

## Annexure A



# Elundini Local Municipality

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## Elundini Local Municipality SCM Policy for Infrastructure Procurement and Delivery Management

*for use by Elundini Local Municipality that is subject to the Local Government Municipal Finance Management Act, of 2003 (Act 56 of 2003) (MFMA)*

### Preface

The delivery of municipal services and infrastructure for roads and storm water, electricity, community services, water and sanitation, is a complex process that requires those responsible for its planning, procurement and delivery to streamline its linkages to the multiyear budgeting process in government. As a key component to municipal service delivery, municipal infrastructure contributes to socio-economic growth, development, poverty alleviation and social stability.

Efforts to build sustainable municipal infrastructure management and delivery capacity in the municipal sector are reflected in the Infrastructure Delivery Management System's core systems namely Planning and Budgeting, Supply Chain Management and Asset Management, amongst others; and have now found a place in the National Development Plan (NDP) of 2030.

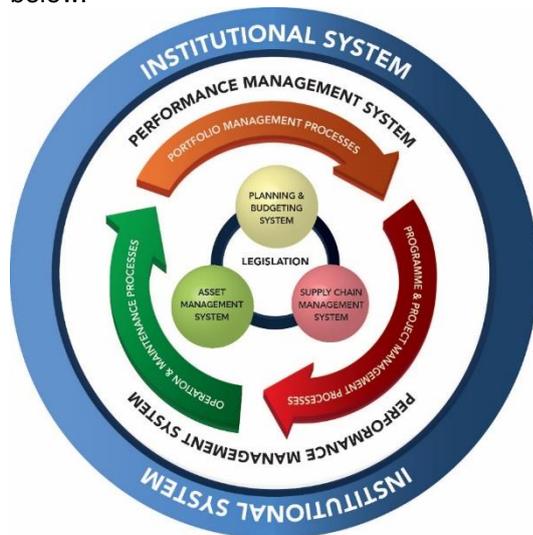
According to the NDP, the main challenge which also affects infrastructure management and delivery has been the disparities in capacity that leads to uneven performance in local, provincial and national government. This is caused by a complex set of factors, including tensions in the political-administrative interface, instability of the administrative leadership, a skills deficit, the erosion of accountability and authority, poor organisational design and low staff morale.

The weaknesses in capacity and performance are most serious in historically disadvantaged areas, and this is where state intervention is most needed to improve people's quality of life. According to the NDP, there have been many individual Government initiatives to address weaknesses in the State's delivery of infrastructure, but these are not integrated and there is a tendency to not give focused attention to such initiatives over an extended period of time.

Frequent changes in approaches and interventions have created instability in organisational structures and policy approaches that further strain limited capacity. The search for a quick fix has furthermore diverted attention from more sustainable approaches.

In response to the challenge outlined by the NDP, Government adopted the Infrastructure Delivery Management System (IDMS) (illustrated in figure 1 below) as an initiative that integrates three core systems: planning and budgeting; supply chain management; and asset management. These core systems are located within portfolio, programme and project management, and operation and

maintenance processes. Collectively these processes and systems, together with a performance management system, establish the institutional system for infrastructure delivery as shown in Figure 1.1 below.

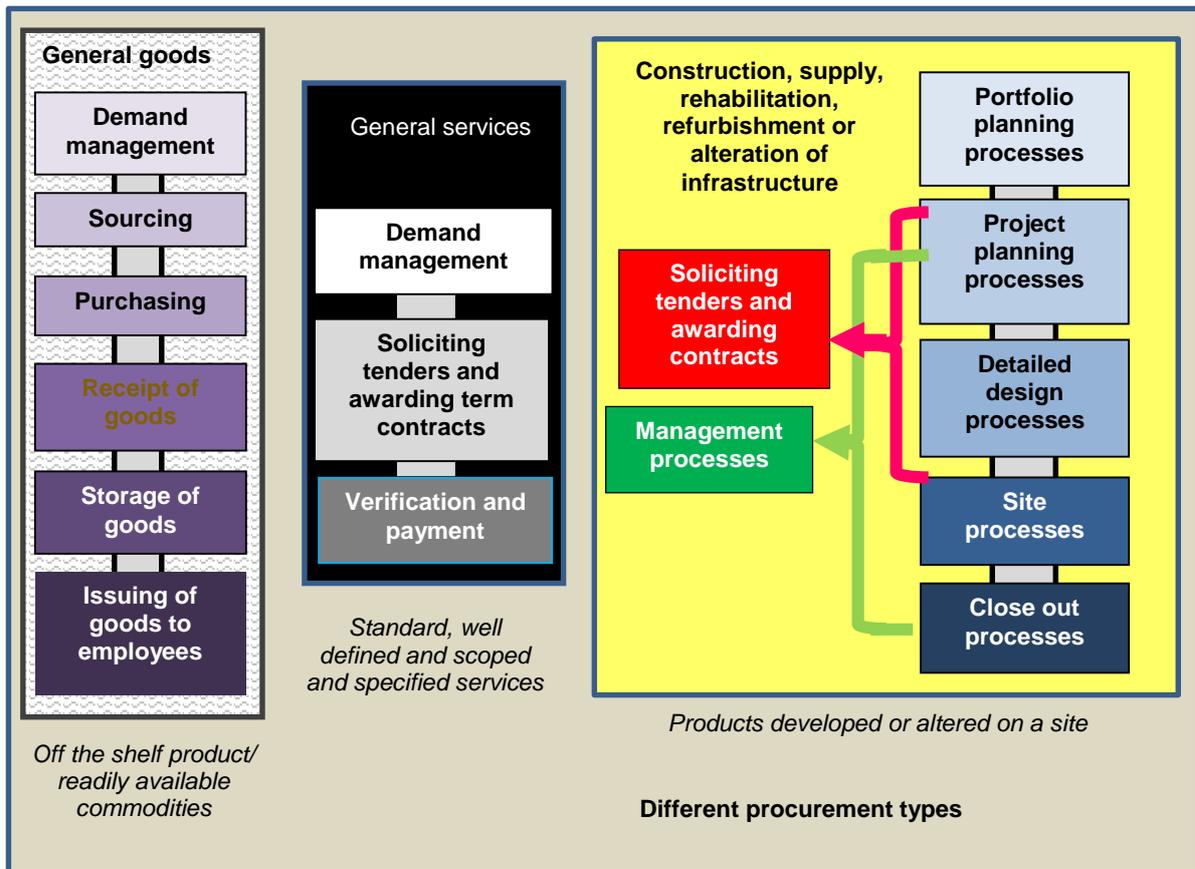


**Figure 1.1: The IDMS**

Public procurement that is unrelated to infrastructure delivery typically relates to goods and services that are standard, well-defined and readily scoped and specified. Once purchased, goods invariably need to be taken into storage prior to being issued to employees. Services most often involve routine, repetitive services with well understood interim and final deliverables which do not require strategic inputs or require decisions to be made regarding the fitness for purpose of the service outputs.

In contrast, procurement relating to the provision of new infrastructure or the rehabilitation, refurbishment or alteration of existing infrastructure, covers a wide and diverse range of goods and services, which are required to provide or alter the condition of immovable assets on a site. Accordingly, the procurement process for the delivery of infrastructure involves the initial and subsequent recurring updating of planning processes at a portfolio level flowing out of an assessment of public sector service delivery requirements or business needs. Thereafter it involves planning at a project level and the procurement and management of a network of suppliers, including subcontractors, to produce a product on a site. There is no need to store and issue materials or equipment unless these are issued to employees responsible for the maintenance or operation of infrastructure, or are issued free of charge to contractors for incorporation into the works.

The different procurement types are illustrated in Figure 1.2 below.



**Figure 1.2: Different Procurement Types**

Procurement is *the process which creates, manages and fulfils contracts*. Procurement deals with activities surrounding contracts. Such processes focus on establishing what is to be procured, developing a procurement strategy, producing procurement documentation, soliciting and evaluating tender offers, awarding of contracts and administering contracts.

On the other hand, supply chain management (SCM) is *the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods, services or any combination thereof*. Supply chains comprise all those public and private entities that are involved in delivering the inputs, outputs and outcomes of projects. Accordingly, supply chain management is concerned with the oversight, co-ordination and monitoring of inputs, outputs and outcomes of projects from the various entities within a supply chain.

Infrastructure is defined as *“immovable assets which are acquired, constructed or which results from construction operations or moveable assets which cannot function independently from purpose built immovable assets”* while infrastructure delivery is defined as *“the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.”* Accordingly, infrastructure delivery management contextualises the supply chain management system for infrastructure.

Understandably, there are several overlaps between the supply chain management system for general goods and services and that for infrastructure delivery management. However, the inclusion of control frameworks in the Standard for Infrastructure Procurement and Delivery Management is aimed at

expenditure control and a reduction in the gap between what is planned and budgeted for and what is delivered to ensure that value for money is achieved.

Therefore, this document has been drawn up with the primary purpose to embed an infrastructure delivery management system for Elundini Local Municipality which is aligned with the regulatory framework for public sector procurement, supply chain management and expenditure control. It also enables the National Treasury Standard for Infrastructure Procurement and Delivery Management to be implemented.

# Elundini Local Municipality's SCM Policy for Infrastructure procurement and delivery management

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# 1 Scope

## 1.1 Context

Circular No 77 of 2015/2016: Model SCM Policy for Infrastructure Delivery Management provides guidance to municipalities and municipal entities on the establishment of a suitable supply chain management system for infrastructure delivery which is better able to deliver value for money, while minimizing the scope for fruitless and wasteful expenditure. The *Model SCM Policy for Infrastructure Delivery Management* which is attached to MFMA Circular 77 has been issued in terms of Section 168 of the Municipal Finance Management Act of 2003 (*Act 56 of 2003*) (MFMA), in support of Regulation 3(2),(c) of the MFMA Supply Chain Management Regulations as a Treasury guideline determining a standard for municipal supply chain management policies. It is linked to the *National Treasury Standard for Infrastructure Procurement and Delivery Management* which establishes:

The Model Supply Chain Management (SCM) Policy for Infrastructure Procurement and Delivery Management which is attached to MFMA Circular 77 has also aligned to regulation 2(1), (c),(e), and regulation 3(1) as set out below that was issued in terms of *Section 168 of the Municipal Finance Management Act of 2003 (Act 56 of 2003) (MFMA)*.

- ❑ **Regulation 2(1)** of the *Municipal SCM Regulations* provides that each municipality and each municipal entity must in terms of section 111 of the Act have and implement a supply chain management policy that amongst others: –
  - (c) complies with –
    - (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act; and
    - (e) does not undermine the objective for uniformity in supply chain management systems between organs of state in *all spheres*;
- ❑ **Regulation 3(1)** of the *Municipal Supply Chain Management Regulations* requires the accounting officer of a municipality or municipal entity to, amongst others, *at least annually review the implementation of the SCM Policy* and, if necessary, submit proposals for the amendment of the policy to the council or the board of directors.
- ❑ **Regulation 3(2)** then goes further by stating that the accounting officer *may for purpose of regulation 3(1) make use of any Treasury guidelines determining standards for municipal supply chain management policies in drafting their SCM policies*.
- ❑ Regulation **3(2)(c)** furthermore requires that *any deviation from the guideline standard be reported to the National Treasury and the relevant provincial treasury*.

