



EKURHULENI WATER CARE COMPANY

SUPPLY CHAIN MANAGEMENT (SCM) POLICY

	Confidential	Policy Document
	Supply Chain Management (SCM) Policy	

Table 1

Owner	Finance – Supply Chain Management Unit
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Document control

Document enquiries may be directed to the Supply Chain Manager,
Hartebeestfontein Office Park
R25 (Bronkhorstspuit/Bapsfontein)
Kempton Park NU
1512

The document control log table, below, must be updated each time that this policy is reviewed and / or amended in order to track the changes made.

Table 2

No.	Version	Date	Description of changes	Status	Modified by
1	V01	01/01/2006	Drafted and accepted SCM policy as that provided for by NT.	Final	Johan Engelbrecht
2	V02	16/08/2018	Reference to CSD under section 38	Final	Chantel Kearns
3	V03	22/08/2019	Reference to other applicable legislation: PPPFA and its regulations and CIDB Act and its regulations	Final	Chantel Kearns
4	V04	18/02/2021	Reference to additional Standard Operating Procedure # 13	Final	Chantel Kearns
5	V05	19/05/2022	Reference to additional Standard Operating Procedure # 14 and # 16. Removal of 28. (3) from bid evaluating committees to be in line with the MFMA SCM Regulations.	Final	Chantel Kearns

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No.	Version	Date	Description of changes	Status	Modified by
6	V06	09/06/2022	Addressing commodities to be sourced directly to be excluded from the SCM processes	Final	Chantel Kearns
7	VO7	22/01/2023	Addressing the direct sourcing on medical aid, pension funds, Professional Membership and Universities	Final	Lindlwe Msibi

Reviewers and approvers

The signatories hereof, being duly authorised thereto, by their signatures hereto authorise or confirm their acceptance of the contents hereof and authorise the implementation / adoption thereof, as the case may be, for and on behalf of the parties represented by them.

Table 3

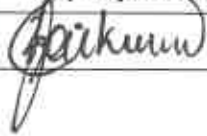
Signatory # 1	Ms Zimasa Socikwa
Date	24 January 2023
Designation	Company Secretary
Sign	

Table 4

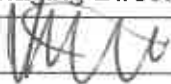
Signatory # 2	Mr Kennedy Chinota
Date	24/01/2023
Designation	Managing Director
Sign	

Table 5

Signatory # 3	Dr Natalie Skeepers
Date	25/01/2023
Designation	Chairperson of the Board of Director
Sign	NC Skeepers

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(2) Definitions

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

Term	Description
Bid	means a written offer in a prescribed or stipulated form in response to an invitation by ERWAT for the provision of goods, services or works with a value threshold above R200 000.00.
Bid Adjudication Committee / Bid Committee	means the committee that adjudicates over bids issued by ERWAT, adjudicate over the sourcing strategy and award bids as per the recommendation of the Bid Evaluation Committee or reject the recommendations, where the value of the bid is above R200 000.00.
Bid documentation	means the standard documentation utilised by ERWAT when soliciting a bid or quote.
Bid evaluation committee	means the committee appointed to evaluate bids.
Bid specification committee	means the committee that is appointed to develop the sourcing strategy and approve the bid specifications or terms of reference.
Bidder	means a vendor that submits a bid for contracts with a value threshold above R200 000.00.
Black people	is a generic term which means Africans, Coloureds and Indians as per the BBBEE Act
Broad-based black economic empowerment (BBBEE)	means the economic empowerment of all black people including women, workers, youth, people with disabilities and people living in rural areas through diverse but integrated socio-economic strategies that include, but are not limited to: <ul style="list-style-type: none"> (a) increasing the number of black people that manage, own and control enterprises and productive assets; (b) facilitating ownership and management of enterprises and productive assets by communities, workers, cooperatives and other collective enterprises; (c) human resource and skills development; achieving equitable representation in all occupational categories and levels in the workforce; (d) preferential procurement; and (e) investment in enterprises that are owned or managed by black people.
CIDB	means the Construction Industry Development Board.
Competitive bid	means a bid in terms of a competitive bidding process;
Competitive bidding process	means a competitive bidding process referred to in paragraph 12(1)(d) of this policy;
Contractors	means a contractor as per the CIDB Act.
Emergency situation	means a serious and unexpected situation that poses an immediate risk to health, life, property or environment which calls for urgent action and there is insufficient time to follow a competitive bidding process;
Final award	in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

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Term	Description
Formal written price quotation	means quotations referred to in paragraph 12 (1)(c) of this policy;
Functionality criteria	means the suppliers ability to meet the service delivery requirements.
Generic scorecard or any relevant charter	means the scorecard that is promulgated in terms of the BBEE Act.
Government	means the government of the Republic of South Africa.
Historically Disadvantaged Individual (HDI)	means a South African citizen, who: <ul style="list-style-type: none"> (a) Due to the apartheid policy that had been in place, had no franchise in national elections prior to the introduction of the Constitution of the Republic of South Africa, 1983, (Act No. 110 of 1983) or the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993: the Interim Constitution), and / or (b) Is a female, and / or (c) Has a disability; provided that a person who obtained South African citizenship on or after the coming to effect of the Interim Constitution is deemed not to be an HDI.
In the service of the state	means to be- <ul style="list-style-type: none"> (a) A member of – <ul style="list-style-type: none"> (i) Any municipal council; (ii) Any provincial legislature; or (iii) The National Assembly or the National Council of Provinces; (b) A member of the board of directors of any municipal entity; (c) An official of any municipal or municipal entity; (d) An employee of any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act. No. 1 of 1999); (e) <i>An executive member of the accounting authority of any national or provincial public entity; or</i> (f) An employee of Parliament or a provincial legislature;
Long term contract	means a contract with a duration period exceeding one year;
List of accredited prospective providers	means the list of accredited prospective providers which ERWAT must keep in terms of paragraph 14 of this policy;
Other applicable legislation	means any other legislation applicable to municipal Supply Chain Management, including – <ul style="list-style-type: none"> (a) The Constitution of the Republic of South Africa Act, 1996 (Act. 108 of 1996); (b) The Preferential Procurement Policy Framework Act, 2000 (Act. No. 5 of 2000) and its regulations as amended; (c) The Broad Based Black Economic Empowerment Act, 2003 (Act. No. 53 of 2003); (d) The Construction Industry Development Board Act, 2000 (Act. No. 38 of 2000) and its regulations as amended; and (e) The Prevention and Combating of Corrupt Activities Act, 2004 (Act. No. 12 of 2004).

