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- 6) A technical expert in the relevant field, who is an official, if such an expert exists, may attend the meeting as an advisor for clarification purposes. This official will not have voting rights at the Bid Adjudication Committee meeting. Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- 7) If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee –
 - a) the bid adjudication committee must prior to awarding the bid –
 - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears for more than three months, and;
 - (ii) notify the Accounting Officer.
 - b) The Accounting Officer may –
 - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in clause (a); and
 - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 8) The Accounting Officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- 9) The Accounting Officer must comply with Section 114 of the Act within 10 days–
 - a) If a tender other than the one recommended in the normal course of implementing the supply chain management policy is approved, the Accounting Officer must, in writing, notify the Auditor-General, the Provincial Treasury and the National Treasury of the reasons for deviating from such recommendation.
 - b) Subsection (1) does not apply if a different tender was approved in order to rectify an irregularity.

30 Procurement of Banking Services

- 1) A contract for banking services –
 - a) must be procured through competitive bids;
 - b) must be consistent with section 7 of the Act; and
 - c) may not be for a period of more than five years at a time.
- 2) The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 3) The closure date for the submission of bids may not be less than 46 business days from the date on which the advertisement is placed in a newspaper in terms of clause 22(1).
- 4) Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

31 Procurement of Information- and Communication Technology (ICT) related goods or services

- 1) The Accounting Officer may request the State Information Technology Agency (SITA) to assist with the acquisition of ICT 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 ICT needs if –
 - a) the transaction value of ICT related goods or services required in any financial year will exceed R50 million ; or
 - b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million .
- 4) If SITA comments on the submission and the Municipality disagree with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to Council, the National Treasury, the Provincial Treasury and the Auditor-General.

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- 5) The Municipality is required to follow the following process before inviting proposals for a new financial management system:
 - a) National and Provincial Treasury should immediately be informed of any intention to replace the accounting or billing system currently operating at the municipality;
 - b) The submission should include a comprehensive motivation with specific reasons for why it is deemed necessary to replace the existing financial system;
 - c) A copy of the service level agreement with minutes of the meetings between the municipality and the current service provider (financial system vendor) during the previous twelve months must be made available;
 - d) The organisational structure, specifically for the IT department/function, clearly indicating management capacity and responsibility for operating the financial system, must be submitted;
 - e) An assessment should be done to determine which modules of the existing financial system are being utilised by the municipality and reasons must be provided for modules not in operation. In cases where an existing system is not an ERP system the municipality must provide details of any other systems utilised by the municipality;
 - f) The date on which the existing financial system was implemented, the procurement and implementation costs and the current operational costs thereof must be disclosed;
 - g) A technical assessment must be undertaken on the server and network requirements of the new financial system and a copy of such report should be submitted; and
 - h) Copies of all IT strategies, policies and procedural documents including the IT disaster recovery plan must be made available.

32 Procurement of goods and services under contracts secured by other organs of state

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

33 Procurement of goods necessitating special safety arrangements

- 1) The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.
- 2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the official duly authorised in terms of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993).

34 Proudly SA Campaign

- 1) The Municipality supports the Proudly SA Campaign to the extent that, as far as possible, preference is given to procuring local goods and services as per Council's Preferential Procurement Policy

35 Appointment of consultants

- 1) The Accounting Officer may procure consulting services provided that any National Treasury guidelines and CIDB requirements in respect of consulting services are taken into account when such services are procured.
- 2) Consultancy services must be procured through competitive bids if:
 - a) the value of the contract exceeds R200 000 (Incl. VAT); or
 - b) the duration period of the contract exceeds one year.
- 3) In addition to any requirements prescribed by this policy for competitive bids, bidders must furnish particulars of –
 - a) all consultancy services provided to an organ of state in the last five years; and

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- b) any similar consultancy services provided to an organ of state in the last five years.
- 4) The Accounting Officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Municipality.

