

4.
SUPPLY CHAIN MANAGEMENT IMPLEMENTATION REPORT – 2015/2016:
2nd QUARTER: 01 OCTOBER TO 31 DECEMBER 2015

8/2/2

C Le Roux
08 January 2016

(028) 313 8107

Corporate Head Office

1. Executive Summary

In terms of Clause 6(3) of Council's Supply Chain Management Policy, the Municipal Manager must, within 10 business days of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the Executive Mayor.

The report contains the following:

- a) awards made through the bid committee system in terms of delegated authority,
- b) deviations from and minor breaches of the Supply Chain Management Policy, respectively approved and ratified by the Accounting Officer in terms of Clause 36 of the Supply Chain Management Policy, dated 25 September 2008 as amended,
- c) the status of Objections and Complaints lodged in terms of Clause 49 of the Supply Chain Management Policy against the implementation of the supply chain management system, and
- d) the status of incidences of irregular expenditure identified to date.

2. Service Delivery and Budget Implementation Plan - IGNITE

Directorate: Finance
Department: Supply Chain Management

3. Compliance with Strategic Priorities

Provision of democratic, accountable and ethical governance
Provision and maintenance of municipal services

4. Delegated Authority

None

5. Legal Requirements

Local Government: Municipal Finance Management Act 2003, (Act 56 of 2003)
Overstrand Municipality Supply Chain Management Policy dated 25 May 2008, as amended.

6. Background/Discussion/Evaluation/Conclusion**Background**

The purpose of this report is to ensure that Council maintains oversight over the implementation of the Supply Chain Management Policy, specifically regarding the following:

- a) awards made through the bid committee system for the 2nd Quarter of the 2015/2016 financial year, 01 October to 31 December 2015;
- b) deviations in terms of Clause 36 of the Supply Chain Management Policy;
- c) minor breaches approved by the Accounting Officer in terms of Clause 36(2) of the Supply Chain Management Policy;
- d) objections and complaints received; and
- e) incidences of non-compliance and irregular expenditure identified and currently undergoing investigation.

Discussion**a) Bid Awards**

Bids are awarded in terms of Council's Supply Chain Management Policy and the preferential points system prescribed in the Preferential Procurement Policy.

All awards between R30,000 up to R10 million were approved through the bid committee system.

Procurement transactions have been processed through the bid committee system within the following timeframes:

Procurement Function	2015/2016 2 nd Quarter	2015/2016 to date	2014/2015
Bids Processed	27	58	124
Bids Processed- Average per Quarter	29	30	31
Average days from final evaluation to Bid Adjudication Committee	7	6	7
Average days from initiation to Bid Specification Committee	10	10	7
Estimated Value of Awards (R)	70 804 999.61	1 073 436 298.61	326 565 348

A schedule of these awards for the 2nd Quarter of 2015/2016 is attached as **Annexure A**.

Value of all Awards

The total value of tenders awarded by the Supply Chain Management Unit for the 2nd Quarter of 2015/2016 is:

	Operational Amount (Excluding VAT, where applicable)	Capital Amount (Excluding VAT, where applicable)	VAT @ 14%	Value of Awards (Including VAT, where applicable) for Q2
Bid Awards (27)	R 35 817 475.92	R 26 296 790.32	R 8 695 997.27	R 70 804 999.61

b) Deviations – Clause 36(1)(a)

Clause 36(1)(a) of Council's Supply Chain Management Policy allows circumstances for deviations from the procurement processes. Furthermore, the policy requires in Clause 36(2), that the reasons for any deviations from the procurement processes must be recorded and be reported to Council.

Deviations approved by the Accounting Officer or by the delegated officials were motivated in terms of the following categories for applications approved for the 2015/2016 year to date is compared to the 2014/2015 financial year as per the following schedule:

SCM Policy	Description	2015/2016 2 nd Quarter	2015/2016 to date	2014/2015
Clause 36(1)(a)(i)	Emergency	2	2	10
Clause 36(1)(a)(ii)	Sole Provider	5	10	19
Clause 36(1)(a)(iii)	Special works of Art	0	2	2
Clause 36(1)(a)(v)	Impractical Impossible	15	27	55
		22	41	86

A schedule of all Deviations approved by the Municipal Manager or by the delegated officials for the 2nd Quarter of 2015/2016 is attached as **Annexure B**.

Value of all Deviations awarded

The total value of deviations processed via the Supply Chain Management Unit for the 2nd Quarter of 2015/2016, are as follows:

	Operational Amount (Excluding VAT, where applicable)	Capital Amount (Excluding VAT, where applicable)	VAT @ 14%	Value of Awards (Including VAT, where applicable) for Q2
Deviations (22)	R 1 626 473.08	R -	R 222 804.20	R 1 849 275.28

c) Minor Breaches

The Supply Chain Management Policy states in Clause 36(1)(b) that the Accounting Officer may consider ratifying any minor breach of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

The Accounting Officer approved 1 minor breach of the Supply Chain Management Policy in the 2nd Quarter of the 2015/2016 financial year:

SCMMB #	Date approved	Description
2016/03	2015.12.24	The provision of Security (Guarding) Services for Overstrand Municipality in the Kleinmond area for the period July to September 2015.

d) Objections and Complaints – Clauses 49 & 50

In terms of Clause 49 of the SCM Policy, persons aggrieved by decisions or actions taken in the implementation of the supply chain management system, may lodge a written objection against the decision or action within 10 business days of the decision or action.

These objections must be dealt with and resolved in terms of Clause 50(1) of the SCM Policy. In terms of this, the Accounting Officer has appointed an 'appeals authority' which must strive to resolve all objections within 46 business days of receipt and report to the Accounting Officer on a monthly basis on the objections received, attended to and resolved in terms of Clause 50(3) of the Policy.

Council is hereby informed that disputes, objections, queries and complaints received during the 2nd Quarter of 2015/2016 are attached as **Annexure C**.

e) Incidences of Non-compliance and Irregular Expenditure

In terms of Section 32(4) of the Local Government Municipal Finance Management Act (56 of 2003) the Executive Mayor, inter alia, must be made aware of all possible irregular expenditure incurred by the municipality.

