ANNEXURE A

KNYSNA
Municipality Munisipaliteit uMasipala

inclusive II innovative II inspired

Quarterly Supply Chain Management report

Prepared in terms of the Local Government: Municipal Finance Management Act (56 of 2003); Supply Chain Management Regulations.

1 January – 30 March 2023
Quarter 3 Report

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PART 1: QUARTERLY REPORT

1. LEGAL CONTEXT

1.1 Municipal Finance Management Act

Section 111 of the Municipal Finance Management Act (MFMA) determines that:

> "*Each municipality and each municipal entity must have and implement a supply chain management policy which gives effect to the provisions of this Act".*

Section 112 of the Municipal Finance Management Act (MFMA) determines that the supply chain management policy must comply with the prescribed framework:

"(1) The supply chain management policy of a municipality or municipal entity must be fair, equitable, transparent, competitive and cost-effective and comply with a prescribed regulatory framework for municipal supply chain management, which must cover at least the following—

(a) the range of supply chain management processes that municipalities and municipal entities may use, including tenders, quotations, auctions and other types of competitive bidding;

(b) when a municipality or municipal entity may or must use a particular type of process;

(c) procedures and mechanisms for each type of process;

(d) procedures and mechanisms for more flexible processes where the value of a contract is below a prescribed amount;

(e) open and transparent pre-qualification processes for tenders or other bids;

(f) competitive bidding processes in which only pre-qualified persons may participate;

(g) bid documentation, advertising of and invitations for contracts;

(h) procedures and mechanisms for—

(i) the opening, registering and recording of bids in the presence of interested persons;

(ii) the evaluation of bids to ensure best value for money;

(iii) negotiating the final terms of contracts; and

(iv) the approval of bids;

(i) screening processes and security clearances for prospective contractors on tenders or other bids above a prescribed value;

(j) compulsory disclosure of any conflicts of interests prospective contractors may have in specific tenders and the exclusion of such prospective contractors from those tenders or bids;

(k) participation in the supply chain management system of persons who are not officials of the municipality or municipal entity, subject to section 117;

(l) the barring of persons from participating in tendering or other bidding processes, including persons—

(i) who were convicted for fraud or corruption during the past five years;

(ii) who wilfully neglected, reneged on or failed to comply with a government contract during the past five years; or

(iii) whose tax matters are not cleared by South African Revenue Service;

(m) measures for—

(i) combating fraud, corruption, favouritism and unfair and irregular practices in municipal supply chain management; and

(ii) promoting ethics of officials and other role players involved in municipal supply chain management;

(n) the invalidation of recommendations or decisions that were unlawfully or improperly made, taken or influenced, including recommendations or decisions that were made, taken or in any way influenced by—

(i) councillors in contravention of item 5 or 6 of the Code of Conduct for Councillors set out in Schedule 1 to the Municipal Systems Act; or

(ii) municipal officials in contravention of item 4 or 5 of the Code of Conduct for Municipal Staff Members set out in Schedule 2 to that Act;

(o) the procurement of goods and services by municipalities or municipal entities through contracts procured by other organs of state;

(p) contract management and dispute settling procedures; and

(q) the delegation of municipal supply chain management powers and duties, including to officials.

(2) The regulatory framework for municipal supply chain management must be fair, equitable, transparent, competitive and cost-effective."

Section 115 of the Municipal Finance Management Act (MFMA) determines that a system of supply chain management must be implemented:

(1) The accounting officer of a municipality or municipal entity must—

(a) implement the supply chain management policy of the municipality or municipal entity; and

(b) take all reasonable steps to ensure that proper mechanisms and separation of duties in the supply chain management system are in place to minimise the likelihood of fraud, corruption, favouritism and unfair and irregular practices.

(2) No person may impede the accounting officer in fulfilling this responsibility.

Section 117 of the Municipal Finance Management Act (MFMA) determines that councillors are barred from serving on tender committees:

"*No councillor of any municipality may be a member of a municipal bid committee or any other committee evaluating or approving tenders, quotations, contracts or other bids, nor attend any such meeting as an observer".*

Section 118 of the Municipal Finance Management Act (MFMA) determines that there may not be any interference in the supply chain management system:

“*No person may—*

(a) interfere with the supply chain management system of a municipality or municipal entity; or

(b) amend or tamper with any tenders, quotations, contracts or bids after their submission”.