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Term	Description
Specific goals	means specific goals as contemplated in section 2(1)(d) of the Preferential Procurement Policy Framework Act which may include contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender and disability including the implementation of programmes of the Reconstruction and Development Programme as published in Government Gazette No. 16085 dated 23 November 1994;
The Act	means the Local Government: Municipal Finance Management Act, 2003 (Act. No. 56 of 2003);
The Regulations	means a Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;
Treasury guidelines	means any guidelines on Supply Chain Management issued by the Minister in terms of section 168 of the Act;
Written or verbal quotations	means quotations referred to in paragraph 12(1)(b) of this policy

N. L. [Signature]

CHAPTER 1**ESTABLISHMENT AND IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY****1. Supply Chain Management Policy**

- (1) ERWAT resolves in terms of section 111 of the Act to have and implemented a Supply Chain Management policy that -
- (a) Gives effect to –
 - (i) Section 217 of the Constitution; and
 - (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;
 - (b) Is fair, equitable, transparent, competitive and cost effective;
 - (c) Complies with –
 - (i) The Regulations; and
 - (ii) Any minimum norms and standards that may be prescribed in terms of section 168 of the Act;
 - (d) Is consistent with other applicable legislation;
 - (e) Does not undermine the objective for uniformity in Supply Chain Management systems between organs of state in all spheres; and
 - (f) Is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.
 - (g) ERWAT supports effective and efficient service delivery by acquiring goods and services of optimum value through best purchasing practices.

In addition to the above, this policy features four main aims:

- (i) Promotion of the Interdivisional Support Policy;
 - (ii) The promotion, development and support of business from previously disadvantage communities;
 - (iii) The promotion of local, provincial and national suppliers and agents before considering international suppliers; and
 - (iv) The development, promotion and support of moral values that underpin the above in terms of ERWAT Ethical Code;
 - (h) ERWAT further supports the creation and maintenance of good, sound business relationship with the bidding public in general, as well as with its valued supplier base, without which it cannot survive in a competitive market; and
 - (i) ERWAT also seeks to develop and maintain positive, long-term relationships based on mutual trust and respect with those suppliers who demonstrate their commitment to ERWAT shared goals. ERWAT also commits itself to clarity in its communication of requirements, and to be professional, courteous, fair, factual and responsive in its business dealings.
- (2) ERWAT may not act otherwise than in accordance with this Supply Chain Management policy when –
- (a) procures goods or services;
 - (b) disposes goods no longer needed;

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- (c) selects contractors to provide assistance in the provision of municipal services otherwise that in circumstances where Chapter 8 of the Municipal Systems Act applies; or
 - (d) selects external mechanisms referred to in Section 80(1)(b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in Section 83 of the Act.
- (3) Subparagraph (1) and (2) of this policy do not apply in the circumstances described in Section 110(2) of the Act except where specifically provided otherwise in this policy.
- 2. Adoption and amendment of the Supply Chain Management policy**
- (1) The accounting officer must –
- (a) At least annually review the implementation of this Policy; and
 - (b) When the accounting officer considers it necessary, submit proposals for the amendment of this Policy to the **Board of Directors**.
- (2) If the accounting officer submits an approved a policy to the council that differs from the model policy, the accounting officer must ensure that such policy complies with the Regulations. The accounting officer must report any deviation from the model policy to the Council.
- (3) When amending the Supply Chain Management policy, the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of Supply Chain Management systems for small business must be taken into account.
- (4) The accounting officer of ERWAT must in terms of Section 99(2)(h) of the Act takes all reasonable steps to ensure that ERWAT has and implements this Supply Chain Management policy.
- 3. Delegation of Supply Chain Management powers and duties**
- (1) The **Board of Directors** hereby delegates such additional powers and duties to the accounting officer which are necessary to enable the accounting officer –
- (a) To discharge the Supply Chain Management responsibilities conferred on accounting officers in terms of –
 - (i) Chapter 8 or 10 of the Act, and
 - (ii) The Supply Chain Management policy
 - (b) To maximize administrative and operational efficiency in the implementation of this Supply Chain Management policy;
 - (c) To enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Supply Chain Management policy; and
 - (d) To comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Act.
- (2) Section 79 and 106 of the Act apply to the sub delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1) of this policy.

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- (3) The accounting officer may not delegate or subdelegate any Supply Chain Management powers or duties to a person who is not an official of **ERWAT** or to a committee which is not exclusively composed of officials of **ERWAT**.
- (4) This paragraph may not be read as permitting an official to whom the power to make final awards had been delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.

4. Sub delegations

- (1) The accounting officer may in terms of Section 79 or 106 of the Act sub delegate any Supply Chain Management powers and duties, including those delegated to the accounting officer in terms of this policy, but any such sub delegation must be consistent with sub paragraph (2) of this paragraph and paragraph 4 of this policy.
- (2) The power to make a final award –
- (a) Above R10 million (VAT included) may not be sub delegated by the accounting officer;
 - (b) Above R2 million (VAT included, but not exceeding R10 million (VAT included)), may be sub delegated but only to –
 - (i) The Chief Financial officer;
 - (ii) A senior manager; or
 - (iii) A Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member; or
 - (c) Not exceeding R2 million (VAT included) may be sub delegated but only to –
 - (i) The Chief Financial Officer;
 - (ii) A senior manager;
 - (iii) A manager directly accountable to the Chief Financial Officer or a senior manager; or
 - (iv) A Bid Adjudication Committee.
- (3) An official or bid adjudication committee to which the power to make final awards has been sub delegated in accordance with subparagraph (2) must within ten days of the end of each month submit to the official referred to in subparagraph (4) a written report containing particulars of each final award made by such official or committee during that month, including –
- (a) The amount of the award;
 - (b) The name of the person to whom the award was made; and
 - (c) The reason why the award was made to that person.
- (4) A written report referred to in subparagraph (3) must be submitted –
- (a) To the accounting officer, in the case of an award by –
 - (i) The Chief Financial Officer;
 - (ii) A senior manager; or
 - (iii) A Bid Adjudication committee of which the Chief Financial Officer or a senior manager is a member; or
 - (b) To the Chief Financial Officer or the senior manager responsible for the relevant bid, in the case of an award by –
 - (i) A manager referred to in subparagraph (2)(c)(iii); or

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- (ii) A Bid Adjudication committee of which the Chief Financial Officer or a senior manager is not a member
- (5) Subparagraph (3) and (4) of this policy do not apply to procurements less than R2000 (VAT Included).
- (6) This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 26 of this policy.
- (7) No Supply Chain Management decision-making powers may be delegated to an advisor or consultant.

