below:-

2) The power to make a final award –

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

(b) all bids above R10 million (VAT included), after recommendation by the bid adjudication committee of which the chief financial officer is the chairperson.
(c) above R2 million (VAT included), but not exceeding R10 million (VAT included), may be sub delegated but only to –

(i) the chief financial officer;
(ii) a senior manager; or
(iii) bid adjudication committee of which the chief financial officer or a senior manager is a member;

(d) not exceeding R2 million (VAT included) may be sub delegated but only to –

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

3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with this policy must within five days of the end of each month submit to the official referred to in subsection (4) of this policy a written report containing particulars of each final award made by such official or committee during that month, including–

(i) the amount of the award;
(ii) the name of the person to whom the award was made;
(iii) Specific goal points Claimed of the successful bidder or supplier; and
(iv) the reason why the award was made to that person.

4) A written report referred to in subsection (3) of this policy must be submitted –

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

(i) the chief financial officer;
(ii) a senior manager; or
(iii) a bid adjudication committee of which the chief financial officer or a senior manager is a member;

(b) to the chief financial officer or the senior manager responsible for the relevant bid, in the case of an award by –
(i) a manager referred to in subsection (2)(c)(iii) of this policy; or
(ii) a bid adjudication committee of which the chief financial officer or a senior manager is not a member.

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

6) This section may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in section 33 of this policy.

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

6. Oversight Role of Council

In line with Regulation 6 of the MFMA: -

1) Council must maintain oversight role to ensure that the Municipal Manager implements this Supply Chain Management Policy.
2) For the purposes of such oversight, the Municipal Manager must: -
a) within 10 (ten) days of the end of each quarter, submit a report on the implementation of this Policy to the Mayor and,
b) within 30 days of the end of each financial year, shall submit a similar such report to Council.
3) In addition, if any serious and material problems arise in relation to the implementation of this Policy, the Municipal Manager shall immediately report to Council accordingly.
4) All such reports shall be made public in accordance with section 21A of the Municipal Systems Act.
5)
6) The Mayor must provide general political guidance over the fiscal and financial affairs of the Municipality and must monitor and oversee the exercise of responsibilities assigned to the Municipal Manager and Chief Financial Officer in terms of the MFMA.

7. Supply Chain Management Unit

1) A supply chain management unit is hereby established to implement the supply chain management policy in line with Regulation 7 of the MFMA.
2) The supply chain management unit must, operate under the direct supervision of the CFO or an official to whom this duty has been delegated in terms of Section 82 of the Act.
3) The SCM Unit shall consist of:

(i) demand management
(ii) acquisition management;
(iii) logistics management (stores and warehouse);

(iv) contract management and vendor performance; and
(v) assets, disposal and risk management;

(4) The Supply Chain Manager shall be responsible and accountable for the day-to-day management of the SCM Unit.
(5) All documents pertaining to the procurement of goods or services by means of written price quotations of a transaction value up to R200 000 (VAT included), as well as all documents pertaining to procurements by means of competitive bidding of a transaction value over R200 000 (VAT included), will be issued, received and finalized by the SCM Unit.
(6) All documents pertaining to the disposal of goods will be issued, received and finalized by the Asset Management Unit.

8. Training Of Supply Chain Management Officials and Other SCM Role Players

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

CHAPTER 2: THE FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT POLICY

The Format of Elundini LM's Supply Chain Management Policy

9. In line with Regulation 9 of the MFMA, the Elundini LM's supply chain management policy provides systems for –

(i) Demand Management;

(ii) Acquisition Management;

(iii) Logistics Management;

(iv) Disposal Management;

(v) Risk Management;

(vi) Performance Management.

PART 1: DEMAND MANAGEMENT

10. Demand Management System

In line with Regulation 10 of the MFMA, the accounting officer must establish, through operational procedures, an effective system of demand management in order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy the needs.

1) The objective is to ensure that the resources required to fulfil the needs identified in the Integrated Development Plan (IDP), the Budget and SDBIP are delivered at the correct time, price and place, and that the quantity and quality will satisfy those needs.
2) Resources required for the fulfillment of the municipality's obligations will be clearly analyzed. This includes a detailed analysis of the goods, works and services required.
3) Demand management must translate the multi-year business plan of Elundini Municipality into current and future needs and to cost and budget for it.
4) The SCM official responsible for the demand management function coordinates the liaison with and inclusion in the cross-functional team.
5) The official responsible for the demand management function must coordinate the needs analysis and costing of each and every programme in the ELM. To do this the following process must be followed:

i. The end-user gives an overview of the detail of his/her multi-year business plan. The human resource and financial experts give their guidelines applicable to this plan.

ii. The cross-functional team performs a needs analysis to determine the total needs required to support the multi-year business plan. The activities within the cross-functional team may be divided and the whole team need not perform all activities together. The needs analysis may include the under mentioned activities:

iii. Understanding the future needs in terms of quantity and specification. Forecasting techniques may be utilized in order to determine quantities required should this be warranted by the size and the quantity of the requirement of the ELM.
iv. Frequency of the needs.
v. Critical delivery dates.
vi. Budgetary requirements.
vii. Planning for Information Technology requirements.
viii. Linking the requirements with the baseline allocations over the next 3-year period.

ix. Undertaking an expenditure analysis (based on past expenditures);
x. Compiling of specifications;
xi. Undertaking a commodity analysis (checking for alternatives);
xii. Undertaking a market/industry analysis; and
xiii. Providing regular feedback to and from the role-players.

6) At the end of each financial year after budget has been approved for the next financial year, the municipality will develop a Demand Management Plan (Procurement Plan) for the coming financial year which will outline all procurement to be done by the municipality in that financial year, with quarterly reviews.

PART 2: ACQUISITION MANAGEMENT

11. The System of Acquisition Management

The accounting officer must, in line with Regulation 11 of the MFMA establish through operational procedures, an effective system of acquisition management in order to ensure –

(a) that goods and services are procured by the municipality in accordance with authorized processes only;
(b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
(c) that the threshold values for the different procurement processes are complied with;
(d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
(e) that any Treasury guidelines on acquisition management are properly taken into account.

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

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

(3) The following information must be made public wherever goods or services contemplated in section 110(2) of the Act are procured other than through the supply chain management system –

(a) disclose the description of goods or services; and
(b) disclose the name of the supplier.

It is the management of procurement by a municipality:

a) To decide on the manner in which the market will be approached;

b) To establish the total cost of ownership of a particular type of asset;

c) To ensure that bid documentation is complete, including evaluation criteria;

d) To evaluate bids in accordance with published criteria; and

e) That proper contract documents are signed.

12. Range Of Procurement Processes

1) In line with Regulation 12 of the MFMA, the procurement of goods and services through this policy is provided by way of –

a) Petty cash purchases, up to a transaction value from R300.00 (VAT included);
b) Petty cash purchases exceeding the amount of R200, up to the amount of R2000 (VAT included) to be authorized by the CFO or his delegate
c) formal written price quotations for procurement of a transaction value over R2000 up to R300 000 (VAT included),
d) a competitive bidding process for–

(i) Procurements above a transaction value of R300 000 (VAT included); and
(ii) The procurement of long term contracts, i.e. longer than one year.

2) The accounting officer may in writing -

(a) Lower, but not increase, the different threshold values specified in subsection (1); or,
(b) Direct that –
(i) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R30 000; or
(ii) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R300 000; or
(iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R300 000.

3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.
4) The municipality reserves a rights to appoint a Panel of Service Providers or Contractors for a period not more than 36 Months and allocation of work must be done on a rotation basis taking into account the final ranking and the performance of the service provider.
5) No service provider must carry out or execute any works/delivery of goods /services without an official order.
6) The range of procurement processes and delegations are contained in the following table:-

STRUCTURE OF APPROVAL			
GOODS/SERVICE VALUE	**PROCUREMENT METHOD MINIMUM**	**SPECIFIC GOALS**	**APPROVAL AUTHORITY**
R0- R300 00	Petty Cash	Applicable	Chief Financial Officer
R0 – R2 000	One Quote	Applicable	Chief Financial Officer
R2 001 – R10 000	Three Quotations	Applicable	Chief Financial Officer
R10 001 – R30 000	Three Quotations	Applicable	Chief Financial Officer
R30 001 – R300 000	7 Day Notice and Advertisement via Website : Three Quotations	Applicable	This level of approval will be applied in terms of the Accounting Officer's delegation (See Delegation Policy).
R300 001 – R2 Million	Competitive Bidding Process	Applicable	Bid Adjudication Committee
R2 Million – R10 Million	Competitive Bidding Process	Applicable	Bid Adjudication Committee
Above R10 Million	Competitive Bidding Process	Applicable	Accounting Officer

13. General Preconditions for Consideration of Written Price Quotations.

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

a) Has furnished: -

i. full name or names including trading name;

ii. identification number or company or other registration number; and
iii. tax reference number and VAT registration number, if any;

b) Has authorized Elundini LM to obtain a tax clearance certificate from SARS so that ELM can confirm that the bidder's tax matters are in order.

c) Has provided ELM with a "Certificate of Independent Bid Determination "on Form MBD 9 or a similar form.

d) has certified that he and, in the event of the bidder being a company, also any of its directors, is not indebted to the *ELM* or to any other *ELM* or municipal entity for rates, taxes and/or municipal service that have been in arrear for a period of more than three months and that no dispute exists between such bidder and the relevant *ELM* or municipal entity in respect of any such arrear amounts;
e) has submitted an MBD4 certifying –

i. that he is not *in the service of the state* or has not been *in the service of the state* in the previous twelve months;
ii. that, in the event of the bidder not being a natural *person*, none of its directors, managers, principal shareholders or stakeholders are *in the service of the state* nor have been *in the service of the state* in the previous twelve months; or
iii. that neither his spouse, child or parent nor a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is *in the service of the state* or has been *in the service of the state* in the previous twelve months.

f) If it is a partnership, joint venture or consortium, has submitted an agreement in writing recording the establishment of such partnership, joint venture or consortium, signed by or on behalf of each of the parties thereto and providing *inter alia*:

i. full details of each of the parties thereto;
ii. **(ii)** which of the parties thereto is the leader and will represent it for the purposes of engagement with the *ELM;*
iii. for the joint and several liability of the parties thereto to the *ELM* for the due fulfilment of any *contract* concluded with the *ELM* as a result of the bid;
iv. Registration on the *Central Suppliers Database*.

2) This paragraph must be read in conjunction with paragraph 21 of *the Policy*.

14. List of Accredited Prospective Bidders.

1) The Accounting Officer must to keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the municipality or municipal entity through formal written price quotations;".

2) The *Accounting Officer* must keep *a list of accredited prospective providers* of goods and services. The ELM must use an accredited supplier database that is aligned with the National Treasury's Central Supplier Database. The National Treasury's standardised and centralised electronic suppliers database (CSD) must be used for the procurement requirements for *written quotations* and *formal written price quotations*;

(a) Accredited providers must –

i. regularly update their *Central Supplier Database* profiles and ensure that their information is up to date at all times;

ii. advise the *ELM* when there is a change in status of the following documents:

a. Broad-based Black Economic Empowerment Certificate (BBBEE)/*EME* Letter/Sworn Affidavit;
b. Percentage in business ownership
c. Adress and Banking Details
d. National Housing Board Registration Council (NHBRC) Certificate;
e. Construction Industry Development Board (CIDB) grade (CSR number is required).

(b) ELM Prospective suppliers must register on the *Central Suppliers Database* and thereafter submit the following documents as may be required:

i. BBBEE Certificate
ii. NHBRC Certificate
iii. CIDB CSR number (National Treasury Circular 81)
iv. Certified copy of ID of signatory

(c) *ELM* prospective suppliers must submit the following to the Supply Chain Management Office, as the case may be;

i. BBBEE Certificate:
ii. Proof for specific goals claimed.

a) The name and physical location of the measured entity;

b) The registration number and, where applicable, the VAT number of the measured entity;

c) The date of issue and date of expiry;

d) The certificate number for identification and reference;

e) The scorecard that was used (for example *EME*, *QSE* or Generic);

f) The name and / or logo of the Verification Agency;

g) The *SANAS* logo;

h) The signature of the authorised *person* from the Verification Agency concerned; and

i. The *B-BBEE* Status Level of Contribution obtained by the measured entity.

ii. *EME* Letter:

a) The Auditor/Accounting Officer’s letterhead with full contact details;
b) The Auditor/Accounting Officer’s practice numbers.
c) The name and the physical location of the measured entity;
d) The registration number and, where applicable, the VAT number of the measured entity;
e) The date of issue and date of expiry;

iii. Sworn affidavit

a) Signatory (Full name and Surname)
b) Identity number
c) Enterprise name
d) Trading name
e) Registration number
f) Enterprise name
g) BBBEE Status Level of contribution obtained by the measured entity
h) The total black shareholding and the total black female shareholding
i) Current financial year
j) Deponent signature
k) Date
l) Commissioner of Oaths signature and date stamp
m) Must be in the format prescribed by the Department of Trade & Industry.

3) The listing of any prospective provider whose name appears on the National Treasury’s database as a *person* prohibited from doing business with the public sector must be disallowed.
3) The aforesaid list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.
4) The aforesaid list must also be compiled per commodity and per type of service.

15. Petty Cash Purchases.

1) In line with Regulation 15 of the MFMA, the conditions for the procurement of goods by means of petty cash purchases referred to in paragraph 19 (1) (a) of *the Policy*, are that minor items are purchased for up to R300.00 (Vat included) where it is impractical, impossible or not cost effective to follow the official procurement process and is strictly of a reimbursing nature.
2) A monthly reconciliation report from each senior manager must be provided to the *Chief Financial Officer*, including (a) the total amount of petty cash purchases for that month; and (b) receipts and appropriate documents for each purchase.
3) The *Chief Financial Officer* shall develop a Petty Cash Policy within which the terms and conditions of managing Petty Cash transactions will be detailed, including delegations of responsibilities. The petty cash policy must not be utilized for the following items and under the following circumstances: -
   (a) Items available on contract;
   (b) Items available from other pre-established sources.
   (c) Professional services.
   (d) Catering services

4) The *Accounting Officer* may delegate responsibility for the management of petty cash to an official directly or indirectly reporting to the *Chief Financial Officer*.
5) The *Accounting Officer, guided by the applicable Policy and applicable Regulations,* may, from time to time, determine the maximum amount of the permissible petty cash expenditure per month.
1) Elundini Municipality must apply the prescripts of the PPPFA 2022 for procurement in this category. The Accounting Officer must take all reasonable steps to ensure that the procurement of goods and services is not abused.