36 Deviation from, and ratification of minor breaches of procurement processes

- 1) The Accounting Officer may –
 - a) dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –
 - (i) in an emergency;
 - (a) Circumstances that warrant emergency dispensation, includes but are not limited to -
 - (i) the possibility of human injury or death;
 - (ii) the possibility of damage to property;
 - (iii) failure to take necessary action may result in the municipality not being able to render an essential community service;
 - (iv) the interruption of services related to communication facilities or support services critical to the effective functioning of the municipality as a whole; or
 - (v) the eminent possibility of serious damage occurring to the natural environment.
 - (b) The prevailing situation, or imminent danger, should be of such a scale and nature that it could not readily be alleviated by interim measures, in order to allow time for the formal tender process.
 - (c) Procurement in the case of emergencies must be tacitly approved by the relevant director or his delegate prior to incurring the expenditure and must be reported to the Municipal Manager or delegated official on the ensuing business day.
 - (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 and/or nature and game reserves; or
 - (v) in any other exceptional case where it is impractical or impossible to follow the official procurement processes;
 - 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; and
 - c) may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this Policy and which is not also a contravention of the Municipal Supply Chain Management Regulations (GG 27636 of 30 May 2005), provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.
- 2) The Accounting Officer must record the reasons for any deviations in terms of sub-clauses (1)(a) and (b) of this policy and report them to the next Council Meeting and include as a note to the annual financial statements.
- 3) Sub-clause (2) does not apply to the procurement of goods and services contemplated in clause 11(2) of this policy.

37 Unsolicited bids

- 1) In accordance with Section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 2) The Accounting Officer may decide in terms of Section 113(2) of the Act to consider an unsolicited bid, only if –
 - a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
 - b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;

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- c) the person who made the bid is the sole provider of the product or service; and
 - d) the reasons for not going through the normal bidding processes are found to be sound by the Accounting Officer.
- 3) If the Accounting Officer decides to consider an unsolicited bid that complies with sub-clause (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal Systems Act, together with –
- a) reasons as to why the bid should not be open to other competitors;
 - b) an explanation of the potential benefits if the unsolicited bid was to be accepted; and
 - c) an invitation to the public or other potential suppliers to submit their comments within 22 business days of the notice.
- 4) The Accounting Officer must submit all written comments received pursuant to sub-clause (3), including any responses from the unsolicited bidder, to the National Treasury and the Provincial Treasury for comment.
- 5) The bid adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the Accounting Officer, depending on its delegations.
- 6) A meeting of the bid adjudication committee to consider an unsolicited bid must be open to the public.
- 7) When considering the matter, the adjudication committee must take into account –
- a) any comments submitted by the public; and
 - b) any written comments and recommendations of the National Treasury or the Provincial Treasury.
- 8) If any recommendations of the National Treasury or Provincial Treasury are rejected or not followed, the Accounting Officer must submit to the Auditor General, the Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 9) Such submission must be made within five business days after the decision on the award of the unsolicited bid is taken, but no contract committing the Municipality to the bid may be entered into or signed within 22 business days of the submission.

38 Combating of abuse of the supply chain management system

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

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- (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
- g) reject the bid of any bidder if that bidder or any of its directors –
 - (i) has abused the supply chain management system of the Municipality or has committed any improper conduct in relation to such system;
 - (ii) has been convicted for fraud or corruption during the past five years;
 - (iii) has 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 Treasury and relevant provincial treasury in writing of any actions taken in terms of sub-clauses (1)(b)(ii), (e) or (f) of this policy.

Part 3: LOGISTICS, DISPOSAL, RISK AND PERFORMANCE MANAGEMENT

39 Logistics management

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

40 Disposal management

- a) Assets must be disposed of in terms of the Municipal Asset Transfer Regulations, Overstrand Municipality's Asset Management Policy and Administration of Immovable Property Policy respectively.
- b) Disposal Management does not represent a procurement process and is thus exempt from the prohibitions of Clause 44 of this policy. As a result, the municipality is not prohibited from selling/disposing of movable or immovable assets to persons in the service of the state

41 Risk management

The Accounting Officer must implement an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system as per Council's Risk Management Policy.

42 Performance management

The Accounting Officer must implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorised supply chain management processes were followed and whether the objectives of this Policy were achieved in terms of the Performance Management System- Implementation Policy.

Part 4: OTHER MATTERS

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43 Prohibition on awards to persons whose tax matters are not in order

- 1) Irrespective of the procurement process followed, the municipality may not make any award above R30 000 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 Municipality must first check with SARS whether that person's tax matters are in order.
- 3) If SARS does not respond within seven days, such person's tax matters may for purposes of subparagraph (1) be presumed to be in order.