1.2 Supply Chain Management Policy

Section 3 of the Knysna Municipality Supply Chain Management Policy indicates a system of delegations:

“(1) The council hereby delegates all powers and duties to the Accounting Officer which are necessary to enable the Accounting Officer –

(a) to discharge the supply chain management responsibilities conferred on the Accounting Officer in terms of –
  - *(i) Chapter 8 of the Act; and*
  - *(ii) the Supply Chain Management Policy.*

(b) to maximize administrative and operational efficiency in the implementation of this Policy;

(c) to enforce reasonable cost-effective measures for the prevention of fraud, corruption, favouritism and unfair and irregular practices in the implementation of this Policy; and

(d) to comply with his or her responsibilities in terms of Section 115 and other applicable provisions of the Act.

(2) Section 79 of the Act applies to the sub-delegation of powers and duties delegated to an Accounting Officer in terms of Sub-Section (1).

(3) The Council or Accounting Officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of municipality or to a committee which is not exclusively composed of officials of the municipality.

(4) Section 4(3) may not be read as permitting an official to whom the power to make final awards has been delegated, to make a final award in a competitive

bidding process otherwise than through the committee system provided for in Section 26 of this Policy.

Certain subdelegations are also indicate in the Supply Chain Management Policy:

(1) "The Accounting Officer may in terms of Section 79 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the Accounting Officer in terms of this Policy, but any such sub-delegation must be consistent with Sub-Section (2) of this Section and Section 4 of this Policy.

(2) The power to make a final award –

- *(a) above R10 million may not be sub-delegated by the Accounting Officer;*

- *(b) above R2 million, but not exceeding R10 million, may be sub-delegated but only to –*
  - *(i) the Chief Financial Officer;*
  - *(ii) a Head of Department; or*
  - *(iii) a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member.*
- *(c) not exceeding R 2 million may be sub-delegated but only to –*
  - *(i) the Chief Financial Officer;*
  - *(ii) a Head of Department;*
  - *(iii) a manager directly accountable to the Chief Financial Officer or a Head of Department, or*
  - *(iv) a Bid Adjudication Committee.*

(3) An official or Bid Adjudication Committee to which the power to make final awards has been sub-delegated in accordance with Sub-Section (2) must within five working days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by such official or committee during that month, including–

- *(a) the amount of the award;*
- *(b) the name of the person to whom the award was made; and*
- *(c) the reason why the award was made to that person.*

(4) A written report referred to in Sub-Section (3) must be submitted –

- *(a) to the Accounting Officer, in the case of an award by –*
  - *(i) the Chief Financial Officer;*
  - *(ii) a senior manager; or*
  - *(iii) a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is a member.*

(b) to the Chief Financial Officer or the senior manager responsible for the relevant bid, in the case of an award by –

(i) a manager referred to in subparagraph (2)(c)(iii); or

(ii) a Bid Adjudication Committee of which the Chief Financial Officer or a senior manager is not a member.

(5) Sub-Section (3) of this Section does not apply to procurements out of petty cash.

(6) This Section may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in Section 26 of this Policy.

(7) No supply chain management decision-making powers may be delegated to an advisor or consultant".

Section 5 of the Knysna Municipality Supply Chain Management Policy prescribe the oversight role of Council:

"(1) The council reserves its right to maintain oversight over the implementation of this Policy.

(2) For the purposes of such oversight the Accounting Officer must –

(a) within 30 days of the end of each financial year, submit a report on the implementation of this Policy and the Supply Chain Management Policy of any municipal entity under the sole or shared control of the municipality, to the council of the municipality; and

(b) whenever there are serious and material problems in the implementation of this Policy, immediately submit a report to the council.

(3) The Accounting Officer must, within 10 days of the end of each quarter, submit a report on the implementation of the Supply Chain Management Policy to the mayor.

(4) The reports must be made public in accordance with Section 21A of the Municipal Systems Act.

(5) The Accounting Officer will, within 60 days of the end of each financial year, submit to the Provincial Treasury any information concerning supply chain management in such format as the National Treasury and Provincial Treasury may determine.