A register of all incidences of irregular expenditure identified and currently undergoing investigation is attached as **Annexure D**.

f) Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings

The Minister of Finance has, in terms of sections 168 and 175, of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and acting with the concurrence of the Minister of Cooperative Governance and Traditional Affairs, gazetted the Local Government: Municipal Finance Management Act, 2003, Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings in Government Notice No. R. 430 on 30 May 2014 effective from 1 June 2014.

The objective of the Regulations is to set out processes and procedures that a municipality and municipal entities must follow when dealing with allegations of financial misconduct. The regulations will apply to all officials and political office bearers within municipalities and municipal entities. (See attached **Annexure E**)

National Treasury has issued MFMA Circular No.76: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings as guidance to assist Municipalities with the implementation of the regulations. (See attached **Annexure F**)

Management has developed a process flow to guide the implementation of the regulations at Overstrand Municipality. (See attached **Annexure G**)

7. Financial Implications

None

8. Staff Implications

None

9. Comments from other Departments, Divisions and Administrations

None

10. Annexures

Annexure A: Schedule of Awards made through the Bid Committee system

Annexure B: Schedule of Deviations from the procurement processes

Annexure C: Schedule of disputes, objections, queries and complaints received

Annexure D: Schedule of Irregular Expenditure

Annexure E: Local Government: Municipal Finance Management Act, 2003, Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings

Annexure F: MFMA Circular No.76: Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings

Annexure G: Overstrand Municipality Financial Misconduct process flow

RECOMMENDATION TO THE COUNCIL:

that **cognisance be taken** of the activities undertaken and outcomes achieved in the implementation of the Overstrand Municipality Supply Chain Management Policy for the 2nd Quarter of 2015/2016.

RESPONSIBLE OFFICIAL :

C LE ROUX

TARGET DATE FOR IMPLEMENTATION :

TO BE NOTED



SUPPLY CHAIN MANAGEMENT REPORT IN TERMS OF CLAUSE 5(3) OF THE SCM POLICY

TENDERS & FORMAL WRITTEN QUOTATIONS AWARDED TO THE BIDDER SCORING THE HIGHEST POINTS AS WELL AS TENDERS CANCELLED IN TERMS OF COUNCIL'S PREFERENTIAL PROCUREMENT POLICY - OCTOBER - DECEMBER 2015

#	Tender #	Description	Date Awarded / Cancelled	Awarded to	B-BBEE Status Level	Completion Period	Unit Price	Amount Operational	Amount Capital	VAT @ 14%	Total Amount (including VAT)
1	SC1583/2015	Sale of Unregistered ERF 11456 Hermanus for Residential Purposes	2015/10/30	Leandra Minnaar	N/A	N/A	-	-	R 769 473.69	R 110 526.32	R 900 000.01
2	SC1620/2015	Mechanical, Electrical & Civil Works of Sewage pump station Hermanus	2015/10/02	Hydro-Tech Systems (Pty) Ltd	2	2016/06/30	-	-	R 1 425 468.00	R 199 555.52	R 1 625 033.52
3	SC1624/2015	Upgrading of residential roads in Mount Pleasant	2015/10/09	ATN Group (Pty) Ltd	1	2016.06.30	-	-	R 5 643 162.69	R 790 042.78	R 6 433 205.47
4	SC1626/2015	Mouning tablets for lime and attendance solution across Overstrand Municipality.	2015/10/09	DEP Technologies (Pty) Ltd	Non-compliant contributor	2017.06.30	Various	R 281 606.05	-	R 39 424.85	R 321 030.90
5	SC1632/2015	Management of Short-term insurance for Overstrand Municipality for period ending 30 June 2018	2015/10/16	Nico Swart Consultancy (Pty) Ltd	Non-compliant contributor	2018.06.30	-	R 3 927 819.00	-	R 549 964.86	R 4 477 713.86
6	SC1633/2015	Provision of hygiene Services to Overstrand Municipality for a contract period ending 30 June 2018	2015/10/23	Steiner Hygiene Services (Pty) Ltd	2	2018.06.30	Various	R 658 914.00	-	R 92 247.96	R 751 161.96
7	SC1634/2015	Provision of GIS Services in the Overstrand Municipal area for a contract period ending 30 June 2017	2015/10/23	ESRI South Africa (Pty) Ltd	3	2017/06/30	Various	R 382 100.00	-	R 53 494.00	R 435 594.00
8	SC1644/2015	Transversal: Provision of Banking Services	2015/10/30	ABSA Bank (Pty) Ltd	N/A	2017/11/30	Various	R 3 040 560.00	-	R 425 678.40	R 3 466 238.40
9	SC1673/2015	Protective clothing and uniforms for Protection Services 1 July 2015 - 30 June 2018	2015/11/26	Cancelled - Validity period expired	N/A	N/A	-	-	-	-	-
10	SC1679/2015	Traffic speed measuring, fixed cameras for speed, number plate recognition system & back office for fine collection	2015/11/12	TMT Services & Supplier (Pty) Ltd	2	2019/03/31 + 18 Month "dry run"	AARTO- R 40.00 Non-AARTO- R 72.90	R 11 916 000.00	-	R 1 668 240.00	R 13 584 240.00
11	SC1622/2015	Upgrading of Medium & Low Voltage network in Blompark, Gansbaai, Franskraal & Standford	2015/11/12	Adenco Construction (Pty) Ltd	2	2016/08/31	-	-	R 6 862 353.50	R 960 729.49	R 7 823 082.99
12	SC1629/2015	Upgrading of the Existing Boundary Wall at the Zweithe Sportsground, Phase 2	2015/11/06	Masando Trading CC	Non-compliant contributor	2016/06/30	-	R 250 000.00	-	R 35 000.00	R 285 000.00
13	SC1630/2015	Hiring of sewerage vacuum tankers for: period 1 December 2015 to 30 November 2016	2015/11/06	Cancelled - Incorrect Preference Points System Applied	N/A	N/A	-	-	-	-	-
14	SC1635/2015	Lease of Refreshment Kiosks: Palmier Caravan Park, Kleinmond Lease of Refreshment Kiosks: Onrus Caravan Park Onrus River	2015/11/27	Duwayne de la Guerre Andrew Sales	N/A	2018/06/30	R 684.00 R 1 140.00	R 23 252.72 R 38 821.20	-	R 3 260.86 R 5 434.97	R 26 553.70 R 44 256.17
15	SC1638/2015	Upgrading of the Pre-treatment Process of the Pearly Beach WWTP	2015/11/20	Cancelled - Incorrect Preference Points System Applied	N/A	N/A	-	-	-	-	-
16	SC1646/2015	Training in the Application of Health and Safety Legislation and Principles regarding Hazardous Substances in the Workplace	2015/11/20	Cancelled - No responsive bids received	N/A	N/A	-	-	-	-	-
17	SC1652/2015	Training of Chainsaw Operators	2015/11/20	Cancelled - No responsive bids received	N/A	N/A	-	-	-	-	-