44 Prohibition on awards to persons in the service of the state

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

45 Awards to close family members of persons in the service of the state

- 1) The Accounting Officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2 000 (Incl. VAT) to a close family member of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
 - 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 for supply chain management practitioners and other role players involved in supply chain management is hereby established in accordance with sub-clause (2) in order to promote –
 - a) mutual trust and respect; and
 - b) an environment where business can be conducted with integrity and in a fair and reasonable manner.
- 2) An official or other role player involved in the implementation of the supply chain management 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 sub-clause (2)(c), 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 Municipality;
 - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - g) must be scrupulous in his or her use of property belonging to the municipality;

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- h) must assist the Accounting Officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system; and
 - i) must report to the Accounting Officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including –
 - (i) any alleged fraud, corruption, favouritism or unfair conduct;
 - (ii) any alleged contravention of clause 47(1) of this policy; or
 - (iii) any alleged breach of this code of ethical standards.
- 3) Declarations in terms of sub-clauses (2)(d) and (e) -
- a) must be recorded in a register which the Accounting Officer must keep for this purpose;
 - (i) by the Accounting Officer must be made to the mayor of the municipality who must ensure that such declarations are recorded in the register.
- 4) A breach of the code of ethics must be dealt with as follows -
- a) in the case of an employee, in terms of the disciplinary procedures of the Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
 - b) in the case a councillor, in terms of Schedule 1 of the Systems Act;
 - c) in the case a role player who is not an employee, or a councillor through other appropriate means in recognition of the severity of the breach; and
 - d) in all cases, financial misconduct must be dealt with in terms of Chapter 15 of the Act.

47 Inducements, 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, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
 - a) any inducement or reward to the Municipality for or in connection with the award of a contract; or
 - b) any reward, gift, favour or hospitality to –
 - (i) any official; or
 - (ii) any other role player involved in the implementation of this Policy.
- 2) The Accounting Officer must promptly report any alleged contravention of sub-clause (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) Sub-clause (1) does not apply to gifts less than R350 (Incl. VAT) in value.

48 Sponsorships

- 1) The Accounting Officer must promptly disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –
 - a) a provider or prospective provider of goods or services; or
 - b) a recipient or prospective recipient of goods disposed or to be disposed.

49 Objections and complaints

Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 10 business days of the decision or action, a written objection or complaint against the decision or action subject to the payment of applicable appeal deposit as per Council's approved tariffs.

50 Resolution of disputes, objections, complaints and queries

- 1) The Accounting Officer must appoint an independent and impartial person or persons, 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;
- b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 2) The Accounting Officer, or another official designated by the Accounting Officer, is responsible for assisting the appointed person to perform his or her functions effectively.
- 3) The person appointed must –
 - a) strive to resolve promptly all disputes, objections, complaints or queries received; and
 - b) submit monthly reports to the Accounting Officer on all disputes, objections, complaints or queries received, attended to or resolved.
- 4) A dispute, objection, complaint or query may be referred to the Provincial Treasury if –
 - a) the dispute, objection, complaint or query is not resolved within 46 business days; or
 - b) no response is forthcoming within 46 business days.
- 5) If the Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query will be referred to the National Treasury for resolution.
- 6) This clause must not be read as affecting a person's rights to approach a court at any time.

51 Contract management and Contracts providing for compensation based on turnover

- 1) Contracts will be implemented in terms of the requirements of Section 116 of the Act and Council's Contract Management Policy.
- 2) If a service provider acts on behalf of the Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Municipality must stipulate:-
 - a) A cap on the compensation payable to the service provider; and
 - b) That such compensation must be performance based.

52 Public-Private Partnerships

Public-Private Partnerships will be procured in terms of Part 2 of Chapter 11 of the Act.

53 Short title and commencement

This part of the policy is called the Overstrand Municipality **Supply Chain Management Policy**.

This policy will come into effect on 1 July 2015 and will be reviewed at least annually by way of a Council resolution.

