

OVERSIGHT ROLE OF COUNCIL FOR THE PERIOD 01 SEPTEMBER 2022 – 31 DECEMBER 2022 - MARIUS GERICKE

File number / Verwysingsnommer: 9/1/2/3

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Report by / Verslag deur: Marius Gericke

PURPOSE OF REPORT

To report to the Mayor on the implementation of the Supply Chain Management Policy.

BACKGROUND AND DISCUSSION

The Council of a municipality must maintain oversight over the implementation of its supply chain management policy as stipulated in section 6 of the Municipal Supply Chain Management Regulations which determines as follows:

- “(1) The Council of a municipality and the board of directors of a municipal entity must maintain oversight over the implementation of its supply chain management policy*
- (2) For the purposes of such oversight the accounting officer must:*
 - (a) (i) in the case of a municipality, within 30 days of the end of each financial year, submit a report on the implementation of the supply chain management policy of the municipality and of any municipal entity under its sole or shared control, to the council of the municipality;*
 - (ii) in the case of a municipal entity, within 20 days of the end of each financial year, submit a report on the implementation of the municipal entity’s supply chain management to the board of directors, who must then submit the report to the accounting officer of the parent municipality for submission to the council in terms of subparagraph (i); and*
 - (iii) Whenever there are serious and material problems in the implementation of the supply chain management policy, immediately submit a report to the council of the municipality or in the case of a municipal entity, to the board of directors, who must then submit the report to the accounting officer of the parent municipality 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 mayor of the municipality or the board of directors of the municipal entity, as the case may be.*
- (4) The reports of a municipality must be made public in accordance with section 21A of the Municipal Systems Act. The reports of a municipal entity must be made public in a similar way.”*

COMMENTS: LEGAL SERVICES

The report is submitted to the Executive Mayor in compliance with Section 6 of the SCMP. The recommendation is supported.

SUMMARY

Implementation of System – Supply Chain Management

Section 6 of SCM Policy:

Oversight Role of Council over the Implementation of SCM Policy

RECOMMENDATION

(a) that the report be noted.

AANBEVELING

(a) dat kennis geneem word van die verslag.

ATTACHMENTS

A summarised detailed report is attached as Annexure “A” to the agenda.

MEETING TO BE SUBMITTED TO

Mayco

**OVERSIGHT ROLE OF COUNCIL FOR THE PERIOD 01 SEPTEMBER 2022 – 31 DECEMBER 2022 -
MARIUS GERICKE**

Implementation of System – Supply Chain Management

Section 6 of SCM Policy:

Oversight Role of Council over the Implementation of SCM Policy

PERIOD: 01 September 2022 – 31 December 2022

REG. NO.	CRYPTIC DESCRIPTION OF POWER OF DUTY	DELEGATED	IMPLE- MENTED	COMMENTS
3(1)(a)	Review at least annually the implementation of the policy.	Chief Financial Officer	YES	SCM Policy was updated to comply with National Treasury norms and standards.
3(1)(b)	Submit when considered necessary, proposals for the amendment of this policy to the council.	Chief Financial Officer	YES	In process
3(3)	Must, in terms of section 62(1)(f) ((iv) of the MFMA take all reasonable steps to ensure that the municipality has and implements a supply chain management policy.	Chief Financial Officer	YES	August 2005
5(2)(a)	Make a final award above R10 million (VAT included).	Accounting Officer (after considering recommendation of Bid Adjudication Committee)	YES	May not be sub-delegated.
5(2)(b)(c)	Make a final award above R200 000(VAT included), but not exceeding R10 million (VAT included).	Bid Adjudication Committee	YES	May not be sub-delegated.