(6) To maintain oversight over the implementation of the SCM Policies and Principles. To this end, in addition to the reports referred to in regulation 6(2) and 6(3) of the SCM TR, and in addition to the deviations reports that are already being reported on, the AO must also submit monthly reports to the Mayor for tabling in Council containing details of all tenders awarded during the previous month including but not limited to the following in respect of each tender:

(a) The decisions of the BSC and the reasons therefore;
(b) The recommendations of the BEC and the reasons therefore;
(c) The minutes of the BAC reflecting the bid specifications, the decisions/recommendation of the BAC and, if such decisions/recommendations differ from the recommendations of the BEC, the reasons for so differing and the outcome of any resolution of the difference of opinion between the BEC and BAC;
(d) Details of any subsequent decision of the AO on any recommendations and, where applicable, the reasons for the AO's decision being different from the recommendations of the BEC and/or the BAC; and
(e) Information about any developments during that month in respect of any dispute, complaint, objection or court action submitted in relation to any tender award. If any of the above information becomes available only in subsequent months in relation to such awards, such information must likewise be reported to the Mayor in the month following that in which the information became known to the AO. Any dispute, complaint, objection or court action in relation to any decisions or actions taken by the Municipality in respect of other aspects of the operation of the SCM system should likewise be reported on".

Section 9 of the Supply Chain Management Policy indicates a range of procurement processes:

"(1) Goods and services may only be procured by way of –
(a) petty cash purchases in terms of Council's Petty Cash Policy for procurement transactions with a value up to R2 000 (Incl. VAT);
(b) written or verbal quotations for procurement transactions of a value up to R10 000;
(c) formal written price quotations for procurement transactions of a value over R10 000 up to R200 000; and
(d) a competitive bidding process for–
(i) procurement transactions with a value above of R200 000; and
(ii) the procurement of long-term contracts.

(2) The Accounting Officer may, in writing-

(a) lower, but not increase, the different threshold values specified in Sub-Section (1); or

(b) direct that –

(i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;

(ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or

(iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

(3) Goods or services may not deliberately be split into parts or items of a lesser value merely to avoid complying with the requirements of the policy. When determining transaction values, a requirement for goods or services consisting of different parts or items must as far as possible be treated and dealt with as a single transaction".

Section 16 of the Supply Chain Management Policy describes the procurement process for purchases above R30 000:

"(1) The conditions for the procurement of goods or services for a value over R30 000 up to R200 000, through formal written price quotations are as follows:

(a) quotations must be obtained in writing from at least three different providers whose names appear on the list of accredited prospective providers of the municipality;

(b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in Section 14(1)(b) and (c) of this Policy;

(c) if it is not possible to obtain at least three quotations, the reasons must be recorded and approved by the Chief Financial Officer or an official designated by the Chief Financial Officer, and

(d) the Accounting Officer must record the names of the potential providers and their written quotations.

(2) Quotations must:

(a) be in writing, and signed by a person with the necessary authority to act on behalf of the prospective supplier;

(b) comply with the specifications set out in the quotation notice;

(c) be marked for identification in relation to the particular quotation.

(3) A designated official referred to in Sub-Section (1) (c) must within three days of the end of each month report to the Chief Financial Officer on any approvals given during that month by that official in terms of that Sub-Section".

Section 18 of the Supply Chain Management Policy describes the procurement process for purchases above R30 000:

"(1) Goods or services above a transaction value of R200 000 and long term contracts may only be procured through a competitive bidding process, subject to Paragraph 11(2) of this Policy.

(2) The bid documentation will be prepared by the SCM Manager in consultation with the relevant directorate and displayed on notice boards, placed on the council's website, and advertised in commonly circulated local and/or provincial newspapers with a closing date of at least 14 days after the date that the advertisement first appears.

(3) No requirement for goods or services above an estimated transaction value of R200 000 may deliberately be split into parts or items of lesser value merely for the sake of procuring the goods or services otherwise than through a competitive bidding process".

Section 25 of the Supply Chain Management Policy describes the procurement process for purchases above R200 000:

"(1) The Accounting Officer is required to establish a committee system for competitive bids of at least-
- *(i) a Bid Specification Committee;*
- *(ii) a Bid Evaluation Committee; and*
- *(iii) a Bid Adjudication Committee.*

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

(3) A neutral or independent observer, appointed by the Accounting Officer, must attend or oversee a committee when this is appropriate for ensuring fairness and promoting transparency.

(4) The committee system must be consistent with –
- *(a) Section 27, 28 and 29 of this Policy; and*
- *(b) any other applicable legislation.*

(5) *The Accounting Officer may apply the committee system to formal written price quotations".*

Section 35 of the Supply Chain Management Policy describes the procurement process for deviations from the policy:

(1) *"The Accounting Officer may –*

  (a) *dispense with the official procurement processes established by this Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –*

    (i) *in an emergency which is considered an unforeseeable and sudden event with materially harmful or potentially materially harmful consequences for the municipality which requires urgent action to address.*

    (ii) *where it can be demonstrated that goods or services are produced or available from a single source / sole supplier only;*

    (iii) *for the acquisition of special works of art or historical objects where specifications are difficult to compile;*

