

**ANNEXURE F**  
**DRAFT BUDGET RELATED POLICIES**

## **2019/2020 DRAFT BUDGET RELATED POLICIES**

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# **NEWCASTLE MUNICIPALITY**

## **BUDGET POLICY**



# BUDGET POLICY

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# BUDGET POLICY

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## 1. PREAMBLE

- 1.1 In terms of the Municipal Finance Management Act, No. 56 of 2003, Chapter 4 on Municipal Budgets, Subsection (16), states that the council of a municipality must for each financial year approve an annual budget for the municipality before the commencement of that financial year. According to subsection (2) of the Act concerned, in order to comply with subsection (1), the Mayor of the municipality must table the annual budget at a council meeting at least 90 days before the start of the budget year.
- 1.2 In terms of chapter 4, Section 21 (1) the mayor must co-ordinate the processes for preparing the annual budget and budget-related policies.
- 1.3 This policy must be read, analyzed, explained, interpreted, implemented and understood against this legislative background. The budget plays a critical role in an attempt to realize diverse community needs. Central to this, the formulation of a municipality budget must take into account the government's macro-economic and fiscal policy fundamentals. In brief, the conceptualization and the operationalization of the budget must be located within the national government's policy framework.

## 2. OBJECTIVES OF THE POLICY

- 2.1 This policy sets out the budgeting principles and procedures which Newcastle Municipality will follow in preparing each annual budget, as well as the roles and responsibilities of various officials and Office Bearers in the compiling such budget. The policy seeks to give effect to the requirements of the Municipal Finance Management Act, Act 56 of 2003 read with Municipal Budget and Reporting Regulations of 2009 in terms of preparation, approval, implementation and management of the annual budgets.
- 2.2 This policy is intended to ensure:
  - 2.2.1 that there is efficient and effective preparation of reliable budget and forecasts and monitoring of actual results against plans and programmes.
  - 2.2.2 that the municipality keeps records of and is able to report on output delivery according to the performance measures contained in the Integrated

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Development Plan (IDP) and Service Delivery Budget Implementation Plan (SDBIP) and strategic plan.

- 2.2.3 the Strategic Executive Directors and Treasury and Budget Office have implemented proper monitoring and control of budgets.
- 2.2.4 that the Mayor exercise proper general political guidance over the fiscal and financial affairs of the municipality
- 2.2.5 that the council plays an effective oversight role in fiscal and financial affairs of the municipality.

### **3. SCOPE OF THE POLICY**

This policy shall apply to the Council, Executive Committee, Finance Portfolio Committee, Budget Steering Committee, Accounting Officer, Strategic Executive Directors and all officials who have a formal and administrative duty to prepare, manage and control the municipality's budget.

### **4. APPLICABLE LEGISLATION**

- 4.1 Budget process and management is regulated in terms of the Municipal Finance Management Act, Act 56 of 2003 (MFMA):-
  - 4.1.1 Chapter 4 of the MFMA deals with the municipal budgets.
  - 4.1.2 Chapter 7 of the MFMA deals with the responsibilities of the Mayor in relation to budget processes and related matters as well as the fiscal and financial affairs of the municipality.
  - 4.1.3 Chapter 8 of the MFMA deals with the responsibilities of the municipal officials in relation, among others, budgeting processes, revenue and expenditure management and reporting.
  - 4.1.4 Chapter 9 of the MFMA deals with the municipal budget and treasury offices.
- 4.2 Municipal Budget and Reporting Regulations of 2009 which is aimed at securing sound and sustainable management of the budgeting and reporting practices of municipalities by establishing uniform norms and standards and other requirements for ensuring transparency, accountability and appropriate lines of responsibilities in the budgeting and reporting processes within the municipality.

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- 4.3 The Medium Term Revenue and Expenditure Framework guidelines issued by National Treasury from time to time also provide guidance in the budgeting process and management.
- 4.4 The budget circulars and practice notes issued by National Treasury from time to time also provides guidance in the budgeting process and management.
- 4.5 Annual Division of Revenue Act in so far as those chapters dealing with equitable share allocation and all other conditional grants to the municipalities.
- 4.6 Furthermore chapter 5, section 25(1) of the Local Government Municipal Systems Act, 2000 (Act No. 32 of 2000) states that a municipality shall undertake developmentally oriented planning. It must be a single, inclusive and strategic plan in the form of an Integrated Development Plan. This must form the policy framework and general basis on which the annual budgets must be based.