The *National Treasury Standard for Infrastructure Procurement and Delivery Management* to which the *Model SCM Policy for Infrastructure Delivery Management* is linked establishes the following:

- a) requirements for the following matters as applied to the supply chain management system for infrastructure delivery:
  - institutional arrangements;
  - demand management;
  - acquisition management;
  - contract management;
  - logistics management;
  - disposal management;
  - reporting of supply chain management information;
  - regular assessment of supply chain management performance; and
  - risk management and internal control; and
- b) a control framework for the planning, design and implementation of infrastructure projects and infrastructure procurement.

This Model Supply Chain Management (SCM) Policy for Infrastructure Procurement and Delivery Management applies to Elundini Local Municipality in terms of council resolution no: XXXXX of 1 July 2017 whereby council adopts the guideline standard for SCM policies. That establishes the minimum requirements for Elundini Local Municipality as its organisational policy for Infrastructure Procurement and Delivery Management, as a minimum count for and to:

- assign responsibilities for approving or accepting deliverables associated with a gate in the control framework or authorising a tender process;
- establish committees which are required by law or equivalent quality management and governance arrangements;
- establish delegations for the awarding of a contract or the issuing of an order

This standard for municipal supply chain management policies as relating to infrastructure procurement and delivery management, or any modified version of it, is adopted by Elundini Local Municipality and will assist the municipality to better plan and obtain the value for money when undertaking infrastructure projects within the understanding of the following key focus areas:

- **Supply Chain Management, which may be defined as** *“the design, planning, execution, control and monitoring of supply chain activities in the delivery of goods, services or any combination thereof”*;
- **Procurement, which is defined as** *“the process which creates, manages and fulfils contracts”*;
- **Infrastructure Procurement, which is defined as** *“the procurement of goods or services including any combination thereof associated with the acquisition, refurbishment, rehabilitation, alteration, maintenance, operation or disposal of infrastructure”*;
- **Infrastructure, which is defined as** *“immovable assets which are acquired, constructed or which results from construction operations or moveable assets which cannot function independently from purpose built immovable assets”*
- **Infrastructure delivery, which is defined as** *“the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure.”*; and
- **Infrastructure delivery management**, which contextualises the supply chain management system for infrastructure.

This Model Supply Chain Management (SCM) Policy for Infrastructure Procurement and Delivery Management of Elundini Local Municipality is aligned with the Supply Chain Management Regulations issued in terms of the Local Government: Municipal Finance Management Act of 2003.

There are unavoidably duplications in supply chain management policies for general goods and services and those for infrastructure delivery management arising from not only regulatory requirements but also an overlap in support functions such as the receipt of bids and advertising of bids. This model policy document is accordingly issued as a supplementary (**Annexure A**), to the Elundini Local Municipality's **master policy for supply chain management system**, for general goods and services.

The approach to procurement documentation is significantly different between general goods and services and infrastructure delivery. Documents for general goods and services, are based on the National Treasury General Conditions of Contract (GCC) which focuses on the rights and obligations of the parties in a generic manner and also deals with aspects of the bidding processes.

This GCC requires that goods conform to the standards mentioned in the bidding documents and specifications and is used with standard bidding documents which include an invitation to bid, price schedules, local content, certificate of bid independence, declaration of bidders past SCM practices, etc. Accordingly, **the major variables** between documents are the **specifications or terms of reference and the evaluation criteria** which ensures that bids are awarded on the basis of the lowest price for

meeting a minimum standard. Contracts or service level agreements are frequently negotiated after the award of the bid.

In contrast, infrastructure procurement documents are based on a standard approach to the formatting and compilation of procurement documents used in conjunction with flexible standard conditions for the calling for an expression of interest and conditions of tender and a standard form of contract selected from a prescribed list. These standard forms of contract permit different allocations of risk to the parties to a contract and a wide range of pricing strategies to be pursued.

This approach to procurement documentation enables procurement strategy and tactics to be exercised both in the awarding and in the performance of a contract in order to realise best value for money outcomes. Very seldom are material changes made in the draft contract which is issued to tenderers during the process of offer and acceptance as the offer is based on the selected allocation of risks and pricing strategies.

There are accordingly significant differences in the approach to bid specification and bid evaluation committees between the SCM system for general goods and services and that for infrastructure as a very different skills sets coupled with contextual knowledge is required. On the other hand, the bid adjudication committee is a governance committee which can deal with submissions emanating from both supply chains policies. Elundini Local Municipality are confined to set structures of the municipality, the membership of this committee is will there-for not deviate from existing structures and allows for the provision of a professional registered built environment person to form part of the committees structures as required by the SIPDM.

The differentiation between committees used in the two supply chain management policies is in the structuring of these committee that is align to the Standard for Infrastructure Procurement and Delivery Management (SIPDM) requirements, in **annexure B** of the Master SCM policy, reference as Bid Specification , Evaluation and Adjudication Committee in this policy, referred to in Treasury Regulations.

The Supply Chain Management Regulations issued in terms of the MFMA permit the accounting officer herein after referred to as Municipal Manager to make use of any Treasury guidelines determining standards for municipal supply chain management policies and to submit to the council of Elundini Local Municipality a guideline standard known as the Standard of Infrastructure Procurement and Delivery Management (SIPDM) attached as **(Annexure B)**, or any modified version as a draft policy (see Regulations 2 and 3) above. The Regulations furthermore require the Municipal Manager of Elundini Local Municipality **shall** report any deviation from the guideline standard to the National Treasury and the relevant Provincial Treasury. Accordingly, all departures from this model policy and the *Standard for Infrastructure Procurement and Delivery Management* (SIPDM), which is embedded within the policy, will be reported to the relevant treasury.

This policy establishes the Elundini Local Municipality's policy for infrastructure procurement and delivery management in accordance with the provisions of the regulatory frameworks for procurement and supply chain management. It includes the procurement of goods and services necessary for a new facility to be occupied and used as a functional entity but excludes:

- a) the storage of goods and equipment following their delivery to Elundini municipality which are stored and issued to contractors or to employees;
- b) the disposal or letting of land;
- c) the conclusion of any form of land availability agreement;
- d) the leasing or rental of moveable assets; and
- e) Public private partnerships.

## 2 Terms, definitions and abbreviations

### 2.1 Terms and definitions

For the purposes of this document, the definitions and terms given in the standard and the following apply:

**agent:** person or organization that is not an employee of Elundini Local Municipality that acts on the Elundini Local Municipality's behalf in the application of this document

**Accounting Officer:** Municipal Manager

**authorised person:** Municipal Manager, the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

**client:** is an organs of state who engage another organ of state or the user department of the municipality, to deliver project on behalf of that organ of state or that user department of the municipality, that sponsor initiates, commissions and pays for the project, owns the business case and leads the project .

**conflict of interest: any situation in which:**

- a) someone in a position of trust has competing professional or personal interests which make it difficult for him to fulfil his duties impartially,
- b) an individual or organization is in a position to exploit a professional or official capacity in some way for his personal or for corporate benefit, or
- c) incompatibility or contradictory interests exist between an employee and the organization which employs that employee

**contract manager:** person responsible for administering a package on behalf of the employer and performing duties relating to the overall management of such contract from the implementer's point of view

**family member:** a person's spouse, whether in a marriage or in a customary union according to indigenous law, domestic partner in a civil union, or child, parent, brother, sister, whether such a relationship results from birth, marriage or adoption

**framework agreement:** an agreement between an organ of state and one or more contractors, the purpose of which is to establish the terms governing orders to be awarded during a given period, in particular with regard to price and, where appropriate, the quantity envisaged

**gate:** a control point at the end of a process where a decision is required before proceeding to the next process or activity

**gateway review:** an independent review of the available information at a gate upon which a decision to proceed or not to the next process is based

**gratification:** an inducement to perform an improper act

**implementer:** is an organs of state who engage another organ of state or the Directorate of Infrastructure Planning and Development Unit of Elundini Local Municipality's to provide agency services to administrate and supervise the processes which when combined into a comprehensive plan, provides the business and technical functions needed to successfully achieve the outcome of the project Implementation responsibilities.

**Sub-Implementer:** Project Management Unit of Elundini Local Municipality's and or professional service provider appointed through procurement process

**infrastructure delivery:** the combination of all planning, technical, administrative and managerial actions associated with the construction, supply, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**infrastructure procurement:** the procurement of goods or services including any combination thereof associated with the acquisition, renovation, rehabilitation, alteration, maintenance, operation or disposal of infrastructure

**maintenance:** the combination of all technical and associated administrative actions during an item's service life to retain it in a state in which it can satisfactorily perform its required function

**operation:** combination of all technical, administrative and managerial actions, other than maintenance actions, that results in the item being in use

**order:** an instruction to provide goods, services or any combination thereof under a framework agreement

**organ of state:** an organ of state as defined in section 239 of the Constitution of the Republic of South Africa

**procurement document:** documentation used to initiate or conclude (or both) a contract or the issuing of an order

**principal:** a natural person who is a partner in a partnership, a sole proprietor, a director a company established in terms of the Companies Act of 2008 (Act No. 71 of 2008) or a member of a close corporation registered in terms of the Close Corporation Act, 1984, (Act No. 69 of 1984)

**standard:** the latest edition of the Standard for Infrastructure Procurement and Delivery Management as published by National Treasury

**working day:** any day of a week on which is not a Sunday, Saturday or public holiday

## 2.2 Abbreviations

For the purposes of this document, the following abbreviations apply

CIDB: Construction Industry Development Board

SARS: South African Revenue Services

General requirements<sup>5</sup>

## 3 General requirements

### 3.1 Delegations

**3.1.1** The council of Elundini Local Municipality hereby delegates all powers and duties to the municipal manager which are necessary to enable the municipal manager to:

- a) discharge the supply chain management responsibilities conferred on accounting officers in terms of Chapter 8 or 10 of the Local Government Municipal Finance Management Act of 2003 and this document;
- b) maximise administrative and operational efficiency in the implementation of this document;
- c) enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this document; and

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<sup>5</sup> This clause is required to ensure that the standard is linked to the policy and aligned with the MFMA SCM Regulations.

- d) comply with his or her responsibilities in terms of section 115 and other applicable provisions of the Local Government Municipal Finance Management Act of 2003 Act.