16. Formal Written Price Quotations.

1) Anything procurement threshold of R2000 – R300 000 The conditions for the procurement of goods or services through *formal written price quotations*, are as follows:

   a) Quotations must be obtained in writing from at least three different providers whose names appear on Central Supplier Database;
   b) Specific goals for attaining points will apply. (80/20 shall apply) 80 points for price and 20 points for specific goals
   c) In the event of it not being possible to obtain quotations from at least three different providers whose names appear on the list of accredited prospective providers of the *ELM*, quotations may be obtained from providers who are not so listed, provided that such providers meet the listing criteria set out in paragraph 14 (1) of this policy and, provided further, that the reasons for obtaining such quotations from the providers concerned must be recorded on the invitation to submit quotations and be approved by the *Accounting Officer or delegated official*.

   d) If it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer.

2) A delegated official must within three days of the end of each month, report to the Chief Financial Officer on any approvals given during that month.

17. Procedures for Procuring Of Goods or Services through Written or Verbal Quotations and Formal Written Price Quotations.

1) A supply chain management policy must determine the procedure for the procurement of goods or services through formal written formal written price quotations, and must stipulate that

a) the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through formal written price quotations is not abused;"; and

b) that the accounting officer or chief financial officer must on a monthly basis be notified in writing of all formal written price quotations accepted by an official acting in terms of a subdelegation;

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

(a) When using the list of accredited prospective providers, the *Accounting Officer* must promote on-going competition amongst providers by inviting providers to submit quotations on a rotation basis;

(b) All requirements in excess of R30 000 (VAT included)but not exceeding R300 000(VAT Included) that are to be procured by means of *formal written price quotations* must be advertised for at least seven days on the website of and on the official notice board of the *ELM*;

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

(d) Offers below R30 000 (all taxes included) must be awarded based on compliance with specific goals , specifications, conditions of *contract*, ability, capacity and capability to deliver the required goods and/or services and lowest price; provided that the *Accounting Officer* may direct, in appropriate cases, that the formula referred to in subparagraph (e) be used to calculate points for price; and three quotations must be sourced.

$$Ps = 80\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

(e) Prior to the award of a *contract* with a price in excess of R2000, the *Delegated Official* must verify the status of recommended bidders (including their directors(s), owners(s) or *trustee*(s) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/*trustee*s are listed as companies or *person*s prohibited from doing business with the public sector;

(f) A call for quotations in terms of afore-going paragraphs must be in writing and contain a specification for the goods and/or services to be procured as well as details of the preference points system to be used in adjudicating quotations;

(g) The *Delegated Official* must, in writing, notify the *Chief Financial Officer* within 10 days after the end of each month of all written *quotations* and *formal written price quotations* accepted or approvals given in terms of the afore-going subparagraphs;

(h) The *Chief Financial Officer* must ensure that adequate systems are in place to meet the requirements for proper record keeping;
(i) Acceptable offers must be awarded to the bidder who scored the highest points in accordance with the stipulated preference points system unless "objective criteria" justify the award to another tenderer.
(j) Single source selection may be appropriate only if it presents a clear advantage over competition:

i. for services that represent a natural continuation of previous work carried out by the consultant, and continuity of downstream work is considered essential;
ii. where rapid selection is essential;
iii. for very small appointments;
iv. when only one consultant is qualified, or has experience of exceptional worth for the project.
v. The reasons for single-source selection must be fully motivated in a report and approved by the *Chief Financial Officer* or an official delegated by the *Chief Financial Officer* prior to conclusion of a *contract,* provided that the award is for an amount not exceeding R200 000 including VAT. In cases where the estimated value of fees for a single-source selection of a consultant exceeds R200 000 including VAT the appointment must be approved by the Bid Adjudication Committee.

18. Competitive Bidding Process

1) Goods or services above a transaction value of R300 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to section 18 (2) of this policy.
2) No requirement for goods or services above an estimated transaction value of R300 000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.
3) The *Accounting Officer* may split unduly large quantities of work into smaller *contracts* (units) to promote manageability and provide opportunities for emerging entrepreneurs. This procedure may only be followed when technically, logistically and financially feasible.
4) When calculating the points , 80/20 or 90/10 specific goals determined by council will apply.

1) Procuring from Enterprises Based Within Elundini.

1) As far possible, the accounting officer must create an environment that enable the municipality to procure goods or services from service providers based at Elundini without prejudicing the requirements and regulations of the Act.

19. Process for Competitive Bidding.

The accounting officer must establish procedures for a competitive bidding process for each of the following stages:

a) Compilation of bidding documentation, as detailed in paragraph 21;
b) Public invitation of bids as detailed in paragraph 22;
c) ELM tenders must be advertised on e-Tender portal or Local Newspaper;
d) Site meetings or briefing sessions, as detailed in paragraph 23;
e) Handling of bids submitted in response to public invitation, as detailed in paragraph 23;
f) Evaluation of bids, as detailed in paragraph 28;
g) Award of *contracts,* as detailed in paragraph 29;
h) Administration of *contracts* - after the award of a bid, the *Accounting Officer* and the bidder must enter into a written agreement;
i) Proper record keeping;
j) Original/legal copies of written *contracts* agreements should be kept in a secure place for reference and audit purposes.

20. Bidding Documentation for Competitive Bids.

Bid documentation for a *competitive bidding process* must, in addition to the requirements of paragraph 14:-

1) Take into account the following –

(a) the general conditions of *contract* and any special conditions of *contract,* if specified;
(b) any *Treasury guidelines* on bid documentation;
(c) the requirements of the Construction Industry Development Board, in the case of a bid relating to *construction works*;
(d) relevant *B-BBEE* verification and certification requirements;
(e) relevant *local content* or production requirements where applicable.

(f) Specific goals

2) Include the preference points system and specific goals to be used in adjudicating bids, namely 80/20 or 90/10 as prescribed in the *Preferential Procurement Regulations*;
3) Indicate the period for which bids are to remain valid and binding;
4) The validity period is calculated from the bid closure date and bids shall remain in force and binding until the end of the final day of that period;
5) The validity period may be extended by the Director: Supply Chain Management provided that the original validity period has not expired and that all bidders are given an opportunity to extend such period. Any such extension shall be given by the bidder in writing.
6) Bidders who fail to respond to such a request before the validity of their bids expire, or who decline such a request shall not be considered further in the evaluation process.
7) Compel bidders to submit a "Certificate of Independent Bid Determination" on form MBD 9 or similar document;
8) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish -

(i) if the bidder is required by law to prepare annual financial statements for auditing, his audited annual financial statements:-

   a) for the past three years; or
   b) since establishment, if established during the past three years;

(ii) a certificate signed by the bidder certifying that he has no undisputed commitments for municipal services towards a ELM or other service provider in respect of which payment is overdue for more than 30 days;
(iii) particulars of any *contracts* awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such *contracts*;
(iv) a statement indicating whether or not any portion of the goods or services required by the *ELM* are expected to be sourced from outside the Republic and, if so, what portion and also whether or not any portion of the payment to be made by the *ELM* is expected to be transferred out of the Republic; and

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

21. Public Invitation for Competitive Bids.

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

2. the information contained in a public advertisement, must include –

   a) closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subsection (2) of this policy; and
   b) a statement that bids may only be submitted on the bid documentation provided by the municipality.

3. Tender documentation must take into account the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.

4. If it is unclear whether the 80/20 or 90/10 preference point system applies, an Organ of State must, in the tender documents, stipulate in the case of:

   a) An invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or b)
   b) Any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system
5. Closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

6. Bids must be submitted in sealed envelopes and marked in a manner stipulated in an invitation to bid.
7. Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

8. An advert is also placed on e-Tender Publication Portal, local newspaper and CIDB website if its construction related (not less than 14 days) – unless due to the urgency the Accounting Officer may approve a deviation.

9. Section 21B of the Municipal Systems Act, No. 32 of 2000 stipulates that every Municipality should have it's own website 21B (1)(a) where information relating to the Municipality is placed for the public 21B (1)(b).
10. If the Municipality cannot afford to host such a website then they can use the website of an organized local government organization 21B (2).
11. The Municipal Manager is to ensure that the information on this website remains current and relevant 21B (3).
12. The conditions as contained in the quotation/bid documents enjoy precedence. All providers must accept these conditions. However, it sometimes happens that providers set their own conditions that might be in conflict with the quotation/bid conditions. Such own conditions set by providers may be recommended for acceptance where it is in the interest of the Elundini Municipality to do so and where the interests of other providers are not prejudiced.
13. Where the providers' own conditions are not in the best interest of the Elundini Municipality, the provider must be requested to withdraw the conditions.
14. If providers are not prepared to withdraw unacceptable or conflicting conditions, reasons why such conditions must be accepted must be submitted to the relevant award structure for approval or alternatively the quotation/bid may be passed over.
15. The municipality must, in the case of a designated sector, advertise the invitation to tender with a specific condition that only locally produced goods or locally manufactured goods, meeting the stipulated minimum threshold for local production and content, will be considered.
16. Stipulate the preference point system applicable, if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;
17. Where the *ELM* invites bids for *construction works* with a value in excess of R30 000, it must publish such invitations on the website of the Construction Industry Development Board.
18. The *ELM* must also comply with the applicable provisions of the Standard for Uniformity in Construction Procurement contained in Board Notice No. 86 of 2010, issued by the Construction Industry Development Board, insofar as such provisions relate to the invitation of bids.
19. Bid documents shall be downloadable on our municipal website or E tender Portal at not cost to the bidder. Where the municipality decides to sell tender document an approval from the Accounting Officer is required.

22. Procedure for Handling, Opening and Recording of Bids.

1) All bids must be opened only in public; and must be opened at the same time and as soon as possible after the period for the submission of bids has expired;

2) According to the GCC closing time means the latest date and hour specified in the bid documents for the receipt of bids.

3) Bids of Elundini Municipality normally close at 12:00 noon on the day indicated in the bid documents or as alternatively indicated in the documentation. The closing of bids must be strictly observed

4) This policy confer on any bidder or member of the public 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; and

5) require the accounting officer :

   (i) to record in a register all bids received in time;
   (ii) to make the register available for public inspection; and
   (iii) to publish the entries in the register and the bid results on the website.

6) Elundini Municipality must always maintain a fair and transparent process in closing, receiving, opening and processing of bids and written price quotations.
7) No person may interfere or tamper with any bids, quotations, or contracts after their submission.
8) No emailed, faxed electronically sent, posted and late tenders will be accepted

9) A bid box is situated at the premises of Elundini Municipality main offices in Maclear and is accessible 24 hours, 7 days a week.

10) A bid box must always be locked, unless bids are collected in order to prevent unauthorised removal of bids. At least two delegated officials must be present during opening of bids on the date and precise time of closing as specified.

11) At the precise closing time of the bid, the bid box is locked to prevent late submission of bids into the box where after all bids in the box are removed for processing. Bids may be opened only in public.

12) Bids must be date stamped to indicate the date and time of receipt of bids. A lockable facility for the storing of bids must be available.

13) After the closure of any advertised competitive bid, ELM must, further to information to be published in terms of section 75 of the MFMA, publish on their websites and on National Treasury e-Tender Portal the reference number of the bid, the description of the goods, services or infrastructure project, names of all bidders, , contact numbers, the Preference points claimed , Contract prices, contract details , where applicable, the local content percentages of the goods offered in relation to that particular advertisement.

14) Copies of the tender opening register should be made available at municipal offices and libraries.

15) The Municipality should endeavor to publish the aforementioned information on website within ten (10) working days after closure of the award and it must remain on the website of the Municipality or municipal entity for at least thirty (30) days

23. Negotiations with Preferred Bidders.

1) The *Accounting Officer* may negotiate the final terms of a *contract* with bidders identified through a *competitive bidding process* as preferred bidders, provided that such negotiation:-

   a) does not allow any preferred bidder a second or unfair opportunity;
   b) is not to the detriment of any other bidder; and
   c) does not lead to a higher price than the bid as submitted;
   d) will not be contrary to any legal requirement or amount to a prohibited practice.

2) The *Accounting Officer* or Delegated Official may:

   a) negotiate a market-related price with the tenderer scoring the highest points, or cancel the tender;

3) Minutes of such negotiations must be kept for record and audit purposes.

24. Two Stage Bidding Process.

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

   (a) large complex projects;
   (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
   (c) Long-term projects with a duration period exceeding three years.

2) The technical and financial proposals should be submitted at the same time.
3) No amendments to the technical or financial proposal should be accepted after the deadline.

4) To safeguard the integrity of the process, the technical and financial proposals should be submitted in separate sealed envelopes. The technical envelopes should be opened immediately after the closing time for submission of proposals.
5) The financial proposals should remain sealed until they are opened publicly. Any proposal received after the closing time for submission of proposals should be returned unopened

6) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
7) In the second stage final technical proposals and priced bids should be invited.

24.1 Expression of Interest

a) The Accounting Officer may call for expression for the purpose of identifying potential candidates who are interested and capable of fulfilling the requirements of the project or service.
b) The Accounting Officer may call for expression of interest outlining the specific project or service to be procured.
c) Potential service providers or contractors shall submit their expression of interest, demonstrating their interest and capacity.
d) The municipality evaluates the expression of interest and may then proceed with a formal tender or bidding process with the shortlisted candidates.

24.2 Two-way envelope system

a) Depending on the circumstances, it may be indicated that proposals should be submitted in two separate clearly marked envelopes, one containing the technical proposal and the other the cost for the assignment.
b) The accounting officer should provide clarification in writing and copy them to all firms who intend to submit proposals.
c) If necessary, the accounting officer should extend the deadline for submission of proposals.
d) The technical and financial proposals should be submitted at the same time.
e) No amendments to the technical or financial proposal should be accepted after the deadline.
f) To safeguard the integrity of the process, the technical and financial proposals should be submitted in separate sealed envelopes. The technical envelopes should be opened immediately after the closing time for submission of proposals.
g) The financial proposals should remain sealed until they are opened publicly. Any proposal received after the closing time for submission of proposals should be returned unopened.

25. Committee System for Competitive Bids.

1) In line with Regulation 26 of the MFMA, the committee system for competitive bids must consist of at least:

   (a) A bid specification committee;
   (b) A bid evaluation committee; and
   (c) A Bid Adjudication Committee.

2) The *Accounting Officer* must,

(a) In writing, appoint the members of each committee, taking into account the provisions of Section 117 of the *Municipal Finance Management Act* in terms of which no Councillor may be a member of any such Committee or attend any of its meetings as an observer.

