

- 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:	HEAD: SUPPLY CHAIN MANAGEMENT				
CURRENT UPDATE	2016/02/24	PREVIOUS REVIEW:	2015/05/28	PREVIOUS REVIEW:	2014/05/28
PREVIOUS REVIEW:	2013/05/29	PREVIOUS REVIEW:	2012/11/28	PREVIOUS REVIEW:	2012/06/26
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## 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.

		Administration Senior Manager: Kleinmond Administration Senior Manager: Gansbaai Administration	
		Director: Finance	In accordance with the Municipality's Rates Policy.
4.2.80	Dealing with all claims for exemption from and rebates on rates in terms of the provisions of legislation and Council resolutions.	Such personnel nominated in writing by the Municipal Manager and/or Directors.	Subject to the criteria outlined on the following page, and further subject to the municipality's supply chain policy, financial regulations and council resolutions where applicable.
4.2.81	As far as contractual obligations are concerned:		
4.2.81.1	Approval/award of quotations, formal quotations and tenders.	Head: Supply Chain Management; Director: Finance after consultation with, and recommendation by, the Head: Supply Chain Management; Directors and Accounting Officer	Subject to the criteria outlined on the following page, and further subject to the municipality's supply chain policy, financial regulations and council resolutions where applicable.
4.2.81.2	Approval of deviations.		
4.2.81.3	Approval of requests for orders for direct purchases and municipal store issues, after an award has been made in terms of sub-paragraphs 4.2.81.1 and 4.2.81.2 above.	Such personnel nominated in writing by the Municipal Manager and/or Directors.	Subject to the criteria outlined on the following page, and further subject to the municipality's supply chain policy, financial regulations and council resolutions where applicable.
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.	Such personnel nominated in writing by the Municipal Manager and/or Directors.	Subject to the criteria outlined on the following page, and further subject to the municipality's supply chain policy, financial regulations and council resolutions where applicable.
4.2.81.5	Approval of specifications for competitive bids, in terms of paragraph 27(2)(g) of the SCM Policy.	All Directors	Subject to the criteria outlined on the following page, and further subject to the municipality's supply chain policy, financial regulations and council resolutions where applicable.

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	QUOTATIONS / TENDERS PROCESS FOLLOWED
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL (With due regard to proper segregation of duties)	
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 000.00	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 000.00	Directors, subject to the recommendation of the Head: 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
> R10 million	Municipal Manager after recommendation from the Bid Adjudication Committee	Competitive Bidding – committee system
4.2.81.2	APPROVAL OF DEVIATIONS	
RAND VALUE (VAT inclusive)	LEVEL OF APPROVAL	
IN TERMS OF CLAUSE 36 (1)(a)(v)(b) TO (g))		
R0 – R200 000.00	Directors	
>R200 000.00	Accounting Officer	
IN TERMS OF CLAUSE 36 (1)(a)(i) TO (v)(a)		
R0 – R70 000.00	Head: Supply Chain Management	
R70 000.01 – R200 000.00	Chief Financial Officer (Director: Finance) after consultation with, and recommendation by, the Head: Supply Chain Management	
>R200 000.00	Accounting Officer	
4.2.81.3	APPROVAL OF REQUESTS FOR ORDERS FOR DIRECT PURCHASES & MUNICIPAL STORE ISSUES	
Up to R2 000	Level of approval as delegated by relevant director	
R2 000.01 – R30 000.00	Post level T12 and higher	
R30 000.01 – R70 000.00	Post level T13 and higher	
> R70 000.00	Post level T16 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 000.00	Post Level 13 and Higher	
R70 000.01 – R500 000.00	Post Level 16 and Higher	
> R 500 000.00	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).

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- (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:	HEAD: SUPPLY CHAIN MANAGEMENT				
CURRENT UPDATE	2016/02/24	PREVIOUS REVIEW:	2015/05/28	PREVIOUS REVIEW:	2014/05/28
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PREVIOUS REVIEW:	2010/05/26	PREVIOUS REVIEW:	2009/05/27	APPROVAL	2008/05/25