**3.1.2** No amendment shall be made from the provisions of this policy without the approval of the National Treasury.

**3.1.3** The municipal manager shall for oversight purposes:

- a) within 30 days of the end of each financial year, submit a report on the implementation of this the policy and the equivalent policy of any municipal entity under the sole or shared control of the Elundini Local Municipality, to the council of the Elundini Local Municipality.
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the council;
- c) within 10 days of the end of each quarter, submit a report on the implementation of the policy to the mayor ; and
- d) make the reports public in accordance with section 21A of the Municipal Systems Act of 2000.

## **3.2 Implementation of the Standard for Infrastructure Procurement and Delivery Management Policy**

**3.2.1** Infrastructure procurement and delivery management will be undertaken in accordance with all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management(SIPDM) <sup>6</sup>

**3.2.2** Pre-feasibility and feasibility reports are required as end-of-stage deliverables for stages 3 and 4, respectively, on the test provided in section 4.1.1.4 ( a to c). of the SIPDM and on recommendation of Elundini Local Municipality's Director of the Infrastructure Planning and Development Unit in consultation with the user department,

.....<sup>7</sup>

**3.2.3** Stage 3 to 7 are required as per sub clause 4.1.1.1 of the SIPDM and on recommendation of Elundini Local Municipality's Director of the Infrastructure Planning and Development Unit in consultation with the user department or delegated official of Project Management Unit within Elundini Local Municipality's act as Client's, Director or delegated official .....<sup>8</sup>

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<sup>6</sup> Any deviation to the provisions of this standard must be reported to National Treasury and the relevant treasury.

<sup>7</sup> Sub-clause 4.1.1.4 c) of the standard permits an organ of states' policy to require that pre-feasibility and feasibility reports are required, notwithstanding the test provided for in this sub-clause to determine if such reports are required. The compiler of the policy needs to delete this sub-clause if it is not required.

<sup>8</sup> Sub-clause 4.1.1.1 of the standard permits stages 3 to 9 where the work does not involve the provision of new infrastructure or the rehabilitation, refurbishment, alteration of existing infrastructure. Stages 5 and 6 to be omitted where there is sufficient information to proceed to stage 7 is contained in the stage 4 deliverable. The policy may require that certain types of work (e.g. specific types of maintenance) need to pass through all the stages. If this is the case, the policy may require the application of all the stages for specific types of projects. The compiler of the policy needs to delete this sub-clause if it is not required.

### 3.3 Policy Intent and Purpose

The policy intent of the Elundini Local Municipality SCM Policy for Infrastructure Procurement and Delivery Management is to facilitate the achievement of sustainable, uniform and consistent approach in the infrastructure procurement and delivery management by Elundini Local Municipality and entities. In this context, sustainability implies a commitment to long-term planning and budgeting; the development of outcomes that consider asset management principles; environmental and socio-economic impacts.

This SCM Policy for Infrastructure Procurement and Delivery Management has been developed with the objective of:

- i. Ensuring that the Elundini Local Municipality assigned with the responsibility (in terms of relevant legislation) to deliver infrastructure or those appointed to act as the implementing agents for infrastructure delivery comply with The National Treasury Instruction Circular 77. of 2015/16.
- ii. Addressing the National Treasury SIPDM need to establish and implement a framework to:
  - a. assign responsibilities for approving or accepting deliverables associated with a gate in the control framework or authorising a tender process;
  - b. establish committees which are required by law;
  - c. establish delegations for the awarding of a contract or the issuing of an order; and
  - d. establish ethical standards for those involved in the procurement and delivery of infrastructure.
- iii. Assigning the centrally led infrastructure delivery implementing agency (IA) status to the relevant municipal entity and mechanism for assigning Sub-IA's or Delivery Agents in cases where Elundini Local Municipality does not have capacity to deliver the implementing agency mandate.
- iv. Providing a framework for implementing the whole of Elundini Local Municipality's local economic development strategy priorities through infrastructure procurement and delivery management.

#### 3.3.1 Critical principles to be adhered to regarding the overall institutional Framework of Elundini Local Municipality

**3.3.1.1** The implementation of the Elundini Local Municipality SCM Policy for Infrastructure Procurement and Delivery Management goes hand-in-hand with robust institutional governance arrangements which delegate duly appointed officials to submit, recommend and accept each stage gate of the control framework. This serves to manage the stages of all projects with a clear audit trail that substantiates value-for-money infrastructure delivery throughout the project cycle. To this end, the institutional governance arrangements need to take cognisance of the institutional management impact for infrastructure delivery. In other words, the delegations for the control framework for the stage gates of the project cycle should be structured around the role-players comprising the institutional management compact and their responsibilities. These institutional governance arrangements are contained in Table 1 below which shows the responsibilities amongst various entities. The two major parallel responsibilities in the control framework vest between a Client Department in the Elundini Local Municipality and the Implementing Agent (IA) wherein a Client Department is **primarily responsible for accepting stage gates 0 to 4** whilst the IA (Implementing Agent) is responsible for accepting stage gates 5 to 9. This close relationship between a Client Department and the IA highlights the domain of the Client Department for planning and the IA for implementation, be it Directorate Infrastructure Planning and Development (IPD) as the IA of choice, Sub-IAs or Delivery Agents. The other responsibilities are for the submission of relevant documentation, generally by a Sub-IA or Delivery Agent ( PMU), which informs the stage gate approval. These submissions must be prepared by competent built environment professionals that upholds the professional integrity and quality assurance from the Sub-IA or Delivery Agent. The applicable User Department or municipal entity of Elundini Local Municipality will need to be informed about stage gate approvals, but need to be consulted for stages 1 and 2. The IA (Directorate Infrastructure Planning and Development (IPD) needs to be informed about stage 0 and consulted for stage 1.

**3.3.1.2** The institutional governance arrangements outlined in Table 1 below are for the ideal scenario wherein the IA of choice, Directorate Infrastructure Planning and Development (IPD) or

municipal entity, is fully resourced and capacitated. However, this is not the current scenario. Therefore, the Directorate Infrastructure Planning and Development (IPD) or municipal entity must enhance its resources and capacity. Nevertheless, the arrangements in Table 1 provides the framework for how Client Departments, as well as, Directorate Infrastructure Planning and Development (IPD) or municipal entity and Sub-IAs will structure their delegations for Elundini Local Municipality SCM Policy according to this ideal scenario. Variations to the delegations can then be made in the Service Delivery Agreements (municipal entities and Sub-IAs ), for which then the exact delegations to suit the current situation can be specified.

**Table 1: Institutional governance arrangements**

Form no	Title	Person assigned the responsibility for approving or accepting deliverable	Municipal Finance Department	User/ Client/Departments	Custodian/and IA of Choice	Sub-IA/ Delivery Agent	PSP/Contractor works	Council
G0	Acceptance of the project initiation report	. . . accepts the initiation report	R/I	I/A	A	A/S		n/a
G1	Approval of the infrastructure plan	approves the infrastructure plan	R/I	I/A	R/A	S		A
G2	Approval of the delivery and / or procurement strategy	. . . approves the delivery and / or procurement strategy	A/I	I	A	S		A
G3(PR)	Acceptance of the prefeasibility report	. . . accepts the pre-feasibility report	R/I	R/I	A	S		I
G3(SB)	Acceptance of the strategic brief	. . . accepts the strategic brief	R/I	R/I	A	S		I
G4(FR)	Acceptance of the feasibility report	. . . accepts the feasibility report	R/i	A	A	S		I
G4(CR)	Acceptance of the concept report	. . . accepts the concept report	R/I	R/I	A	S		I
G5	Acceptance of the design development report	. . . . accepts the design development report	N/A	I	A	A/I	S/I	N/A
G6A	Acceptance of the production information	. . . accepts the parts of the production information requiring acceptance which are identified when the design development report is accepted	N/A	I	A	A/I	S/I	N/A
G6B	Acceptance of the manufacture, fabrication and construction information	. . . accepts the manufacture, fabrication and construction information	N/A	I	A	A/I	S/I	N/A
G7	Certification of completion / delivery	The contract manager certifies completion of the works or the delivery of goods and associated services	I/R	I	A	A/I	S/I	N/A
G8	Acceptance of handover	. . . accepts the hand over	N/A	I	A	A/I	S/I	N/A
G9	Acceptance of the close out report	The <b>contract manager</b> or supervising agent certifies the defects certificate in accordance with the provisions of the contract	N/A	I	A	A/I	S/I	N/A
		The <b>contract manager</b> certifies final completion in accordance with the provisions of the contract	R/I	I	A	A/I	S/I	N/A
		. . . . accepts the close out report	R/I	I	A	A/I	S/I	N/A
<b>S</b>	Submitter	The Sub-IA or Delivery Agent responsible for concluding a stage /interim-stage of the project and submission of the relevant documentation to either the Client Department or Implementing Agent (Technical User Department) who will recommend and approve a stage gate.						
<b>R</b>	Recommender	The Client Department or Implementing Agent (DRPW) responsible for commending a stage gate approval.						
<b>A</b>	Acceptor	The Client Department or Implementing Agent (Directorate Infrastructure Planning and Development (IPD) responsible for accepting a stage gate that takes the final decision and has ultimate ownership						
<b>C</b>	Consultee/Contractor	The Directorate Infrastructure Planning and Development (IPD) that must be consulted before a decision/ action is taken.						
<b>I</b>	Informee	The relevant Municipal Department/Council that must be must be informed about the decision / action taken						

**3.3.1.3** The overarching principles that supports the institutional governance arrangements in Table 1 are based on the following principles:

- i. The Municipal Finance Management Act, Act 56 of 2003 ; Section 63 states that the accounting officer is “*responsible for the management of the assets of the municipality, including the safeguarding and the maintenance of those assets*” and must “*maintain a system of internal control of assets and liabilities, including an asset and liabilities register, as may be prescribed*” The Accounting Officer is the custodian of municipal infrastructure in terms of the The Municipal Finance Management Act, Act 56 of 2003. Hence to execute the “custodianship” functions will be executed as contemplated in section Section 63 of the ACT.
- ii. All User Departments/ Clients shall use the services of the Directorate Infrastructure Planning and Development (IPD) as the IA of choice for infrastructure procurement and delivery management.
- iii. Directorate Infrastructure Planning and Development (IPD), as the implementing agent of choice shall:
  - a. Develop and maintain Project Assurance Frameworks and standards to ensure that infrastructure procurement and delivery management is undertaken effectively and achieves value for money.
  - b. Provide a central repository for the construction industry and building standards regulatory compliance documents to comply with the SIPDM.
  - c. Assist in the selection of procurement strategies; form of contract and administer key framework contracts for built environment professional service providers and contractors.
- iv. Directorate Infrastructure Planning and Development (IPD) Directorate Infrastructure Planning and Development (IPD) shall develop, after consultation with the User Departments, Municipal Treasury and Strategic User Department, the strategic sustainable resourcing plan for the overall municipality as a means for the deployment of programme / project management capacity to augment Technical User Department, Sub-IAs, or to co-opt Delivery Agents for the delivery of infrastructure.
- v. In the event where Directorate Infrastructure Planning and Development (IPD) does not have capacity to meet the municipality’s wide infrastructure procurement and service delivery needs, Directorate Infrastructure Planning and Development (IPD) must enter into appropriate service delivery agreements with Sub-IAs or Delivery Agents only after consultation with the Municipality’s Treasury, Strategic User Department and the affected User Department.
- vi. Delivery Agents from the private sector entities can be contracted to deliver programme management functions to augment the capacity of Directorate Infrastructure Planning and Development (IPD) or Sub-IAs in the event where Directorate Infrastructure Planning and Development (IPD) and/or Sub-IAs do not have sufficient capacity.
- vii. The LED Strategy will ensure that maximum local resources are engaged that will stimulate the local economy, commencing with the planning and design stages to ensure effective delivery.
- viii. Skills transfer and capacity building must be embedded within the planning and design stages of a project and integrated within LED components to ensure that socio-economic benefits are achieved through project delivery.