(b) Ensure that appointed Bid Committee Members sign the **Code of Conduct for Supply Chain Management Practitioners and Other Role Players. Refer Annexure "A".**

(c) Ensure that the Bid Committee/s Chairperson compiles and submit Monthly Reports to him/her.

3) A neutral or independent observer, appointed by the *Accounting Officer*, may attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.
4) The committee system must be consistent with:-

   (a) paragraphs 27, 28 and 29 of this policy; and

   (b) Any *other applicable legislation*.

5) The *Accounting Officer* must establish a committee system for *formal written price quotations*.

6) A majority of the members a Bid Committee must be present before the committee concerned may consider any matters and the quorum must be (50+1)

26. Bid Specification Committee.

1) The Bid Specification Committee must consist of at least three members, of which one must be an SCM official.
2) A Bid Specification Committee must be composed of an appointed Chairperson, Supply Chain Management Practitioner, one or more officials of the ELM, preferably the

manager responsible for the function involved, and may, when appropriate, include external specialist advisors.

3) A Bid Specification Committee must compile specifications for procurement of goods or services.
4) No *person*, advisor or corporate entity involved with the Bid Specification Committee, or director of such a corporate entity, may bid for any resulting *contracts.*
5) Where a bid specification is compiled with due regard to the findings and recommendations contained in a prior, associated feasibility study, the *person*, advisor, consultant or corporate entity who or which prepared the said feasibility study is prohibited from bidding for the resulting *contracts* in circumstances where such *person*, advisor or corporate entity or consultant may obtain an unfair advantage or where a conflict of interest may arise.
6) A *person* that assisted in the drafting of a bid specification is prohibited from bidding for the resulting contracts in circumstances where such person, advisor or corporate entity may obtain an unfair advantage or where a conflict of interest may arise.
7) A specification referred to in this paragraph must be approved by the *Accounting Officer or Delegated Official* in writing prior to the publication of the invitation for bids.

27.1. General Requirements.

1) Specifications –

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

(ii) must take account of any accepted standards such as those issued by the South Africa Bureau of Standards, the International Standards Organization or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

(iii) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;

(iv) 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;

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

(vi) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Policy including:

(a) Evaluation criteria for measuring functionality;
(b) Weight of each criterion;
(c) Applicable value;
(d) Minimum qualifying score for functionality

27.2. Samples.

(i) 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 addressee mentioned in the bid documents.

(ii) If samples are not submitted as required in the bid documents or within any further time stipulated by the Chairperson of the Bid Evaluation Committee in writing, then the bid concerned may be declared non-responsive.

(iii) Samples shall be supplied by a bidder at his/her own expense and risk. The ELM shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

(iv) 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.

(v) All goods/materials supplied must comply in all respects to that *contract* sample.

27.3. Bidders Obligations

1) Eligibility

(i) Submit a tender offer only if the tenderer satisfies the criteria stated in the tender data and the tenderer, or any of his principals, is not under any restriction to do business with employer nor working in the organ of state.

2) Cost of tendering

(i) Accept that, unless otherwise stated in the tender data, the employer will not compensate the tenderer for any costs incurred in the preparation and submission of a tender offer, including the costs of samples and any testing necessary to demonstrate that aspects of the offer comply with requirements**.**

3) Check documents

(i) Check the tender documents on receipt for completeness and notify the employer of any
discrepancy or omission.

4) Confidentiality and copyright of documents

(i) Treat as confidential all matters arising in connection with the tender. Use and copy the documents issued by the employer only for the purpose of preparing and submitting a tender offer in response to the invitation.

5) Reference documents

(i) Obtain, as necessary for submitting a tender offer, copies of the latest versions of standards, specifications, conditions of contract and other publications, which are not attached but which are incorporated into the tender documents by reference.

6) Acknowledge addenda

(i) Acknowledge receipt of addenda to the tender documents, which the employer may issue.

7) Clarification meeting

(i) Attend, where required, a clarification meeting at which tenderers may familiarize themselves with aspects of the proposed work, services or supply and raise questions. Details of the meeting(s) are stated in the tender data.

8) Seek clarification

(i) Request clarification of the tender documents, if necessary, by notifying the employer at least five working days before the closing time stated in the tender data.

7) Pricing the tender offer

(i) Include in the rates, prices, and the tendered total of the prices (if any) all duties, all applicable taxes including Value Added Tax (VAT) where applicable,

(ii) State the rates and prices in Rand unless instructed otherwise in the tender data. The conditions of contract identified in the contract data may provide for part payment in other currencies.

(iii) Non- VAT Vendors who submits bids for contracts that would if, successful, take their annual take over above the threshold of R1 million are obliged to include VAT in the prices quoted and must therefore immediately upon award of the contracts register with the South African Revenue Services (SARS) as VAT vendors. The award of the contract would be conditional pending the successful bidder submitting the registration of the VAT thereof.

(iv) The prices quoted by VAT Vendors which include VAT must be deemed to include VAT as stipulated in the Section 64 of the VAT Act.

8) Alterations to documents

(i) Do not make any alterations or additions to the tender documents, except to comply with instructions issued by the employer, or necessary to correct errors made by the tenderer. All signatories to the tender offer shall initial all such alterations.

9) Alternative tender offers

(i) Unless otherwise stated in the tender data, submit alternative tender offers only if a main tender offer, strictly in accordance with all the requirements of the tender documents, is also submitted as well as a schedule that compares the requirements of the tender documents with the alternative requirements that are proposed.

(ii) Accept that an alternative tender offer may be based only on the criteria stated in the tender data or criteria otherwise acceptable to the employer.

(iii) An alternative tender offer may only be considered in the event that the main tender offer is the winning tender.

10) Submission of offer

(i) Return all returnable documents to the employer after completing them in their entirety, either electronically (if they were issued in electronic format) or by writing legibly in non-erasable ink.

(ii) Sign the original and all copies of the tender offer where required in terms of the tender data. The employer will hold all authorized signatories liable on behalf of the tenderer.

(iii) Signatories for tenderers proposing to contract as joint ventures shall state which of the signatories is the lead partner whom the employer shall hold liable for the purpose of the tender offer.

(iv) Seal the original and each copy of the tender offer as separate packages marking the packages as "ORIGINAL" and "COPY". Each package shall state on the outside the employer's

(v) address and identification details stated in the tender data, as well as the tenderer's name and contact address.

(vi) Where a two-envelope system is required in terms of the tender data, place and seal the returnable documents listed in the tender data in an envelope marked “financial proposal” and place the remaining returnable documents in an envelope marked “technical proposal”. Each envelope shall state on the outside the employer’s address and identification details stated in the tender data, as well as the tenderer's name and contact address.

(vii) Seal the original tender offer and copy packages together in an outer package that states on the outside only the employer's address and identification details as stated in the tender data.

(viii) Accept that the employer will not assume any responsibility for the misplacement or premature opening of the tender offer if the outer package is not sealed and marked as stated.

(ix) Accept that tender offers submitted by facsimile or e-mail will be rejected by the employer, unless stated otherwise in the tender data.

11) Information and data to be completed in all respects

(i) Accept that tender offers, which do not provide all the data or information requested completely and, in the form, required, may be regarded by the employer as non-responsive.

12) Closing time

(i) Ensure that the employer receives the tender offer at the address specified in the tender data not later than the closing time stated in the tender data. Accept that proof of posting shall not be accepted as proof of delivery.

(ii) Accept that, if the employer extends the closing time stated in the tender data for any reason, the requirements of these conditions of tender apply equally to the extended deadline.

13) Tender offer validity

(i) Hold the tender offer(s) valid for acceptance by the employer at any time during the validity period stated in the tender data after the closing time stated in the tender data.

(ii) If requested by the employer, consider extending the validity period stated in the tender data for an agreed additional period with or without any conditions attached to such extension.

(iii) Extension of a validy period shall not exceed the initial validity period.

(iv) Accept that a tender submission that has been submitted to the employer may only be withdrawn or substituted by giving the employer's agent written notice before the closing time for tenders that a tender is to be withdrawn or substituted.

(v) Where a tender submission is to be substituted, submit a substitute tender in accordance with the requirements mentioned above with the packages clearly marked as "SUBSTITUTE".

(vi) Accept that in the event that the employer communicates extending validity where bidder's obligation is to acknowledge or communicate substitution of offer and where there is no response it shall be regarded as affirmative and the municipality shall continue evaluating based on the offer which is considered as valid.

14) Clarification of tender offer after submission

(i) Provide clarification of a tender offer in response to a request to do so from the employer during the evaluation of tender offers. This may include providing a breakdown of rates or prices and correction of arithmetical errors by the adjustment of certain rates or item prices (or both). No change in the competitive position of tenderers or substance of the tender offer is sought, offered, or permitted.

15) Provide other material

(i) Provide, on request by the employer, any other material that has a bearing on the tender offer, the tenderer's commercial position (including notarized joint venture agreements), preferencing arrangements, or samples of materials, considered necessary by the employer for the purpose of a full and fair risk assessment. Should the tenderer not provide the material, or a satisfactory reason as to why it cannot be provided, by the time for submission stated in the employer's request, the employer may regard the tender offer as non-responsive.

(ii) Dispose of samples of materials provided for evaluation by the employer, where required.

16) Inspections, tests and analysis

(i) Provide access during working hours to premises for inspections, tests and analysis as provided for in the tender data.

17) Submit securities, bonds and policies

(i) If requested, submit within stipulated timeframes for the employer's acceptance before formation of the contract, all securities, bonds, guarantees, policies and certificates of insurance required in terms of the conditions of contract identified in the contract data.

18) Check final draft

(i) Check the final draft of the contract provided by the employer within the time available for the employer to issue the contract

19) Miscellaneous

(i) A tenderer must –

(a) declare that the information provided in a *tender* document is true and correct;

(b) declare that the signatory to a *tender* document is duly authorised; and

(c) undertake to submit documentary proof regarding any tendering issue when required to the satisfaction of the *ELM*.

(d) Complete and sign the Sign the tender offer

27.4. Employer's undertakings

1) Tender offers should be evaluated in accordance with the parameters stated in the tender data.

2) In instances where the bidder have excluded the VAT from the prices quoted, such prices must be evaluated excluding VAT and if the bidder is successful, the letter of award of contract must that the price at which the contract is awarded is exclusive of VAT and that VAT will not be added at any stage. The bidder will have to absorb the adverse financial implication of not including VAT in the price quoted.

3) Accounting Officer of delegated official must always verify that prices contained in the invoices submitted by the bidder correspond with the price quoted and that VAT has not been included.

4) Any eligibility criteria introduced into the Tender Data should generally be based on the demonstration of the following, as necessary:

a. professional and technical qualifications;
b. professional and technical competence;
c. financial resources;
d. equipment and other physical facilities;
e. managerial capacity, reliability, experience; and
f. reputation.

5) Confidentiality

SCM Officials, Bid Committee Members and any other SCM role player may not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

6) Determine whether there has been any effort by a tenderer to influence the processing of tender offers and instantly disqualify a tenderer (and his tender offer) if it is established that he engaged in corrupt or fraudulent practices.

7) Obtain clarification from a tenderer on any matter that could give rise to ambiguity arising from the tender offer as long as it is strictly not giving that bidder any competitive advantage which may prejudice other bidders

8) Open tender offers, where possible, in public immediately after the closing time for receipt of tender submissions and record:

i) the name of the tenderer;
ii) the total of prices;
iii) preferences claimed (specific goals and evaluation points claimed).

9) Where contracts are not awarded in totality to a single tenderer where there are rates and appointment is subject to no guarantee of quantum of work, the recordings of the total of prices is not practical e.g on Framework Contracts, such rates as they are calculated using the formulas during the evaluation stage, shall be published once the adjudication resolutions to award receive an approval from the accounting officer.

10) The municipality reserves its right to use objective criteria in line with the Reconstruction Development Document and PPPFA 2022.

27.5. Preferential Point System

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1) 27.5(1) 80/20 Preferential Point System

a) Where applicable, specifications must include the following preference points evaluation system for the acquisition of services, works or goods with Rand value equal to or below R50 million (*All applicable taxes* included):

b) the following formula will be used to calculate the points for price in respect of *tender*s (including price quotations) with a *with Rand value equal to or below R50 million* (*All applicable taxes* included):

$$Ps = 80\left(1 - \frac{Pt - P\min}{P\min}\right)$$

Where

Ps = Points scored for comparative price of bid under consideration
Pt = Comparative price of bid under consideration
Pmin = Comparative price of lowest acceptable bid

c) points must be awarded to a tenderer for attaining the *proof of specific goals claimed*

d) score zero (0) points out of 20 for specific goals where there is no proof for specific goals claimed.

e) The points scored must be rounded off to the nearest two decimal places.

f) The contract must be awarded to a tenderer scoring the highest points unless "objective criteria" justify the award to another tenderer.

27 .5 (2) Income generating bids /Dispose of Lease assets

a) 80/20 preference point system for tenders to generate income or to dispose of or to lease assets

b) The formula would be applied as follows:

$$\boldsymbol{Ps = 80\ \frac{\underline{(1 + Pt - Pmax)}}{(Pmax)}}$$

Where :

Ps = Points scored for price of the tender under consideration
Pt = Price of the tender under consideration
Pmax = Price of highest acceptable tender

27 .5 (3) 90/10 Point System

1) Where applicable, specifications must include the following preference points evaluation system for the acquisition of services, works or goods with a *Rand value* above R50 000 000 (*All applicable taxes* included):

   a) the following formula will be used to calculate the points for price in respect of *tender*s with a *Rand value* above R50 000 000 (*All applicable taxes* included):

$$Ps = 90\left(1 + \frac{Pt - Pmin}{Pmin}\right)$$

Where

Ps = Points scored for comparative price of bid under consideration

Pt = Comparative price of bid under consideration

Pmin = Comparative price of lowest acceptable bid

(c) Points for specific goals amount to 10 points in total and 90 points are allocated to price
(d) Points must be awarded to a tenderer for attaining specific goals and submitting proof thereof. (score zero (0) points out of 10 where there is no proof for specific goals).
(e) The points scored must be rounded off to the nearest two decimal places.
(f) The contract must be awarded to a tenderer scoring the highest points unless "objective criteria" justify the award to another tenderer.