5. Oversight role of Board of Directors

- (1) The **Board of Directors** must maintain oversight over the implementation of this Supply Chain Management policy.
- (2) For the purpose of such oversight the accounting officer must –
 - i. On a quarterly basis, submit a report on the implementation of this policy to the Board of Directors, who they must then submit the report to the accounting officer of the parent municipality for submission to the council, and
 - ii. whenever there are serious and material problems in the Implementation of the Supply Chain Management policy, immediately submit a report to the **Board of Directors, who then must submit the report to the accounting officer of the parent municipal for submission to the Council.**
- (3) The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management policy to the **Board of Directors.**
- (4) The report must be made public in accordance with Section 21A of the Municipal Systems Act.

6. Supply Chain Management Unit

- (1) The accounting officer must establish a Supply Chain Management unit for ERWAT to implement this Supply Chain Management policy.
- (2) The Supply Chain Management unit operates under the direct supervision of the Chief Financial Officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

7. Training of Supply Chain Management officials.

- (1) The training of officials involved in implanting this Policy should be in accordance with any Treasury guidelines on Supply Chain Management training.

CHAPTER 2

FRAMEWORK FOR SUPPLY CHAIN MANAGEMENT

8. Format of Supply Chain Management

- (1) This Supply Chain Management policy provides systems for –
- (a) Demand management;
 - (b) Acquisition management;
 - (c) Logistics management;
 - (d) Disposal management
 - (e) Risk management; and
 - (f) Performance management.

Part 1: Demand management

9. System of demand management

- (1) In order to ensure that the resources required to support the strategic and operational commitments are delivered at the correct time, at the right price and at the right location, and that the quantity and quality satisfy needs. An effective system of demand management must include the following:
- (a) Planning or future requirement. Acquisition and disposals of all goods required to meet the strategic goals outlined in the Integrated Development Plan must be quantified, budgeted and planned to ensure timely and effective delivery, appropriate quality at a fair cost to meet the needs of ERWAT and community. Critical delivery dates must be determined and adhered to as set out in the service delivery and budget implementation plan.
 - (b) If the requirement is of a repetitive nature and there are benefits of economies of scale a contract for a specific commodity should be arranged.
 - (c) In order to compile the correct specifications industry analysis / research should be undertaken to ensure future needs and technology benefits are maximized.

Part 2: Acquisition management

10. System of acquisition management

- (1) Through operational procedures, an effective system of acquisition management is established in Part 2 of this policy in order to ensure –
- (a) That goods and services are procured by ERWAT in accordance with authorized processes only;
 - (b) That expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
 - (c) That the threshold values for the different procurement processes are complied with;

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- (d) That Bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation and;
 - (e) That any Treasury guidelines on acquisition management are properly taken into account.
- (2) This Supply Chain Management policy, except where provided otherwise in the policy, does not apply in respect of the procurement of goods and services contemplated in Section 110(2) of the Act, including –
- (a) Water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and
 - (b) electricity from ESKOM or another public entity, another municipality or a municipal entity.
- (3) The following information must be made public wherever goods or services contemplated in Section 110(2) of the Act are procured other than through the Supply Chain Management system –
- (a) the kinds of goods or services; and
 - (b) the name of the supplier.
- 11. Range of procurement processes**
- (1) The procurement of goods and services through this policy is provided by way of –
- (a) Cash purchases, up to a transaction value of R2,000 (VAT included);
 - (b) Written or verbal quotations for procurement of a transaction value of R2 000 – R10 000 (VAT included);
 - (c) Formal written price quotations for procurements of a transaction value of R10 000 to R200 000 (VAT included); and
 - (d) A competitive bidding process for –
 - (i) Procurement above a transaction value of R200,000 (VAT included); and
 - (ii) The procurement of long-term contracts.
- (2) The accounting officer may, in writing –
- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
 - (b) direct that –
 - (i) Written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2,000.
 - (ii) Formal written price quotations be obtained for any specific procurement of a transaction value lower than R10,000; or
 - (iii) A competitive bidding process be followed for any specific procurement of a transaction value lower than R200,000
- (3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction.

To give effect to Section 12 of the SCM Policy the Standard Operating Procedure # 14 is to be implemented and adhered to effective from date of approval.

(4) Direct sourcing

The following commodities to be procured through the direct sourcing process due to the limitations imposed by legislation relating to such, employee deductible fees and or specific professional bodies.

The end user department is to complete and submit the request for direct sourcing documents to the SCM unit to check for legal compliance:

- Auditor General fees;
- Bursaries and internal student practical work;
- Advertising of tenders/other content in locally circulated or national circulating newspapers and trade magazines as provided for in Section 21 of the Municipal Systems Act and Regulation 22 (1) (a) of the MFMA SCM Regulations of 2005;
- Statutory payments;
- Vehicle License fees;
- Exhibitions and events;
- Conferences/Seminars;
- Professional membership fees;
- South African Revenue Services (SARS);
- Rand water;
- Eskom;
- The South African National Accreditation System (SANAS);
- The South African Bureau of Standards (SABS);
- The Council for Scientific and Industrial Research (CSIR);
- The National Institute for Communicable Diseases (NICD);
- The National Health Laboratory Services (NHLS);
- The Agricultural Research Council (ARC);
- The Water Research Commission (WRC);
- Department of Water Affairs and Sanitation (DWS);
- Development Bank of Southern Africa (DBSA);
- Johannesburg Water SOC LTD (JW);
- City of Cape Town;
- Magalies Water;

Other organs of state as provided for in Section 110 of the MFMA Act 56 of 2003 (e.g. SANAS, Universities, etc.), subject to BAC approval for goods and services from other organs of state with a value exceeding R200 000, all applicable fees and taxes included.

Reimbursement of cash purchases limited to R2 000 (VAT included).