### **3.3.2 General Requirements**

**3.3.2.1** Infrastructure procurement and delivery management shall be undertaken in accordance with all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.

**3.3.2.2** No departures shall be made from the provisions of the National Treasury Standard for Infrastructure Procurement and Delivery Management without the approval of the Council and within concurrence of National Treasury.

~~3.3.2.3~~ No departure shall be made from the provisions of this policy without the approval of Head of Department (HoD) for the Eastern Cape Provincial Treasury.

~~3.3.3~~ Pre-feasibility and feasibility reports are required as end-of-stage deliverables for stages 3 and 4, respectively, on the test provided in section 4.1.1.4 ( a to c), of the SIPDM and on recommendation of Elundini Local Municipality's Manager / Director of the User Department applicable.

.....<sup>9</sup>

3.3.4 Stage 3 to 7 are required as per sub clause 4.1.1.1 of the SIPDM and on recommendation of Elundini Local Municipality's Infrastructure/ manager or delegated official of Building and or Civil Services applicable to the relevant department/unit within Elundini Local Municipality's act as Client's, Manager / Director or delegated official .....<sup>10</sup>

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<sup>9</sup> Sub-clause 4.1.1.4 c) of the standard permits an organ of states' policy to require that pre-feasibility and feasibility reports are required, notwithstanding the test provided for in this sub-clause to determine if such reports are required. The compiler of the policy needs to delete this sub-clause if it is not required.

<sup>10</sup> Sub-clause 4.1.1.1 of the standard permits stages 3 to 9 where the work does not involve the provision of new infrastructure or the rehabilitation, refurbishment, alteration of existing infrastructure. Stages 5 and 6 to be omitted where there is sufficient information to proceed to stage 7 is contained in the stage 4 deliverable. The policy may require that certain types of work (e.g. specific types of maintenance) need to pass through all the stages. If this is the case, the policy may require the application of all the stages for specific types of projects. The compiler of the policy needs to delete this sub-clause if it is not required.

### 3.4 Supervision of this Infrastructure Procurement and Delivery Policy<sup>11</sup>

- 3.4.1 The SCM shall be directly supervised by the CFO in consultation with the Directorate Infrastructure Planning and Development (IPD) or delegated official in terms of section 82 of the MFMA.
- 3.4.2 SIPDM within the Elundini Local Municipality's Context;
- 3.4.3 The SCM Policy for Infrastructure Procurement and Delivery Management goes hand-in-hand with appropriate delegations that will authorize and advance a project through the Infrastructure Delivery Management System (IDMS) stage gates of the project cycle in a manner that provides a clear audit trail for each project. However, a prerequisite for infrastructure delivery is an *"institutional management compact"* amongst role players responsible for infrastructure delivery, as shown in Figure 1.3 below. These role players (in the form of client team, delivery team and other stakeholders) form an integral team that is responsible for project delivery, and hence, align the delegations in the in the compilation of this SCM Policy.

**Figure 1.3: The Elundini Local Municipality's institutional management compact for infrastructure delivery**

### 3.5 Objections and complaints<sup>12</sup>

Reference to Master SCM policy section 17.8

### 3.6 Resolution of disputes, objections, complaints and queries<sup>13</sup>

- 3.6.1 Reference to Master SCM policy section 17.8. The municipal manager shall appoint an independent and impartial person, not directly involved in the infrastructure delivery management processes to assist in the resolution of disputes between the municipality any decisions or actions taken in the implementation of the supply chain management system;
- a) any matter arising from a contract awarded within the Elundini Local Municipality infrastructure delivery management system; or
  - b) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.
- 3.6.2 The municipal manager **shall** assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.
- 3.6.3 The person appointed in terms of 3.5.1 shall:
- a) strive to resolve promptly all disputes, objections, complaints or queries received; and
  - b) Submit monthly reports to the municipal manager on all disputes, objections, complaints or queries received, attended to or resolved.
- 3.6.4 A dispute, objection, complaint or query may be referred to the Eastern Cape Provincial Treasury if:

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<sup>11</sup> SCM Regulation 7 which is issued in terms of the MFMA requires each municipality to establish a supply chain management unit to implement its supply chain management policy, which where possible, should operate 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 MFMA. There are benefits in establishing SCM units for general goods and services and infrastructure and to delegate the supervision to a person other than the chief financial officer.

<sup>12</sup> This clause aligns with SCM Regulation 49 issued in terms of the MFMA.

<sup>13</sup> This clause aligns with SCM Regulation 50 issued in terms of the MFMA.

- a) the dispute, objection, complaint or query is not resolved within 60 days; or
- b) no response is forthcoming within 60 days.

**3.6.5** If the Eastern Cape Provincial Treasury does not or cannot resolve the matter, the dispute, objection, complaint or query may be referred to the National Treasury for resolution.

## **4 Control framework for infrastructure delivery management<sup>14</sup>**

Assignment of responsibilities for approving or accepting end of stage deliverables<sup>15</sup>

**4.1.1** The responsibilities for approving or accepting end of stage deliverables shall be as stated in **Table 1**. The responsibilities for approving or accepting end of stage deliverables shall be as stated in tables 1,2 and 3. The legend on the tables indicate the responsibilities between the Client, Implementing Agent

### **4.2 Additional gates<sup>16</sup>**

The following additional gates shall apply:

**4.2.1** No additional gates apart from those indicated in table 1 of the Standard of Infrastructure Procurement and Delivery Management. Additional gates may be added upon approval of the Municipal Manager if deemed necessary .

### **4.3 Additional requirements<sup>17</sup>**

The following additional requirements apply:

**4.3.1** Additional requirements above those as stated in Clause 4.1.1.4 that shall apply for end of stage deliverables 3 and 4 will be to scrutinize the contents of G3 (PR) and G4 (FR) in determining the risk management and internal control to mitigate the risks.

**4.3.2** Directorate Infrastructure Planning and Development (IPD) shall be the Implementing Agent of choice for all projects.

**4.3.3** In cases where Directorate Infrastructure Planning and Development (IPD) does not have capacity to implement, Directorate Infrastructure Planning and Development (IPD) may engage Sub-IAs or Delivery Agents after consultation with the relevant Client Department, User departments, Municipal Treasury and Strategic User Department.

### **4.4 Gateway reviews**

#### **4.4.1 Gateway reviews for major capital projects above a threshold**

<sup>14</sup> This clause is required to ensure compliance with the requirements of the standard.

<sup>15</sup> The terms “approve” and “accept” have the meanings “officially agree to” and “receive as adequate, valid, or suitable give an affirmative answer to a proposal”, respectively. Approvals will typically take place at a senior management level whilst acceptances can be made at a lower level. Approvals and acceptances can be granted by individuals or committees.

Where a municipality or municipal entity implements a project on behalf of an organ of state, acceptance / approval of end of stage deliverables may have to be granted in consultation with such an organisation. Alternatively it may be assigned to a party to an agency agreement developed in accordance with the provisions of clauses 5.2 of the standard. As a result, Table 1 may have to differentiate between own infrastructure and client institution’s infrastructure. It may also have to differentiate between the value and type of projects.

<sup>16</sup> Clause 4.1.1.7 of the standard permits the inclusion of additional gates, if deemed necessary. This is an optional provision. The compiler of the policy should either delete this provision or describe the additional gates that are required, what their end of stage deliverable and any requirements associated with deliverables, who approves / accepts the deliverable etc..

<sup>17</sup> State additional requirements for any of the stages, as necessary. Sub clause 4.1.1.4 permits a municipality or municipal entity to insist that pre-feasibility and feasibility reports be provided irrespective of the test contained in the standard for determining if such reports contained in the standard suggests otherwise.

- 4.4.1.1 The Council *must* appoint a gateway review team in accordance with the provisions of clause 4.1.13.1.2 of the standard to undertake gateway reviews for major capital projects.
- 4.4.1.2 The requirements for a gateway review in addition to those contained in section 4.1.13 of the standard are as follows:<sup>18</sup>
- 4.4.1.3 The Accounting Officer of Elundini Local Municipality may initiate a review of all capital projects below the threshold of R50 million as indicated in in section 4.1.13 of the standard.

**4.4.2 Elective gateway reviews<sup>19</sup>**

Gateway reviews shall be undertaken randomly after the completion of each stage.

- 4.4.2.1 An elective gateway review may be undertaken in terms of Item 4.4.1 for Stage Gate 0 to ensure that the project is viable and prioritized in accordance the User Department’s Strategic Plan and/or service delivery implementation align to IDP
- 4.4.2.2 An elective gateway review may be undertaken in terms of Item 4.4.1 for Stage Gate 2 to ensure that the project is prioritized in accordance the User Department’s Infrastructure Plan and adequately resourced and packaged to suit the Elundini Local Municipality delivery strategies for implementation.
- 4.4.2.3 An elective gateway review may be undertaken for any project at any Stage Gate which is deemed to be risky
- 4.4.2.4 A Interim Bid Advisory Committee (IBAC) may be establish on decision made by the Municipal manager form part of the elective gateway review team and/or in terms of 4.4.1.1 above since they play a critical role to undertake the Elundini Local Municipality procurement risk analysis.

**Table 2: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery**

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name	
0	Project initiation	<i>User Department will initiate and Project Management Unit accepts</i> the initiation report from the User Department. after consultation with Infrastructure Planning Development Unit and Strategic User Department.
1	Infrastructure planning	<b>Executive Committee approves</b> the infrastructure master plan in line with Integrated Development Plan (IDP)
2	Strategic resourcing	Mayor approves the delivery and / or procurement strategy in terms of infrastructure plan for the provision of infrastructure for the services identified, after consultation with the Councillor responsible for that User Department the Accounting Officer accepts a consolidated strategic resourcing plan.
3	Pre-feasibility	Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for MM recommendation and approval.

<sup>18</sup> Delete or add in any additional requirements.