SUPPLY CHAIN MANAGEMENT REPORT IN TERMS OF CLAUSE 5(3) OF THE SCM POLICY

TENDERS & FORMAL WRITTEN QUOTATIONS AWARDED TO THE BIDDER SCORING THE HIGHEST POINTS AS WELL AS TENDERS CANCELLED IN TERMS OF COUNCIL'S PREFERENTIAL PROCUREMENT POLICY- OCTOBER - DECEMBER 2015

#	Tender #	Description	Date Awarded / Cancelled	Awarded to	B-BBEE Status Level	Completion Period	Unit Price	Amount Operational	Amount Capital	VAT @ 14%	Total Amount (including VAT)
18	SC1657/2015	Amendment: The provision of additional Novel Licenses	2015/11/12	Lateral Dynamics (Pty) Ltd	N/A	2017/11/30	-	R 107 120,00	R 156 040,00	R 36 842,40	R 300 002,40
19	SC1658/2015	Transversal: Supply and Delivery of Protective Clothing to Overstrand Municipality for a period ending 31 March 2016	2015/11/26	FG Uniforms CC	N/A	2016/03/31	-	R 172 947,28	-	R 24 212,62	R 191 896,00
20	SC1659/2015	Transversal: Traffic Speeding Measuring Services and Back Office Support	2015/11/23	Integral Safety Products (Pty) Ltd	N/A	2016/03/31	AARTO- R 24,50 Non-AARTO- R 86,54	R 1 100 000,00	-	R 45 441,58	R 370 024,30
21	SC1660/2015	Appointment of Professionals	2015/12/04	Engelbrecht & Scorge Architectural	4	2018/06/30	Various	R 1 106 413,18	-	R 154 887,64	R 1 261 311,00
				CSM Consulting Services	2						
				Jacaps Architects and Urban Design	2						
22	SC1645/2015	Rehabilitation of Existing paved roads in Zwelitse - Phase 1	2015/12/04	Bergstein South Africa Consulting & De	3	2016/08/30	-	-	-	-	-
				Waterson Hoosain CC t/a LWA Quant	1						
23	SC1642/2015	Accommodation of impounded Cals and Dogs for a contract period ending 30 June 2018.	2015/12/15	Wexan Building & Civil Construction CC	1	2016/08/30	-	-	R 4 457 963,54	R 624 114,90	R 5 082 078,44
24	SC1643/2015	Provision of alarm systems for Overstrand Municipality for a contract period ending 30 June 2018	2015/12/15	Bikerhead Animal Rescue Centre (BARC) - Gansbaai/Stanford	Non-compliant Contributor	2018/06/30	Various	R 1 002 231,40	-	-	-
				Hermanus Animal Welfare Society (HAWS) - Hermanus	Non-compliant Contributor	2018/06/30	Various	-	-	R 140 312,40	R 1 142 543,80
25	SC1649/2015	Online Subscription for Access to Legal Information	2015/12/15	ADT Security (Pty) Ltd	6	2018/06/30	Various	R 671 534,69	-	R 94 014,86	R 765 549,55
26	SC1650/2015	Provision of small works and maintenance as and when needed, for a contract period ending 30 June 2018	2015/12/17	Secma International Security (Pty) Ltd	Non-compliant Contributor	2018/06/30	Various	R 216 492,11	-	-	-
27	SC1656/2015	Lease of a portion of ERF 830, Hermanus, known as "Blenliang's Cave", for the operation of a restaurant	2015/12/15	Lewis Nexis (Pty) Ltd	3	2017/11/30	Various	R 10 595 041,60	-	-	-
				Blenliang's Cave CC	N/A	2025/12/31	R 43 000,00	-	R 6 962 328,90	R 974 726,05	R 7 937 054,94
								R 35 817 475,92	R 29 296 790,32	R 8 695 897,27	R 70 804 999,61

Annexure A
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DEVIATIONS FROM THE POLICY, APPROVED IN TERMS OF CLAUSE 36(1)(a) FOR THE QUARTER- OCTOBER TO DECEMBER 2015