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5(3)	<p>Submit to the officials referred to in subsection (4) within five days of the end of each month a written report containing particulars of each final award, except procurements made out of petty cash, made during that month, including –</p> <p>(a) the amount of the award; (b) the name of the person to whom the award was made; (c) the reason why the award was made to that person; and (d) the BEE/HDI status of that entity/person.</p>	Chief Financial Officer	YES	Monthly reports to Chief Financial Officer.
6(2)(a)(i)	Submit a report to council within 30 days of the end of each financial year on the implementation of the supply chain management policy of the municipality.	Chief Financial Officer	YES	Within 30 days of the end of each financial year.
6(2)(a)(ii)	Immediately submit a report to council whenever there are serious and material problems in the implementation of the supply chain management policy.	Chief Financial Officer	N/A	No need to report on regulation.
6(3)	Submit a report to the mayor of the municipality within ten days of each quarter on the implementation of the supply chain management policy.	Chief Financial Officer	YES	Within 10 days of the end of each quarter.
7(1)	Establish a supply chain management unit.	Chief Financial Officer	YES	January 2007
14(1)(a)	Keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements of the municipality through written quotations and formal written price quotations.	Chief Financial Officer	YES	George Municipality maintains its own database of prospective suppliers as well as use suppliers on the Central Supplier Database.
14(1)(b)	Invite prospective providers of goods and services at least once a year through newspaper commonly	Chief Financial Officer	YES	Ongoing.

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	circulating locally and the website of the municipality.			
14(1)(d)	Disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.	Accounting Officer	YES	Check the National Treasury's database for defaulters.
14(2)	Update the list of prospective providers at least quarterly to include any additional prospective providers and any new commodities or types of services.	Chief Financial Officer	YES	Ongoing
22(2)	Determine a closure date for 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.	Accounting Officer	YES	Accounting Officer must approve all requests.
23(d)	(i) record in a register all bids received in time; (ii) make the register available for public inspection; (iii) publish the entries in the register and the bid results on the website of the municipality.	Manager: Supply Chain Management	YES	Tender register in place.
26(1)(b)	Appoint the members of the bid specification, evaluation and adjudication committees, taking into account Section 117 of the MFMA.	Accounting Officer / Relevant Directors	YES	Not to be sub-delegated.
27(1)	Compile specifications for the procurement of goods and services by the municipality.	Bid Specifications Committee	YES	Not to be sub-delegated.

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28(1)(a)	Evaluate bids in accordance with – (i) the specifications for a specific procurement; and (iv) the points system as must be set out in the supply chain management policy of the municipality in terms of Regulation 27(2)(f) and a prescribed in terms of the Preferential Procurement Policy Framework Act.	Bid Evaluation Committee	YES	Has weekly meetings for evaluation of tenders.
28(1)(b)	Evaluate each bidder's ability to execute the contract.	Bid Evaluation Committee	YES	Not to be sub-delegated.
28(1)(c)	Check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears.	Bid Evaluation Committee	YES	Has a screening list that has to be completed.
28(1)(d)	Submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.	Bid Evaluation Committee	YES	Not to be sub-delegated.
29(1)(a)	Consider the report and recommendations of the bid evaluation committee.	Bid Adjudication Committee	YES	Not to be sub-delegated.
29(1)(b)(i)	Depending on its delegations, the Bid Adjudication Committee will make recommendation to the Municipal Manager to make the final award.	Accounting Officer	YES	Not to be sub-delegated.
29(5)	Appoint the chairperson of the bid adjudication committee.	Accounting Officer	YES	Chief Financial Officer.

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29(6)(a)	If a bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee, the bid adjudication committee must prior to awarding the bid – (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears; and (ii) notify the accounting officer.	Bid Adjudication Committee	YES	Not to be sub-delegated.
29(6)(b)	(i) After due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in Regulation 29(6)(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.	Accounting Officer	YES	Not to be sub-delegated.
29(7)	Refer any recommendation made by the evaluation committee or adjudication committee back to that committee for reconsideration of the recommendation.	Accounting Officer	YES	Not to be sub-delegated.
29(8)	Comply with Section 114 of the MFMA within ten working days.	Accounting Officer	YES	The Accounting Officer must notify the Auditor-General.
31(1)	Request the State Information Technology Agency (SITA) to assist the municipality with the acquisition of IT related goods or services through a competitive bidding process.	Accounting Officer	YES	IT section is responsible for the purchasing of IT equipment.
31(2)	Enter into a written agreement to regulate the services rendered by, and the payments made to,	Accounting Officer	YES	IT Manager is responsible.