<sup>19</sup> State optional requirements or delete clause. Gateway reviews may be undertaken by a gateway review team of the deliverables associated with any of the gates in the control framework. Such reviews should preferably take place at gates 4, 5 or 8. They can also be conducted on a random sample basis after the end of stage deliverable has been accepted. Such reviews can capture lessons learned and in so doing improve the quality of future deliverables.

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables	
No	Name		
	Preparation and briefing	Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for MM recommendation and approval.	
4	Feasibility	<p>Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for MM recommendation and approval by Municipal Manager the feasibility report exceed the threshold for Major Capital Projects as identified in the SIPDM R50 Million and above submit to Council for Information, providing it was approved on IDP.</p> <p><b>Municipal manager approve/not approved or refer back</b> the feasibility report based on recommendation by the Director Infrastructure Planning and development, <b>after consultation with</b> end User Department, Municipal Finance and the, Strategic User Department.</p> <p><b>Municipal Manager, If required refer back to council if deviate from IDP, and or report of outcome.</b></p>	
	Concept and viability	<p>Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for MM recommendation and approval by Municipal Manager</p> <p><b>Municipal manager approve/not approved or refer back</b> the Concept and viability report based on recommendation by the Director Infrastructure Planning and development, <b>after consultation with</b> end User Department, Municipal Finance and the, Strategic User Department.</p> <p><b>Municipal Manager, If required refer back to council if deviate from IDP, and or report of outcome</b></p>	
5	Design development	Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for sign -off.	
6	Design documentation	6A Production information	Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for sign -off.
		6B Manufacture, fabrication and construction information	<p>The contract manager appointed in terms of the contract accepts the manufacture, fabrication and construction information.</p> <p>Project management Unit accept and recommended by Infrastructure Planning and development Directorate in consultation with end user department, for sign -off</p>
7	Works	The contract manager certifies completion of the works or the delivery of goods and associated services Submitted to PMU accepts, and The Director of IPD responsible for implementation for the <i>Infrastructure Service sign -off</i> on completion of the works or the delivery of goods and associated services for projects .	
8	Handover	The Director of the User Department the owner or end user accepts liability for the works.	
9	Package completion	<p>The contract manager or certifies the defects certificate in accordance with the provisions of the contract and Submitted to PMU to accepts the defects certificate.</p> <p>The Director of IPD responsible for implementation for the <i>Infrastructure Service sign -off</i></p> <p>The contract manager certifies final completion in accordance with the provisions of the contract and handover all record information to PMU</p>	

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables
No	Name	
		PMU <i>accept all record information</i> Director IPD accepts the close out report and approved final payment certificate.

## 5 Control framework for infrastructure procurement<sup>20</sup>

- 5.1 The responsibilities for taking the key actions associated with the formation and conclusion of contracts including framework agreements above the quotation threshold shall be as stated in Table 2.
- 5.2 The responsibilities for taking the key actions associated with the quotation procedure and the negotiation procedure where the value of the contract is less than the threshold set for the quotation procedure shall be as follows:<sup>21</sup>
- a) The Chair of the Bid Specification Committee shall grant approval for the issuing of the procurement documents, based on the contents of a documentation review report developed in accordance with the provisions of the standard;
  - b) the Municipal manager may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard.
- 5.3 The responsibilities for taking the key actions associated with the issuing of an order in terms of a framework agreement shall be as stated in Table 3.

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<sup>20</sup> This clause is required to ensure compliance with the requirements of the standard.

<sup>21</sup> SCM Regulation 26 of the MFMA requires that a committee system be established for procurement above the threshold for quotations. It is not, however, a requirement for such a committee to deal with quotations.

## 6 Infrastructure delivery management requirements

### 6.1 Institutional arrangements

#### 6.1.1 Committee system for procurement<sup>22</sup>

##### 6.1.1.1 General

6.1.1.1.1 A committee system comprising the Bid Specification, Evaluation and Adjudication Committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds the financial threshold for quotations and to the putting in place of framework agreements.

6.1.1.1.2 The evaluation committee shall, where competition for the issuing of an order amongst framework contractors takes place and the value of the order exceeds the financial threshold for quotations, evaluate the quotations received.

6.1.1.1.3 The persons appoint in writing by the Municipal manager as technical advisors and subject matter experts may attend any committee meeting.

a) Such advisers and experts shall **not participate** in the decisions making proceedings of such meetings but will prepare technical report to support the relevant committee,

i. **Review reports** shall be prepared in accordance section 4.2.2 Specific requirements relating to the review of procurement documents of the SIPDM.

ii. **Evaluation reports** shall be prepared in accordance with the content headings and relevant guidelines contained in Tables 5 or 6 of the SIPDM, with minimum modifications as necessary.

b) Such advisers and experts maybe appointment by the Accounting Officers participate in the decisions making proceedings, **where quality of such decision** is in question but cannot form part in either one of the committees as advisor to support the relevant committee.

6.1.1.1.4 No person who is a political officer bearer, a public office bearer including any councilor of a municipality, a political advisor or a person appointed in terms of section 12A of the Public Service Act of 1994 or who has a conflict of interest shall be appointed to a procurement documentation, evaluation or tender committee.

6.1.1.1.5 Committee decisions shall as far as possible be based on the consensus principle i.e. the general agreement characterised by the lack of sustained opposition to substantial issues. Committees shall record their decisions in writing. Such decisions shall be kept in a secured environment for a period of not less than five years after the completion or cancellation of the contract unless otherwise determined in terms of the National Archives and Record Services Act of 1996.

6.1.1.1.6 Committees may make decisions at meetings or, subject to the committee chairperson's approval, on the basis of responses to documents circulated to committee members provided that not less than sixty percent of the members are present or respond to the request for responses. Where the committee chairperson is absent from the meeting, the members of the committee who are present shall elect a chairperson from one of them to preside at the meeting.

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<sup>22</sup> SCM Regulation 26 of the MFMA requires that a committee system be established for procurement above the threshold for quotations. A municipality of a municipal entity may require that the Adjudication Committee(bid adjudication committee) also deal with quotations

The principle of segregation (an internal control designed to prevent error and fraud by ensuring that at least two individuals are responsible for the separate parts of any task) is dealt with the committee system in the standard as follows:

- procurement gate 3: a technical evaluation of procurement documents and an approval of such documentation;
- procurement gate 5: a technical evaluation of submissions and an authorization to proceed with the next phase of a procurement process; and
- procurement gate 6: a tender evaluation and a recommendation to award a contract.

**6.1.1.2 Bid Specification committee**

6.1.1.2.1 Reference to Master SCM Policy section 3-5 and 3.6

6.1.1.2.2 The municipal manager shall appoint in writing on a procurement by procurement basis:

- a) the persons to review the procurement documents and to develop a specification review report in accordance with clause 4.2.2.1 of the standard; and
- b) the members of the procurement documentation committee.

6.1.1.2.3 The procurement documentation committee shall comprise- Reference to Master SCM Policy section 3.6

6.1.1.2.4 No member of, or technical adviser or subject matter expert who participates in the work of the any of the procurement committees or a family member or associate of such a member, may tender for any work associated with the tender which is considered by these committees.

**Table 3: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold**

Activity		Sub-Activity (see Table 3 of the standard)		Key action	Person assigned responsibility to perform key action
1*	Establish what is to be procured	1.3 <b>PG1</b>	Obtain permission to start with the procurement process	Make a decision to proceed / not to proceed with the procurement based on the broad scope of work and the financial estimates.	<i>End user and IPD, Unit</i>
2*	Decide on procurement strategy	2.5 <b>PG2</b>	Obtain approval for procurement strategies that are to be adopted including specific approvals to approach a confined market or the use of the negotiation procedure	Confirm selection of strategies so that tender offers can be solicited	<i>Accounting Officer, in consultation, for User Department and IPD, Unit.</i>
3	Solicit tender offers	3.2 <b>PG3</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	Register Build Environment Compile Review report and submit to <i>The appointed Chair, by the Accounting Officer of that Specification Committee accept procurement document ;and submit to;</i>  <i>Accounting Officer that approves and endorse the Specification documentation.</i>
		3.3 <b>PG4</b>	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place	Chief financial officer
4	Evaluate tender offers	4.2 <b>PG5</b>	Obtain authorisation to proceed with next phase of tender process in the qualified, proposal or competitive negotiations procedure	Review evaluation report, ratify recommendations and authorise progression to the next stage of the tender process	Register Build Environment Compile Evaluation report and submit to <i>The appointed Chair, by the Accounting Officer of that Evaluation Committee accept evaluation report submit recommendations to Adjudication Committee to;</i>  <i>Accounting Officer approves/endorse or refer back, the resolution taken by the Adjudication Committee</i>
		4.7 <b>PG6</b>	Confirm recommendations contained in the tender evaluation report	Review recommendations of the evaluation committee and refer back to evaluation committee for reconsideration or make recommendation for award	Bid adjudication committee and accounting officer approves the award

\* Applies only to goods and services not addressed in a procurement strategy developed during stage 2 (strategic resourcing) of the control framework for infrastructure delivery management

**Table 3** (concluded)

Activity		Sub-Activity		Key action	Person assigned responsibility to perform key action
5	Award contract	5.3 <b>PG7</b>	Award contract	Formally accept the tender offer in writing and issue the contractor with a signed copy of the contract	Municipal Manager <sup>19</sup>
		5.5 <b>GF1</b>	Upload data in financial management and payment system	Verify data and upload contractor's particulars and data associated with the contract or order	SCM
6	Administer contracts and confirm compliance with requirements	6.4 <b>PG8A</b>	Obtain approval to waive penalties or low performance damages. <b>NB Contingencies kept out of Contract, kept at programme</b>	Approve waiver of penalties or low performance damages Progressive application; <ul style="list-style-type: none"> <li>• ≤ 0%- 2,5% - contract manager;</li> <li>• 2,5 to 5% - PMU Manager</li> </ul> > 5% - Director IPD and or delegated authority	<i>Accounting Officer on recommendation of BAC, Above 10%</i>
		6.5 <b>PG8B</b>	Obtain approval to notify and refer a dispute to an adjudicator	Grant permission for the referral of a dispute to an adjudicator or for final settlement to an arbitrator or court of law	<i>Accounting Officer</i>
		6.6 <b>PG8C</b>	Obtain approval to increase the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at the award of a contract or the issuing of an order up to a specified percentage <sup>20</sup>	Approve amount of time and cost overruns up to the threshold	<i>BAC recommend to the Accounting Officer for up to 20 %. Exceeding the 20 %, BAC recommends to the Accounting Officer submit to Council for recommendation to seek approval from National Treasury above 20 % in Rand Value and 30% in Time.</i>
		6.7 <b>PG8D</b>	Obtain approval to exceed the total of prices, excluding contingencies and price adjustment for inflation, or the time for completion at award of a	Approve amount of time and cost overruns above a the threshold	<i>BAC recommend to the Accounting Officer for up to 20 %. Exceeding the 20 %, BAC recommends to the Accounting Officer submit to Council for</i>

<sup>19</sup> The award of a contract can be linked to contract value. For example, high value contracts may be awarded by the **municipal manager** or chief executive and lower amounts by different appropriately delegated authorities.