#	Deviation #	Date Approved	Deviation in terms of Clause 36(1)(a)	Description	Responsible Official	Awarded to	Amount Operational	Amount Capital	VAT @ 14%	Value of the Deviation
1	SCD2846	2015/10/25	Clause 36(1)(a)(v)	Renting of marquee tent at the Hermanus Whale Festival	Manager: Communications, Zwent N	Hermanus Whale Festival	R 7 995,00		R -	R 7 995,00
2	SCD2847	2015/10/21	Clause 36(1)(a)(v)	Exhibition at The Beeld Holiday Show from the 26 - 28 February 2016	Acting Manager : Tourism, Kurtz J	Beeld Holiday Show	R 16 938,00		R 2 371,32	R 19 309,32
3	SCD2848	2015/10/13	Clause 36(1)(a)(ii)	Calibration and servicing of equipment used in the roadway test centre	Chief, Traffic Services, Fraser R	Workshop Electronics CC	R 3 262,50		R 415,80	R 3 678,30
4	SCD2851	2015/10/29	Clause 36(1)(a)(v)	Overhauling of the Nissan UD 70 sewerage truck (CEM 21722) and the Mercedes Benz fire truck (CEM 21662) engines.	Acting Manager : Fleet, Frans F	SPME Industries (Pty) Ltd	R 103 024,51		R 14 423,29	R 117 446,80
5	SCD2852	2015/10/21	Clause 36(1)(a)(v)	Attending a conference for occupational health nursing practitioners and registered members of SASOHN on the 4 - 6 November 2015	Senior Manager: Human Resources, Buccianeri L	South African Society of Occupational Health Nursing (SASOHN)	R 3 710,00		R -	R 3 710,00
6	SCD2853	2015/10/21	Clause 36(1)(a)(v)	Legalisation of LP gas system in the Banqueting Hall in terms of SANS 10087-1	Area Manager: Hermanus, Kearny D	MG Electrical	R 6 250,00		R -	R 6 250,00
7	SCD2855	2015/10/26	Clause 36(1)(a)(v)	Attending of a fire and emergency conference	Chief, Fire, Rescue and Disaster Management, Smith L	IMD Conferences, Exhibitions and Workshops, (PTY) Ltd	R 13 200,00		R 1 848,00	R 15 048,00
8	SCD2857	2015/10/29	Clause 36(1)(a)(v)	Attendance of a conference provided by the Institute for Municipal Engineering of South Africa	Senior Manager: Gansbaai Administration, Myburgh F	Institute of Municipal Engineering of South Africa	R 5 482,46		R 767,54	R 6 250,00
9	SCD2849	2015/11/16	Clause 36(1)(a)(ii)	Refurbishment of Verotest cable locator due to the hardware changes and software upgrades	Senior Manager: Electro Technical Services, Du Plessis K	Verotest (Pty) Ltd	R 6 892,20		R 964,91	R 7 857,11
10	SCD2850	2015/11/16	Clause 36(1)(a)(ii)	Servicing of the baler at the Gansbaai material recovery facility at the Gansbaai landfill site.	Deputy Director: Engineering Planning, Blignaut H	Akura Manufacturing Engineering Company (Pty) Ltd	R 2 725,00		R 362,00	R 3 106,00
11	SCD2854	2015/11/17	Clause 36(1)(a)(v)	Attending a conference on Municipal Finance : Financial Sustainability of utilities and special rating areas, by eight municipal officials	Senior Manager: Human Resources, Buccianeri L	IMFO (Institute of Municipal Finance Officers)	R 4 912,28		R 687,72	R 5 600,00
12	SCD2858	2015/11/24	Clause 36(1)(a)(ii)	Seminar training for two municipal officials.	Senior Manager: Human Resources, Buccianeri L	NOSA (Pty) Ltd	R 27 938,60		R 3 911,40	R 31 850,00
13	SCD2859	2015/11/20	Clause 36(1)(a)(i)(a)(ii)	Locating of a cable fault between Phumlani minibus and Madellele minibus	Senior Manager: Electro Technical Services, Bruwer F	Caltest CC /va Protection Testing	R 4 997,95		R 699,65	R 5 696,70



**SUPPLY CHAIN MANAGEMENT REPORT IN TERMS OF CLAUSE 6(3) OF THE SCM POLICY
DEVIATIONS FROM THE POLICY, APPROVED IN TERMS OF CLAUSE 36(1)(a) FOR THE QUARTER- OCTOBER TO DECEMBER 2015**

#	Deviation #	Date Approved	Deviation in terms of Clause 36(1)(a)	Description	Responsible Official	Awarded to	Amount Operational	Amount Capital	VAT @ 14%	Value of the Deviation
14	SCD2860	2015/11/24	Clause 36(1)(a)(v)	Hiring of sewerage vacuum tankers for the Kleinmond and Gansbaai areas from 1 December 2015 – 31 January 2016	Deputy Director : Operational Services , Bartman M	Abaphumeleli Trading 651 CC t/a Pollution Control Services	R 486 701.75		R 68 138.25	R 554 840.00
15	SCD2860a	2015/12/11	Clause 36(1)(a)(v)	Hiring of sewerage vacuum tankers for the Kleinmond and Gansbaai areas from 1 December 2015 – 31 January 2016 - AMENDMENT OF TOTAL VALUE	Deputy Director : Operational Services , Bartman M	Abaphumeleli Trading 651 CC t/a Pollution Control Services	R 244 231.58		R 34 192.42	R 278 424.00
16	SCD2860b	2015/12/22	Clause 36(1)(a)(v)	Hiring of sewerage vacuum tankers for the Kleinmond and Gansbaai areas from 22 December 2015 to 5 January 2016	Deputy Director : Operational Services , Bartman M	Jelvac South Africa (Pty) Ltd	R 270 000.00		R 37 800.00	R 307 800.00
17	SCD2860c	2015/12/29	Clause 36(1)(a)(v)	Hiring of sewerage vacuum tankers for Kleinmond and Gansbaai Area from 22 December 2015 – 05 January 2016 - AMENDMENT OF TOTAL VALUE	Deputy Director : Operational Services , Bartman M	Jelvac South Africa (Pty) Ltd	R 371 250.00		R 51 975.00	R 423 225.00
18	SCD2861	2015/12/01	Clause 36(1)(a)(v)	Attending of training seminar for mobile cyber defence strategies : protective mobile devices for three municipal officials	Senior Manager, Human Resources, Buccianteri L	Ekwinox CC	R 16 770.00		R -	R 16 770.00
19	SCD2862	2015/11/30	Clause 36(1)(a)(v)	Attending of WISA 2016 Conference and Exhibition by two municipal officials	Deputy Director: Engineering Planning, Blignaut H	Water Institution of South Africa	R 13 859.65		R 1 940.35	R 15 800.00
20	SCD2863	2015/12/10	Clause 36(1)(a)(ii)	Repair of the SCADA system	Senior Manager: Electrochemical Services, du Plessis J	Spectrum Communications (Pty) Ltd	R 5 530.00		R 774.20	R 6 304.20
21	SCD2864	2015/12/07	Clause 36(1)(a)(a)(i)	Locating of a cable fault between Sandbaai Switching Station Eskom 6 feeder and Eskom Distributor Substation	Senior Manager: Electrochemical Services, du Plessis J	Calltest CC t/a Protection Testing	R 5 772.50		R 808.15	R 6 580.65
22	SCD2865	2015/12/14	Clause 36(1)(a)(v)	The identification and repair of faults (strip-and-quote) with CEM15338 Cherry Picker	Manager: Housing, Frans F	Hydreco (Pty) Ltd	R 5 030.00		R 704.20	R 5 734.20
							R 1 625 473.08	R -	R 222 804.20	R 1 849 275.28