POLICY SECTION:		SENIOR MANAGER: SUPPLY CHAIN MANAGEMENT			
		CURRENT UPDATE	2015/05/28	PREVIOUS REVIEW:	2014/05/28
PREVIOUS REVIEW:	2013/05/29	PREVIOUS REVIEW:	2012/11/28	PREVIOUS REVIEW:	2012/06/26
PREVIOUS REVIEW:	2012/05/30	PREVIOUS REVIEW:	2011/11/30	PREVIOUS REVIEW:	2011/05/04
PREVIOUS REVIEW:	2010/05/26	PREVIOUS REVIEW:	2009/05/27	APPROVAL	2008/05/25

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**OVERSTRAND
MUNICIPALITY**

**SUPPLY CHAIN
MANAGEMENT POLICY
PART B**

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PART B

PREFERENTIAL PROCUREMENT POLICY adopted in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 and the Preferential Procurement Regulations, 2011

PREAMBLE

WHEREAS the Overstrand Municipality aims to improve the quality of life of the local community and to free the potential of each person within a framework of facilitating service delivery, through effective governance and the Council takes into account the need for transparent procedures that give the effect to the principle of preferential procurement;

AND WHEREAS local economic development plays a crucial role in creating a prosperous, equitable, stable and democratic society and the overall national vision of economic development is one of decent work and living standards for all in the context of qualitative improved equality in ownership, skills and access to opportunities;

NOW THEREFORE the Council of the Overstrand Municipality resolves in terms of section 2 of the Preferential Procurement Policy Framework Act, No. 5 of 2000 that the principles embodied in the Preferential Procurement Regulations, 2011 are herewith integrated into the Overstrand Municipality's Supply Chain Management Policy to form the basis of the evaluation criteria for quotations and competitive tenders.

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PART ONE: DEFINITIONS AND APPLICATION

1 Definitions

- 1) In this policy, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act bears the same meaning, and:

"Act"	means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
"all applicable taxes"	includes Value-Added Tax, Pay-as-you-Earn, Income Tax, Unemployment Insurance Fund Contributions and Skills Development Levies;
"B-BBEE"	means Broad-Based Black Economic Empowerment as defined in Section 1 of the Broad-Based Black Economic Empowerment Act;
"B-BBEE status level of contributor"	means the B-BBEE status received by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;
"Broad-Based Black Economic Empowerment Act" (B-BBEEA)	means the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003);
"Comparative price"	means the price after the factors of a non-firm price and all unconditional discounts that can be utilised have been taken into consideration;
"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 for the execution of a contract;
"Contract"	means the agreement that results from the acceptance of a tender by the Overstrand Municipality;
"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;
"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;
"Functionality"	means the measurement according to predetermined norms; as set out in the tender documents, of a service or commodity that is designed to be practical and useful, working or operating, taking into account, among other factors, the quality, reliability, viability and durability of a service and the technical capacity and ability of a tenderer;
"imported content"	means that portion of the tender price represented by the cost of components, parts or materials which have been or are still to be imported (whether by the supplier or its subcontractors) and which costs are inclusive of the costs abroad, plus freight and direct importation costs, such as landing costs, dock dues, import duty, sales duty or other similar tax or duty at the South African port of entry;
"local content"	means that portion of the tender price which is not included in the imported content, provided that local manufacture does take place;
"Non-firm prices"	means all prices other than "firm" prices;
"Person"	includes reference to a juristic person;
"Rand value"	means the total estimated value of a contract in South African currency, calculated at the time of tender invitations and includes all applicable taxes and excise duties;
"stipulated minimum threshold"	means that portion of local production and content as determined by the Department of Trade and Industry;
"Sub-Contract"	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;
"Tender"	means a written offer in a prescribed or stipulated form in response to an invitation by the Overstrand Municipality for the provision of services, works or goods, through price quotations, advertised competitive tender processes or proposals;

"Total revenue"	bears the same meaning assigned to this expression as in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act, 2003 and promulgated in the Government Gazette on 9 February 2007;
"Trust"	means the arrangement through which the property of one person is made over or bequeathed to a trustee to administer such property for the benefit of another person; and
"Trustee"	means any person, including the founder of a trust, to whom property is bequeathed in order for such property to be administered for the benefit of another person.

2 Application, Objectives & General Requirements

1) Application

- a) An organ of state contemplated in sub-regulation (1) must, unless the Minister of Finance has directed otherwise, only apply a preferential procurement system which is in accordance with the Act and these Regulations.

PART TWO: PREFERENCE POINT SYSTEM AND BROAD-BASED BLACK ECONOMIC EMPOWERMENT STATUS, EVALUATION OF TENDERS ON FUNCTIONALITY, AWARD OF CONTRACTS TO TENDERERS NOT SCORING THE HIGHEST NUMBER OF POINTS AND THE CANCELLATION AND RE-INVITATION OF TENDERS

3 Planning and stipulation of preference point system to be utilized

- 1) The Municipality must, prior to making an invitation for tenders -
 - a) properly plan for, and, as far as possible, accurately estimate the costs of the provision of services, works or goods for which an invitation for tenders is to be made;
 - b) determine and stipulate the appropriate preference point system to be utilized in the evaluation and adjudication of the tenders; and
 - c) determine whether the services, works or goods for which an invitation is to be made has been designated for local production and content in terms of paragraph 9.