<u>27 .5 (4) 90/10 Point System - Income generating bids /Dispose of Lease assets</u>

b. 90/10 preference point system for tenders to generate income or to dispose of or to lease assets
c. The formula would be applied as follows:

$$Ps = 90\left(1 + \frac{Pt - Pmax}{Pmax}\right)$$

Where :

Ps = Points scored for price of the tender under consideration
Pt = Price of the tender under consideration
Pmax = Price of highest acceptable tender

27.6 Functionality

1) Where *functionality* is utilised as an evaluation criterion, the specifications must clearly specify:

(i) the evaluation criteria for measuring *functionality* which criteria must be objective, the weight of each criterion, the applicable values and the minimum qualifying score for *functionality.*
(ii) The minimum qualifying score for functionality for a tender to be considered further-

(a) must be determined separately for each tender; and
(b) may not be so-

(i) low that it may jeopardise the quality of the required goods or services; or
(ii) high that it is unreasonably restrictive.

2) Points scored for functionality must be rounded off to the nearest two decimal places.
3) the fact that no *tender* will be regarded as an acceptable *tender* if it fails to achieve the minimum qualifying score for *functionality,* as indicated in the tender specification concerned; and
4) that *tender*s that have achieved the minimum qualification score for *functionality* will be evaluated further in terms of the preference point systems.

27.7 Elundini Municipality Specific Goals

1) Following are general acceptable specific conditions applicable to Elundini Municipality on all procurement thresholds as follows:_

a) an EME or QSE which is at least 51% black owned by Local (Local Businesses within the Elundini Geographic Area) (Proof : Proof of residence along with CSD Report)

b) an EME or QSE which is at least 51% owned by black people; (Proof : Company Registration Document and Certified BBBEE Certificate or Original Sworn Affidavit)

c) an EME or QSE which is at least 51% owned by black people who are youth; (Proof : Company Registration Document and Certified ID Copy)

d) an EME or QSE which is at least 51% owned by black people who are women; (Proof : Company Registration Document and Certified ID Copy)

e) an EME or QSE which is at least 51% owned by black people with disabilities; (Proof : Medical Report)

2) A tender that fails to submit proof of specific goal as stipulated in the tender documents will not be allocated points for preference.

<u>Tenders above 30 000 but below 300 000 (80/20 Preferential Points system)</u>

Specific goals be allocated by choosing any of the following to meet 20 points:-

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

EME or QSE which is at least 51% owned by black people who are Women

EME or QSE which is at least 51% owned by black people with disabilities

EME or QSE which is at least 51% black owned by black Local business

EME or QSE which is at least 51% black owned by black

Procurement Plan with target strategy for transformation goals must be submitted to Supply Chain Management Office for implementation immediately after budget approval.

When inviting bids / quotations for low value-goods and services, the procuring entity must stipulate the use of the Price Index as one of the criteria for evaluating bids / quotations received. In the event that the bid / quotation is being invited for a basket of items, the procuring entity must exercise the option of awarding the bid or quotation based on the basket of items or multiple awards on an item/s basis, whichever provides a greater value for money proposition

Tenders below 30 000 (formal Written Price Quotations) (80/20 Preferential Points system)

EME or QSE which is at least 51% black owned by black Local business

When inviting bids / quotations, attempts must be made to engage suppliers within the immediate geographical locality where the product / service / commodity is required and 20 points shall be given to businesses within the Elundini jurisdiction who are EME or QSE which is at least 51% black owned by black Local business.

SPECIFIC GOALS	LOCALITY	POINTS ALLOCATION
EME or QSE which is at least 51% black owned by black Local business	Within Elundini Local Municipality	20
	Within the Joe Gqabi Region	10
	Within Eastern Cape	5
	Within RSA Boarders	2

When inviting bids / quotations for low value-goods and services, the procuring entity must stipulate the use of the Price Index as one of the criteria for evaluating bids / quotations received. In the event that the bid / quotation is being invited for a basket of items, the procuring entity must exercise the option of awarding the bid or quotation based on the basket of items or multiple awards on an item/s basis, whichever provides a greater value for money proposition

Bids above 300 000 (Competitive Bidding) (80/20 and 90/10 Preferential Points system)

Specific goals be allocated by choosing any of the following to meet 20 points:-

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

EME or QSE which is at least 51% owned by black people who are Women

EME or QSE which is at least 51% owned by black people with disabilities

EME or QSE which is at least 51% black owned by black Local business

EME or QSE which is at least 51% black owned

Other Programmes

a) Infrastructure related projects (80/20 and 90/10 Preferential Points system)

Procurement for infrastructure related bids shall be applied in line Elundini Local Municipality SCM Policy for Local Government Framework for Infrastructure Delivery and Procurement Management (LGFIDPM).

The policy intent of the is to facilitate the achievement of sustainable, uniform and consistent approach in the infrastructure procurement and delivery management by Elundini Local Municipality and entities. In this context, sustainability implies a commitment to long-term planning and budgeting; the development of outcomes that consider asset management principles; environmental and socio-economic impacts

Specific goals shall be allocated in line with Infrastructure Procurement Strategy and subcontracting strategy adopted by the Council.

Specific Goals for competitive bids shall be in line with paragraph 27 .3 (c) of this Policy.

b) Catering (80/20 and 80/20 Preferential Points system)

Specific goals shall be allocated as follows :-

SPECIFIC GOALS	LOCALITY	POINTS ALLOCATION
EME or QSE which is at least 51% black owned by black Local business	Within Elundini Local Municipality	20

c) Transporting Business (Taxi Industry) (80/20 and 90/10 Preferential Points system)

SPECIFIC GOALS	LOCALITY	POINTS ALLOCATION
EME or QSE which is at least 51% black owned by black Local business	Within Elundini Local Municipality	20

d) Specific goals on persons historically disadvantaged on the basis of race (EME or QSE which is at least 51% black owned) 80/20

The percentages of ownership are used to allocate and claim points for specific goals for persons historically disadvantaged on the basis of race. The tenderer will know how many points they can claim based on the level of ownership in their enterprise

SPECIFIC GOALS	LOCALITY	POINTS ALLOCATION 80/20	POINTS ALLOCATION 90/10
Persons historically disadvantaged on the basis of race	100% black ownership	20	10
	75% - 99% black ownership	12	8
	60% - 74% black ownership	10	6
	51% - 59% black ownership	8	3
	0 – 50% black ownership	0	

27.8 Miscellaneous Special Conditions of Contracts

A bid specification must, *inter alia*, include the following conditions as Special Conditions of Contract:

(a) Only a tenderer who has completed and signed the declaration part of the *tender* documentation may be considered;
(b) When *comparative prices* must be calculated, any discounts which have been offered unconditionally will be taken into account;
(c) A discount which has been offered conditionally will, despite not being taken into account for evaluation purposes, be implemented when payment to a tenderer in respect of an accepted *tender* is effected;
(d) Points scored will be rounded off to the nearest 2 decimal places.
(e) In the event that two or more *tender*s score equal total points, the municipality should first consider the ranking of specific goals, and do determination there.
(f) Should two or more *tender*s be equal in all respects; the award shall be decided by the drawing of lots (coin)

27.4 Remedies

(a) The *ELM* may restrict a tenderer or *contractor,* its shareholders and directors, or only the shareholders and directors, as the case may be, who acted on a fraudulent basis in connection with a *tender*, from obtaining business from the *ELM* for a period not exceeding 10 years, provided that, before exercising this right, the *ELM* shall give the *person*s or parties concerned an opportunity to make representations and be heard in defence of such contemplated action; and
(b) The *ELM* may refer any fraudulent action on the part of a tenderer or *contractor* or any party aforesaid to the South African Police Services with a view to criminal prosecution.
(c) The *ELM* may penalise a successful tenderer who subcontracted a portion of the tender to another person, contrary to this policy, up to 10% of the value of the contract.
(d) he *ELM* must-
   i. inform the National Treasury, in writing, of any actions taken in terms of subparagraph 1;
   ii. provide written submissions as to whether the tenderer should be restricted from conducting business with any organ of state; and
   iii. submit written representations from the tenderer as to why that tenderer should not be restricted from conducting business with any organ of state.

(g) The National Treasury may request the ELM to submit further information pertaining to subparagraph (1) within a specified period.
(h) The National Treasury must:-
   i. after considering the representations of the tenderer and any other relevant information, decide whether to restrict the tenderer from doing business with any

organ of state for a period not exceeding 10 years; and maintain and publish on its official website a list of restricted suppliers.

28 Bid Evaluation Committee

1. The Bid Evaluation Committee must evaluate all bids received within the quotation threshold where the requirement is technically complex and/or there are risks involved that warrant this process.
2. Evaluation must be done in accordance with the specification for a specific procurement and with the evaluation criteria specified. The Bid Evaluation Committee must:
3. evaluate bids in accordance with –

    a) the specifications for a specific procurement; and
    b) the points system set out in terms of the Preferential Procurement Policy Framework Act, 2000; and as amended.
    c) evaluate each bidder's ability to execute the contract;
    d) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears for more than three (3) months;
    e) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

4. The Accounting Officer or delegate must establish and appoint a Standing Bid Evaluation Committee. The accounting officer may change the committee members from time to time.
5. Should a member declare a conflict of interest at any stage, the member may not be part of the Bid Evaluation Committee and must be replaced by a member of suitable expertise.
6. An official may not be a member of the Bid Evaluation Committee and the Adjudication Committee/award structure for the same bid
7. The compliance officer may attend the meeting to assist the SCM Unit to ensure compliance with process and policy and procedure.
8. The Bid Evaluation Committee must submit a report and recommendations regarding the award of the bid or any other related matter to the Bid Adjudication Committee for consideration and/or approval after legal comment was given on the evaluation report and included in the information to be presented to the Bid Adjudication Committee.
9. Members of the Bid Evaluation Committee may present their reports to the Bid Adjudication Committee to clarify uncertainties. Such members shall not have any voting power on the Bid Adjudication Committee.

28.1. Composition of a Bid Evaluation Committee

1) A Bid Evaluation Committee must consist of at least four members of which one must be an accredited senior manager. The Bid Evaluation Committee must comprise of at least one supply chain practitioner, a financial analyst and officials from the groups requiring the goods/services consisting of the department manager and an end user.

2) Members from bid specification committee may also form part of the bid evaluation committee

3) If considered necessary, additional persons with suitable expertise from other groups/institutions with voting rights. If considered necessary, additional technical experts with voting rights.

4) The SCM Unit must fulfill the professional secretariat function. A Bid Evaluation Committee must as far as possible be composed of:

   i. Officials from departments requiring the goods or services;
   ii. At least one SCM practitioner of the Municipality;

5) The Accounting Officer must always ensure that sufficient technical expertise, financial expertise as well as supply chain expertise is represented on the Bid Evaluation Committee.
6) The Accounting Officer or delegate must appoint one of the members of the Bid Evaluation Committee as the chairperson of the Committee. The chairperson must be a senior official.
7) The composition of the bid evaluation committee may change to accommodate different scenarios;

28.2. Evaluation of Bids.

1) A Bid Evaluation Committee must:-

(a) evaluate bids in accordance with the relevant bid specification and evaluation criteria, inclusive of unconditional discounts, all applicable taxes, sub-contracting and this policy; and
(b) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and
(c) in the event that it is determined that none of the bidders responding to a particular invitation to *tender* have submitted acceptable *tender*s, the matter must be referred to the Bid Adjudication Committee for cancellation.
(d) Check whether the bidder understands the scope of work and their methodology shows appropriate understanding of the intentions of the municipality.

(e) BEC submit to the Bid Adjudication Committee a report and recommendations regarding the award of the bid or any other related matter provided that:-

I. a contract must be awarded to the bidder who scored the highest total number of points in terms of the preference points systems referred to in clause 27, in exceptional circumstances and as provided in clause 27(13) of this policy, a contract may be awarded to a bidder that did not score the highest number of points provided that the reasons for such a recommendation are recorded for audit purposes and be defendable in a court of law OR unless "objective criteria" justify the award to another tenderer

(f) evaluate each bidder's ability to execute the *contract* on the following two (2) stages: -

2) <u>First Stage - Test for responsiveness and Eligibility criteria:</u>

(a) Confirm compliance with all the requirements of the standard conditions of tender , ie. that:

(i) Conditions of tender are complied with.
(ii) The tenderer submitted proof to claim specific goals , if no proof submitted no points will be allocated towards specific goals.
(iii) The tenderer attended compulsory site/clarification meetings if any ,
(iv) There are no material changes in the capabilities of prequalified tendering entity, if applicable
(v) The tenderer has observed pricing instructions
(vi) Alterations, if any comply with instructions,
(vii) Conditions attached to alternative tenser offers where alternative tenders have been submitted
(viii) The tender covers the scope of work contained in the procurement document and , where applicable, meets the specifications or equivalent in performance to that specified.
(ix) The tenderer has signed the Form of Offer and Acceptance.
(x) Access to premises for inspection, tests and analysis as provided in the tender data was provided
(xi) Each organization has only submitted one tender
(xii) The security bonds, guarantees, policies and certificates of insurance as required at the tender stage have been submitted, and
(xiii) The certificates in the tender data have been submitted

(xiv) Submitted all mandatory documents and not deviated from special conditions of the contract.

(b) Identify areas of noncompliance with the terms and conditions and scope of work and determine if any deviations are material deviation. A material deviation is one which, in the Employers opinion:

(i) Detrimentally affect the scope, quality, or performance of the works, services or supply identified in the scope of work

(ii) Change the employer's or the tender's risk and responsibilities under the contract, or

(iii) Affect the competitive position of the other tenderers presenting responsive tenders, if it were to be rectified.

(c) Determine acceptability of preferred bidder by confirming whether the highest ranked bidder: -

(i) Satisfy the legal requirements

(ii) Is not restricted bidder

(iii) Has legal capacity to enter into contract

(iv) Satisfy the eligibility criteria setout in the tender document.

(v) Does not have conflicts of interest which may impact his or her ability to perform the contract in the best interest of the municipality.

(vi) Can demonstrate that he/she possesses the necessary professional and technical qualifications, professional and technical competence, financial resources, equipment and other physical facilities, managerial capacity, reliability, experience and reputation, and the personnel to perform the contract

(d) Perform risk analysis on the preferred bidder to ascertain if any of the following might present an unacceptable commercial risk, if relevant:

- Unduly high or unduly low tendered rates or amounts in the tender offer
- Contract data provided by the tenderer, or
- The contents of the tender returnable which are to be included in the contract

(e) Clarify any matter that could give rise to ambiguity in a contract arising from the tender offer.

a. Recommend the highest risk tenderer/tender with the most evaluation points for the award of the contract or if found to be unsatisfactory , undertake an analysis on the next highest ranked tenderer and so on until such time as a tenderer satisfies the risk assessment.

b. SCM 2 of 2006 :A bidder is regarded as being acceptable if:-

   - The bidder completed and signed all the prescribed bid forms to enable the principal to evaluate the submitted bid.