Medical aid companies to be used as per the provisions of the Medical Schemes Act, (Act 131 of 1998), its amendments and its regulations and that of the Council for Medical Schemes.

Pension Fund companies to be used as per the provisions of the Pensions Funds Act, (Act 24 of 1956), its amendments and its regulations and that of the The GPAA - Government Pensions Administration Agency - Republic of South Africa.

NB. Even though the abovementioned services do not follow formal bid process, a Service Level Agreement or contract must be in place for each service mentioned (where applicable) with a value exceeding R200 000.

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Where practical, purchases less than R2 000 (VAT included) for emergency situations may be sourced directly from vendors listed on the National Treasury Centralised Supplier Data (CSD) list and paid directly with the approval of the respective Head of Departments and Chief Financial Officer in line with as provided for in the SCM policy.

All other fixed contracts and items not on contract must follow the relevant SCM processes and systems.

No orders will be amended to include extra work not authorised through the correct processes and therefore the orders will not be cancelled to accommodate such work or payments.

Any additional work/services must be requested through the correct SCM process for approval.

All of the above are still subject to being in compliance with all other SCM legislative provisions for submission of a quote relating to the following but not limited to:

- (a) SARS compliant,
- (b) Registered with CSD,
- (c) BEE (where required),
- (d) Rates and taxes not in arrears,
- (e) MBD 4 – declaration of interest,
- (f) Registration with legislated professional bodies/accreditation,
- (g) Any other legislated provisions.

12. General preconditions for consideration of written quotations or bids.

- (1) A written quotation or bid may not be considered if the provider
 - (i) 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);
 - (j) Has been listed on restricted suppliers provided for in the regulations under the Preferential Procurement Policy Framework Act 2000 (Act No. 5 of 2000);unless the provider who submitted the quotation or bid –
 - (a) Has furnished that provider's –
 - (i) Full name;
 - (ii) Identification number or company or other registration number; and
 - (iii) Tax reference number and VAT registration number, if any;
 - (b) Municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to Ekurhuleni Metro or to any other municipality or municipal entity, are not in arrears for more than three months.
 - (c) Has authorized ERWAT to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
 - (d) Has indicated –
 - (i) Whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
 - (ii) If the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or

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- (iii) Whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state or has been in the service of the state in the previous twelve months.

13. Cash Purchases Less than R2000 (VAT Included)

- (1) The conditions for the procurement of goods by means of cash purchases referred to in paragraph 12(1)(a) of this policy, are that minor items are purchased for up to R2,000 (VAT included) where it is impractical, impossible or not cost-effective to follow the official procurement process.
- (2) A monthly reconciliation report from each manager must be provided to the Chief Financial Officer, including –
- (i) The total amount of cash purchases for that month; and
 - (ii) receipts and appropriate documents for each purchase.
- (3) Cash purchases less than R2000 (VAT Included):
- Purchases between R1 and R2000 (VAT Included), the Head of Department/delegated official and Chief Financial Officer, authorise the cash request with one written quote (where practical possible).
 - The end user purchases the item and submits the request for refund to their Head of Department/delegated official and Chief Financial Officer for approval, with the valid proof of payment (original receipt, EFT proof of payment with invoice and receipt, etc).
 - In the event of the end user incurring expenses out of pocket, receipts and invoices should be submitted for refund within 10 working days to avoid forfeiting their monies.
 - If monies are transferred directly to the employee's account, once approved to incur expense, they will be required to submit valid proof of expenses incurred, within 3 working days from transfer.
 - Failure to submit valid proof of payment/invoices/Receipts, within 3 working days from incurring the expense, will result in the monies being deducted from employee's salary and no further up-front payments will be entertained.
 - The approved form is submitted to creditors/finance for re-imbusement into the end user's personal bank account.

14. Written or verbal quotations

- (1) The conditions for the procurement of goods or services through written or verbal quotations, are as follows:
- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on CSD, provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 14(1)(b) and (c) of this policy;
 - (b) That to the extent feasible, providers must be requested to submit such quotations in writing;
 - (c) That if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;

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- (d) That the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) That if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

15. Formal written price quotations

- (1) The accounting officer must establish the conditions for the procurement of goods or services through formal written price quotations, which must include conditions stating –
 - (a) That quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of ERWAT;
 - (b) That quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 14(1)(b) and (c);
 - (c) That if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer; and
 - (d) That the accounting officer must record the names of the potential providers and their written quotations.
- (2) A designated official referred to in subparagraph (1)(c) must within Five (5) days of the end of each month report to accounting officer on any approvals given during that month by that official in terms of that subparagraph.

16. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations.

- (1) The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations, is as follows:
 - (a) That all requirements in excess of R30,000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 17, be advertised for at least seven (7) days on the website and an official notice board of ERWAT.
 - (b) That when using the list of accredited prospective providers, the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis.
 - (c) That the accounting officer must take all reasonable steps to ensure that the procurement of goods and services through written or verbal quotations or formal written price quotations is not abused.
 - (d) That the accounting officer or Chief Financial Officer must monthly be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub delegation; and
 - (e) Requirements for proper record keeping.

17. Competitive bidding process

- (1) Goods or services above a transaction value of R200,000 (VAT included) and long-term contracts may only be procured through a competitive bidding process, subject to paragraph 11(2) of this policy; and
- (2) No requirements for goods or services above an estimated transaction value of R200,000 (VAT included), may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process.

18. Process for competitive bidding process

- (1) The accounting officer must establish procedures for a competitive bidding process for each of the following stages:
 - (a) The compilation of bidding documentation;
 - (b) The public invitation or bids;
 - (c) Site meetings or briefing sessions if applicable;
 - (d) The handling of bids submitted in response to public invitation;
 - (e) The evaluation of bids;
 - (f) The award of contracts;
 - (g) The administration of contracts; and
 - (h) Proper record keeping.