4 Evaluation of tenders based on functionality

- 1) The Municipality must indicate in the invitation to submit a tender, if that tender will be evaluated on functionality;
- 2) The evaluation criteria for measuring functionality must be objective.
- 3) When evaluating tenders on functionality, the-
 - a) evaluation criteria for measuring functionality,
 - b) weight of each criterion,
 - c) applicable values; as well as
 - d) minimum qualifying score for functionality,
- 4) No tender must be regarded as an acceptable tender, if it fails to achieve the minimum qualifying score for functionality as indicated in the tender invitation; and
- 5) Tenders that have achieved the minimum qualification score for functionality must be evaluated further in terms of the preference point systems prescribed in paragraphs 5 and 6.

5 The 80/20 preference point system for acquisition of services, works or goods up to a Rand value of R1,0 million

- 1) The following formula must be used to calculate the points for price in respect of tenders (including price quotations) with a Rand value equal to, or above R 30 000 and up to a Rand value of R1 000 000 (all applicable taxes included):

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$$P_s = 80 \left(1 - \frac{(P_t - P_{min})}{P_{min}} \right)$$

Where;

P_s = Points scored for comparative price of tender / offer under consideration

P_t = Comparative price of tender / offer under consideration

P_{min} = Comparative price of lowest acceptable tender / offer.

- a) The Municipality may apply this formula for price quotations with a value less than R30 000, if and when appropriate.
- 2) Subject to sub-paragraph (3), points must be awarded to a tenderer for attaining the B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	20
2	18
3	16
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

- 3) A maximum of 20 points may be allocated in accordance with sub-paragraph (2).
- 4) The points scored by a tenderer in respect of B-BBEE contribution contemplated in sub-paragraph (2) must be added to the points scored for price as calculated in accordance with sub-paragraph (1).
- 5) Subject to paragraph 7, the contract must be awarded to the tenderer who scores the highest total number of points.

6 The 90/10 preference point system for acquisition of goods, works and / or services with a Rand value above R1,0 million.

- 1) The following formula must be used to calculate the points for price in respect of tenders with a Rand value above R1,000,000 (all applicable taxes included):

$$a) P_s = 90 \left(1 - \frac{(P_t - P_{min})}{P_{min}} \right)$$

Where

P_s = Points scored for comparative price of tender or offer under consideration;

P_t = Comparative price of tender or offer under consideration; and

P_{min} = Comparative price of lowest acceptable tender or offer.

- 2) Subject to sub-paragraph (3), points must be awarded to a tenderer for attaining their B-BBEE status level of contributor in accordance with the table below:

B-BBEE Status Level of Contributor	Number of Points
1	10
2	9
3	8
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- 3) A maximum of 10 points be allocated in accordance with sub-paragraph (2).

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- 4) The points scored by a tenderer in respect of the level of B-BBEE contribution contemplated in sub-paragraph (2) must be added to the points scored for price as calculated in accordance with sub-paragraph (1).
- 5) Subject to paragraph 7, the contract must be awarded to the tenderer who scores the highest total number of points.

7 Award of contracts to tenders not scoring the highest number of points

A contract may be awarded to a tenderer that did not score the highest total number of points, only in accordance with paragraph 2(1)(f) of the Act.

8 Cancellation and re-invitation of tenders

- 1) In the event that, in the application of the 80/20 preference point system as stipulated in the tender documents
 - a) all tenders received exceed the estimated Rand value of R1,000,000, the tender invitation must be cancelled.
 - b) If one or more of the acceptable tenders received are within the prescribed threshold of R1,000,000, all tenders received must be evaluated on the 80/20 preference point system.
- 2) In the event that, in the application of the 90/10 preference point system as stipulated in the tender documents,
 - a) all tenders received are equal to, or below R1,000,000 the tender must be cancelled.
 - b) If one or more of the acceptable tenders received are above the prescribed threshold of R1,000,000 all tenders received must be evaluated on the 90/10 preference point system.
- 3) In the event that the Municipality has cancelled a tender invitation as contemplated in sub-paragraph (1)(a) and 2(a), tenders must be re-invited and the tender documents must stipulate the correct preference point system to be applied.
- 4) The Municipality may, prior to the award of a tender, cancel a tender if:
 - a) due to changed circumstances, there is no longer a need for the services, works or goods requested, or
 - b) funds are no longer available to cover the total envisaged expenditure; or
 - c) no acceptable tenders are received.
- 5) The decision to cancel a tender in terms of sub-paragraph (4) must be published in the media in which the original tender invitation was advertised.