**SUPPLY CHAIN MANAGEMENT
APPEALS / COMPLAINTS / DISPUTES / QUERIES REGISTER - 2015/2016**

#	TENDER NO	Date Advert closed	Evaluation Date	Adjudication Date	Description	Awarded to	Complainant	Appeal / Complaint / Dispute / Query	Date received	Where in process	Date of Outcome	Outcome
1	SC 1593/2015	2015/05/29	2015/10/15	2015/10/30	Sale of art 11456 Hermanus	L Minnaar	TL Havenga	Appeal against the fairness evaluation of the offers	2015/11/12	Refer to Section 62 appeal		
2	SC 1578/2015	2015/05/08	2015/11/05	2015/11/12	Traffic Speed Measuring, cameras and back office for fire collection in the Overstrand	TMT Services (Pty) Ltd	Syntell (Pty) Ltd	Appeal against the awarding of tender to TMT Services	2015/11/30	Refer to Section 62 appeal		
3	SC 1566/2015	2015/07/17	2015/11/26	2015/12/04	Appointment of Architects, Architectural Technologists, structural engineers and Quantity Surveyors	Engelbrecht & Scorgie	John. C. Pfeiffer Architecture	Appeal against the awarding of tender to Engelbrecht & Scorgie	2015/12/15	Refer to Section 62 appeal		

Supply Chain Management Policy															
Irregular Expenditure Incurred in terms of Paragraph 36(2)															
Register 2015/2016															
SCME #	Date of Discovery	Date Reported to the Accounting Officer	Date of Memo	Received	Date approved for payment	Report to Council	Not Tress	Description	Type of Prohibited Expenditure	Awarded to	Responsible Directorate	Amount Capital	Amount Operational	VAT @ 14%	Total
i. Incidences identified and currently under investigation															
2015006	2015/04/10	2015/08/17	2015/04/10 (Updated: 2015/05/13)	2015/04/10	2015/06/17	2015/10/28	2015/06/30	Provision of food to fire department officials who were suppressing fires which occurred over the period of February and March 2015	SCM Clause 16	Gilbert's Catering (Pty) Ltd	Protection and Security Services	R -	R 6 200.00	R -	R 6 200.00
2015007	2015/06/29	2015/06/30	2015/06/29	2015/06/29	2015/06/30	2015/10/28	2015/06/30	This rental of medical oxygen cylinders for use at the beaches in Hermanus and Kleinmond	SCM Clause 16	African Oxygen Limited Ite Alrox	Community services / Protection and Security Services	R -	R 7 404.00	R 1 036.56	R 8 440.56
2015008	2015/06/29	2015/06/30	2015/06/29	2015/06/29	2015/06/30	2015/10/28	2015/06/30	The supply and delivery of newspapers to the Hawston Library for the period September to December 2014, without following the official procurement process	SCM Clause 16	Beach Road Cafe	Community Services	R -	R 1 412.30	R 197.72	R 1 610.02
ii. Investigation reports received for consideration in terms of the MFMA Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings															
2015001	2014/06/26	2014/12/29	2014/06/20	2014/07/09	2014/07/02	2015/04/29	2014/12/29	The execution of a controlled fire in Kleinmond for training purposes, by a suitably qualified service provider, without following the official procurement process, or, the timely application and approval of a deviation in terms of Paragraph 36 of the SCM Policy	SCM Clause 17	FFA Assets (Pty) Ltd	Infrastructure and Planning	R -	R 3 867.41	R 541.44	R 4 408.85
2015002	2014/10/02	2014/12/29	2014/11/18	2014/10/02	N/A	2015/04/29	2014/12/29	The provision of security services for various sites and properties controlled by Overstrand Municipality, without following the official procurement process, or, the timely application and approval of a deviation in terms of Paragraph 36 of the SCM Policy. <i>Note: This is a historical matter, with the irregular expenditure dating back to 2008, since the adoption of the first Supply Chain Management Policy.</i>	SCM Clause 19	Various Contractors	Community Services	R -	R 784 000.00	R 109 760.00	R 893 760.00
2015003	2014/10/02	2014/12/29	2014/11/18	2014/10/02	N/A	2015/04/29	2014/12/29	The provision of a mobile link between the municipality's card payment machines and the bank, as required in terms of the agreement with ABSA, without following the official procurement process, or, the timely application and approval of a deviation in terms of Paragraph 36 of the SCM Policy	SCM Clause 18	Xlink (Pty) Ltd	Finance	R -	R 47 600.00	R 6 703.20	R 54 303.20
iii. Incidences received, consideration and condoned in terms of clause 39(1)(d) of the Overstrand Municipality SCM Policy															
2016004	2015/10/23	2015/11/18	2015/11/24	2015/11/24	2015/11/24	In Process	In Process	The Supply and Delivery of cement to Kleinmond administration by the incorrect supplier, and not the one identified through the official procurement process.	SCM Clause 16	Kleinmond Bouwhandel	Community Services	R -	R 2 329.95	R 326.05	R 2 655.00

NOTE: Council is informed that incidences reported in the first quarter's SCM implementation report (those listed in i. and ii. above) are still under investigation due to the municipality having first sought clarity regarding the interpretation, implementation and impact of the Municipal Finance Management Regulations on Financial Misconduct Procedures and Criminal Proceedings and National Treasury MFMA Circular No. 76 (published during October 2015).

i.
ii.
iii.