    (iv) *acquisition of animals for zoos and/or nature and game reserves; or*

    (v) *in any other exceptional case where it is impractical or impossible to follow the official procurement processes.*

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

  (c) *may condone any irregular expenditure incurred in contravention of, or that is not in accordance with a requirement of this Policy, provided that such condonation and the reasons therefore shall be reported to Council at the next ensuing meeting.*

(2) *The Accounting Officer must record the reasons for any deviations in terms of Sub-Sections (1)(a) and (b) of this policy and report them to the next meeting of Council and include as a note to the annual financial statements.*

(3) *Sub-Section (2) does not apply to the procurement of goods and services contemplated in Section 11(2) of this policy".*

2 ACCOUNTING OFFICER'S REPORT

2.1 Introduction

2.1.1 The Local Government: Municipal Finance Management Act requires that the municipality must have and implement a Supply Chain Management Policy, which gives effect to the provisions of Part 1 of Chapter 11 of the Act that deals with 'Supply Chain Management'.

2.1.2 On the 30th May 2005, the Municipal Supply Chain Management Regulations were promulgated. The Knysna Municipality Supply Chain Management Policy was approved by Council during May 2021 at a legally constituted Council meeting in terms of these Regulations.

2.1.3 The purpose of this report is to provide an overview of the SCM process in terms of Council's Supply Chain Management Policy.

2.2 Bid committees

2.2.1 The competitive bidding process and bid committee structures are functioning effectively. The bid committees are composed of the following members:

#	Committee	Composition & Function
	Bid Specification Committee - BSC	BSC will compose of a Senior Manager, manager or senior official of the user department, an official of a division requiring the goods or services [user], and a member of the SCM Unit. To comment on specifications for bids submitted by the user department at the Municipality in an unbiased manner to allow all potential bidders to offer their goods and services and to recommend to the Director that the specifications may be advertised.
	Bid Evaluation Committee - BEC	BEC will compose of a Chairperson, responsible official of the department concerned and SCM Official. To submit a report and recommendations regarding the award to the Bid Adjudication Committee for consideration and/or approval.
	Bid Adjudication Committee - BAC	At least 4 Heads of Department and a Senior SCM Practitioner, with the CFO as Chairperson. Considers recommendations from the BEC and make awards or recommend to the MM to award if R 10 million and more.

2.2.2 Members of the bid committees are required to declare to undertake the following:

(a) That all information, documentation and decisions regarding any matter before the committee is confidential and undertakes not to make known anything in this regard;

(b) To treat all service providers and potential service providers equitably and will not purposefully favour or prejudice anybody;

(c) To make known details of any private or business interest he or she or any close family member, partner or associate may have in any proposed procurement or disposal of, or in any award or contract that they will immediately withdraw from participating in any matter whatsoever; and

(d) The members of the bid committees have duly undertaken to uphold the confidentiality, to be fair in all dealings and to declare their personal interests, if any. None of the members had conflicts of interest to declare.

2.3 Tender awards

2.3.1 The awards for the period that were made by bid committees or the delegated officials are depicted in Appendix B to this report.

2.3.2 We also report on the number of tenders awarded, their BBBEE compliance and enterprises within the Knysna Municipality's area. The details can be found in Table 1 below.

Table 1: Tenders awarded

#	Description	1ST quarter 2022/23	2ND quarter 2022/23	3rd quarter 2022/23
1.	Tenders Awarded	8	9	5
2.	Estimated Value of Tenders Awarded	R 23,714,482.60 and various rates based tenders	R 14,655,767.10, Loan tender with ensivaged total cash-outflow of R 102,157,383.10 and various rates based tenders	R 13,580,870.95 and various rates based tenders.

3.	**Number of Appeals Received**	**6**	**2**	**2**
4.	**Number of Appeals in Progress**	**4**	**2**	**2**
5.	**Number of Contracts Awarded to B-BBEE Enterprises**	**5**	**5**	**5**
6.	**Value of Contracts Awarded to B-BBEE Enterprises**	**R 10,105,001.28 and various rates based tenders**	**R 13,630,052.17, Loan tender with ensivaged total cash-outflow of R 102,157,383.10 and various rates based tenders**	**R 13,580,870.95 and various rates based tenders.**
7.	**% of Contracts Awarded to B-BBEE Enterprises**	**62%**	**83%**	**100%**
8.	**Number of Tenders Awarded to Enterprises based in the Knysna Municipality Area**	**2**	**1**	**1**
9.	**Value of Tenders Awarded to Enterprises based in the Knysna Municipality Area**	**12,075,00.00 & Rates based tenders**	**Rates based tenders**	**R 11,880.00. Total tendered amount is indicative, cost will be incurred in accordance with the tendered rates.**