<sup>20</sup> Stepped thresholds leading up to the 20% and 30% values given in PG8D may be necessary to manage cost and time overruns, respectively, the principle being that approval to exceed these percentages needs to be granted at a more senior level with each increase. For example, the increases for cost overruns could be as follows:

- ≤ 0%- 2,5- - contract manager;
- 2,5 to 5% - PMU Manager
- > 5% - Director IPD and or delegated authority

Activity	Sub-Activity	Key action	Person assigned responsibility to perform key action
	contract or the issuing of an order by more than 20% and 30%, respectively		<i>recommendation to seek approval from National Treasury above 20 % in Rand Value and 30% in Time.</i>
	6.8 PG8E	Obtain approval to cancel or terminate a contract	Approve amount  <i>Accounting Officer approve/not approve and report to Council.</i>
	6.9 PG8F	Obtain approval to amend a contract	Approve proposed amendment to contract  <i>BAC recommend to the Accounting Officer for up to 20 % in Rand Value and 30% in Time.</i>  <i>Exceeding the 20 %, BAC recommends to the Accounting Officer submit to Council for recommendation to seek approval from National Treasury above 20 % in Rand Value and 30% in Time and report to council</i>  <i>Accounting Officer approve/not approve and report to Council.</i>

**Table 3: Procurement activities and gates associated with the issuing of an order above the quotation threshold in terms of a framework agreement**

Activity	Key action	Person assigned responsibility to perform key action
1 <b>FG1</b> Confirm justifiable reasons for selecting a framework contractor where there is more than one framework agreement covering the same scope of work	Confirm reasons submitted for not requiring competition amongst framework contractors or instruct that quotations be invited	PMU and IPD report to BAC
3 <b>FG2</b> Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents order	PMU and IPD report to BAC in terms of the Master SCM Policy thresholds
4 <b>FG3</b> Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	CFO
6 <b>FG4</b> Authorise the issuing of the order	If applicable, review evaluation report and confirm or reject recommendations. Formally accept the offer in writing and issue the contractor with a signed copy of the order	BAC and SCM and report to MM in terms of the Master SCM Policy thresholds

### **6.1.1.3 Evaluation committee**

6.1.1.3.1 Reference to Master SCM Policy section 3.7;3.8 and 3.10

6.1.1.3.2 The municipal manager shall appoint on a procurement by procurement basis in writing:

- a) the persons to prepare the evaluation and, where applicable, the quality evaluations, in accordance with clauses 4.2.3.2 and 4.2.3.4 of the standard, respectively; and
- b) the members of the evaluation committee.

6.1.1.3.3 The evaluation committee shall comprise - Reference to Master SCM Policy section 3.10

6.1.1.3.4 not less than three people. - Reference to Master SCM Policy section 3.r<sup>21</sup>

6.1.1.3.5 The evaluation committee shall review the evaluation reports prepared in accordance with sub clause 4.2.3 of the standard and as a minimum verify the following in respect of the recommended tenderer:

- a) Reference to Master SCM Policy section 3.7

6.1.1.3.6 No tender submitted by a member of, or technical adviser or subject matter expert who participates in the work of the procurement documentation committee or a family member or associate of such a member, may be considered by the evaluation committee.

6.1.1.3.7 The chairperson of the evaluation committee shall promptly notify the municipal manager of any respondent or tenderer who is disqualified for having engaged in fraudulent or corrupt practices during the tender process.

### **6.1.1.4 Adjudication committee<sup>22</sup>**

6.1.1.4.1 The adjudication committee shall comprise; Reference to Master SCM Policy section 3.13:<sup>23</sup>

6.1.1.4.2 No member of the evaluation committee may serve on the tender committee. A member of an evaluation committee may, however, participate in the deliberations of a Adjudication Committeeas a technical advisor or a subject matter expert.

6.1.1.4.3 The adjudication committee shall : Reference to Master SCM Policy section 3.11;

- a) consider the report and recommendations of the evaluation committee and:
  - 1) verify that the procurement process which was followed complies with the provisions of this document;
  - 2) confirm that the report is complete and addresses all considerations necessary to make a recommendation;
  - 3) confirm the validity and reasonableness of reasons provided for the elimination of tenderers; and
  - 4) consider commercial risks and identify any risks that have been overlooked or fall outside of the scope of the report which warrant investigation prior to taking a final decision; and

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<sup>21</sup> A supply chain management practitioner in the context of infrastructure delivery includes a built environment professional

<sup>22</sup> Where no separate Adjudication Committeeis established, this section should simply refer to the bid adjudication committee which is set up to deal with tenders with both the supply chain for general goods and services and for infrastructure

<sup>23</sup> The chairperson needs to be an employee of the municipality or the municipal entity with requisite skills. Other members should be employees of the municipality or the municipal entity and include at least four senior managers including the chief financial officer, a supply chain management practitioner and a technical expert in the relevant field, if such municipality or municipal entity has such an expert.

- b) refer the report back to the evaluation committee for their reconsideration or make a recommendation to the authorised person on the award of a tender, with or without conditions, together with reasons for such recommendation.

6.1.1.4.4 The Adjudication Committee shall consider proposals regarding the cancellation, amendment, extension or transfer of contracts that have been awarded and make a recommendation to the authorised person on the course of action which should be taken.

6.1.1.4.5 The Adjudication Committees shall consider the merits of an unsolicited offer and make a recommendation to the municipal manager .

6.1.1.4.6 The Adjudication Committee shall report to the municipal manager any recommendation made to award a contract to a tenderer other than the tenderer recommended by the evaluation committee, giving reasons for making such a recommendation.

6.1.1.4.7 The Adjudication Committee shall not make a recommendation for an award of a contract or order if the recommended tenderer or framework contractor has:

- a) made a misrepresentation or submitted false documents in competing for the contract or order; or
- b) been convicted of a corrupt or fraudulent act in competing for any contract during the past five years.

6.1.1.4.8 The Adjudication Committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its directors, members or trustees or partners has abused the delivery management system or has committed fraud, corruption or any other improper conduct in relation to such system. The National Treasury and the Eastern Cape Provincial Treasury shall be informed where such tenderers are disregarded.

## **6.1.2 Actions of an authorised person relating to the award of a contract or an order**

### **6.1.2.1 Award of a contract**

6.1.2.1.1 The Municipal Manager or authorised person shall, if the value of the contract inclusive of VAT is within his or her delegation, consider the report(s) and recommendations of the evaluation committee, or in the case of the awards for contracts below the quotation threshold, the recommendation of the adjudication committee, and either:

- a) award the contract after confirming that the report is complete and addresses all considerations necessary to make a recommendation and budgetary provisions are in place; or
- b) decide not to proceed or to start afresh with the process.

6.1.2.1.2 The authorised person shall immediately notify the Municipal manager if a tender other than the recommended tender is awarded, save where the recommendation is changed to rectify an irregularity. Such person shall, within 10 working days, notify in writing the Auditor-General, the National Treasury and Eastern Cape Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

### **6.1.2.2 Issuing of an order**

6.1.2.2.1 The authorised person shall, if the value of an order issued in terms of a framework contract, is within his or her delegation in terms of the threshold stipulated in the Master SCM Policy, consider the recommendation of the evaluation committee or the Municipal Manager, as relevant, and either:

- a) authorise the issuing of an order in accordance with the provisions of clause 4.25 of the standard; or

- b) decide not to proceed or to start afresh with the process.

### **6.1.3 Conduct of those engaged in infrastructure delivery<sup>24</sup>**

#### **6.1.3.1 General requirements**

6.1.3.1.1 All personnel and agents of Elundini Local Municipality shall comply with the requirements of the CIDB Code of Conduct for all Parties engaged in Construction Procurement. They shall:

- a) behave equitably, honestly and transparently;
- b) discharge duties and obligations timeously and with integrity;
- c) comply with all applicable legislation and associated regulations;
- d) satisfy all relevant requirements established in procurement documents;
- e) avoid conflicts of interest; and
- f) not maliciously or recklessly injure or attempt to injure the reputation of another party.

6.1.3.1.2 All personnel and agents engaged in Elundini Local Municipality's infrastructure delivery management system shall:

- a) not perform any duties to unlawfully gain any form of compensation, payment or gratification from any person for themselves or a family member or an associate;
- b) perform their duties efficiently, effectively and with integrity and may not use their position for private gain or to improperly benefit another person;
- c) strive to be familiar with and abide by all statutory and other instructions applicable to their duties;
- d) furnish information in the course of their duties that is complete, true and fair and not intended to mislead;
- e) ensure that resources are administered responsibly;
- f) be fair and impartial in the performance of their functions;
- g) at no time afford any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual;
- h) not abuse the power vested in them;
- i) not place themselves under any financial or other obligation to external individuals or firms that might seek to influence them in the performance of their duties;
- j) assist Elundini Local Municipality in combating corruption and fraud within the infrastructure procurement and delivery management system;
- k) not disclose information obtained in connection with a project except when necessary to carry out assigned duties;
- l) not make false or misleading entries in reports or accounting systems; and

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<sup>24</sup> Sub clause 5.1 d) of the standard requires that the municipality's or municipal entity's policy establish ethical standards for those involved in the procurement and delivery of infrastructure. This clause is aligned with the provisions of SCM Regulation 46 (Ethical standards) issued in terms of the MFMA and National Treasury's Code of Conduct for Supply Chain Management Practitioners

- m) keep matters of a confidential nature in their possession confidential unless legislation, the performance of duty or the provision of the law require otherwise.

6.1.3.1.3 An employee or agent may not amend or tamper with any submission, tender or contract in any manner whatsoever.

#### **6.1.3.2 Conflicts of interest**

6.1.3.2.1 The employees and agents of Elundini Local Municipality who are connected in any way to procurement and delivery management activities which are subject to this policy, shall:

- a) disclose in writing to the employee of the Elundini Local Municipality to whom they report, or to the person responsible for managing their contract, if they have, or a family member or associate has, any conflicts of interest; and
- b) not participate in any activities that might lead to the disclosure of Elundini Local Municipality proprietary information.

6.1.3.2.2 The employees and agents of Elundini Local Municipality shall declare and address any perceived or known conflict of interest, indicating the nature of such conflict to whoever is responsible for overseeing the procurement process at the start of any deliberations relating to a procurement process or as soon as they become aware of such conflict, and abstain from any decisions where such conflict exists or recuse themselves from the procurement process, as appropriate.

6.1.3.2.3 Agents who prepare a part of a procurement document may in exceptional circumstances, where it is in Elundini Local Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) Elundini Local Municipality states in the tender data that such an agent is a potential tenderer;
- b) all the information which was made available to, and the advice provided by that agent which is relevant to the tender, is equally made available to all potential tenderers upon request, if not already included in the scope of work; and
- c) the procurement documentation committee is satisfied that the procurement document is objective and unbiased having regard to the role and recommendations of that agent.