### 5. ROLES AND RESPONSIBILITIES

The primary responsibilities and accountabilities in relation to budgeting process and management rest with the Council, Executive Committee, Budget Steering Committee, Mayor, Accounting Officer, Strategic Executive Director for Financial Services, Strategic Executive Directors for other municipal departments, the Director for Budget and Financial Reporting as well as the officials in the Budget Office.

#### 5.1 Role of Council

- 5.1.1 As stipulated in chapter 4, section 16 (1) of the MFMA the council must for each financial year approve an annual budget for the municipality before the start of a financial year. Before approval of the annual budget the council is expected to interrogate the annual budget and also plays an oversight role in budget preparation, implementation, management and reporting.
- 5.1.2 To the extent as required by chapter 4, section 24 (1) & (2) of the MFMA, the council when approving the annual budget, shall ensure full compliance with all subsections under section 24.

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- 5.1.3 When considering the draft annual budget, the council shall consider the impact, which the proposed increases in rates and service tariffs will have on the monthly municipal accounts of households in the municipal area.

### **5.2 Executive Committee**

The Executive Committee is responsible for examining of the budget, providing guidance among others on the budgetary process and expenditure management and oversight role.

### **5.3 Role of Budget Steering Committee**

- 5.3.1 The Mayor of the Municipality shall establish a Budget Steering Committee as required by Regulation 4 of the Municipal Budgeting and Reporting Regulations. The steering committee shall consist of the following g persons:

- (a) the councilor responsible for financial matters (chairperson of the Finance Portfolio Committee);
- (b) the Accounting Officer;
- (c) the Strategic Executive Director for Financial Services Department;
- (d) Strategic Executive Directors responsible for at least three largest departments in terms of budget allocation in the municipality;
- (e) Director for Budget Planning, Implementation, Supply Chain Management and Financial Reporting;
- (f) Manager responsible for the compilation of budget;
- (g) Director responsible for planning; and
- (h) Any technical experts in infrastructure.

- 5.3.2 The Municipality may opt to use the Management Committee (MANCO) as Budget Steering Committee as well as IDP Steering Committee.

- 5.3.3 The Budget Steering Committee as stipulated under chapter 2, clause 4(1) of the Municipal Budget and Reporting Regulations must provide technical assistance to the Mayor in discharging the responsibilities set out in sections 53 and 54 of the MFMA.

### **5.4 Role of Mayor**

- 5.4.1 As provided in Section 21(1) of the MFMA, the Mayor is responsible for:

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- 5.4.1.1 Coordinating the process for preparing the annual budget and for reviewing the Integrated Development Plan ("IDP") and budget related-policies;
- 5.4.1.2 At least 10 months before the start of the budget year, table in the municipal council a time schedule outlining key deadlines, as contemplated in section 21(1) (b) of the MFMA.
- 5.4.2 In so far as provided in Section 21(2) of the MFMA, for purposes of preparing the budget, the Mayor shall comply with all subsections of the above section.
- 5.4.3 Pursuant to Section 52 of the MFMA the mayor must:
  - 5.4.3.1 provide general political guidance over the fiscal and financial affairs of the municipality, and present the budget to the community of Newcastle and consider of their input.
  - 5.4.3.2 In providing such general political guidance monitor and to the extent provided in the MFMA, oversee the exercise of responsibilities assigned in terms of the MFMA to the accounting officer and the Strategic Executive Director: Budget and Treasury Office, but may not interfere in the exercise of those responsibilities;
  - 5.4.3.3 take all reasonable steps to ensure that the municipality performs its constitutional and statutory functions within the limits of the municipality's approved budget;
  - 5.4.3.4 within 30 days of the end of each quarter, submit a report to the council on the implementation of the budget and the financial state of affairs of the municipality; and
  - 5.4.3.5 comply with all other subsections of under this section of the MFMA.
- 5.4.4 In so far as provided in Section 53 of the MFMA, for purposes of the budget process and related matters, the Mayor shall comply with all subsections of the above section as per the MFMA.
- 5.4.5 As required by Section 58 of the MFMA, the Mayor shall exercise his/her powers and functions assigned by the MFMA in consultation with the executive committee.