19. Bid documentation for competitive bids

- (1) The accounting officer must establish the criteria to which bid documentation for a competitive bidding process must comply, which in addition to paragraph 13 of this policy, the bid documentation must—
 - (a) Take into account –
 - (i) The general conditions of contract
 - (ii) Any Treasury guidelines on bid documentation; and
 - (iii) The requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure.
 - (b) Include evaluation and adjudication criteria, including any criteria required by other applicable legislation;
 - (c) Compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
 - (d) If the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish –
 - (i) If the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
 - For the past three years; or
 - Since their establishment if established during the past three years;
 - (ii) A certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;

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- (iii) Particulars of any contracts awarded to the bidder by an organ of state during the past five (5) years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
 - (iv) A statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
 - (e) Stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law;
 - (f) Require a surety guarantee in appropriate cases;
 - (g) Indicate the value or extent to which the execution of the contract should or should not be subcontracted; and
- (2) A non-refundable charge shall be raised for bid forms, plans, specifications, samples and any other bid documentation, depending on the nature, magnitude and value of technical information or samples provided by the municipality.
- (3) Bid documents may allow for bidders to bid for one or more items or for a part of one or more items but the municipality reserves the right to accept part of a bid or a complete bid or quotation even if it is not the lowest, provided the interest of the ERWAT are best served thereby. Bid documents must be specific as certain contract is to be completed by the same contractor.
- (4) Where bidders insert prices on price lists supplied by ERWAT they shall delete items for which they do not bid or if the price has been included elsewhere in the price list. After bid/quotations have been opened bidders may not supplement their original offer if the original offer was incomplete.

20. Public Invitation for competitive bids

- (1) The procedure for the invitation of competitive bids, is as follows:
- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of ERWAT or any other appropriate ways (which may not include an advertisement in the Government Tender Bulletin);
 - (b) That all Supply Chain Management, Human Resources and other Entity related advertisements be placed in at least one of the following nationally circulating newspapers by following a direct quote process subject to the publisher being in compliance with all other SCM legislative provisions for submission of a quote:
 - (i) The Citizen
 - (ii) The Star
 - (iii) The Sunday Times / Business Times
 - (iv) City Press,
 - (v) The Sowetan
 - (vi) Any other national circulating newspaper depending on business requirements; and
 - (c) The information contained in a public advertisement, must include --
 - (i) The closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long-term nature, or 14 days

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in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this policy;

- (ii) A statement that bids may only be submitted on the bid documentation provided by ERWAT; and
- (iii) Date, time and venue of any proposed site meetings or briefing sessions.

(2) The accounting officer may determine a closure date for the submission of bids which is less than the 30- or 14-days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.

(3) Bids submitted must be sealed.

(4) Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.

21. Procedure for handling, opening and recording of bids

(1) The procedure for the handling, opening and recording of bids, are as follows:

- (a) Bids –
 - (i) Must be opened only in public; and
 - (ii) Must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
- (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
- (c) The accounting officer must –
 - (i) Record in a register all bids received in time;
 - (ii) Make the register available for public inspection; and
 - (iii) Publish the entries in the register and the bid results on the website.

22. Negotiations with preferred bidders

(1) The accounting officer may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –

- (a) Does not allow any preferred bidder a second or unfair opportunity
- (b) Is not to the detriment of any other bidder; and
- (c) Does not lead to a higher price than the bid as submitted.

(2) Minutes of such negotiations must be kept for record purposes.

23. Two-stage bidding process

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

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

(2) In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.

(3) In the second stage final technical proposals and priced bids should be invited.

24. Committee system for competitive bids

(1) The accounting officer is required to –

(a) Establish a committee system for competitive bids consisting of at least –

(i) A bid specification committee;

(ii) A bid evaluation committee;

(iii) A bid adjudication committee;

(2) The accounting officer appoints the members of each committee, taking into account Section 117 of the Act.

(3) The accounting officer is required to provide for an attendance or oversight process by a neutral or independent observer, appointed by the accounting officer, when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –

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

(b) any other applicable legislation

(5) The accounting officer may apply the committee system to formal written price quotations.

25. Bid specification committees

(1) The bid specification committee must consider and approve the specifications for the procurement of goods or services by ERWAT.

(2) Specifications –

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

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

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

(d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labelling of conformity certification;

- (e) may not make reference to any particular trademark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word equivalent;
 - (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations, 2022.
- (3) The bid specification must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 22 of this policy.
 - (4) A bid specification committee must be composed of one or more officials of ERWAT preferably the manager responsible for the function involved, and may, when appropriate, include external specialist advisors.
 - (5) No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.
 - (6) The Head of Department/delegated official requesting the goods and services must sign off on the scope of work as a reviewer.

26. Bid evaluation committees

- (1) A bid evaluation committee must –
 - (a) Evaluate bids in accordance with –
 - (i) The specification for a specific procurement; and
 - (ii) The points system set out in terms of paragraph 27(2)(f)
 - (b) Evaluate each bidder's ability to execute the contract;
 - (c) Check in respect of the recommended bidder whether municipal rates and taxes and municipal services charges are not in arrears, and;
 - (d) Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.
- (2) A bid evaluation committee must as far as possible be composed of –
 - (a) officials from departments requiring the goods or services; and
 - (b) at least one Supply Chain Management practitioner of ERWAT

27. Evaluation Of Bids on Stipulated Evaluation and Adjudication Criteria:

Preferential Procurement Policy Framework Act 5 Of 2000 (PPPFA) and Preference Procurement Regulations, 2022 (PPR):

Identification of preference point system

- (1) An organ of state must, in the tender documents, stipulate—
 - (a) the applicable preference point system as envisaged in regulations 4, 5, 6 or 7;
 - (b) the specific goal in the invitation to submit the tender for which a point may be awarded, and the number of points that will be awarded to each goal, and proof of the claim for such goal.
- (2) If it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of—

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- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
- (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system.