- The bidder submitted the required clearance certificates and other clearance/registration forms as prescribed various Acts and /or in the bid documentation, and

3) <u>Second Stage: Functionality</u>

a) Not all tenders should necessarily be invited on the basis of functionality as a criterion. The need to invite tenders on the basis of functionality as a criterion depends on the nature of specific commodity or service taking into account quality, reliability, viability and durability of a service and the tenderer's technical capacity and capability to execute a contract.

b) Where functionality criteria applies, the accounting officer must clearly specify the following aspects in the tender documents:
   - Evaluation criteria for measuring functionality
   - Points for each criterion
   - Points for each sub-criterion
   - The minimum qualifying score that must be obtained for functionality in order for a tender to be considered further.

c) The minimum qualifying score should not be generic. It should be determined separately for each tender on a case by case basis.

d) The minimum qualifying score must not be prescribed so low that it may jeopardize the quality of the service required nor so high that it may be restrictive to the extent that it jeopardizes the fairness of the SCM system.

4) <u>Third Stage – Evaluate in terms of the 80/20 or the 90/20 Point System</u>

a) On this stage only bids that passed test for responsiveness and passed minimum qualifying score on functionality where applicable must be evaluated further.
b) Assess whether the bidder has adhered to pricing rules and conditions to ensure price comparativeness.
c) Review bill of quantities or pricing schedule of the preferred bidder, if, any, for arithmetical errors, omissions and discrepancies in accordance with the provisions F.3.9 and, if relevant, clarity if the tendered or corrected price to apply. (CIDB Practice note#2: Correcting arithmetic errors in tenders for further guidance)

d) Identify parameters included in the Returnable Documents that have a bearing on the financial offer e.g. life cycle costs, contract period, requirement for price escalation etc. and quantify their impact on the financial offer.
e) Reduce all tender offers to a common base i.e. to comparative offers.
f) For the purposes of this policy , a comparative offer is defined as the tenderer's financial offer after the factors of non-firm prices, all unconditional discounts and any other tendered parameters that will affect the value of the financial offer have been taken into consideration.
g) Judge the reasonableness of financial offers and reject all tender offers with unrealistic financial offers after
h) It is important that the offer receiving the highest number of points for price is realistically priced. Unrealistic financial offers (i.e., where it is not economically possible to execute the contract at that price) distort the scoring of price. In cases where a tenderer has tendered a favorable unrealistic financial offer, the evaluator should ascertain as to whether or not there is a valid reason for the tender price being unrealistic. This may necessitate that the tenderer be interviewed. If there is no valid reason or substantial motivation or proof for lowering the rates, the tender offer must be eliminated from further consideration.
i) Before rejecting a tender on the grounds that it is abnormally low, the employer should request in writing details of the constituent elements of the tender which it considers relevant, including:
    - the economics of the construction method, the manufacturing process or the services provided;
    - the technical solutions chosen or any exceptionally favourable conditions (or both) available to the tenderer for the execution of the work or the provision of the supplies or services;
    - the originality of the work, supplies or services proposed by the tenderer; d) compliance with the statutory provisions such as those relating to the employment of labour, health and safety etc.
j) The employer should verify the above constituent elements by consulting the tenderer, taking account of the evidence supplied.
k) Evaluate bid in terms of price and specific goals using the formula as depicted in paragraph 27 of this policy .
l) Confirm that tenderers are eligible for the preferences claimed in accordance with the provisions of the tender data and reject all claims for preferences where tenderers are not eligible for such preferences and no point shall be allocated where there is no valid proof for claims of preference.

28.3. Disqualification and Exclusion of Bidders.

2. Disqualify and exclude from further evaluation and adjudication, all *tender*s which are not acceptable as defined, in particular and without derogating from the generality of the following: -

   (i) Tenders that do not include the information or documents prescribed as mandatory
   (ii) Tenders that do not include the certificate as prescribed by clause 13(1)(e) hereof, or in regard to which the tenderer or any of its directors are in fact indebted to the ELM for rates, taxes and/or municipal services that are in arrears (and where it is contended that arrangements have been made with the ELM, written proof thereof is not supplied).
   (iii) Tenders submitted by a tenderer that failed during the five years preceding the closing date for the submission of tenders to perform satisfactorily on any contract with the ELM or any other organ of state in respect of which the bidder has been given written notice his/its performance was unsatisfactory.
   (iv) Tenders submitted by a tenderer who or which is listed on the National Treasury's Register for Tender Defaulters in terms of the Prevention and Combating of Corrupt Activities Act No. 12 of 2004 or who or which is included on the List of Restricted Suppliers and is accordingly prohibited from doing business with organs of state.
   (v) Tenders submitted by a partnership/joint venture/consortium which do not include the agreement prescribed .
   (vi) Tenders in which information has been inserted by means of pencil or in which deletions have been affected by the use of tippex or similar product or which contain alterations or amendments which have not been signed in full and dated by the tenderer or its authorised signatory.
   (vii) Verify the status of recommended bidders (including their directors(s), owners(s) or trustee(s)) by checking the Data Base of Restricted Suppliers maintained by National Treasury in order to ensure that no recommended bidder or any of its directors/owners/trustees are listed as companies or persons prohibited from doing business with the public sector.
   (viii) The ELM may disqualify any Bidder and/or revoke any decision in respect of the selection of a Successful Bidder or the announcement of the successful conclusion of negotiation with the Successful Bidder if such decision was based on incorrect information which the Bidder or its constituent members, advisors and/or agents provided in response to any bid.
   (ix) Disqualify if there are material misrepresentation of facts and or falsification of documents.
   (x) Declare the tender offers non responsive and reject them as such should they:-

(a) Fail to provide with the information that is required by the due date.
(b) Not have signed the Form of Offer .
(c) Contain material deviations or qualifications.
(d) Commercial risk factors where a bidder has fail to provide evidence beyond reasonable doubt that the prices offered are nor unrealistically low.

29. Bid Adjudication Committee

1) A Bid Adjudication Committee must consist of at least four senior managers of the *ELM* and must include –

(i) 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 delegated by the Chief Financial Officer; and
(ii) at least one Senior Supply Chain Management practitioner who is an official of the ELM; and
(iii) a technical expert in the relevant field who is an official of the ELM if the institution has such an expert.

2) The Accounting Officer must appoint the chairperson of the committee who shall preferably be the Chief Financial Officer or a senior manager. 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 such election must be recorded in the minutes of the meeting concerned.
3) Only with the consent of the Accounting Officer and upon request by the bid adjudication committee, a member of a bid specification, bid evaluation committee and/or an advisor or person assisting these committees may be a member of a bid adjudication committee for the purpose of providing clarity and an explanation of difficult technical aspects relating to the bid being adjudicated.
4) A Bid Adjudication Committee must –

(a) consider the report and recommendations of the Bid Evaluation Committee submitted in terms of paragraph 28; and
(b) either –

(i) depending on its delegations, make a final award or a recommendation to the Accounting Officer to make the final award; or
(ii) make another recommendation to the Accounting Officer on how to proceed with the relevant procurement.

(c) Ensure that:-

(i) all necessary bid documents have been submitted;

(ii) disqualifications are justified and that valid and accountable reasons/motivations were furnished for passing over of bids;

(iii) Scoring has been fair, consistent and correctly calculated and applied; and

(iv) Bidders declarations of interest have been taken cognizance of.

5) 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 –

(a) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and
(b) notify the Accounting Officer.

6) The Bid Adjudication Committee must also consider and rule on all recommendations/reports regarding the amendment, variation, extension, cancellation or transfer of contracts awarded.

7) The Bid Adjudication Committee may also, if and when required to do so, consider for approval the recommendations of the Bid Specification Committee in order to ensure the following:

(a) A proper and unbiased specification is compiled for the specific requirement.

(b) Proper and clear Terms of Reference are drawn up for the service required.

(c) Strategic sourcing principles were applied and that the market was properly researched and analysed.

(d) The necessary funds are available.

(e) A proper and unbiased specification is compiled for the specific requirement.

(f) Proper and clear Terms of Reference are drawn up for the service required.

8) The Accounting Officer may –

(a) after due consideration of the reasons for the deviation, ratify or reject the decision of the Bid Adjudication Committee referred to in subparagraph 5(a); and
(b) if the decision of the Bid Adjudication Committee is rejected, refer the decision of the Adjudication Committee back to that committee for reconsideration.

9) 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.

10) If a tender other than the one recommended in the normal course of implementing this Policy is approved, the Accounting Officer must, in writing and within 10 working days,

notify the Auditor-General and the National and Provincial Treasuries of the reasons for deviating from such recommendation.

11) Subparagraph 8 does not apply if a different tender was approved in order to rectify an irregularity.

12) **The Bid Adjudication Committee** may recommend to the Accounting Officer prior to the award of a tender, by notice in the media in which the original tender was advertised, cancel such tender in the following circumstances:

(a) If, due to changed circumstances, there is no longer a need for the services, works or goods requested.
(b) If funds are no longer available to cover the total envisaged expenditure.
(c) If no acceptable bids are received.
(d) In the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R50 000 000.
(e) In the event that, in the application on the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below R50 000 000.
(f) If the process is deemed to be flawed;
(g) If there is a material irregularity in the tender process.

13) The Accounting Officer must re-invite *tender*s cancelled in terms of paragraphs 27(9) and 27(10) and must, in the new *tender* documents, stipulate the correct preference point system to be applied.

14) The decision to cancel a tender invitation must be published in the same manner in which the original tender invitation was advertised.

15) The ELM may only with the prior approval of National Treasury cancel a *tender* invitation for the second time.

30. Procurement of Banking Services

1) A contract for the provision of banking services to the municipality:

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

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

3) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of section 29(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31. Procurement of IT Goods or Services

1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
2) Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
3) The accounting officer must notify SITA together with a motivation of the IT needs if –

    (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
    (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

4) If SITA comments on the submission and 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 provincial treasury and the Auditor General.
5) All ICT related procurements must be approved by the ICT Steering Committee before following the Supply Chain Management process.

32. Procurement of Goods or Services under Contracts Secured by other Organs of State

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

(a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
(b) there is no reason to believe that such contract was not validly procured;
(c) there are demonstrable discounts or benefits to do so; and
(d) that other organ of state and the provider have consented to such procurement in writing.

2) Subsections (1)(c) and (d) do not apply if:-

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

32.1 Participation in Transversal Contracts Facilitated by Treasury

1) In line with Regulation 16A6.5 of the MFMA, the accounting officer or accounting authority of ELM may opt to participate in transversal term contracts facilitated by the relevant treasury.
2) Should the accounting officer or accounting authority opt to participate in a transversal contract facilitated by the relevant treasury, the accounting officer or accounting authority may: -

   (a) not solicit bids for the same or similar product or service during the tenure of the transversal term contract.
   (b) Participate in such contracts in line with prescribed procedures to participate in transversal contracts.

33. Procurement of Goods Necessitating Special Safety Requirements

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

34. Proudly South African

1) In supporting the Proudly South African Campaign, and the Reconstruction and Development Programme objectives the *Accounting Officer* may include in any invitation to bid 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, on condition that such prescript and threshold(s) are in accordance with the specific directives issued for this purpose by the Department of Trade and Industry in consultation with National Treasury.
2) In support of the above the accounting officer in promoting industrialization and local economic growth may include local content in bid invitations.
3) On instances the municipality must stipulate the minimum threshold for local production of designated sector by the dtic.

4) Where a bidder did not indicate or make declaration of the threshold of local content shall be deemed as non-responsive as the objectives of the industrialization and promotion of local economy would be compromised.
5) The municipality reserves the right to request that all Local Content Production Annexes be submitted at the closing date and time of bid.
6) where Annex C is signed but not completed the local content percentages would not be declared, therefore making the bid non-responsive.
7) The accounting officer must determine internal operating procedures supporting the Proudly SA Campaign to the extent that preference is given, in the following order, to procuring local goods and services from suppliers and businesses located:

   (a) within the jurisdiction of the ELM;
   (b) within the Eastern Cape Province;
   (c) within the RSA.

35. Procurement of Consultants

1) The appointment of Transaction Advisors as defined in Government Gazette number 27431 of 01 April 2005 – Municipal Public-Private Partnerships Regulations, who are to be appointed by institutions to render advice in relation to Public-Private Partnerships, should be performed in terms of the practice note issued by the National Treasury specifically for that purpose.
2) The Accounting Officer may procure consulting services, provided that any Treasury guidelines or CIDB guideline, where applicable, in respect of consulting services are taken into account when such procurements are made.
3) Consultants should only be engaged when the necessary skills and/or resources to perform a project/duty/study are not available and the accounting officer cannot be reasonably expected either to train or to recruit people in the time available.
4) Accounting officers may use these organizations as consultants to assist in a wide range of activities such as policy advice, accounting officer's reform management, engineering services, construction supervision, financial services, procurement services, social and environmental studies and identification, preparation and implementation of projects to complement the accounting officers' capabilities in these areas
5) Consultancy services must be procured through competitive bids if –

(a) the value of the contract exceeds R300 000 (VAT included); or
(b) the duration period of the contract exceeds one year.