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### **5.5 Role of Accounting Officer**

5.5.1 The Accounting Officer shall be responsible for the following functions in terms of Section 68 of the MFMA:

5.5.1.1 Assisting the Mayor in performing the budgetary functions assigned to the Mayor in terms of chapter 4 and 7 of the MFMA; and

5.5.1.2 Providing the Mayor with the administrative support, resources and information necessary for the performance of those functions.

5.5.2 The Accounting officer shall ensure that all heads of departments provide the inputs required by the Strategic Executive Director: Budget and Treasury Office for the purpose of preparing the budget, and to that end, each Strategic Executive Director shall prepare and submit to the Strategic Executive Director: Budget and Treasury Office by 28 February of each year a draft budget for his or her department; provided that nothing contained in this section shall derogate from the responsibility of the Strategic Executive Director for Financial Services of preparing the municipal budget as provided for in subsection 5.6.1 below.

5.5.3 The accounting officer shall comply with all requirements of the Sections 69, 70, 71, 72, 73, 74, 75 and 76 of the MFMA and ensuring that the operations of the municipal council are achieved within the approved budget and financial targets; and allocation of funds within the departments.

### **5.6 Role of Strategic Executive Director: Budget and Treasury Office**

5.6.1 Without derogating in any way from the legal responsibilities of the Mayor and Accounting Officer, the Strategic Executive Director: Budget and Treasury Office shall be responsible for preparing the draft budget of the municipality as a line function responsibility.

5.6.2 The Accounting Officer shall delegate in terms of Section 79 of the MFMA to the Strategic Executive Director: Budget and Treasury Office all such powers as may be necessary him or her to perform the above mentioned function.

5.6.3 The Strategic Executive Director: Budget and Treasury Office shall ensure that the annual and adjustments budgets comply with the requirements of the National

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Treasury, reflect the budget priorities determined by the mayor, are aligned with the IDP, and comply with all budget-related policies, and shall make recommendations to the mayor on the revision of the IDP and the budget-related policies where these are indicated.

5.6.4 The Strategic Executive Director: Budget and Treasury Office shall, with the approval of the mayor and the municipal manager, and considering the municipality's current financial performance determine the recommended aggregate growth factor(s) using the National Treasury Guidelines.

5.6.5 The Strategic Executive Director: Budget and Treasury Office is responsible for:

5.6.5.1 Budget process management.

5.6.5.2 Advice to the Accounting Officer, Mayor, Executive Committee, Finance Portfolio Committee and Strategic Executive Directors for all departments on budget process and expenditure management matters.

5.6.5.3 Provide guidance and support to the Director: Budget and Financial Reporting as well as the officials in the division dealing with the budget process.

5.6.5.4 Overall management of the provision of monthly financial performance reports to the Strategic Executive Directors by 5th working day of the following month.

5.6.5.5 Overall management and coordinating budget estimates.

5.6.5.6 Ensuring overall integrity of information in the financial system;

5.6.5.7 Explanation of reasons for significant trends and changes in budget amounts.

### **5.7 Role of Strategic Executive Directors**

5.7.1 The Strategic Executive Directors are responsible for:

5.7.1.1 The provision of their budget requirements within the timelines as set out by the Accounting Officer and the Strategic Executive Director: Budget and Treasury Office.

5.7.1.2 Monthly review of expenditure against budget.

5.7.1.3 Submission of variance explanations to the Strategic Executive Director: Budget and Treasury Office Services within five working days of receipt of monthly financial performance reports and expenditure, which is greater or



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less than five percent from budget for Goods and Services and related costs;

- 5.7.1.4 Advising the Strategic Executive Director: Budget and Treasury Office of significant accruals two working days before month end;

### **5.8 Role of Director: Budget and Financial Reporting**

- 5.8.1 The Director: Budget and Financial Reporting as well as the officials in the division dealing with the budget process are responsible for the initiation, collation, analysis of information for budget process and preparing monthly financial performance reports to the Strategic Executive Director: Budget and Treasury Office for further review.