PART THREE: LOCAL PRODUCTION AND CONTENT, B-BBEE STATUS LEVEL CERTIFICATES, CONDITIONS, DECLARATIONS, REMEDIES, TAX CLEARANCE, MECHANISMS TO SUPPORT PREFERENTIAL PROCUREMENT, SHORT TITLE AND COMMENCEMENT

9 Local Production and Content

- 1) The Municipality must, in the case of designated sectors, where in the award of tenders local production and content is of critical importance, advertise such tenders with a specific tendering 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.
- 2) The National Treasury will issue instructions, circulars and guidelines to all organs of state, with specific report mechanisms to ensure compliance with sub-paragraph (1).
- 3) Where there is no designated sector, the Municipality may include, as a specific tendering condition, that only locally produced services, works or goods or locally manufactured goods with a stipulated minimum threshold for local production and content, will be considered, on condition that such pre-script and threshold(s) are in accordance with the specific directives issued for this purpose by the National Treasury in consultation with the Department of Trade and Industry.
- 4) Every tender issued in terms of paragraph 9 must be measurable and audited.

- 5) Where necessary, tenders referred to in sub-paragraph (1) and (3), a two-stage tendering process may be followed, where the first stage involves functionality and minimum threshold for local production and content and the second price and B-BBEE with the possibility of price negotiations only with the short listed tenderer/s.

10 Broad –Based Black Economic Empowerment Status Level Certificates

- 1) Tenders with annual total revenue of R5 million or less qualify as Exempted Micro Enterprises (EMEs) in terms of the Broad-Based Black Economic Empowerment Act, and must submit a certificate issued by a registered auditor, Accounting Officer (as contemplated in section 60(4) of the Close Corporation Act, 1984 (Act No.69 of 1984) or an accredited verification agency.
- 2) Tenders other than exempted Micro-Enterprises (EMEs) must submit their original and valid B-BBEE status level verification certificate or a certified copy thereof, substantiating their B-BBEE rating.
- 3) The submission of such certificates must comply with the requirements of instructions and guidelines issued by the National Treasury and be in accordance with notices published by the Department of Trade and Industry in the Government Gazette.
- 4) B-BBEE status level verification certificates may be issued by SANAS accredited agencies or approved auditors registered with IRBA.
- 5) The B-BBEE status level attained by the tenderer must be used to determine the number of points contemplated in regulations 5(2) and 6(2).

11 Conditions

- 1) Only a tenderer who has completed and signed the declaration part of the tender documentation may be considered.
- 2) The Municipality must, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- 3) A discount which has been offered conditionally must, despite not being taken into account for evaluation purposes, be implemented when payment is processed.
- 4) Points scored must be rounded off to the nearest 2 decimal places.
- 5) In the event that two or more tenders have scored equal total points, the successful tender must
 - a) be the one scoring the highest number of preference points for B-BBEE.
 - b) However, when functionality is part of the evaluation process and two or more tenders have scored equal points including equal preference points for B-BBEE, the successful tender must be the one scoring the highest score for functionality.
 - c) Should two or more tenders be equal in all respects, the award shall be decided by the drawing of lots.
- 6) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits their B-BBEE status level certificate.
- 7) A trust, consortium or joint venture will qualify for points for their B-BBEE status level as an unincorporated entity, provided that the entity submits their consolidated B-BBEE scorecard as if they were a group structure and that such a consolidated B-BBEE scorecard is prepared for every separate tender.
- 8) A person must not be awarded points for B-BBEE status level if it is indicated in the tender documents that such a tenderer intends sub-contracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a tenderer qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 9) A person awarded a contract may not sub-contract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- 10) A person awarded a contract in relation to a designated sector, may not sub-contract in such a manner that the local production and content of the overall value of the contract is reduced to below the stipulated minimum threshold.