6) When appointing consultants, the Accounting Officer must:

(a) only contract with consultants after a skills gap analysis report has confirmed that the *ELM* does not have the requisite skills or resources in its permanent employment to perform the services required;

7) Head of Departments may recommend the appointment of consultants to render specific services, should they be of the opinion that the Municipality lacks the required skills or necessary capacity and those funds are available within their existing budgets.
8) Each Department will be responsible to prepare the "Terms of Reference" for submission to the Municipal Specification Committee to recommend to the Accounting Officer for the advertisement to request proposals.
9) The Directorate should also ensure that an exact "specification" of the work to be accomplished (proposed outcome) accompanies the tender and is used as a monitoring tool, is appropriately recorded and monitored.
10) The municipality will 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. Gap Analysis Report must be approved by the Accounting Officer prior to commencement of any procurement process.
11) Accounting Officer must ensure that evidence of acute planning of the project is visible to all relevant persons, including the administration and political oversight mechanisms in place in the *ELM*;

12) Accounting Officer must ensure that consultants, including construction and infrastructure related services, are remunerated at the rates equal to or below those:
    a. 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);
    b. set out in the "Guide on Hourly Fee Rates for Consultants", by the Department of Public Service and Administration (DPSA); or
    c. prescribed by the body regulating the profession of the consultant;

13) Accounting Officer or Delegated Officials must ensure that contracts for consultants include retention and penalty clauses for poor performance and in this regard, the Accounting Officers must invoke such clauses, where deemed necessary;

14) appoint consultants on a time and cost basis with specific start and end dates;

15) Accounting Officer or Delegated Officials must ensure that travel and subsistence costs or the appointment of consultants are in accordance with the travel policy of government and that the contract price specifies all travel and subsistence costs;

16) It is mandatory that Accounting Officers or Delegated Officials conclude on the best "value for money", i.e. matching fees against quality and benchmarked practices.
17) All engagements of consultants must be undertaken in accordance with the SCM Regulations and the ELM's SCM policy.
18) In addition to any requirements prescribed by this Policy for competitive bids, bidders must furnish particulars of –

(a) all consultancy services provided to an organ of state in the last five years; and
(b) any similar consultancy services provided to an organ of state in the last five years.
(c) Where applicable accreditation and proof of membership to their regulatory body.

19) The Accounting Officer may establish a database of pre-qualified consultants in various fields as may be determined in an SCM procedure manual.
20) The Accounting Officer must ensure that copyright on any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised by a consultant in the course of the consultancy service, is vested in the *ELM*.
21) Consultants are engaged principally for the following reasons:
   (a) To provide specialized services for limited periods without any obligation of permanent employment.
   (b) To benefit from superior knowledge, transfer of skills and upgrading of a knowledge base while executing an assignment.
   (c) To provide independent advice on the most suitable approaches, methodologies and solutions of projects.
22) The procedures outlined herein apply to all contracts for consulting services in procuring consulting services; the accounting officer should satisfy himself/herself that:
   (a) The procedures to be used will result in the selection of consultants who have the necessary professional qualifications;
   (b) The selected consultants will carry out the assignment in accordance with the agreed schedule; and
   (c) The scope of the services is consistent with the needs of the project

36. Deviation From, and Ratification of Minor Breaches of Procurement Processes

1) The Accounting officer of Elundini Municipality may –

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

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

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

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

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

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

2) The accounting officer must record the reasons for any deviations in terms of subsections 63 (1) (a) and (b) of this policy and report them to the next meeting of the council and include as a note to the annual financial statements.
3) Subsection (2) does not apply to the procurement of goods and services contemplated in section 22(2) of this policy.

37. Unsolicited Bids

1) An unsolicited bid is a bid that is submitted by a prospective supplier to the *ELM* without any procurement requirement first having been identified and advertised. This situation arises when a supplier identifies an opportunity to render services or supply products not ordinarily required by the *ELM.*
2) In accordance with Section 113 of the *Municipal Finance Management Act*, there is no obligation on the *ELM* to consider unsolicited bids received outside the normal bidding processes.
3) The *Accounting Officer* may decide in terms of Section 113(2) of the *Municipal Finance Management Act* to consider an unsolicited bid, but only if –

   (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
   (b) the product or service will be exceptionally beneficial to the *ELM* or have exceptional cost advantages;
   (c) the *person* who made the bid is the sole provider of the product or service concerned; and
   (d) the reasons for not going through the normal bidding processes are found to be sound by the *Accounting Officer*.
4) If the *Accounting Officer* decides to consider an unsolicited bid that complies with sub-paragraph (3), his decision must be made public in accordance with Section 21A of the *Municipal Systems Act*, together with –

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

(b) an explanation of the potential benefits if the unsolicited bid were accepted; and
(c) an invitation to the public or other potential suppliers to submit their comments on the proposal within 30 days of the publication of the relevant notice.

5) The *Accounting Officer* must submit all written comments received pursuant to subparagraph (4), including any responses from the unsolicited bidder, to the National and Provincial Treasuries for comment.
6) Subject to subparagraphs (7) and (8) below, the Bid Adjudication Committee must consider the unsolicited bid and may, depending on its delegations, award the bid or make a recommendation to the *Accounting Officer*.
7) A meeting of the Bid Adjudication Committee to consider an unsolicited bid must be open to the public.
8) When considering the matter, the Bid Adjudication Committee must take into account –

(a) any comments submitted by the public; and
(b) any written comments and recommendations of the National and Provincial Treasuries.

9) If any recommendations of the National and Provincial Treasuries are rejected or not followed, the *Accounting Officer* must submit to the Auditor-General and the National and Provincial Treasuries the reasons for rejecting or not following those recommendations.

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

11) The processes to be followed by the *ELM* with regard to the acceptance or rejection of an unsolicited bid must clearly be made known to the bidder who submits the unsolicited bid concerned.

12) The *Council* must exercise caution when interviewing a potential supplier or a *person* who may wish to offer services to the *ELM* in circumstance that may be tantamount to the submission of or negotiation with regard to an unsolicited bid and may not do anything or cause anything to be done that may be contrary to this policy.

38. Combating of Abuse of Supply Chain Management System

1) The *Accounting Officer* must-

(a) take all reasonable steps to prevent the abuse of the Supply Chain Management system;
(b) investigate any allegations against an official or other role-player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this policy, and when justified -
(i) take appropriate steps against such official or other role-player; or
(ii) report any alleged criminal conduct to the South African Police Services;

(c) check the National Treasury's database prior to awarding any *contract* to ensure that no recommended bidder, or any of its directors, is listed as a *person* prohibited from doing business with the public sector;
(d) reject any bid from a bidder –

(i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the *ELM*, or to any other *ELM* or municipal entity, have been in arrears for more than three months; or
(ii) who, during the last five years, failed to perform satisfactorily on a previous *contract* with the *ELM* or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;

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

(i) such *person* committed any corrupt or fraudulent act during the bidding process or the execution of the *contract;* or
(ii) an official or other role-player committed any corrupt or fraudulent act during the bidding process or the execution of the *contract* that benefited that *person*.
(g) reject the bid of any bidder if that bidder or any of its directors –

(i) has abused the Supply Chain Management system of the *ELM* or has committed any improper conduct in relation to such system;
(ii) has been convicted of fraud or corruption during the past five years;
(iii) has wilfully neglected, reneged on or failed to comply with any government, municipal or other public sector *contract* during the past five years; or
(iv) has been listed in the Register for Tender Defaulters in terms of Section 29 of the Prevention and Combating of Corrupt Activities Act, No. 12 of 2004.

2) The *Accounting Officer* must inform the National and Provincial Treasuries in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) above.

PART 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39. Logistics Management

1) The *Accounting Officer* must, in line with Regulation 39 of the MFMA, establish and implement an effective system of logistics management, which must include –

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

40. Disposal Management

1) In terms of Section 14 and 90 of the Act, the ELM may not transfer ownership as a result of sale or other transaction or otherwise permanently dispose of a capital asset needed to provide the minimum level of basic municipal services.
2) The ELM may transfer ownership or otherwise dispose of a capital asset other than one as contemplated in subsection (1), but only after the *Council*, in a meeting open to the public –

(a) has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services; and
(b) has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset.

3) Assets may be disposed of by –

(a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
(b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
(c) selling the asset; or
(d) destroying the asset.

4) The *Accounting Officer* must ensure that –

(a) when immovable property is sold by means of a *competitive bidding process*, the highest price offered, is accepted, provided such price is equal to or higher than the market related price for the relevant immovable property;
(b) in other cases, only at a market related price, except when the public interest or the plight of the poor demands otherwise, in which event the sale price must be determined in accordance with the applicable land disposal or indigent policy adopted by the *Council*;
(c) movable assets are sold either by way of written price quotations, a *competitive bidding process,* or by public auction at the highest offered price, provided such price is market related;
(d) firearms are not sold or donated to any *person* or institution within or outside the Republic, unless approved by the National Conventional Arms Control Committee;
(e) immovable property is let at market related rentals, except when the public interest or the plight of the poor demands otherwise in which event the rental must be determined in accordance with the applicable land disposal or indigent support policy adopted by the *Council*;
(f) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
(g) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and

5) This paragraph must be read with and applied in conjunction with the Municipal Asset Transfer Regulations contained in Government Notice R. 878 of 22 August 2008 and the associated policies adopted by the *Council*. In the event of conflict, the provisions of the aforesaid Regulations must be applied.

41. Risk Management

1) The *Accounting Officer* must establish and implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system, in line with Regulation 41 of the MFMA.
2) Risk management must include –

(a) the identification of risks on a case-by-case basis;
(b) the allocation of risks to the party best suited to manage such risks;
(c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
(d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
(e) the assignment of relative risks to the contracting parties through clear and unambiguous *contract* documentation.

42. Performance Management

1) In line with Regulation 42 of the MFMA, the *Accounting Officer* must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether authorised Supply Chain Management processes were followed and whether the objectives of this policy were achieved.
2) Monthly monitoring of service providers and blacklisting thereof will be in line with the *Treasury guidelines.*
3) The accounting Officer or delegated official must constantly monitor all active contracts to ensure that all obligations are fulfilled and that the contract proceeds with as little disruptions as possible.
4) The monitoring and management of contracts must be undertaken in accordance with the principles and requirements stipulated in the ELM Contract Management Policy as it relates to managing contractor performance, price adjustments, variations, disputes, etc.

PART 4: OTHER MATTERS

43. Prohibition on Awards to Persons Whose Tax Matters Are Not In Order

1) No award above R15 000 may be made in terms of this Policy to a *person* whose tax matters have not been declared by the South African Revenue Service to be in order.
2) Before making an award to a *person*, the *Accounting Officer* must first check with SARS whether that *person*'s tax matters are in order.

3) If the prospective bidder does not respond or fulfil its tax obligation with SARS, within 7 days of request for confirmation in terms of subparagraph (2), such prospective bidder must be disqualified.
4) The Municipality may use CSD and tax compliance status PIN which are approved methods to be used to prove tax compliance as the SARS no longer issues Tax Clearance Certificates but has made provision online, via e-Filing, for bidders to print their own Tax Clearance Certificates which they can submit with their bids or price quotations.
5) Accounting Officers may therefore, accept printed or copies of Tax Clearance Certificates submitted by bidders and verify them on e-Filing. The verification result should be filed for audit purpose
6) Where goods and services are procured from foreign suppliers with tax obligations in South Africa, proof of tax compliance status should be obtained from the supplier.
7) Foreign suppliers with neither South African tax obligations nor history of doing business in South Africa should complete a pre-award questionnaire on the MBD 1 for their tax obligation categorisation. Where a recommendation for award of a bid has been made to a bidder who is a foreign supplier and who completed the pre-award questionnaire on the MBD 1, the Accounting Officer must submit a copy of the completed MBD 1 received from the bidder to SARS on the following email address: governmentInstitute@sars.gov.za. SARS will issue a letter to the procuring entity confirming whether the foreign supplier has tax obligations in South Africa.

8) Where goods and services are procured from foreign suppliers with no tax obligation in South Africa, there is no need to request proof of tax compliance status.

9) Where goods and services are imported, all custom related taxes shall be applied as prescribed by SARS.

10) The Municipality shall verify the bidder's tax compliance status prior to the finalization of the award of the bid or price quotation.

11) 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.

12) The proof of tax compliance status submitted by the bidder to the municipality or municipal entity must be verified via the CSD or e-Filing. The accounting officer should

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

13) Where goods or services have been delivered satisfactorily without any dispute, accounting officers should not delay processing payment of invoices due to outstanding tax matter.

44. Prohibition of Awards to Persons in the Employ of the State

1) Irrespective of the procurement process followed, no award may be made to a *person* in terms of *the Policy:-*

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

45. Award to Close Family Members of Persons in the Employ of the State

1) The *Accounting Officer* must ensure that the notes to the Annual Financial Statements disclose particulars of any award of more than R2 000 to a *person* who is a spouse, child or parent of a *person in the service of the state*, or has been *in the service of the state* in the previous twelve months, including:-

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

46. Ethical Standards

1) A code of ethical standards, as set out in subparagraph (2) below, is hereby established for officials and other role-players in the Supply Chain Management system of the *ELM* in order to promote:-

   (a) mutual trust and respect; and

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

2) An official or other role-player involved in the implementation of this Policy:-

(a) must treat all providers and potential providers equitably;

(b) may not use his or her position for private gain or to improperly benefit another *person*;

(c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that *person*, of a value more than R350;

(d) notwithstanding subparagraph (2) (c) above, must declare to the *Accounting Officer* details of any reward, gift, favour, hospitality or other benefit promised, offered or granted to that *person* or to any close family member, partner or associate of that *person*;

(e) must declare to the *Accounting Officer* details of any private or business interest which that *person*, or any close family member, partner or associate, may have in any proposed procurement or disposal process of, or in any award of a *contract* by, the *ELM*;

(f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a *contract* in which that *person*, or any close family member, partner or associate, has any private or business interest;

(g) must be scrupulous in his or her use of property belonging to the *ELM*;
(h) must assist the *Accounting Officer* in combating fraud, corruption, favoritism and unfair and irregular practices in the Supply Chain Management system; and

(i) must report to the *Accounting Officer* any alleged irregular conduct in the Supply Chain Management system which that *person* may become aware of, including –
(ii) any alleged fraud, corruption, favouritism or unfair conduct;
(iii) any alleged contravention of this Policy; or
(iv) any alleged breach of this code of ethical standards.

3) Declarations in terms of subparagraphs (2)(d) and (e) above:-

(a) must be recorded in a register that the *Accounting Officer* must keep for this purpose;
(b) must be made by the *Accounting Officer* to the *Mayor* of the *ELM,* who must ensure that such declarations are recorded in the applicable register.

4) The National Treasury's code of conduct must also be taken into account by Supply Chain Management practitioners and other role-players involved in Supply Chain Management.
5) A breach of the code of ethics must be dealt with as follows:-

(a) in the case of an employee, in terms of the disciplinary procedures of the *ELM* envisaged in Section 67(1)(h) of the Municipal Systems Act;
(b) in the case a role-player who is not an employee, through other appropriate means, in recognition of the severity of the breach.
(c) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the *Municipal Finance Management Act*.

6) Non-disclosure

SCM Officials, Bid Committee Members and any other SCM role player may not disclose to tenderers, or to any other person not officially concerned with such processes, information relating to the evaluation and comparison of tender offers, the final evaluation price and recommendations for the award of a contract, until after the award of the contract to the successful tenderer.