## **6. BUDGET PRINCIPLES**

The council shall adopt three-year budget statements for the ensuing financial year's budgets. The budget statement shall be the focal point of the budget, and shall be linked to the IDP. The budget and IDP review process are to run concurrently.

### **6.1 Contents of Budget**

- 6.1.1 The budget must comply with the provisions of Section 17(1) of the MFMA, and in particular:
- 6.1.1.1 The budget must be in the format prescribed by the regulations;
  - 6.1.1.2 The budget must reflect the realistically expected revenues by major source for the budget year concerned;
  - 6.1.1.3 The expenses reflected in the budget must be divided into the votes of the various departments of the municipality;
  - 6.1.1.4 The budget must also contain:
    - 6.1.1.4.1 the foregoing information for the two years immediately succeeding the financial year to which the budget relates;
    - 6.1.1.4.2 the actual revenues and expenses for the previous financial year, and
    - 6.1.1.4.3 the estimated revenues and expenses for the current year.

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6.1.2 The budget must be accompanied by all of the documents referred to in Section 17(3) of the MFMA.

11.3. For the purposes of Section 17(3)(k) of the MFMA, the salary, allowances and benefits of each person referred to therein must be stated individually.

### **6.2 Funding of Expenditure**

6.2.1 The annual budget and adjustments budget shall, as required by Section 17(2) of the MFMA consist of:

6.2.1.1 the capital component, and

6.2.1.2 the operating component.

6.2.2 In accordance with the provisions of Section 18(1) of the MFMA, an annual budget may be funded only from:-

6.2.2.1 Realistically anticipated revenues to be collected;

6.2.2.2 Cash-backed accumulated funds from previous years' surpluses not committed for other purposes; and

6.2.2.3 Borrowed funds, but only for capital projects.

6.2.3 Realistically anticipated revenues to be received from national or provincial government, national or public entities, other municipalities, municipal entities, donors or any other source may be included in an annual budget only if there is acceptable documentation that guarantees the funds, as provided by Regulation 10 (2) of the Regulations.

6.2.4 An impending operating **deficit** shall be made good in an adjustments budget, but if an operating deficit arises at the end of a financial year, notwithstanding the precautionary measures adopted by the council, such deficit shall immediately be made good in the annual or adjustments budget for the ensuing financial year, and shall not be offset against any unappropriated surplus carried forward from preceding financial years.

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### 6.3 Capital Budget

Capital budget refers to the allocation made to specific infrastructure projects and purchase of equipment and other forms of assets having a life span of more than one year and cost value of as determined in the Asset Management Policy of the municipality.

#### 6.3.1 *Basis of Calculation*

6.3.1.1 Except in so far as capital projects represent a contractual commitment to the Newcastle Municipality extending over more than one financial year, the annual capital budget shall be prepared from a **zero base**.

6.3.1.2 The capital budget component of the annual or adjustments budget shall only be approved by the council if it has been properly balanced, that is, if the sources of finance which are realistically envisaged to fund the budget equal the proposed capital expenses.

6.3.1.3 The impact of the capital budget on the current and future operating budgets in terms of finance charges to be incurred on external loans, depreciation of fixed assets, maintenance of fixed assets and any other operating expenditure to be incurred resulting directly from the capital expenditure, should be carefully analyzed when the annual capital budget is being compiled.

6.3.1.4 In addition, the council shall consider the likely impact of such operational expenses – net of any revenue expected to be generated by such item – on future property rates and service charges.

#### 6.3.2 *Financing of Capital Budget*

6.3.2.1 The Strategic Executive Director: Budget and Treasury Office shall make recommendations on the financing of the draft capital budget for the ensuing and future financial years, indicating the impact of viable alternative financing scenarios on future expenses, and specifically commenting on the relative financial merits of internal and external financing options.