#### **6.1.3.3 Evaluation of submissions received from respondents and tenderers**

6.1.3.3.1 The confidentiality of the outcome of the processes associated with the calling for expressions of interest, quotations or tenders shall be preserved. Those engaged in the evaluation process shall:

- a) not have any conflict between their duties as an employee or an agent and their private interest;
- b) may not be influenced by a gift or consideration (including acceptance of hospitality) to show favour or disfavour to any person;
- c) deal with respondents and tenderers in an equitable and even-handed manner at all times; and
- d) not use any confidential information obtained for personal gain and may not discuss with, or disclose to outsiders, prices which have been quoted or charged to Elundini Local Municipality.

6.1.3.3.2 The evaluation process shall be free of conflicts of interest and any perception of bias. Any connections between the employees and agents of Elundini Local Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

6.1.3.3.3 Elundini Local Municipality personnel and their agents shall immediately withdraw from participating in any manner whatsoever in a procurement process in which they, or any close family member, partner or associate, has any private or business interest.

#### **6.1.3.4 Non-disclosure agreements**

6.1.3.4.1 Confidentiality agreements in the form of non-disclosure agreements shall, where appropriate, be entered into with agents and potential contractors to protect Elundini Local Municipality's confidential information and interests.

#### **6.1.3.5 Gratifications, hospitality and gifts**

6.1.3.5.1 The employees and agents of Elundini Local Municipality shall not, directly or indirectly, accept or agree or offer to accept any gratification from any other person including a commission, whether for the benefit of themselves or for the benefit of another person, as an inducement to improperly influence in any way a procurement process, procedure or decision.

6.1.3.5.2 The employees and agents of Elundini Local Municipality as well as their family members of associates shall not receive any of the following from any tenderer, respondent or contractor or any potential contractor:

- a) money, loans, equity, personal favours, benefits or services;
- b) overseas trips; or
- c) any gifts or hospitality irrespective of value from tenderers or respondents prior to the conclusion of the processes associated with a call for an expression of interest or a tender.

6.1.3.5.3 The employees and agents of Elundini Local Municipality shall not purchase any items at artificially low prices from any tenderer, respondent or contractor or any potential contractor at artificially low prices which are not available to the public.

6.1.3.5.4 All employees and agents of Elundini Local Municipality may for the purpose of fostering interpersonal business relations accept the following:

- a) meals and entertainment, but excluding the cost of transport and accommodation;
- b) promotional material of small intrinsic value such as pens, paper-knives, diaries, calendars, etc;
- c) incidental business hospitality such as business lunches or dinners, which the employee is prepared to reciprocate;
- d) complimentary tickets to sports meetings and other public events, but excluding the cost of transport and accommodation, provided that such tickets are not of a recurrent nature; and
- e) gifts in kind other than those listed in a) to d) which have an intrinsic value greater than R350 unless they have declared them to the municipal manager<sup>25</sup>.

6.1.3.5.5 Under no circumstances shall gifts be accepted from prospective contractors during the evaluation of calls for expressions of interest, quotations or tenders that could be perceived as undue and improper influence of such processes.

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<sup>25</sup> SCM Regulation permits the receipt of gifts and hospitality provided that they are declared to the **municipal manager** or the chief executive

6.1.3.5.6 Employees and agents of Elundini Local Municipality shall without delay report to the municipal manager any incidences of a respondent, tenderer or contractor who directly or indirectly offers a gratification to them or any other person to improperly influence in any way a procurement process, procedure or decision.

**6.1.3.6 Reporting of breaches**

6.1.3.6.1 Employees and agents of Elundini Local Municipality shall promptly report to the municipal manager any alleged improper conduct which they may become aware of, including any alleged fraud or corruption.

**6.1.4 Measures to prevent abuse of the infrastructure delivery system<sup>26</sup>**

**6.1.4.1** The municipal manager shall investigate all allegations of corruption, improper conduct or failure to comply with the requirements of this policy against an employee or an agent, a **contractor** or other role player and, where justified:

- a) take steps against an employee or role player and inform the National Treasury and Eastern Cape Provincial treasury of those steps;
- b) report to the South African Police Service any conduct that may constitute a criminal offence;
- c) lodge complaints with the Construction Industry Development Board or any other relevant statutory council where a breach of such council's code of conduct or rules of conduct are considered to have been breached;
- d) cancel a contract if:
  - 1) it comes to light that the contractor has made a misrepresentation, submitted falsified documents or has been convicted of a corrupt or fraudulent act in competing for a particular contract or during the execution of that contract; or
  - 2) an employee or other role player committed any corrupt or fraudulent act during the tender process or during the execution of that contract.

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<sup>26</sup> The requirement to prevent abuse of the supply chain management system is aligned with the provisions of SCM Regulation 38 issued in terms of the MFMA.

### **6.1.5 Awards to persons in the service of the state<sup>27</sup>**

**6.1.5.1** Any submissions made by a respondent or tenderer who declares in the Compulsory Declaration that a principal is one of the following shall be rejected:

- a) a member of any municipal council, any provincial legislature, or 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 municipality 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) a member of the accounting authority of any national or provincial public entity; or
- f) an employee of Parliament or a provincial legislature.

**6.1.5.2** The notes to the annual financial statements of the Elundini Local Municipality shall disclose particulars of an award of more than R 2000 to a person who is a family member of a person identified in 6.1.5.1 or who has been in the previous 12 months. Such notes shall include the name of the person, the capacity in which such person served and the amount of the award.

### **6.1.6 Collusive tendering<sup>28</sup>**

**6.1.6.1** Any submissions made by a respondent or tenderer who fails to declare in the Compulsory Declaration that the tendering entity:

- a) is not associated, linked or involved with any other tendering entity submitting tender offers; or
- b) has not engaged in any prohibited restrictive horizontal practices including consultation, communication, agreement, or arrangement with any competing or potential tendering entity regarding prices, geographical areas in which goods and services will be rendered, approaches to determining prices or pricing parameters, intentions to submit a tender or not, the content of the submission (specification, timing, conditions of contract etc.) or intention to not win a tender

shall be rejected.

### **6.1.7 Placing of contractors under restrictions<sup>29</sup>**

**6.1.7.1** If any tenderer which has submitted a tender offer or a contractor which has concluded a contract has, as relevant:

- a) Withdrawn such tender or quotation after the advertised closing date and time for the receipt of submissions;
- b) After having been notified of the acceptance of his tender, failed or refused to commence the contract;
- c) had their contract terminated for reasons within their control without reasonable cause;

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<sup>27</sup> The clause aligns with SCM Regulation 44 issued in terms of the MFMA.

<sup>28</sup> The standard requires the inclusion of the Compulsory Declaration in all procurement documents. This sub-clause aligns with SCM Regulation 44 issued in terms of the MFMA and SANS 10845-3 which is incorporated by reference in the standard.

<sup>29</sup> This sub-clause is aligned with the requirements of SCM Regulation 38 issued in terms of the MFMA.

- c) offered, promised or given a bribe in relation to the obtaining or the execution of such contract;
- e) acted in a fraudulent, collusive or anti-competitive or improper manner or in bad faith towards Elundini Local Municipality
- f) made any incorrect statement in any affidavit or declaration with regard to a preference claimed and is unable to prove to the satisfaction of Elundini Local Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

a designated person shall prepare a report on the matter and make a recommendation to the municipal manager for placing the contractor or any of its principals under restrictions from doing business with the Elundini Local Municipality.

**6.1.7.2** The municipal manager may, as appropriate, upon the receipt of a recommendation made in terms of 6.1.7.1 and after notifying the contractor of such intention in writing and giving written reasons for such action, suspend a contractor or any principal of that contractor from submitting a tender offer to Elundini Local Municipality for a period of time.

**6.1.7.3** The designation of person, office or department shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Elundini Local Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and Eastern Cape Provincial Treasury and, if relevant, the Construction Industry Development Board, of such decision and provide them with the details associated therewith.

## **6.1.8 Complaints**

**6.1.8.1** All complaints Reference to Master SCM Policy section 17.8 and 17.

## **6.2 Acquisition management**

### **6.2.1 Unsolicited proposal<sup>30</sup>**

**6.2.1.1** The Elundini Local Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if- Reference to Master SCM Policy section 6.65:

### **6.2.2 Tax and rates compliance - Reference to Master SCM Policy Chapter 4<sup>31</sup>**

**6.2.2.1** SARS tax clearance - Reference to Master SCM Policy section 4.1

**6.2.2.1.1** No contract may be awarded or an order issued where the value of such transaction exceeds R 15 000, unless a tenderer or contractor is in possession of an original valid Tax Clearance Certificate issued by SARS provided that the tenderer is not domiciled in the Republic of South Africa and the SARS has confirmed that such a tenderer is not required to prove their tax compliance status.

**6.2.2.2** Municipal rates and taxes- Reference to Master SCM Policy section 3.7<sup>32</sup>

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<sup>30</sup> The clause aligns with SCM Regulation 37 issued in terms of the MFMA.

<sup>31</sup> This sub-clause aligns with the provisions of SCM Regulation 43 issued in terms of the MFMA. .

<sup>32</sup> This subclause aligns with the provisions of SCM Regulation 38 issued in terms of the MFMA.

6.2.2.2.1 No contract may be awarded to a tenderer who, of the principals of that tenderer, owes municipal rates and taxes or municipal service charges to any municipality or a municipal entity and are in arrears for more than 3 months.

### **6.2.3 Declarations of interest**

6.2.3.1.1 Reference to Master SCM Policy section 12.2

### **6.2.4 Invitations to submit expressions of interest or tender offers**

**6.2.4.1** All invitations to submit tenders where the estimated value of the contract exceeds R200 000 including VAT, except where a confined tender process is followed, and expressions of interest shall be advertised on the Elundini Local Municipality's website and on the National Treasury eTender Publication Portal.<sup>33</sup> Advertisements shall be placed by name of designated person

**6.2.4.2** Advertisements relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 5.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by name of designated person.

**6.2.4.3** Where deemed appropriate by name of designated person an invitation to tender and a call for an expression of interest shall be advertised in suitable local and national newspapers and the Government Tender Bulletin as directed by such person. Advertisements shall be placed by name of designated person.

**6.2.4.4** Such advertisements shall be advertised for a period of at least 30 days before closure, except in urgent cases when the advertisement period may be shortened as determined by the municipal manager

**6.2.4.5** Invitations to submit expressions of interest or tender offers shall be issued not less than 10 working days before the closing date for tenders and at least 5 working days before any compulsory clarification meeting. Procurement documents shall be made available not less than 7 days before the closing time for submissions.