47. Inducement, rewards, gifts and favours to municipal officials and other role players

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

(a) any inducement or reward to the municipality for or in connection with the award of a contract; or
(b) any reward, gift, favour or hospitality to –

(i) any official; or
(ii) any other role player involved in the implementation of the supply chain management policy.

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

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

48. Sponsorships

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

(a) A provider of goods or services or prospective provider of goods or services to Elundini Municipality.
(b) A recipient or prospective recipient of goods disposed, or to be disposed of, by Elundini Municipality.

49. Objections and Complaints

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.
2) The successful bidder may not commence any work until the expiry of the 14 day appeal period, or confirmation in writing before the expiry of the 14 day appeal period that none of the affected parties intend to appeal, or confirmation of the satisfactory resolution of any appeals, as detailed in the SCM Procedures Manual.

50. Resolution of disputes, objections, complaints and queries

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

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

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

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

(ii) 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.

(iii) The person appointed must –

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

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

(3) the dispute, objection, complaint or query is not resolved within 60 days; or
(4) no response is forthcoming within 60 days.

(5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
(6) This section must not be read as affecting a person's rights to approach a court at any time.

51. Contracts for Compensation Based On Turnover

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

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

52. Treatment of Irregular, Wasteful and Fruitless Expenditure

1) In line with Section 38 of the PFMA Act No. 1 (as amended), the accounting officer of ELM must take effective and appropriate steps to prevent:-

(a) Prevent unauthorized expenditure

(b) Irregular expenditure
(c) Fruitless and wasteful expenditure
(d) Losses resulting from criminal conduct.

2) In order to ELM to address the above, all processes and procedures relating to supply chain management, expenditure control and management must be compiled and be continuously reviewed and monitored and these include budget, procurement, payments and financial reporting.

3) The following are examples of irregular expenditure: -

(a) Purchases exceeding threshold amounts.
(b) Procurement done without inviting competitive bids.
(c) Non-compliance with delegation of authority.
(d) Non-compliance with municipal policies and processes.
(e) Non-compliance with applicable legislation, i.e. PFMA, PPPFA, Regulations, etc.

4) The accounting officer introduced a policy for Unauthorized, Irregular, Fruitless and Wasteful Expenditure .
5) Any official or councillor who does not comply with their reporting duties in terms of the UIFW policy could be found guilty of Financial Misconduct.
6) Any councillor or official of Elundini Local Municipality will be committing an act of financial misconduct if that councillor or official deliberately or negligently makes or permits, or instructs another official of Elundini Local Municipality to make, an unauthorised, irregular or fruitless and wasteful expenditure

53. Procurement of Catering and Transport Services

a) Catering

1) Catering services shall be procured in line with catering policy as attached to this policy (**"Annexure c"**).

2) Taking into consideration provisions of cost containment , making use of national Treasury Consumer price index , and addressing LED imperatives , catering shall be dealt with in terms of approved municipal catering policy which is an annexure to this policy .
3) The municipality is situated in a rural area and seeks to empower and develop SMME's in the region. As a result, the Elundini Local Municipality has standardized the services provided by the catering companies and the rate charged for each meal per person. In addition, from time to time the Accounting Officer or the delegated authority guided by the Consumer Price Index and Treasury Price Index must determine the maximum acceptable price per plate. Suppliers will be used on a rotational basis. Therefore only one quotation will be sourced. The standard price must be revised on each financial year and approved by the Accounting Officer.

4) The rate charged per meal must not exceed the rate as provided by National Treasury in the Consumer Price Index

b) Public Transportation (Taxi/Bus Associations):

1) Public Transportation shall be dealt with in terms of the approved Transport and catering Policy which is an annexure to this policy.

2) The municipality runs programs and events often that require the use of external transport services due to unavailability of the municipality's vehicles. Also the municipality has unit offices which are situated in the rural areas and where there is only one taxi association operating per Local Municipality. In such instances the Taxi/bus owners affiliating in that Taxi/Transport Association and the association will be utilized as a sole provider for taxis therefore the quotations will be sourced amongst the taxi/bus owners of the Associations in that Local Municipality but the orders will be made to the individual taxi owners only if their tax matters are in good standing with SARS.

PART 5: CONTRACTS AND CONTRACT MANAGEMENT

54. Contracts and Contract Management.

1) A contract management Policy is an annexure to this policy and is aligned with National Treasury Framework (CMF)
2) A contract or agreement procured through the ELM Supply Chain Management system must-

(a) be in writing;
(b) stipulate the terms and conditions of the contract or agreement, which must include provisions providing for:-

(i) the termination of the contract or agreement in the case of non- or under-performance;
(ii) dispute resolution mechanisms to settle disputes between the parties;
(iii) a periodic review of the contract or agreement once every three years in the case of a contract or agreement for longer than three years; and
(iv) any other matters that may be prescribed.

2) The *Accounting Officer* or *Delegated Official* must- must-

(a) take all reasonable steps to ensure that a contract or agreement procured through *the Policy* is properly enforced;
(b) monitor on a monthly basis the performance of the contractor under the contract or agreement;
(c) establish capacity in the administration *ELM:*-

(i) to assist the *Accounting Officer* in carrying out the duties set out in clauses (a) and (b); and
(ii) to oversee the day-to-day management of the contract or agreement; and

(d) Regularly report to the *Council* as may be appropriate, on the management of the contract or agreement and the performance of the contractor.

3) A contract or agreement procured through *the Policy,* may be amended by the parties, but only after:-

(a) the reasons for the proposed amendment have been tabled in the Council or, in the case of a municipal entity, in the council of its parent municipality; and
(b) the local community: -

(i) has been given reasonable notice of the intention to amend the contract or agreement; and
(ii) has been invited to submit representations to the ELM.

4) Detailed contract management requirements and processes as contained in ELM's Contract Management Policy as attached (**'annexure d')**

55. Variation Orders

1) The *Accounting Officer* or *delegated official* may, subject to subparagraphs (2) to (4), authorise the issue of variation orders in respect of:-

(a) *contract* specifications or conditions of *contract* in order to accommodate costs for additional work due to unforeseen circumstances when *contracts* were awarded for infrastructure and other goods or services

(b) In instances where factors beyond the control of an appointed *contractor* have led to or will lead to a delay in a *contract* completion date.

2) A variation order may be issued only after –

(i) the need for such order has been fully motivated by the responsible project manager and supported by the *Director* concerned; and

(ii) the *Chief Financial Officer* has certified that funds are available to cover the cost of the required additional work.

3) A request for the issue of a variation order in an amount exceeding R200 000 must first be referred to the *Bid Adjudication Committee*, which considered the initial bid for approval, provided that the *Accounting Officer* may constitute a new *Bid Adjudication Committee* for this purpose and such *Bid Adjudication Committee* may not approve the variation of *contracts* by more than 20% for construction related *contracts* and 15% for goods and services of the original value of the *contract*. Anything beyond the above-mentioned threshold must be reported to the *Council*.
4) No request for a variation order may be approved in circumstances where new bids may be invited for the additional work concerned.
5) The *line manager* responsible for the implementation of a project undertaken either departmentally or through an appointed *contractor* must keep a proper record of all variation orders issued in respect of a project.
6) The original copy of an issued variation order must be filed with the original bid and *contract* documents;
7) The responsible *line manager* must, on completion of additional work or the expiry of any extended *contract* period authorised by a variation order, certify that the terms and conditions of such variation order have been complied with.
8) Any expansion or variation in excess of the thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

56. Fronting.

1) For the purposes of this paragraph, "*fronting*" shall include the under-mentioned acts on the part of a tenderer or any *person* or party associated with a tenderer:-

(a) **Window-dressing:** This includes cases in which *Black people* are appointed or introduced to an enterprise on the basis of tokenism and may subsequently be discouraged or inhibited from substantially participating in the core activities of the enterprise concerned and/or be discouraged or inhibited from substantially participating in the declared areas and/or levels of their participation;

(b) **Benefit Diversion:** This includes initiatives where the economic benefits received by an organization for having *B-BBEE* Status do not flow to *Black people* in the ratio specified by law;

(c) **Opportunistic Intermediaries:** This includes enterprises that have concluded agreements with other enterprises in order to leverage the opportunistic intermediary's favourable *B-BBEE* status in circumstances where the agreement involves:-

(i) significant limitations or restrictions on the identity of the opportunistic intermediary's suppliers, service providers, clients or customers;
(ii) the maintenance of their business operations in a context reasonably considered improbable having regard to resources; and
(iii) terms and conditions that are not negotiated at arms-length on a fair and reasonable basis.

2) Where the *Accounting Officer* detects *ELM*, he must act against a tenderer concerned in terms of paragraph 27(17) and, in addition, report such *ELM* to the Department of Trade and Industry.

57. Support to Bidders

1) Elundini Municipality will provide all the necessary support within its powers to ensure that bidders, especially Local SMME'S are provided with an opportunity to provide goods and services to the municipality where possible.
2) Such support will be provided by: -

(a) Ensuring that bid information is simplified to enable wider participation and the provision of advice to ensure that bidders are successful when submitting bid documentation.
(b) By sub-contracting 30% of construction projects to local contractors In line with the reviewed Construction Procurement Strategy (2018-2019).
(c) Providing easy access to information with regards to the provision of goods and services to the municipality to ensure wider participation.

3) The support will be provided through the following mechanisms:-

(a) Pre-bid meetings may be a standard requirement of the bid process in order to obtain details for the bid requirements and answer questions from prospective bidders.
(b) A dedicated telephone number will be made available to bidders for assisting service providers in completing the bid document and addressing all other SCM related issues
(c) Bid information, support and registration as a service provider or supplier will be available from the Elundini Municipality's Supply Chain Management Unit.
(d) Arrange regular tendering and SCM training seminars/workshops
(e) Establishing a website portal address SCM related matters

(f) Form partnerships with relevant public sector institutions to provide tender support services to local suppliers within the ELM

58. Role of LED Unit in Providing SCM Support to Local Businesses.

3) In addition to its assigned duties, powers and functions, the LED Unit of the ELM shall:

(a) In consultation with the SCM Unit initiate and Develop SMME developmental/ Capacitation Programmes , facilitate access to tender support, advisory and information services to improve the participation of local supplier in supply chain process of the municipality;
(b) On the request of the SCM Unit, participate on processes pertaining to the determining, structuring and implementation of specific supply chain management decisions in order to maximize the economic benefit for both the Municipality and its local suppliers.

(c) Conduct quarterly meetings with the SCM Unit to identify, address and exchange experiences on issues affecting the optimal performance of local suppliers in the ELM suppliers.
(d) Arrange quarterly workshops with service providers and suppliers to provide advice to assist service providers and suppliers in building capacity in their organizations and providing information on how suppliers and service providers can engage the municipality.

59. Infrastructure Procurement

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1) All infrastructure procurement will be dealt with in terms of Elundini Municipality Local Government Framework for Infrastructure Delivery Management Policy (LGFIPDM) which is attached as **"Annexure B"**
2) In the event of any ambiguity Elundini Municipality Local Government Framework for Infrastructure Delivery Management Policy (LGFIPDM shall supersede.
3) Infrastructure procurement must be undertaken in accordance with all applicable Infrastructure Procurement related legislation and this Framework.
4) Infrastructure procurement must be implemented in accordance with the institutional Supply Chain Management System, which promotes differentiated procurement for infrastructure and in accordance with the procurement gates prescribed in ELM LGFIPDM Policy
5) The Accounting Officer must ensure that a budget is available for the duration of the project, in line with MFMA provisions for capital and operating budgets and that all projects are included in the Demand Management Plan including the Specific goals.

60. Framework Contracts

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1. The accounting officer may enter into framework agreement for infrastructure or non-infrastructure projects to enable an municipality to procure goods / works / services including engineering or construction goods / works and/or services on an instructed basis, over a term without any commitment to the quantity of the goods / works / services instructed, in the absence of a fully developed scope of work or to have a panel of service providers which are appointed at no guarantee of quantum of works.
2. Two types of framework agreements may be utelised : viz; firstly, where the terms and conditions are clearly defined and orders are placed directly with one or more supplier / service provider who then becomes the contractor/s. Secondly, where all the terms and conditions are not clearly defined or the scope of work is not fully developed at the time of arranging the framework agreement, e.g. in engineering and construction related

works, then the qualifying bidders are required to compete for the specific goods / works / services as and when such are required, through a limited or closed bidding process. This process could take the form of quotations.

3. It must be borne in mind that contracts awarded during the currency of the agreement may extend beyond the termination date of the agreement. In such instances, the goods / works / services must be executed in terms of the conditions of the agreement until its logical conclusion. Thus, the terms and conditions of the agreement remain valid and binding on all parties to the agreement until the task / supply has been successfully completed / delivered and signed-off.
4. Orders are placed without going through a procurement process (the procurement process has already taken place for the arrangement of the framework agreement). However, with some infrastructure works, the scope / full scope of work is not known at the time of arranging the framework agreement. In such instances, a limited bidding process will be followed amongst the approved suppliers / service providers on the framework agreement through a quotations process to appoint the contractor for the specific goods / works / services.
5. When a framework agreement is concluded, it has a zero value or specified volumes of goods / works / services. This means that the client has no obligation to pay the suppliers / service providers appointed to the framework agreement. Such an obligation only arises when the client places an order with the suppliers / service providers against the framework agreement.
6. The Accounting Officer has the prerogative as to how many orders are to be issued against the framework agreement and when to issue such orders.
7. The Accounting Officer might decide not to issue orders against the framework agreement during the course of the agreement or might decide to issue a large number of orders against the framework agreement. This is completely at the discretion of the municipality and based on need and availability of budgeted funds.