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- 6.3.2.2 The provisions of Regulation 11 of the Municipal Budgeting and Reporting Regulations of 2009 shall be complied with in relation to the funding of capital expenditure.
- 6.3.2.3 Any **surplus** from previous financial years not appropriated, even if fully cash-backed, shall not be used to balance any annual or adjustments budget, but shall be appropriated, as far as it is not required to finance the payment of operating creditors or for other operational purposes, to the Municipality's asset financing reserve.
- 6.3.2.4 Before approving the capital budget component of the annual or adjustments budget, the council shall consider the impact of the capital component on the present and future operating budgets of the municipality in relation to the items referred to in 6.3 below.
- 6.3.2.5 Each department head shall, prior to providing for any expenditure in respect of any capital item in the budget of his or her department's budget, and in any event no later than 31 January prepare and submit to the Strategic Executive Director: Budget and Treasury Office a business plan relating to such capital item, which business plan shall contain the following information regarding such item:
- A full description;
  - Its purpose;
  - The expected beneficiaries ;
  - Alternative means of providing the same benefits;
  - An acquisition, construction and implementation plan ( as applicable);
  - The expected useful life;
  - The principal cost;
  - The sources of funding;
  - A schedule of financing costs;
  - A maintenance plan;
  - A schedule of maintenance costs;
  - A depreciation schedule; and
  - Insurance costs.

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## **6.4 Operational Budget**

Operational budget refers to the funds that would be raised in the delivery of basic service, grants and subsidies and any other municipal services rendered. These funds are in turn used to cover the expenses incurred in the day to day running of the municipality

The operating component shall duly reflect the impact of the capital component on:

- depreciation charges;
- repairs and maintenance expenses;
- interest payable on external borrowings; and
- other operating expenses.

### **6.4.1 *Basis of Calculation***

6.4.1.1 The incremental approach is used in preparing the annual operating budget in respect of employee costs, councillors remuneration, bulk purchases. All other expenditure shall be estimated using the zero based method of budgeting.

6.4.1.2 The annual operating budget shall be based on realistically anticipated revenue, which should be least cover the anticipated operating expenditure in order to result in a balanced budget.

6.4.1.3 An income based approach shall be used where the realistically anticipated income would be determined first and the level of operating expenditure would be based on the determined income, thus resulting in a balanced budget.

### **6.4.2 *Financing***

Services charges shall be based on the tariff growth rate as agreed upon plus a growth rate of the town. The operating budget shall be financed from the following sources:

- (a) Service Charges
  - (i) Property Rates;
  - (ii) Electricity sales;
  - (iii) Water sales;
  - (iv) Sewerage; and

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(v) Refuse

(b) Grants and Subsidies

Grants and subsidies shall be based on all the gazetted grants and subsidies plus all other subsidies received by the municipality.

(c) Interest on investments

The budget for interest and investment shall be in accordance with the Cash Management and Investment policy of the municipality.

(d) Interest on outstanding debtors

The budget for interest and investment shall be in accordance with the Credit Control and Debt Collection policy of the municipality.

(e) Fines

Fines shall be estimated based on the fines and summons issued in the previous financial year and any law enforcement measures implemented by the municipality.

(f) Licences

Licences shall be estimated based on estimated based on licences and rates granted by the municipality.

(g) Sundry revenue

Sundry revenue shall refer to any other revenue which does not fall in the ambits of any revenue source above. It shall be estimated based on the trends of the current of previous financial year.

(d) Repairs and Maintenance

The budget of repairs and maintenance shall be based on the increment as determined by Financial Services in conjunction with the needs of the department in terms of repairing their assets. This percentage shall be equal to at least 8% of the total operating budget.

(e) Capital Expenses

Capital expenses refer to interest and redemption that has to be repaid on an external loan taken up by the Council. The budget for capital expenses will be determined by the repayments that the municipality is liable for based on the agreement entered into with the financial institution.

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(f) Contributions to Capital

A global amount that will be spent on the acquisition of small capital items is determined. The needs of departments in terms of small items will be prioritised to enable the allocation of funds for such items.

(g) Contributions to Funds

Refers to the contribution made to provisions (e.g. leave reserve fund) on annual basis and is determined based on the actual expenditure in the previous year and any other factor that could have an effect.