GOVERNMENT NOTICE**NATIONAL TREASURY****CORRECTION NOTICE**

In Ordinary (National) Government Gazette No. 37682, of 30 May 2014, Government Notice No. 425 is hereby withdrawn and replaced with the following:

No. R. 430

30 May 2014

LOCAL GOVERNMENT: MUNICIPAL FINANCE MANAGEMENT ACT, 2003**MUNICIPAL REGULATIONS ON FINANCIAL MISCONDUCT PROCEDURES AND CRIMINAL PROCEEDINGS**

The Minister of Finance has, in terms of sections 168 and 175, of the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and acting with the concurrence of the Minister of Cooperative Governance and Traditional Affairs, made the regulations as set out in the Schedule.

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CHAPTER 1 INTERPRETATION

Definitions

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

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

“**designated official**” means the official identified in a municipality or municipal entity to receive reports of allegations of financial offences against councillors or members of the board of directors of municipal entities;

“**disciplinary board**” means a disciplinary board established in terms of regulation 4(1) or a disciplinary board of a district municipality or provincial structure referred to in regulation 4(8);

“**financial misconduct**” means any act of financial misconduct referred to in—

- (a) section 171 of the Act committed by an official of a municipality; or
- (b) section 172 of the Act committed by an official of a municipal entity;

“**financial offence**” means any offence referred to in section 173 of the Act committed by—

- (a) an official of a municipality or municipal entity;
- (b) a councillor of a municipality;
- (c) a member of the board of directors of a municipal entity; or
- (d) any other person;

“**investigator**” means the board, treasury, person or team conducting a full investigation in terms of regulation 5(4).

CHAPTER 2 FINANCIAL MISCONDUCT PROCEDURES

Application of Chapter

2. This Chapter applies to alleged financial misconduct.

Reporting of allegations of financial misconduct

3. (1) Any person must report an allegation of financial misconduct against—
- (a) the accounting officer, a senior manager or the chief financial officer of a municipality, to the municipal council of the municipality, the provincial treasury and the national treasury;
 - (b) an official of a municipality other than its accounting officer, to that accounting officer;
 - (c) the accounting officer of a municipal entity, to the chairperson of the board of directors, the mayor and the accounting officer of the entity's parent municipality;

- (d) an official of a municipal entity other than its accounting officer, to that accounting officer.
- (2) The mayor, the accounting officer or chairperson of the board of directors, as the case may be, must table an allegation referred to in sub-regulation (1) before the municipal council or, board of directors in the case of municipal entities, not later than seven days after receipt thereof or at the next sitting of the council or the board of directors.
- (3) The person to whom an allegation of financial misconduct has been reported in terms of sub-regulation (1) must ensure that the report is treated in a confidential manner.
- (4) This regulation must not be read as preventing a person from laying a criminal charge with the South African Police Service against any councillor, member of the board of directors of a municipal entity, or official of a municipality or municipal entity in relation to any conduct that may constitute an offence in terms of Part 2 of Chapter 15 of the Act.
- (5) An official against whom an allegation of financial misconduct is made must be given an opportunity to make written representation to the municipality or municipal entity as to why he or she should not be suspended, within seven days of being notified of the allegation.

Establishment of disciplinary board and its functioning

4. (1) A municipal council or board of directors of a municipal entity must establish a disciplinary board to investigate allegations of financial misconduct in the municipality or municipal entity, and to monitor the institution of disciplinary proceedings against an alleged transgressor.
- (2) A disciplinary board is an independent advisory body that assists the council or the board of directors with the investigation of allegations of financial misconduct, and provide recommendations on further steps to be taken regarding disciplinary proceedings, or any other relevant steps to be taken.
- (3) A disciplinary board must consist of maximum five members appointed on a part-time basis by the council or board of directors for a period not exceeding three years, in accordance with a process as determined by the municipal council or board of directors.
- (4) A member of a disciplinary board must-
- be a natural person;
 - be a citizen or permanent resident of the Republic and resident in the province where the municipality is situated; and
 - not be disqualified under sub-regulation (5).
- (5) The following persons are disqualified from membership of a disciplinary board:
- a person who has been convicted of an offence in terms of this regulation or any other legislation;

- (b) a person who, whether in the Republic or elsewhere, has been convicted of theft, fraud, forgery, the uttering of a forged document or any offence of which dishonesty is an element;
- (c) a person who has at any time been removed from any office of trust on account of misconduct or dishonesty;
- (d) an accounting officer of a municipality or municipal entity;
- (e) a political office-bearer or a member of a board of directors; and
- (f) a person who is an office-bearer in a political party.

- (6) A disciplinary board may consist of-
- (a) the head of the internal audit unit within the municipality or municipal entity or representative of an organisation performing internal audit functions for the municipality or municipal entity if the internal audit function is outsourced;
 - (b) one member of the Audit Committee of the municipality or municipal entity;
 - (c) a senior manager from the legal division in the municipality or municipal entity;
 - (d) a representative of the National Treasury or the provincial treasury; and
 - (e) any other person as may be determined by the municipal council or board of directors of a municipal entity.

(7) If an official referred to in sub-regulation (6)(a) or (c) is implicated in the financial misconduct, the municipality or municipal entity may co-opt a senior manager in another unit, who does not have a conflict of interest.

(8) If a municipality or municipal entity does not have sufficient capacity to establish a disciplinary board, a disciplinary board established by a district municipality or an equivalent provincial or national structure established for a similar purpose may, with approval of the district municipality or provincial or national structure, be used as a disciplinary board for the municipality or municipal entity.