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- 11) When the Municipality is in need of a service provided by only tertiary institutions, such services must be procured through a tendering process from the identified tertiary institutions.
- 12) Tertiary institutions referred to in sub-paragraph (11) will be required to submit their B-BBEE status in terms of the specialized scorecard contained in the B-BBEE Codes of Good practice.
- 13) Should the Municipality require a service that can be provided by one or more tertiary institutions or public entities and enterprises from the private sector, the appointment of a contractor must be
 - a) done by means of a tendering process;
 - b) Public entities will be required to submit their B-BBEE status in terms of the specialised score-card contained in the B-BBEE Codes of Good Practice.

12 Declarations

- 1) A tender must, in the manner stipulated in the document, declare that-
 - a) the information provided is true and correct;
 - b) the signatory to the tender document is duly authorised; and
 - c) documentary proof regarding any tendering issue will, when required, be submitted to the satisfaction of the Municipality.

13 Remedies

- 1) The Municipality must, upon detecting that-
 - a) The B-BBEE status level of contribution has been claimed or obtained on a fraudulent basis; or
 - b) any of the conditions of the contract have not been fulfilled,
act against the tenderer or person awarded the contract.
- 2) The Municipality may, in addition to any other remedy it may have against the person contemplated in sub-paragraph (1) -
 - a) disqualify the person from the tendering process;
 - b) recover all costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - c) cancel the contract and claim any damages it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - d) restrict the tenderer or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and
 - e) forward the matter for criminal prosecution.

14 Tax clearance

No tender may be awarded to any person whose tax matters have not been declared by the South African Revenue Services to be in order.

15 SHORT TITLE

This part of the policy is called the Preferential Procurement Policy of the Overstrand Municipality.

This policy will come into effect on 1 July 2015 and will be reviewed at least annually by way of a Council resolution.

POLICY SECTION:	SENIOR MANAGER: SUPPLY CHAIN MANAGEMENT				
		CURRENT UPDATE	2015/05/28	PREVIOUS REVIEW:	2014/05/28
PREVIOUS REVIEW:	2013/05/29	PREVIOUS REVIEW:	2012/11/28	PREVIOUS REVIEW:	2012/06/26
PREVIOUS REVIEW:	2012/05/30	PREVIOUS REVIEW:	2011/11/30	PREVIOUS REVIEW:	2011/05/04
PREVIOUS REVIEW:	2010/05/26	PREVIOUS REVIEW:	2009/05/27	APPROVAL	2008/05/25

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SUPPLY CHAIN MANAGEMENT POLICY – ANNEXURE A**

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DELEGATION OF POWERS AND DUTIES CLAUSE 4.2.81

As far as contractual obligations are concerned: Personnel to be nominated in writing by the Municipal Manager, and Directors, subject to the under-mentioned criteria, and further subject to the municipality's Supply Chain Management Policy, financial regulations and council resolutions where applicable.

4.2.81.1. APPROVAL / AWARD OF QUOTATIONS, FORMAL QUOTATIONS AND TENDERS	LEVEL OF APPROVAL (With due regard to proper segregation of duties)	QUOTATIONS / TENDERS PROCESS FOLLOWED
RAND VALUE (VAT inclusive)		
Up to R2 000	Level of approval as delegated by relevant director	Petty cash Purchases in terms of the Petty Cash Policy AND / OR One (1) written quotation by the Purchasing Section
R2 000.01 – R30 000	Post level T12 and higher	Three (3) written price quotations in terms of Paragraph 17(1)(a) of the SCM Policy
R30 000.01 – R200 000	Directors, subject to the recommendation of the Senior Manager: Supply Chain Management	Formal written price quotations in terms of Paragraph 18(b) of the SCM Policy – committee system
R200 000.01 – R10 million	Bid Adjudication Committee	Competitive Bidding – committee system
Over R10 million	Municipal Manager after recommendation from the Bid Adjudication Committee	Competitive Bidding – committee system
4.2.81.2 APPROVAL OF DEVIATIONS in terms of Clause 36 of the Supply Chain Management Policy.		
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL	
R0 – R70 000	Senior Manager: Supply Chain Management	
Over R70 000 – R200 000	Chief Financial Officer (Director: Finance) after consultation with, and recommendation by, the Senior Manager: Supply Chain Management	
Over R200 000	Accounting Officer	
4.2.81.3 APPROVAL OF REQUESTS FOR ORDERS FOR DIRECT PURCHASES & MUNICIPAL STORE ISSUES, after an award has been made in terms of sub-paragraphs 4.2.81.1 and 4.2.81.2 above		
Up to R2 000	Level of approval as delegated by relevant director	
R2 000.01 – R30 000	Post level T12 and higher	
R30 000.01 – R70 000	Post level T13 and higher	
Over R70 000	Post level T17 and higher	
4.2.81.4 CERTIFICATION AND AUTHORIZATION OF ALL PAYMENTS inclusive of where an official order has been issued in terms of sub-paragraph 4.2.81.3 above		
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL (With due regard to proper segregation of duties)	
R0 – R70 000	Post Level 13 and Higher	
R70 000.01 – R500 000	Post Level 16 and Higher	
Above R 500 000	Municipal Manager & Directors	
Eskom Bulk Electricity Purchases	Senior Manager: Electro-technical Services	
4.2.81.5 APPROVAL OF SPECIFICATIONS FOR COMPETITIVE BIDS, in terms of Paragraph 27(2)(g) of the SCM Policy		