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	SITA.			
31(3)	<p>Notify SITA together with a motivation of the IT needs of the municipality if –</p> <p>(a) the transaction value of IT related goods or services required by the municipality in any financial year will exceed R50 million (VAT including); or</p> <p>(b) the transaction value of a contract to be procured by the municipality whether for one or more years exceeds R50 million.</p>	Accounting Officer	YES	IT Manager is responsible.
32(1)	<p>To procure goods or services for the municipality under a contract secured by another organ of state, but only if –</p> <p>(a) the contract has been secured by that organ of state by means of a competitive bidding process applicable to that organ of state;</p> <p>(b) the municipality has no reason to believe that such contract was not validly procured;</p> <p>(c) there are demonstrable discounts or benefits for the municipality; and</p> <p>(d) that other organ of state and the provider have consented to such procurement in writing.</p>	Accounting Officer	YES	No transversal contract for the period of 01 September 2022 up to 31 December 2022.
35(1)	Procure consulting services above the value of R200 000 (VAT included) provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.	Bid Adjudication Committee	YES	Not to be sub-delegated.

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35(4)	Ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the municipality.	Relevant Department	YES	Relevant department must ensure that copyright in any document is vested in the municipality.
36(1)(a)	Dispense with the official procurement processes established by the 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) it is impractical to invite competitive bids for specific procurement such as urgent or emergency cases; (iii) if such goods or services are produced or available from a single provider only; (iv) for the acquisition of special worker of art or historical objects where specifications are difficult to compile; (v) acquisition of animals or zoos; or (vi) in any other exceptional case where it is impractical or impossible to follow the official procurement processes.	Accounting Officer	YES	All deviations be forwarded monthly to Finance Committee Meeting.
36(1)(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.	Accounting Officer	YES	
36(2)	Record the reasons for any deviations in terms of Regulations 36(1)(a) and (b); and Report them to the next meeting of the Council and include as a note to the annual financial	Accounting Officer	YES	

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	statements.			
37(2)	Decide to consider an unsolicited bid but only if – (a) the product or service offered is a demonstrably or proven unique innovative concept; (b) the product or service will be exceptionally beneficially to, or have exceptional cost advantages for, the municipality; (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.	Accounting Officer	NO	No unsolicited bids for the period 01 September 2022 up to 31 December 2022.
37(4)	Submit written comments received pursuant to Regulation 37(3), including any responses from the unsolicited bidder, to the National Treasury and the relevant provincial treasury for comment.	Accounting Officer	NO	
37(5)	Consider the unsolicited bid.	Bid Adjudication Committee	NO	Not to be sub-delegated.
37(5)	Award the bid or make recommendations to the accounting officer depending on the delegations to the adjudication committee.	Bid Adjudication Committee for bids up to R10 million (VAT incl) and Accounting Officer for bids above R10 million (VAT incl) after consideration of recommendation of Bid Adjudication Committee	YES	Not to be sub-delegated.

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37(7)	Take into account when considering an unsolicited bid – (i) any comments submitted by the public; and any written comments and recommendations of the National Treasury or the relevant provincial treasury.	Bid Adjudication Committee	NO	No unsolicited bids were accepted.
37(8)	Submit to the Auditor General, the relevant provincial treasury and the National Treasury the reasons for rejecting or not following any recommendations of the National Treasury or provincial treasury in regard to the unsolicited bid.	Accounting Officer	NO	No unsolicited bids were accepted.
38(1)(a)	Take all reasonable steps to prevent abuse of the supply chain management system.	Chief Financial Officer	YES	The National Treasury Code of Conduct has been send to all municipal staff involved in any form of procurement process.
38(1)(b)	Investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with the 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.	Accounting Officer	YES	The Accounting Officer is responsible to attend to all such allegations.
38(1)(c)	Check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector.	Manager: Supply Chain Management	YES	Ongoing
38(1)(d)	Reject any bid from a bidder – (i) if any municipal rates and taxes or	Chief Financial Officer	YES	Ongoing