### **6.2.5 Publication of submissions received and the award of contracts<sup>34</sup>**

**6.2.5.1** The designated person shall publish within 10 working days of the closure of any advertised call for an expression of interest or an invitation to tender where the estimated value of the contract exceeds R200 000 including VAT on the municipality's or municipal entity's website, the names of all tenderers that made submissions to that advertisement, and if practical or applicable, the total of the prices and the preferences claimed. Such information shall remain on the website for at least 30 days.

**6.2.5.2** The designated person shall publish within 7 working days of the award of a contract the following on the Elundini Local Municipality's website

- a) the contract number;
- b) contract title;
- c) brief description of the goods, services or works;
- d) the total of the prices, if practical;

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<sup>33</sup> This subclause aligns with National Treasury Instruction No 1 of 2015/2016 – Advertisement of bids and the publication of awards on the eTender Publication Portal.

<sup>34</sup> This subclause aligns with National Treasury Instruction No 1 of 2015/2016 – Advertisement of bids and the publication of awards on the eTender Publication Portal.

- e) the names of successful tenderers and their B-BBEE status level of contribution;
- f) duration of the contract; and
- g) brand names, if applicable.

**6.2.5.3** The designated person shall submit within 7 working days of the award of a contract the information required by National Treasury on the National Treasury eTender Publication Portal regarding the successful and unsuccessful tenders. Submissions shall be made by designated person.

**6.2.5.4** The award of contracts relating to construction works which are subject to the Construction Industry Development Regulations issued in terms of the Construction Industry Development Act of 2000 shall in addition to the requirements of 6.2.5.3 be notified on the CIDB website. The notification shall be made by placed by designated person.

### **6.2.6 Disposal committee**

**6.2.6.1** The municipal manager shall appoint on a disposal by disposal basis in writing the members of the disposal committee to decide on how best to undertake disposals in accordance with the provisions of clause 10 of the standard.

**6.2.6.2** The disposal panel shall comprise not less than three people. The chairperson shall be an employee of Elundini Local Municipality.

**6.2.6.3** The disposal committee shall make recommendations to Municipal manager who shall approve the recommendations, refer the disposal strategy back to the disposal committee for their reconsideration, and decide not to proceed or to start afresh with the process.

## **6.3 Reporting of infrastructure delivery management information**

**6.3.1** Designated person shall submit any reports required in terms of the standard to the National Treasury or Eastern Cape Provincial Treasury .

## 7 Infrastructure procurement

### 7.1 Usage of procurement procedures<sup>35</sup>

7.1.1 All procedure as per Master SCM Policy applies.

### 7.2 Procurement documents

7.2.1 The forms of contract that may be used are as follows:

Form of contract <sup>36</sup>	Code	Usage
As determined by Municipal Manger align to <b>Table 10 of the SIPDM</b>		All infrastructure projects.

7.2.2 The Elundini Local Municipality's preapproved templates for Part C1 (Agreements and contract data) of procurement documents shall be utilised to obviate the need for legal review prior to the awarding of a contract. All modifications to the standard templates shall be approved by designated person prior to being issued for tender purposes.

7.2.3 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.<sup>37</sup>

~~7.2.4 State additional requirements, if any e.g. use of standard access specifications, health and safety specifications etc.<sup>38</sup>~~

- a) The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for;<sup>39</sup> and .<sup>40</sup>

### 7.3 Developmental procurement policy<sup>41</sup>

7.3.1 All infrastructure projects must address the social development objectives of Elundini Local Municipality The following specific goals shall be proposed:

7.3.1.1 E.g. promote local SME'S

7.3.1.2 E.g. For every R1 Million spent 11 unskilled labour and 7 semiskilled appointed from local semiskilled labour

### 7.4 Payment of contractors<sup>42</sup>

7.4.1 The Elundini Local Municipality shall settle all accounts - Reference to Master SCM Policy section 4.1 within 30 days of invoice or statement as provided for in the contract.

<sup>35</sup> Delete this clause if there are no restriction. Amend if there are specific circumstance under which a procurement procedure is to be used.

<sup>36</sup> Reproduce from Table 11 of the standard the forms of contract which the municipality or municipal entity wishes to make use of.

<sup>37</sup> This sub-clause aligns with SCM Regulation 21 issued in terms of the PFMA.

<sup>38</sup> Include if requirements are not included in the templates.

<sup>39</sup> The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.

<sup>40</sup> The clause aligns with SCM Regulation 35(3) issued in terms of the MFMA.

<sup>41</sup> State specific goals that may be promoted.

<sup>42</sup> The Section 65 of the MFMA requires **municipal manager** or chief executives to settle all contractual obligations and pay all money owing within 30 days of receiving the relevant statement or invoice.

## **7.5 Approval to utilise specific procurement procedures<sup>43</sup>**

**7.5.1** Prior approval shall be obtained for the following procurement procedures from the following persons, unless such a procedure is already provided for in the approved procurement strategy:

- a) designated person / committee shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) designated person / committee shall authorise the approaching of a confined market except where a rapid response is required in the presence of, or the imminent risk of, an extreme or emergency situation arising from the conditions set out in the standard and which can be dealt with or the risks relating thereto arrested within 48 hours; and
- c) the proposal procedure using the two-envelope system, the proposal procedure using the two-stage system or the competitive negotiations procedure<sup>44</sup>.

**7.5.2** The person authorised to pursue a negotiated procedure in an emergency is designated person.

## **7.6 Receipt and safeguarding of submissions<sup>45</sup>**

**7.6.1** Reference to Master SCM Policy section 6.39

## **7.7 Opening of submissions<sup>46</sup>**

**7.7.1** Submissions shall Reference to Master SCM Policy section 6.39

**7.7.2** be opened by an opening panel comprising two people nominated by designated persons who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

**7.7.3** The opening panel shall open the tender box at the stipulated closing time and:

- a) sort through the submissions and return those submissions to the box that are not yet due to be opened including those whose closing date has been extended;
- b) return submissions unopened and suitably annotated where:
  - 1) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and.
  - 2) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) stamp each returnable document in each tender submission.

**7.7.4** Each member of the opening panel shall initial the front cover of the submission and all pages that are stamped in accordance with the requirements of 6.7.3h).

**7.7.5** Respondents and tenderers whose submissions are to be returned shall be afforded the opportunity to collect their submissions.

**7.7.6** Submissions shall be safeguarded from the time of receipt until the conclusion of the procurement process.

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<sup>43</sup> This clause is necessary to enable the standard to be implemented.

<sup>44</sup> 7.5.1C is an optional statement and needs to be deleted if this control is not required.

<sup>45</sup> This section may not be necessary if the policy for general goods and services already covers these requirements.

<sup>46</sup> This section may not be necessary if the policy for general goods and services already covers these requirements.

## **7.8 Use of another organ of state's framework agreement<sup>47</sup>**

**7.8.1** The Elundini Local Municipality may make use of another organ of state's framework contract which has been put in place by means of a competitive tender process and there are demonstrable benefits for doing so. The municipal manager shall make the necessary application to that organ of state to do so.

## **7.9 Insurances<sup>48</sup>**

**7.9.1** **Contractors shall be required to take out all insurances required in terms of the contract.<sup>49</sup>**

**7.9.2** The insurance cover in engineering and construction contracts for loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract shall in general not be less than the value stated in Table 4, unless otherwise directed by designated person.

**7.9.3** Lateral earth support insurance in addition to such insurance shall be take out on a case by case basis.

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<sup>47</sup> This clause aligns with SCM Regulation 32 issued in terms of the MFMA and clause 7.3 of the Standard.

<sup>48</sup> Align with the manner in which the municipality or municipal entity wishes to manage risk.

<sup>49</sup> Alternatively state that the insurances shall be principal or employer controlled.

**Table 4: Minimum insurance cover<sup>50</sup>**

Type of insurance	Value
Engineering and construction contracts - loss of or damage to property (except the works, Plant and Materials and Equipment) and liability for bodily injury to or death of a person (not an employee of the Contractor) caused by activity in connection with a contract	Not less than R20 million
Professional services and service contracts - death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract or damage to property	Not less than R10 million
Professional indemnity insurance	geotechnical, civil and structural engineering: R5,0 million electrical, mechanical and engineering: R3,0 million architectural: R5,0 million other R3,0 million

- 7.9.4 The insurance cover in professional services and service contracts for damage to property or death of or bodily injury to employees of the Contractor arising out of and in the course of their employment in connection with a contract shall not be less than the value stated in Table 4 for any one event unless otherwise directed by designated person.
- 7.9.5 SASRIA Special Risk Insurance in respect of riot and associated risk of damage to the works, Plant and Materials shall be taken out on all engineering and construction works.
- 7.9.6 Professional service appointments shall as a general rule be subject to proof of current professional indemnity insurance being submitted by the contractor in an amount not less than the value stated in Table 4 in respect of each claim, without limit to the number of claims, unless otherwise directed by the designated person in relation to the nature of the service that they provide.
- 7.9.7 Elundini Local Municipality shall take out professional indemnity insurance cover where it is deemed necessary to have such insurance at a level higher than the levels of insurance commonly carried by contractors.
- 7.9.8 Where payment is to be made in multiple currencies, either the contractor or Elundini Local Municipality should be required to take out forward cover. Alternatively, the prices for the imported content should be fixed as soon as possible after the starting date for the contract.

**7.10 Written reasons for actions taken**

- 7.10.1 Written reasons for actions taken shall be provided by a designated person.
- 7.10.2 The written reasons for actions taken shall be as brief as possible and shall as far as is possible, and where relevant, be framed around the clauses in the:
  - a) SANS 10845-3, *Construction procurement - Part 3: Standard conditions of tender*, and, giving rise to the reason why a respondent was not short listed, prequalified or admitted to a data base; or
  - b) SANS 10845-4, *Construction procurement - Part 4: Standard conditions for the calling for expressions of interest*;
 as to why a tenderer was not considered for the award of a contract or not awarded a contract.

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<sup>50</sup> Modify as necessary

**7.10.3** Requests for written reasons for actions taken need to be brief and to the point and may not divulge information which is not in the public interest or any information which is considered to prejudice the legitimate commercial interests of others or might prejudice fair competition between tenderers.

## **7.11 Request for access to information<sup>51</sup>**

**7.11.1** Should an application be received in terms of Promotion of Access to Information Act of 2000 (Act 2 of 2000), the “requestor” should be referred to the Elundini Local Municipality’s Information Manual which establishes the procedures to be followed and the criteria that have to be met for the “requester” to request access to records in the possession or under the control of Elundini Local Municipality’s.

**7.11.2** Access to technical and commercial information such as a comprehensive programme which links resources and prices to such programme should be refused as such information provides the order and timing of operations, provisions for time risk allowances and statements as to how the contractor plans to do the work which identifies principal equipment and other resources which he plans to use. Access to a bill of quantities and rates should be provided in terms of the Act.

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<sup>51</sup> Amend as necessary