80/20 preference point system for acquisition of goods or services with Rand value equal to or below R50 million

- (1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

A maximum of 80 points is allocated for price on the following basis:

80/20

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

- (2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- (3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for acquisition of goods or services with Rand value above R50 million

- (1) The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender with a Rand value above R50 million, inclusive of all applicable taxes:

A maximum of 90 points is allocated for price on the following basis:

90/10

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

Where

Ps = Points scored for price of tender under consideration

Pt = Price of tender under consideration

Pmin = Price of lowest acceptable tender

- (2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- (3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

80/20 preference point system for income-generating contracts with Rand value equal to or below R50 million

- (1) The following formula must be used to calculate the points out of 80 for price in respect of an invitation for a tender for income-generating contracts with a Rand value equal to or below R50 million, inclusive of all applicable taxes:

A maximum of 80 points is allocated for price on the following basis:

80/20

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

Where

P_s = Points scored for price of tender under consideration

P_t = Price of tender under consideration

P_{min} = Price of lowest acceptable tender

- (2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- (3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.
- (4) Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

90/10 preference point system for tenders for income-generating contracts with Rand value above R50 million

- (1) The following formula must be used to calculate the points out 90 for price in respect of an invitation for tender for income-generating contracts with a Rand value above R50 million, inclusive of all applicable taxes:

A maximum of 90 points is allocated for price on the following basis:

90/10

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

Where

P_s = Points scored for price of tender under consideration

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Pt = Price of tender under consideration
Pmin = Price of lowest acceptable tender

- (2) A maximum of 20 points may be awarded to a tenderer for the specific goal specified for the tender.
- (3) The points scored for the specific goal must be added to the points scored for price and the total must be rounded off to the nearest two decimal places.

Subject to section 2(1)(f) of the Act, the contract must be awarded to the tenderer scoring the highest points.

Points for specific goals to promote economic development:

- (1) The tendering conditions will stipulate the specific goal, as contemplated in section 2(1)(d)(ii) of the Preferential Procurement Policy framework Act, be attained.
- (2) A maximum of 20 points (80/20 preference points system) or 10 (90/10 preference points system), will be allocated for specific goals. These goals are:
 - (a) contracting with persons, or categories of persons, historically disadvantaged by unfair discrimination on the basis of race, gender or disability.
- (3) Regarding paragraph 28.2 the 20/10 points will be allocated to promote the following goals. Points will be allocated as follows:

The specific goals allocated points in terms of this tender	Number of points allocated (80/20 system) (To be completed by the organ of state)	Number of points allocated (90/10 system) (To be completed by the organ of state)
EME or QSE 51% owned by women	4	2
EME or QSE 51% owned by youth	4	2
EME or QSE 51% owned by people with disabilities	4	2
EME or QSE 51% owned by military veterans	4	2
EME or QSE within the boundaries of Ekurhuleni Municipality	4	2

- (4) Any specific goal for which a point may be awarded, must be clearly specified in the invitation to submit a tender.
- (5) Procurement up to R30 000 will be limited to the application of goals as per paragraph 27(3) above.

Handwritten signature/initials

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- (6) A tenderer failing to submit proof of required evidence to claim preferences for other specified goals, which is in line with section 2 (1) (d) (ii) of the Act.
- (a) may only score in terms of the 80/90-point formula for price; and
 - (b) scores 0 points out of 20/10 of the relevant specific goals where the supplier or service provider did not stipulate.
- (10) The preference points scored by a tenderer must be added to the points scored for price.
- (11) The points scored must be rounded off to the nearest two decimal places.
- (12) The contract must be awarded to the tenderer scoring the highest points.

Criteria for breaking deadlock in scoring

- (1) If two or more tenderers score an equal total number of points, the contract must be awarded to the tenderer that scored the highest points for specific goals.
- (2) If two or more tenderers score an equal total number of points, the objective criteria in addition to those contemplated in paragraphs (d) and (e) justify the award to the tenderer that scored the highest points in terms in accordance with section 2(1)(f) of the Act.
- (3) If two or more tenderers score equal total points in all respects, the award must be decided by the drawing of lots.

Award of contracts to tenderers not scoring highest points

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

Remedies

- (1) If a Municipality is of the view that a tenderer submitted false information regarding a specific goal, it must—
- (a) inform the tenderer; accordingly, and
 - (b) give the tenderer an opportunity to make representations within 14 days as to why the tender may not be disqualified or, if the tender has already been awarded to the tenderer, the contract should not be terminated in whole or in part
- (2) After considering the representations referred to in paragraph 12 (1)(b), the Municipality may—
- (a) if it concludes that such false information was submitted by the tenderer—
 - (i) disqualify the tenderer or terminate the contract in whole or in part; and
 - (ii) if applicable, claim damages from the tenderer.

In the event that the provisions of PPPFA was included as part of evaluation criteria, the bid evaluation committee must consider the prescripts of Regulations 6 and 7 respectively, as provided for in the Preferential Procurement Policy Framework Act.

Bids not exceeding the total contract value of R50 000 000 must be evaluated on the 80/20 principle as set out in the PPPFA Act and regulation 6 as well as the SCM standard operating procedure no. 1.

Bids exceeding the total contract value of R50 000 000 must be evaluated on the 90/10 principle as set out in the PPPFA Act and regulation 7 as well as the SCM standard operating procedure no. 1.

28. Construction Industry Development Board (CIDB) Projects

- (1) An organ of state must determine and stipulate in the tender documents the minimum category which the bidders must be registered at with the CIDB in order to qualify for evaluation.
- (2) In the event that a tender was advertised as a CIDB project, the prescripts of the CIDB Act, 38 of 2000 and Regulations 17, 21 (3) and 25 (7), (8), (9) and 10 of 2004 (amended November 2008) as well as the Supply chain Management Standard Operating Procedures no. 6, must be taken into account before a recommendation for an award can be finalized.

29. Disqualification Of Bidders

- (1) An organ of state of state must determine and stipulate the evaluation criteria and the disqualification criteria for not meeting or complying with the provisions of the bid as set out under the mandatory requirements, scope of works, the functionality and or data sheets/supporting documents not meeting the minimum requirements.

30. Cancellation Of Tender

- (1) An organ of state may, before the award of a tender, cancel a tender invitation if-
 - (a) due to changed circumstances, there is no longer a need for the goods or services specified in the invitation;
 - (b) funds are no longer available to cover the total envisaged expenditure;
 - (c) no acceptable tender is received; or
 - (d) there is a material irregularity in the tender process.
- (2) The decision to cancel a tender invitation in terms of sub regulation (1) must be published in the same manner in which the original tender invitation was advertised.

31. Bid Adjudication committees

- (1) The bid adjudication committees must –
 - (a) Consider the report and recommendation of the bid evaluation committee; and
 - (b) Either –
 - (i) Depending on its delegation, make a final award or a recommendation to the accounting officer to make the final award; or
 - (ii) Make another recommendation to the accounting officer how to proceed with the relevant procurement.