Cryptic description of Power or Duty	Sub-delegated to	Remarks, Limitations or Conditions
Specifications for Competitive Bids must be approved prior to the publication of the invitation for bids in terms of Paragraph 22 of the SCM Policy.	All Directors	This delegation applies in so far as each director's responsibility for managing the respective votes of the municipality and to whom powers and duties for this purpose have been delegated in terms of Section 79 of the MFMA (Act 56 of 2003).

**OVERSTRAND MUNICIPALITY
SUPPLY CHAIN MANAGEMENT POLICY – ANNEXURE A**

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POLICY SECTION:	SENIOR MANAGER: SUPPLY CHAIN MANAGEMENT										APPROVAL BY COUNCIL:	2008/05/25
	PREVIOUS REVIEW:	2014/05/28	PREVIOUS REVIEW:	2012/07/26	PREVIOUS REVIEW:	2011/05/04	PREVIOUS REVIEW:	2010/05/26	PREVIOUS REVIEW:	2009/05/27		
CURRENT UPDATE	2015/05/28	2012/11/28	PREVIOUS REVIEW:	2011/11/30	PREVIOUS REVIEW:	2010/05/26	PREVIOUS REVIEW:	2009/05/27	PREVIOUS REVIEW:	2008/05/25		

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

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

1. General Principles

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

2. Conflict of interest

- 1) An official or other role player involved with supply chain management –
 - a) must treat all providers and potential providers equitably;
 - b) may not use his 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) 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, or in any award of a contract by the Municipality;
 - f) must immediately withdraw from participating in any manner whatsoever in a procurement or disposal process or in the award of a contract in which that person, or any close family member, partner or associate, has any private or business interest;
 - g) must declare any business, commercial and financial interests or activities undertaken for financial gain that may raise a possible conflict of interest;
 - h) should not place him/herself under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties; and
 - i) should not take improper advantage of their previous office after leaving their official position.

3. Accountability

- 1) Practitioners are accountable for their decisions and actions to the public.
- 2) Practitioners should use public property scrupulously.
- 3) Only accounting officers or their delegates have the authority to commit the Municipality to any transaction for the procurement of goods and / or services.
- 4) All transactions conducted by a practitioner should be recorded and accounted for in an appropriate accounting system. Practitioners should not make any false or misleading entries into such a system for any reason whatsoever.
- 5) Practitioners must assist the accounting officer in combating fraud, corruption, favouritism and unfair and irregular practices in the supply chain management system.
- 6) Practitioners must report to the accounting officer any alleged irregular conduct in the supply chain management system which that person may become aware of, including

- a) any alleged fraud, corruption, favouritism or unfair conduct;
 - b) any alleged contravention of the policy on inducements, rewards, gifts and favours to municipalities or municipal entities, officials or other role players; and
 - c) any alleged breach of this code of conduct.
- 7) Any declarations made must be recorded in a register which the accounting officer must keep for this purpose. Any declarations made by the accounting officer must be made to the **mayor** who must ensure that such declaration is recorded in the register.

4. Openness

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

5. Confidentiality

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

6. Bid Specification / Evaluation / Adjudication Committees

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

7. Combative Practices

- 1) Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
 - a) Suggestions to fictitious lower quotations;
 - b) Reference to non-existent competition;
 - c) Exploiting errors in price quotations / bids;
 - d) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.