10	**% of Tenders Awarded to Enterprises based in the Knysna Municipality Area vs All Tenders**	**25%**	**16%**	**20%**
11	**Number of Tenders Awarded to B-BBEE Enterprises based in the Knysna Municipality Area**	**2**	**1**	**1**
12	**% of Tenders Awarded to B-BBEE Enterprises based in the Knysna Municipality Area vs All Tenders**	**25%**	**16%**	**13,33%. These calculation excludes the EOI, which are largely dominated by Knysna based service providers.**

2.4 Procurement Process Timeline and Procurement processes

2.4.1 Statistical information regarding the time taken to process a tender in terms of the SCM policy is indicated in Table 2 below:

Table 2: Procurement processes

No	Description of Measurement Criteria per Tender	Average Calendar Days: 1st Quarter 2022/23	Average Calendar Days: 2nd Quarter 2022/23	Average Calendar Days: 3rd Quarter 2022/23
1	Average Calendar Days from Bid Specification Committee (BSC) to Bid Adjudication Committee (BAC) - Full Procurement Cycle	113	73.7	119.2
2	Average Calendar Days from Tender Advertisement Date to BAC	139	94.7	111.2
3	Average Calendar Days from Tender Closing Date to BAC	146	87.3	60.6
4	Average Calendar Days from Tender Closing Date to BEC - Tender Evaluation	130	38.6	25
5	Tender with Fastest Procurement Process: BSC to BAC	T49/2021/22	T07/2022/23	T20/2022/23

No	Description of Measurement Criteria per Tender	Average Calendar Days: 1st Quarter 2022/23	Average Calendar Days: 2nd Quarter 2022/23	Average Calendar Days: 3rd Quarter 2022/23
6	Tender with Longest Procurement Process: BSC to BAC	T59/2020/21	T02/2022/23	T26/2022/23

2.5 Formal written quotations

2.5.1 A summary of the formal written quotation awards made by the delegated officials for the period is indicated in Table 3 below:

Table 3: Formal Written Quotations

No	Description	1st Quarter 2022/23	2nd Quarter 2022/23	3rd Quarter 2022/23
1	RFQ'S Awarded	70	84	48
2	Estimated Value of RFQ'S Awarded	6,213,539 .70	8,893,724.29	3,990,783.78
3	Number of RFQ'S Awarded to B-BBEE Enterprises	70	84	46
4	Value of RFQ'S Awarded to B-BBEE Enterprises	6,213,539 .70	8,893,724.29	3, 829,220.94
5	% of RFQ'S Awarded to B-BBEE Enterprises	100%	100%	95,95%

6	**Number of RFQ'S Awarded to Enterprises based in the Knysna Municipality Area**	**29**	**22**	**22**
7	**Value of RFQ'S Awarded to Enterprises based in the Knysna Municipality Area**	**2,869,741.90**	**2,214,726.44**	**1,710,058.45**
8	**% of RFQ'S Awarded to Enterprises based in the Knysna Municipality Area vs All RFQ'S**	**41%**	**26%**	**42%**
9	**Number of RFQ'S Awarded to B-BBEE Enterprises based in the Knysna Municipality Area**	**29**	**22**	**21**

2.5.2 More detailed information on the awards made to service providers, their BBBEE status, their origin of destination and the amounts involved are depicted in Appendix C attached to this report.

2.6 Deviations from the SCM Policy

2.6.1 Section 35 of Council's Supply Chain Management Policy allows the Accounting Officer to dispense with the official procurement processes under certain circumstances. The total deviations for the period under review is depicted in Table 4 below.

Table 4: Deviations approved

1st Quarter 2022/23	2nd Quarter 2022/23	3rd Quarter 2022/23
R 581,343.80	**R 4,934,985.36**	**R 514,102.28**

2.6.2 Detailed information on all the deviations approved for the 4th quarter are attached as Appendix D to this report.

2.7 Contract and supplier administration

The attached table, as Annexure E, indicate all the contract extensions and amendments for Quater 3.

2.8 Appendices

Appendix B: Tenders awarded in Quater 3
Appendix C: Formal written quotations awarded in Quater 3
Appendix D: Deviations awarded in Quater 3
Appendix E: Contract extentions in Quater 3
Appendix F: UIFW Expenditure as reported on the Audited AFS 2021/22