- (2) A bid adjudication committee must consist of at least four senior management members of ERWAT which must include –
- (a) the Chief Financial Officer or, if the Chief Financial Officer is not available, another manager reporting directly to the Chief Financial Officer; and
 - (b) at least one senior Supply Chain Management practitioner who is an official of ERWA, and
 - (c) a technical expert in the relevant field who is an official, if such an expert exists.
- (3) The accounting officer must appoint the chairperson of the committee. If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- (4) Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee.
- (5) 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 charge are not in arrears, and;
 - (ii) notify the accounting officer and record reasons of the decision.
 - (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 paragraph (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.
- (6) 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.
- (7) The accounting officer must comply with Section 114 of the Act within 10 working days.

32. 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 85 of the Act; and
 - (c) May not be for a period of more than five years at a time.
- (2) The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 22(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act. No. 94 of 1990).

33. Procurement of IT related goods or services

- (1) The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- (2) Both parties must enter into a written agreement to regulate the services rendered by, and the payment to be made to, SITA.
- (3) The accounting officer must notify SITA together with a motivation of the IT needs if –
 - (a) The transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or
 - (b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).
- (4) If SITA comments on the submission and ERWAT disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the relevant Provincial Treasury and the Auditor General.

34. Procurement of goods and services under contract 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 discount or benefits to do so; and
 - (d) That other organ of state and the provider have consented to such procurement in writing.
- (2) Subparagraph (1)(c) and (d) do not apply if –
 - (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
 - (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.
- (3) Panel of consultants/list of approved service providers and framework agreements
 - (a) Municipalities and municipal entities must not participate on a panel secured by another organ of state as a panel of consultants or a list of service providers or a panel of approved service providers is not a contract. Municipalities or municipal entities may only participate on framework agreements arranged by organs of state, for example, State Information Technology Agency (SITA), the relevant treasury; that are empowered by legislation to arrange such on behalf of other organs of state.

The contents of National Treasury MFMA Circular 96 dated 24 July 2019, must be considered and taken into account when considering the use of the above Regulation 32.

35. 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 wherever possible.
- (2) Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

36. Appointment of consultants

- (1) The accounting officer may procure consulting services provided that any Treasury Guidelines in respect of consulting services are taken into account when such procurements are made.
- (2) Consultancy services must be procured through competitive bids if -
 - (a) The value of the contracts exceeds R200,000 (VAT included); 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
 - (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 right 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 ERWAT.

An organ of state must take into consideration the provisions of the Cost Containment Regulation of 07 June 2019 before embarking on a bid process for the procurement of consulting services, and the Cost Containment Policy. dated 20/02/2020.

37. 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;
 - (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) Acquisitions 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; and
 - (b) Ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.

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- (2) The accounting officer must record the reasons for any deviations in terms of subparagraph (1)(a) and (b) of this policy and report them to the next meeting of the Board of Directors and include as a note to the annual financial statements.
- (3) Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 11(2) of this policy.

38. 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;
 - (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 decided to consider an unsolicited bid that complies with subparagraph (2) of this policy, the decision must be made public in accordance with Section 21A of the Municipal System Act, together with –
 - (a) reasons as to why the bid should not be open to other competitors;
 - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
 - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- (4) All written comments received pursuant to subparagraph (3) including any responses from the unsolicited bidder, must be submitted to the National Treasury and the relevant provincial treasury for comment.
- (5) The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- (6) A meeting of the 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 relevant 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 relevant provincial treasury and the National Treasury the reasons for rejecting or not following those recommendations.

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

39. Combating of abuse of Supply Chain Management system

The following measures are established to combat the abuse of the Supply Chain Management system:

- (1) The accounting officer must –
- (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 Supply Chain Management 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 and CSD prior to awarding any contract to ensure that no recommended bidder, 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);
 - (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 Ekurhuleni Metro 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 ERWAT or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.
- To give effect to Section 38 (1) (d) of the SCM Policy the Standard Operating Procedure # 16 is to be implemented and adhered to effective from date of approval.
- (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
 - (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 ERWAT 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
- (2) The accounting officer must inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of subparagraph (1)(b)(ii), (e) or (f) of this policy.
- (3) To give effect to Section 38 of the SCM Policy the standard operating procedure (SOP) # 13 and Bid Committees' Charter is to be implemented and adhered to effective from date of approval.

Part 3: Logistics, Disposal, Risk and Performance Management**40. Logistics Management**

- (1) The accounting officer must establish and implement an effective system of logistics management in order to provide for the setting of inventory levels, placing of orders, receiving and distribution of goods, stores and warehouse management, expediting orders, transport management, vendor performance, maintenance and contract administration.

41. Disposal Management

- (1) The criteria for the disposal or letting of assets, including unserviceable redundant or obsolete assets, subject to Section 14 and 90 of the Act are as follows:
- (a) Moveable assets
 - (i) The asset is uneconomical to repair
 - (ii) The asset is irreparable
 - (iii) The relevant Department has no further use for the asset, and no other Department requires the asset.
 - (b) Immovable asset:
 - (i) The relevant Department has not further use for the asset, and no other Department requires the asset.
 - (ii) A member of the public can utilize the asset to the advantage of the community
- (2) The disposal of assets must –
- (a) Be by one of the following methods –
 - (i) Transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;
 - (ii) Transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
 - (iii) Selling the asset; or
 - (iv) Destroying the asset.
 - (b) Provided that:
 - (i) Immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
 - (ii) Movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
 - (iii) In the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment and
 - (iv) In the case of the disposal of firearms, the National Conventional Arms Control Committee has approved any sale or donation of firearms to any person or institution within or outside the Republic.
 - (c) Furthermore, ensue that –
 - (i) Immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; and

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- (ii) All fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed; and
- (d) Ensure that where assets are traded in for other assets, the highest possible trade-in price is negotiated.

42. Risk Management

- (1) The accounting officer must establish an effective system of risk management for the identification, consideration and avoidance of potential risks in the Supply Chain Management system.
- (2) Risk management must include –
 - (a) the identification of risks on a case-by-case basis;
 - (b) the allocation of risks to the party best suited to manage such risks;
 - (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
 - (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and;
 - (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

43. Performance Management

- (1) The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized Supply Chain Management processes were followed and whether the objectives of this Policy were achieved.