Preliminary investigation of allegations of financial misconduct

5. (1) On receiving a report in terms of regulation 3(1), if the municipal council, board of directors or accounting officer of the municipality or municipal entity, is satisfied that there is reasonable cause to believe that an act of financial misconduct has been committed, it must within seven days refer the matter to the disciplinary board to conduct a preliminary investigation into the allegation as envisaged in terms of section 171(4)(a) or 172(3)(a) of the Act.
- (2) A disciplinary board must conduct a preliminary investigation to determine whether or not the allegation is founded and make a recommendation to the council or board of directors as to whether sufficient grounds exists to warrant a full investigation into the allegation.
- (3) If, during a preliminary investigation, the disciplinary board determines that the allegation is frivolous, vexatious, speculative or obviously unfounded, the investigation must be terminated.
- (4) If the disciplinary board determines that the allegation is founded, a full investigation must be conducted by-
- (a) the disciplinary board;
 - (b) the provincial treasury or the National Treasury, but only if the conditions specified in regulation 19 apply; or

- (c) where the cost, the seniority of the alleged transgressor and the seriousness or sensitivity of investigating the alleged financial misconduct, warrants such a step, by—
- (i) a person appointed by the council or board of directors who has appropriate specialist expertise and who is not an official of the municipality or municipal entity; or
 - (ii) an independent team of investigators appointed by the council or the board of directors;
- in accordance with the applicable supply chain management prescripts.
- (5) A team of investigators appointed in terms of sub-regulation (4)(c)(ii) may include—
- (a) a person, other than an official of the municipality or municipal entity, with appropriate specialist expertise, designated by the municipal council or the board of directors; or
 - (b) an official of the department responsible for local government in the relevant province, designated by the department; or
 - (c) an official of the provincial treasury or the National Treasury, designated by the relevant treasury.
- (6) The investigator or investigating team appointed in terms of sub-regulation (4)(c) must, within a period of 30 days of the appointment, submit a report with recommendations to the mayor or accounting officer as may be appropriate.

Investigation of allegation of financial misconduct and submission of reports

6. (1) A municipality or municipal entity must develop terms of reference for an investigation, in terms of regulation 5, within seven days of receipt of a referral from a disciplinary board for approval by the council or the board of directors.
- (2) If the council or the board of directors has not acted on the recommendation by the disciplinary board that the financial misconduct is founded and sufficient grounds exist to warrant a full investigation into the allegation, the disciplinary board may request the provincial treasury or the National Treasury for assistance and a possible intervention in terms of regulation 19.
- (3) After completion of a full investigation, the investigator must—
- (a) compile a report on the investigation;
 - (b) submit its report to the mayor or the chairperson of the board of directors and the accounting officer together with its findings and recommendations, if applicable, regarding disciplinary steps that should be taken against the alleged transgressor; and
 - (c) immediately inform the speaker of the council of the submission of the report referred to in paragraph (b), and also submit a copy of the report to the provincial treasury and the National Treasury.
- (4) The mayor, speaker, accounting officer or the chairperson of the board of directors must table the report of the investigation referred to in sub-

regulation (3)(b) in the council or the board of directors at the first sitting after the report is finalised.

(5) If the report that is tabled in the council or the board is amended, the person tabling the report must provide written reasons for the amendments to the council or the board.

(6) If the findings or recommendations of the report referred to in sub-regulation (3)(b) are rejected by the council or the board, reasons for the rejection must be provided to the investigator within five days of the rejection.

(7) Where the recommendations of the report referred to in sub-regulation (3)(b) regarding disciplinary steps against the alleged transgressor are not implemented, the investigator must notify the provincial treasury and the National Treasury for a possible intervention in terms of regulation 19.

(8) If the investigator recommends that disciplinary proceedings be instituted against the alleged transgressor the council or board of directors must by way of resolution institute the disciplinary proceedings-

- (a) in the case of a senior manager, in accordance with the Local Government: Disciplinary Codes and Procedures for Senior Managers Regulations made in terms of the Municipal Systems Act; or
- (b) in the case of an official who is not a senior manager, in accordance with the applicable collective bargaining agreement concluded in the bargaining council established for municipalities and municipal entities.

(9) Where the alleged transgressor is found guilty of financial misconduct after the disciplinary proceedings, he or she may not be re-employed in any municipality for a period of ten years as provided in section 57A(3) of the Municipal Systems Act.

Purpose of investigations

7. An investigation in terms of regulations 5 and 6 must establish-
- (a) whether the allegation of financial misconduct has any substance; and
 - (b) if it has substance, whether sufficient grounds exist for instituting disciplinary proceedings against the alleged transgressor.

CHAPTER 3 CRIMINAL PROCEEDINGS

Application of Chapter

8. This Chapter applies to alleged financial offences.

Reporting of allegations of financial offences

9. (1) Any person may report an allegation of a financial offence against-

- (a) a councillor of a municipality, to the designated official, the Minister of Finance and the MEC for finance;
- (b) the speaker of a municipality, to the mayor of the municipality;
- (c) a member of the board of directors of a municipal entity, to the designated official or, if the designated official is implicated, to the mayor and the accounting officer of the entity's parent municipality.

(2) An allegation referred to in sub-regulation (1)(a) or (b) must be dealt with in terms of the Code of Conduct for Councillors in Schedule 1 to the Municipal Systems Act.

(3) An allegation referred to in sub-regulation 1(c) must be dealt with in terms of the Code of Conduct for directors and members of staff of municipal entities in section 93L of the Municipal Systems Act.

Reporting of alleged financial offence to South African Police Service

10. (1) Where a financial offence has been committed by any person referred to in section 173 of the Act, the accounting officer or, if the accounting officer is involved, the municipal council or board of directors of the municipal entity, as the case may be, must report the alleged financial offence to the South African Police Service.

(2) If there is a likelihood of further financial loss for a municipality or municipal entity as a result of a financial offence, the accounting officer, council or board of directors must report the matter without delay to the South African Police Service and not await the completion of any investigation referred to in regulations 5 and 6 related to the financial offence.

(3) Where a financial offence is successfully prosecuted, the judgment must be reported to the National Treasury, together with full details of the convicted person, the name of the municipality where the offence was committed and the sanction that was imposed.

Allegations of financial offences not amounting to breaches of Code of Conduct for Councillors

11. (1) The designated official must, on receipt of a report of alleged financial offence referred to in section 173(4) or (5) of the Act by a councillor—

- (a) authorise an investigation of the facts and circumstances of the alleged financial offence; and
- (b) give that councillor an opportunity to make, within five days, a written submission with regard to the alleged financial offence.