8. When an order is issued against a framework agreement, it must be implemented in line with the terms and conditions in the framework agreement as well as the relevant contract / service level agreement (JBCC, GCC, FIDIC, NEC in the case of infrastructure related requirements which are also referred to as the form of contract).
9. Framework agreements are appropriate under the following conditions:
   - The goods / works / services are of a repetitive nature and that are the same or similar in nature;
   - The precise quantity of goods / works / services is not yet known;
   - Whilst the goods / works / services are to some extent standardised, there may be some site-specific (i.e. a fully developed scope of work is not yet available), transport and logistical, variables which may not yet be known.
10. The arrangement of a framework agreement must be preceded by a thorough demand analysis and market analysis. Demand analysis will identify the requirements, the volumes and potential expenditure which in turn will assist in identifying the necessity for and possible opportunities for framework agreements for specific goods / works / services. The demand analysis must be based on historical trends (previous contracting and consumption) and future needs based on planned service delivery and strategic objectives.
11. The compilation of bid documents, including the terms of reference / specifications, must follow the normal processes as prescribed and in accordance with the ELM Supply Chain Management Policy and procedures.
12. The invitation of potential suppliers / service providers must be in compliance with the prescribed requirements and advertised as widely as possible. The advertisement must appear in at least the following media:
   - Government Tender Bulletin;
   - Eastern Cape Provincial Tender Bulletin;
   - National Treasury's eTender Publication Portal;
   - Departmental website/s, and
   - local newspapers

13. The bid evaluation committee must compile a detailed report with recommendations for the appointment of qualifying bidders to the framework agreement. Reasons for disqualifying bidders must be justifiable and substantiated. The report of the bid e evaluation committee must be submitted to the bid adjudication committee for review.
14. Bid adjudication committee must review the evaluation process followed and recommendations of the bid evaluation and make recommendations to the Accounting Officer for the appointment of suppliers / service providers to the framework agreement.
15. In the event of the bid adjudication committee disagreeing with the recommendations of the bid evaluation committee, the matter must be returned to the bid evaluation evaluation committee for re-evaluation. In the event that there is still disagreement by the bid adjudication committee with the recommendations of the bid evaluation committee, then the bid adjudication must submit the matter to the Accounting Officer with its own recommendations. The Accounting Officer must then apply his / her mind and make a final decision thereon.
16. Upon approval of the recommendations of the bid adjudication committee by the Accounting Officer , letters of appointment must be issued to the qualifying bidders. The letters of appointment must clearly indicate that the relevant bidder has been appointed to the framework agreement and that goods / works / services must only be delivered / performed upon receipt of an official order. The letters of appointment must also include other operational details of how the framework agreement will function including:-
    - that such letter does not automatically guarantee any quantity or value of supplies / works;
    - acceptance of appointment to the framework agreement;
    - signing of the agreement (non-committal service level agreement if required in addition to the framework agreement), etc.; and
    - Each appointed supplier / service provider must be issued with a copy of the framework agreement.
17. In the case of a framework agreement wherein all the terms and conditions are clearly defined or the scope of goods / works / services is fully developed at the time of

arranging the framework agreement, contracts will be created through the issuing of official written orders. Such orders to be issued as and when the relevant goods / works / services are required if the arrangement of the framework agreement resulted a single supplier / service provider being appointed. In instances where there are multiple suppliers / service providers, orders must be issued based on the criteria determined for selecting a specific supplier / service provider during the arrangement of the framework agreement. These criteria could be either on rotation, price, geographical location, etc. Suppliers / service providers should under no circumstances commence with the supply / rendering of goods / works / services without an official written order

18. In the case of a framework agreement wherein all the terms and conditions are not clearly defined or the scope of work is not fully developed at the time of arranging the framework agreement, e.g. in engineering and construction related works, then the qualifying bidders are required to compete for the specific goods / works / services when such are required through a limited or closed bidding process. This process could take the form of quotations, and would usually be for the rates / work items not included in the original procurement process.
19. This second stage limited bidding would also allow for adjustments to P&G items affected by the duration, location, complexity, and other relevant factors. The relevant evaluation criteria which are in compliance with the terms and conditions of the framework agreement must be adhered to in evaluating the responses of suppliers / service providers and making an award of contract.
20. Such evaluation and adjudication must be undertaken by the standing bid evaluation and adjudication committees of the procuring entity where the value of the goods / works / services exceeds the threshold for quotations, currently set at R 300 000. In instances where the value is below the threshold for quotations, the evaluation and adjudication must be undertaken in terms of the procedures prescribed by the municipality for dealing with quotations.

21. The successful supplier / service provider must be issued with a formal letter of award of contract but must only commence with the supply or works upon receipt of an official written order.
22. The accounting Officer or delegated Official must report all finalised framework agreements to Provincial Treasury within ten (10) working days of finalisation / approval by the Accounting Officer. Such report should, at a minimum, include:-
    - the name/description of the framework agreement,
    - nature/scope of the goods / works / services covered,
    - commencement and expiry dates,
    - copy of the framework agreement and supporting documents,

61. Treasury on measures for Coronavirus COVID-19 and any other health emergency procurement

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1) In response to the changing demand and supply as well as to give effect to the strict monitoring and reporting measures required during times of emergency procurement relating to COVID-19 pandemic .

2) Elundini Municipality is fully committed to the Constitutional objective of having fair, equitable, transparent, competitive and cost-effective procurement processes that take into account the need for procuring essential health products required to fight the COVID-19 pandemic. These processes should be compliant with the government's imperatives of promoting structural transformation and broadening participation in the economy to strengthen economic development and empowerment of previously disadvantaged groups and individuals.

3) In doing so , the Elundini Municipality shall:-

   a) The Municipality may approach any supplier / manufacturer to obtain quotes and may procure from any supplier / manufacturer on condition that:-

(i) open the supply of these products to all suppliers conforming to specifications and are registered on its database and the Central Supplier database.
(ii) Procure the required PPE items and draft specifications according to the Department of Trade, Industry and Competition (DTIC), National Department of Health and World Health Organisation requirements.
(iii) the prices are equal or lower than the prices in Annexure A of MFMA Circular 102

(iv) All procured PPE items meet the requirements of Local Production and Content FOR Textile , Clothing , Footwear and Leather.

61.1.1. Procurement Value Management Intervention – Price Benchmarking For Low-Value High-Volume Goods And Services.

61.1.1.1. Municipality must make use of National Treasury Consumer Price Index as communicated through Circular No. 4 OF 2024/25- procurement value management intervention – price benchmarking for low-value high-volume goods and services

61.1.1.2. When inviting bids / quotations, attempts must be made to engage suppliers within the immediate geographical locality where the product / service / commodity is required without necessarily excluding other suppliers. In this regard the hierarchy defined in the Local Economic Development Procurement Framework should be considered, i.e. invite quotations from bidders / suppliers according to the following hierarchy:

- Step 1: Ward Level / (Select at suburb / town level if ward cannot be identified on CSD)
- Step 2: Local Municipality Level
- Step 3: District Municipality Level
- Step 4: Provincial Level
- Step 5: National Level

61.1.1.3. When procuring the municipality shall make use of latest National Treasury Price Index on all goods and services available on the Price Index .

61.1.1.4. These prices were utilised by National Treasury to determine the average prices. Thereafter the price indices were determined by adjusting the average prices to factor in logistical and other cost escalations as follows:

REGION	PERCENTAGE ADDED TO AVERAGE PRICE
Large Cities (Nelson Mandela Bay Metropolitan Municipality & Buffalo City Metropolitan Municipality) (1)	5%
Secondary Urban (Mthatha,	10%

Queenstown & Grahamstown) (2)	
EC Rural (Excluding regions 1 & 2 above)	15%

61.1.1.5. Elundini Municipality is within EC Rural Areas (all other areas) and shall not accept prices that are more than 15% above the average prices (index price for rural areas).

61.1.1.6. SCM practitioner must evaluate all bids / quotations received using other criteria stipulated in the invitation to bid / quote. Based on the results of the evaluation, identify the potential bidder / supplier to be recommended and apply the provisions of the guidelines.

61.1.1.7. When procuring a commodity that is available in the Price Index, the bid evaluation committee / SCM practitioner must determine in which region the procuring entity is situated.

61.1.1.8. The prices submitted by the preferred bidder / supplier scoring the highest number of points must then be compared against the maximum price allowed on the Price Index for the area within which the procuring entity falls. In respect of baskets of items, the prices of individual items must be compared with the Price Index.

61.1.1.9. If the price/s are above the maximum reflected in the Price Index, the offer should be considered not to be market related and unreasonable. The procuring entity must therefore:

a) negotiate, in terms of delegated authority, a market related price with the bidder / supplier scoring the highest preference points where the preference points system was applicable or who submitted the lowest acceptable quote where the preference points system is not applicable;
b) if the bidder / supplier does not agree to a market related price, negotiate a market related price with the bidder / supplier scoring the second highest preference points / or who submitted the second lowest acceptable quotation;
c) if the bidder / supplier scoring the second highest points does not agree to a market related price, negotiate a market related price with the bidder / supplier scoring the third highest preference points / or who submitted the third lowest acceptable quotation; and
d) if market related prices are not agreed to as envisaged in sub-paragraphs (a) to (c) above, the Accounting Officer must cancel the bid / quotation.

61.1.1.10. Only bid / quotation prices that fall within the maximum reflected in the Price Index should be considered as reasonable. However, if due to seasonal or market fluctuations there is a sudden change in prices or where there is a statutory change in the percentage charged for Value Added Tax (VAT) announced by the Minister of Finance, then procuring entities are allowed to consider prices that are above the benchmark prices.

61.1.1.11. In instances where prices that do not fall within the Price Index are considered, the Price Index must still be applied where possible, as a guide to determine the reasonableness of bids or quotations received. In such cases, the reasons for accepting higher prices must be clearly motivated, approved by an appropriately delegated official and placed on record for audit purposes. In instances where an award of a contract is made based on a basket of items wherein the prices of some items are above the maximum reflected in the Price Index but presents a greater value for money proposition after negotiations, such must be motivated and approved by an appropriately delegated official and filed for audit purposes.

61.1.1.12. An order should then be placed against the bidder / supplier who meets all the evaluation criteria as stipulated in the invitation to bid / quote, including the application of utilization of Price Index as outlined above.

61.1.1.13. Where items for bids or quotations invited are not contained in the Price Index, similar items on the Price Index may be used as a guide in relation to the bids or quotations received. If similar items are not contained in the Price Index, the market related prices identified during the market analysis process prior to inviting bids / quotations must be utilised to determine reasonableness of prices. Evidence of such market analysis must be recorded and placed on file for audit purposes. It must be noted that the Price Index, in the main, does not list items by brand name unless a particular brand was requested to be included therein. In the event that a branded item is sourced, the department must ensure that there is adequate motivation for selecting the particular branded product. In instances where a procuring entity elects to procure a branded commodity which has not been benchmarked, the said procuring entity must prove the reasonableness of the price at which the commodity is being procured.

61.1.1.14. The Price Index will not be applicable in the following instances:

a) In circumstances where the normal procurement processes do not apply, such as:

(i) When procuring on an urgent or emergency basis;
(ii) In the case of sole / limited provider; or
(iii) For reasons of technological necessity.

b) In these instances the authority of an appropriately delegated official must be obtained. The reasons therefore must be properly recorded and filed for audit purposes.

61.1.1.15. Accounting Officers and Accounting Authorities are also required to submit the monitoring reports to Provincial Treasury on a quarterly basis.

62. Limited Bidding

An accounting officer or accounting authority may procure goods or services by means of a limited bidding process if:

(i) a written motivation clearly indicates a limited bidding process to be the appropriate form of procurement because there is confirmed, limited competition in the supplier field, or there is the confirmed presence of a sole source in the supplier field. The motivation must include an appropriate market and expenditure analysis of the relevant goods and services. Given the exceptional nature of a limited bidding process, the motivation must, in addition to the findings, present and substantiate the methodology used for such analysis and determinations,

(ii) a competitive bidding process or invitation of quotations was initiated, but the bids received were all non-responsive or unaffordable and time is of the essence. In such cases re-invitation of bids can be limited to those suppliers who initially submitted proposals,

(iii) goods or services are designed or manufactured solely by an identified supplier or the supplier is the owner of the intellectual property necessary to create the goods or services. Written confirmation of such design, manufacturing or ownership of intellectual property must be obtained from the supplier and retained on the bid file;

(iv) there exists legislative, technological or safety requirements or standards that reasonably permit only a limited number of suppliers or contractors to meet the requirements or standards. Invitations to bid may, if desired, be limited to those proven to meet said requirements or standards. The aforementioned requirements or standards must be recorded by the institution and retained on the bid file; or

(v) the institution has a specific need and can procure for exceptionally low prices for a limited period of time from a specific supplier. Written confirmation of the offer and the reasons for it must be provided by the supplier and retained on the relevant bid file as well as an indication that other relevant suppliers could not match the offer.

63. Commencement of the SCM Policy

1) This Policy is effective from the date on which it is adopted by Council. Should any Legislation be enacted or be amended that conflicts with any part of this Policy, such Legislation will take precedence and will be implemented by the municipality without amending this Policy. Such amendment of the Policy as may be required would be done as expeditiously as possible.

2) The Municipal Manager 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 for approval.

64. Legal Implications

1) Failure to comply with the provisions of the Elundini Local Municipality SCM Policy will have the following legal implications:-
   a) Internal disciplinary actions will be taken against those found to be in violation of the Elundini Local Municipality SCM Policy.
   b) Elundini Local Municipality will open criminal cases with the South African Police Services and will take all legal action including but not limited to referring matters to the National Prosecuting Authority, the Hawks, etc. for further investigation and litigation against all employees of Elundini Local Municipality who have made the municipality to suffer financial losses as a result of their negligence and failure to implement the Elundini Local Municipality SCM Policy..

65. FINANCIAL IMPLICATIONS & CONSEQUENCES

Notwithstanding the legal implications referred to in Paragraph 64 (above):-

a) Should any Elundini Local Municipality employee or any Councillor undertake any procurement of goods or services without following the Elundini Local Municipality SCM Policy, and Elundini Local Municipality incurs costs, such costs will be recovered in full from such employee's salary, thereafter the actions referred to in Paragraph 64 ("Legal Implications") shall be implemented immediately thereafter.
b) Should Elundini Local Municipality be made to incur irregular expenditure as a result of non-compliance with the Elundini Local Municipality SCM Policy, such expenditure should be recovered in full from the affected end-user by Elundini Local Municipality.
c) Should any service provider be instructed to perform work for and on behalf of Elundini Local Municipality without an official and duly signed Purchase Order, and Elundini Local Municipality incurs costs as a result of that instruction, Elundini Local Municipality will

not honour such invoice (s) and the instructing official will pay such invoice (s) from his own salary and/or other financial means.

d) Care should be taken to ensure that all procurement is done in line with Section 217 of the South African Constitution, which requires that it ("Procurement") shall be undertaken in a manner that is (1) fair, (2) open, (3) transparent, (4) cost effective and (5) meets the value for money proposition.

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

ANNEXURE B: SCM POLICY FOR INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT AND NATIONAL TREASURY STANDARD FOR LOCAL GOVERNMENT INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT FRAMWEWORK.

ANNEXURE C: CATERING AND TRANSPORT POLICY

ANNEXURE D: CONTRACT MANAGEMENT POLICY