Part 4: Other matters**44. Prohibition on awards to persons whose tax matters are not in order**

- (1) No award above R15,000 may be made in terms of this Policy to a person whose tax matters have not been declared by the SARS to be in order.
- (2) Before making an award to a provider or bidder, a tax clearance certificate from SARS must first be provided as completed in paragraph 13(a)(iv).

45. 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) If that person is not a natural person, of which any director, manager, shareholder or stakeholder is a person in the service of the state; or

- (c) Who is an advisor or consultant contracted with ERWAT in respect of a contract that would cause a conflict of interest.

46. Award 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 (VAT included) to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –
- (a) The name of that person
 - (b) The capacity in which that person is in the service of the state; and
 - (c) The amount of the award

47. Ethical standards

- (1) A code of ethical standards is hereby established, in accordance with subparagraph (2), for officials and other role players in the SCM system 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 this policy –
- (a) must treat all providers and potential providers equitably;
 - (b) may not use his or her position for private gain or to improperly benefit another person;
 - (c) may not accept any reward, gift, favour, hospitality or other benefit directly or indirectly, including to any close family member, partner or associate of that person, of a value more than R350;
 - (d) notwithstanding subparagraph (2)(c), must declare to the accounting officer details of any reward, gift, 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, ERWAT.
 - (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 ERWAT
 - (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 paragraph 47(1) of this policy; or
 - (iii) Any alleged breach of this code of ethical standards.
- (3) Declarations in terms of subparagraph (2)(d) and (e) –
- (a) Must be recorded in a register which the accounting officer must keep for this purpose;

- (b) By the accounting officer must be made to Board of Directors who must ensure that such declarations are recorded in the register.
- (4) The National Treasury's code of conduct must also be taken into account by Supply Chain Management practitioners and other role players involved in Supply Chain Management.
- (5) A breach of the code of conduct adopted by ERWAT must be dealt with in accordance with schedule 2 of the Local Government: Municipal Systems Act, 2000.
- 48. Inducements, rewards, gifts and favours to ERWAT 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 indirectly or through a representative or intermediary promise, offer or grant –
- (a) Any inducement or reward to ERWAT 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 Supply Chain Management Policy.
- (2) The accounting officer must promptly report any alleged contravention of subparagraph (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) Subparagraph (1) does not apply to gifts less than R350 in value.
- 49. Sponsorships**
- (1) The accounting officer must promptly disclose to the National Treasury and the relevant provincial treasury and 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.
- 50. Objections and complaints**
- (1) Persons aggrieved by decisions or actions taken in the implementation of this SCM system, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.
- 51. Resolution of disputes, objections, complaints and queries**
- (1) The accounting must appoint an independent and impartial person, not directly involved in the SCM processes –
- (a) To assist in the resolution of disputes between ERWAT and other persons regarding –

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- (i) Any decisions or actions taken in the implementation of the SCM system; or
 - (ii) Any matter arising from a contract awarded in the course of the SCM system; or
 - (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 relevant provincial treasury if –
- (a) The dispute, objection, complaint or query is not resolved within 60 days; or
 - (b) No response is forthcoming within 60 days.
- (5) If the provincial treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.
- (6) This paragraph must not be read as affecting a person's rights to approach a court at any time.

52. Contracts providing for compensation based on turnover

- (1) If a service provider acts on behalf of ERWAT 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 ERWAT must stipulate –
- (a) A cap on the compensation payable to the service provider; and
 - (b) That such compensation must be performance based.

53. Cessions

- (1) The Chief Financial Officer or an official designated by the Chief Financial Officer may consent to the direct payment of sub-contractors or joint venture partners by way of:
- (a) An approved cession as provided for under National Treasury MFMA Circular 120 dated 15/08/2022; or
 - (b) An agreement for direct payment

54. Contract Management

- (1) Contract management to be implemented as per the provisions of Section 116 of Chapter 11 of the MFMA Act and as set out in the Contract Management Policy.

55. Extending or Varying a Contract

- (1) Subject to subsection (2), ERWAT on its own initiative or upon receipt of an application from the person, body, organization or corporation supplying goods or services to ERWAT in terms of this policy, may resolve to extend or vary a contract if:-
 - (a) The circumstances as contemplated in paragraph 36(1)(1) prevail; or
 - (b) With due regard to administrative efficiency and effectiveness, the accounting officer deems it appropriate.
- (2) ERWAT may not extend or vary a contract –
 - (a) more than once;
 - (b) for a period exceeding the duration of the original agreement; or
 - (c) for an amount exceeding twenty (20) percent of the original bid value.
- (3) Within one (1) month of the decision referred to in sub paragraph (1), the matters specified in sub paragraph (4) must be:-
 - (a) published by ERWAT at least in an appropriate newspaper circulating within the boundaries of Ekurhuleni; and
 - (b) displayed at a prominent place that is designed for that purpose by ERWAT.
- (4) The matters to be published or displayed are:-
 - (a) The reasons for dispensing with the prescribed procedure;
 - (b) A summary of the requirements of the goods or services; and
 - (c) The details of the person, body, organization or corporation supplying the goods or services.
- (5) The function of the accounting officer in terms of this Section (53) may not be assigned nor delegated.

56. Payment Terms

- (1) Payments shall be executed within 30 days after receipt of a month-end statement by the ERWAT creditors department.
- (2) Under no circumstances shall an invoice be paid if the goods and services were not ordered via an official ERWAT purchase order and signed off by the appropriate delegated authority.
- (3) Where other payment terms are required, written approval is first required by the Finance Manager and/or the Chief Financial Officer.
- (4) No ERWAT employee may enter a contract that binds ERWAT to payment terms that are in contravention of ERWAT's official payment terms.


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57. Procurement Procedures during State of Disaster Cases

- (1) In the event that a state of disaster is announced by the President of South Africa, an addendum with the relevant procurement procedures and process that may be promulgated or issued by National Treasury will be added to the SCM Policy as and when applicable.

58. POPIA Compliance

- (1) All supply chain documents, processes, procedures, staff and SCM stakeholders are to adhere and take the prescripts of the Protection of Personal Information Act 4 of 2013, into account throughout the procurement processes.

59. Short Title and Commencement

- (1) This policy is called the ERWAT Supply Chain Management Policy and takes effect on approval thereof.

60. Policy Review and Commencement

- (1) The SCM policy has been reviewed for the 2022/2023 financial book year by the SCM Unit on 16 January 2023.