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	<p>(ii) municipal service charges owed by that bidder or any directors to the municipality are in arrears for more than three months; who during the last five years has failed to perform satisfactorily on a previous contract with the municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory.</p>			
38(1)(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.	Chief Financial Officer	YES	
38(1)(f)	<p>Cancel a contract awarded to a person if –</p> <p>(i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or</p> <p>(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.</p>	Manager: Supply Chain Management	YES	
38(1)(g)	<p>Reject the bid of any bidder if that bidder or any of its directors –</p> <p>(i) has abused the supply chain management system of the municipality or has committed any improper conduct in relation to such system;</p> <p>(ii) has been convicted for fraud or corruption during the last five years;</p> <p>(iii) has willfully neglected or reneged on or failed to comply with any government, municipal or other public sector contract during the past</p>	To all relevant delegates within the SCM unit	YES	

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	(iv) five years; or 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).			
38(2)	Inform the National Treasury and relevant provincial treasury in writing of any actions taken in terms of Regulation 38(1)(b)(ii), (e) or (f).	Manager: Supply Chain Management	YES	
40(1)	The Supply chain policy must provide for an effective system of disposal management for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14&90 of MFMA.	Accounting Officer	YES	Policy in place
40(2) a	A Supply Chain management policy must specify the ways in which assets may be disposed of, including by – (i) Transferring the asset to another organ of state in terms of a provision of the MFMA 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; (iv) Destroying the asset.	Accounting Officer	YES	
40(2) b	Stipulate that – (i) Immoveable property may be sold only at market related prices except when public interest or the plight of the poor demands otherwise; (ii) movable assets may be sold either by way of written price quotations, a competitive bidding process, auction or	Accounting Officer / Bid Adjudication Committee	YES	

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	<p>at market related prices, whichever is the most advantageous to the municipality;</p> <p>(iii) in the case of the free disposal of computer equipment, the Provincial Department of Education must first be approached to indicate within 30 days whether any of the local schools are interested in the equipment;</p> <p>(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.</p>			
40(2) c	<p>Provide that –</p> <p>(i) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise;</p> <p>(ii) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed.</p>	Accounting Officer	YES	
40(2) d	Ensure that where assets are traded in for other assets, the highest possible trade-in is negotiated.	Accounting Officer	YES	
41(1)	A Supply chain management policy must provide for an effective system of risk management for the identification, consideration and avoidance of potential risks in the supply chain management system.	Accounting Officer	YES	Risk management matrix in place.

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42	Performance management.	Accounting Officer	YES	Ongoing.
43(2)	Check with SARS whether a person's tax matters are in order before making an award to such person.	Manager: Supply Chain Management	YES	Ongoing
45	Disclose in the notes to the annual financial statements of the municipality particulars of any award of more than R2,000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including – (a) the name of that person; (b) the capacity in which that person is in the service of the state; and (c) the amount of the award.	Chief Financial Officer	YES	Information disclose within annual financial statements.
46(5)	Adopt the National Treasury's code of conduct for supply chain management practitioners and other role players involved in supply chain management.	Accounting Officer	YES	
47(2)	Report any alleged contravention of Regulation 47(1) to the National Treasury for considering whether the offending person, and any representative or intermediate 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.	Accounting Officer	YES	
48	Disclose to the National Treasury and the relevant provincial treasury any sponsorship promised, offered or granted to the municipality whether directly or through a representative or intermediate, by any person who is –	Accounting Officer	YES	

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	(a) a provider or prospective provider of goods or services to the municipality; or (b) a recipient or prospective recipient of goods disposed or to be disposed, of by the municipality.			
50(1)	Appoint an independent and impartial person to assist in the resolution of disputes and to deal with objections, complaints or queries as described more fully in Regulation 50(1).	Manager: Compliance Services	YES	Deals with all disputes received.
50(2)	Responsible to assist the person appointed in terms of Regulation 50(1) to perform his or her functions effectively.	Accounting Officer	YES	