(2) As soon as the designated official has complied with sub-regulation (1), the designated official must submit a report, within five days of completing the investigation, on the outcome of the investigation to the municipal council.

(3) The designated official must ensure that the public has access to the report referred to in sub-regulation (2).

(4) The designated official must, within five days of submitting the report to council, submit the report on the outcome of the investigation to—

- (a) the MEC for finance in the province;
- (b) the MEC for local government in the province;
- (c) Minister of Finance, and
- (d) Minister responsible for local government.

Allegations of financial offences not amounting to breaches of Code of Conduct for members of the board of directors of municipal entities

12. (1) The designated official must, on receipt of a report of alleged financial offence referred to in section 173(5) of the Act by a member of the board of directors or any other person referred to in that section—

- (a) authorise an investigation of the facts and circumstances of the alleged financial offence; and
- (b) give that member of the board of directors or other person the opportunity to make, within five days, a written submission with regard to the alleged financial offence.

(2) As soon as the designated official has complied with sub-regulation (1), the designated official must, within five days of completing the investigation, submit a report on the outcome of the investigation to the board of directors.

(3) The designated official must ensure that the public has access to the report referred to in sub-regulation (2).

(4) The designated official must, within five days of submission to the board of directors, furnish a report on the outcome of the investigation to—

- (a) the board of directors;
- (b) the municipal council of the entity's parent municipality;
- (c) the MEC for finance in the province;
- (d) the MEC for local government in the province;
- (e) the Minister of Finance; and
- (f) the Minister responsible for local government

CHAPTER 4

GENERAL

Application of Chapter

13. This Chapter applies to alleged financial misconduct and financial offences.

Preparation of information document on alleged financial misconduct and financial offences

14. (1) The municipality or municipal entity must prepare an information document on any alleged financial misconduct or financial offence stating—
- (a) the name and position of the person against whom the allegation was made;
 - (b) a summary of the facts and circumstances of the alleged financial misconduct or financial offence, including the monetary value involved;
 - (c) any disciplinary steps taken or to be taken against the person concerned, or if no disciplinary steps have been or are to be taken, the reasons for that decision;
 - (d) in the case of a financial offence, the case number issued by the South African Police Service; and
 - (e) any steps taken or to be taken to recover any unauthorised, irregular or fruitless and wasteful expenditure incurred as a result of the alleged financial misconduct or financial offence in terms of section 32 of the Act.
- (2) The municipality or municipal entity must within five days of finalising the information document submit it, together with any investigation report compiled in terms of regulation 5 and 6 to—
- (a) the mayor of the municipality;
 - (b) the accounting officer of the parent municipality;
 - (c) the chairperson of the board of directors;
 - (d) the MEC for local government in the province;
 - (e) the national department responsible for local government;
 - (f) the provincial treasury;
 - (g) the National Treasury; and
 - (h) the Auditor-General;

Tabling of information document in municipal council or board of directors of municipal entities

15. (1) The mayor of a municipality or the chairperson of the board of directors must table the information document submitted in terms of regulation 14(2) in the municipal council or the board of directors at the first meeting of the council or the board of directors after receipt of the document.
- (2) Any resolutions taken by the municipal council or the board of directors relating to the information document referred to in sub-regulation (1) must be reported to the provincial treasury and the national treasury.
- (3) If the mayor, the accounting officer or the chairperson of the board of directors, as the case may be, is of the view that the alleged financial misconduct or financial offence may have a significant impact on the finances of the municipality, and that the funds need to be recovered from the alleged transgressor concerned, the mayor must request the speaker of the municipal council to convene a special meeting of the council to discuss the recoverability of the funds in accordance with section 32 of the Act.

Reports on disciplinary proceedings and criminal charges

16. (1) The municipality or municipal entity must report to the institutions referred to in regulation 14(2) (a) to (h)–
- (a) any decision to institute or not to institute disciplinary proceedings against the person who allegedly committed a financial misconduct;
 - (b) the reasons for the decision;
 - (c) the outcome where disciplinary proceedings have been instituted; and
 - (d) whether a charge has been laid against the person concerned with the South African Police Service, if the alleged financial misconduct constitutes a financial offence in terms of section 173 of the Act.
- (2) Municipalities and municipal entities must report on all suspensions, disciplinary or criminal proceedings instituted in cases of financial misconduct in their annual reports.

Procedures for confidential reporting financial misconduct and financial offence

17. (1) A municipality must–
- (a) establish reporting procedures for persons to report allegations of financial misconduct and financial offences on a confidential basis; and
 - (b) make public the reporting procedures in accordance with section 21(1)(a) and (b) of the Municipal Systems Act.
- (2) A parent municipality together with its municipal entity, must establish reporting procedures to allow persons to report allegations of financial misconduct and financial offence on a confidential basis and the municipal entity must make the reporting procedures public.
- (3) When establishing reporting procedures in terms of sub-regulation (1) or (2), a municipality or municipal entity must take into account its financial and administrative capacity.

Protection of officials reporting allegations of financial misconduct and financial offence

18. The Protected Disclosures Act 2000 (Act No. 26 of 2000) applies to an official who makes a report or disclosure against a political office-bearer, a member of the board or an official who is alleged to have committed financial misconduct or a financial offence.

Interventions by treasury

19. If a municipality, designated official or municipal entity fails to investigate an allegation of financial misconduct or financial offence, the provincial treasury or the National Treasury may direct that the allegation be investigated.

Transitional arrangements

20. Any disciplinary process instituted before the commencement of these Regulations and not yet completed—
- (a) must be finalised in terms of the prescripts applicable at the time when the process was instituted; or
 - (b) may, by agreement in writing between the affected official, political office-bearer or director of the municipal entity and the municipal council or board of directors, be finalised in terms of these Regulations.

Short title and commencement

21. These Regulations are called the Municipal Regulations on Financial Misconduct Procedures and Criminal Proceedings and takes effect on 1 July 2014.
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