### 6.5 Provisions

#### 6.5.1 *Accrued leave*

The Municipality shall establish and maintain a provision for accrued leave entitlements equal to 100% of the accrued leave entitlement of officials as at 30 June of each financial year, and shall budget appropriately for contributions to such provision in each annual and adjustments budget, as well as for staff benefits, including post-retirement benefits.

#### 6.5.2 *Provision for bad debts*

The Municipality shall establish and maintain a provision for bad debts in accordance with its rates and tariffs policies, and shall budget appropriately for contributions to such provision in each annual and adjustments budget with due regard to the implementation and compliance with the Credit Control and Debt Collection Policy.

#### 6.5.2 *Obsolete and deteriorated stock*

The municipality shall establish and maintain a provision for the obsolescence and deterioration of stock in accordance with its stores management policy, and shall budget appropriately for contributions to such provision in each annual and adjustments budget.

#### 6.5.3 *Depreciation & Interest*

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All expenses, including depreciation expenses, shall be **cash-funded**. The cash received in respect of depreciation expenses on fixed assets financed from external borrowings shall be transferred to the investments created to redeem such borrowings.

**Finance charges** payable by the Municipality shall be apportioned between departments or votes on the basis of the proportion at the last balance sheet date of the carrying value of the fixed assets belonging to such department or vote to the aggregate carrying value of all fixed assets in the municipality.

The allocation of **interest earned** on the Municipality's investments shall be budgeted for in terms of the banking and investment policy.

The Municipality shall adequately provide in each annual and adjustments budget for the maintenance of its **fixed assets** in accordance with its fixed asset management policy. At least 8% of the operating budget component of each annual and adjustments budget shall be set aside for such maintenance.

The budget for **salaries, allowances and salaries-related benefits** shall be separately prepared, and shall not exceed 35% of the aggregate operating budget component of the annual or adjustments budget. For purposes of applying this principle, the remuneration of political office bearers and other councillors shall be excluded from this limit.

## 7 BUDGET PROCESS

### 7.1 Medium Term Expenditure Revenue Framework

The Medium Term Expenditure Revenue Framework (MTERF) details 3 year rolling expenditure and revenue plan for Newcastle Municipality. The MTERF budget process is designed to match the overall resource envelop, estimated through "top-down" macroeconomic and fiscal policy process with the bottom up estimation of the current and medium term cost of existing departmental plans and expenditure programmes

The budget process allows the Council to:-

- (a) Strengthen and evaluate the alignment between medium and long-term plans and funding proposals;
- (b) Revise its policy priorities, macroeconomic framework and revenue envelop;



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- (c) Evaluate departmental plans and allocate available resources in line with the policy priorities;
- (d) Obtain the required authority from Council to spend (service delivery);
- (e) Align parameter settings with budget outcomes and resource allocations

### **7.2 Integrated Development Plan Formulation**

The Integrated Development Plan (IDP) process is a process through which the municipality prepare strategic development plans for a five-year period. An IDP is one of the key instruments for local government to cope with its new developmental role and seeks to arrive at decisions on issues such as municipal budgets, land management, promotion of local economic development and institutional transformation in a consultative, systematic and strategic manner.

In order to ensure certain minimum quality standards of the IDP Review process and proper coordination between and within spheres of government, the municipality need to prepare an IDP review process plan and formulate a budget to implement the IDP. The IDP and Budget Process Plan has to include the following:

- (a) A programme specifying the timeframes for the different planning steps;
- (b) Appropriate mechanisms, processes and procedures for consultation and participation of local communities, organs of state, traditional authorities and other role players in the IDP review and budget formulation processes; and
- (c) Cost estimates for the review process.

The preparation of the IDP process plan is in essence the formulation of the IDP and Budget processes, set out in writing and requires the adoption by Council.

### **7.3 Legal planning context**

The preparation of the IDP and Budget processes are regulated by the Municipal Systems Act, No 32 of 2000 and the Municipal Finance Management Act, No 56 of 2003. This is to ensure certain minimum quality standards of the integrated development planning and budget process and proper coordination between and within the spheres of government.

As the IDP is a legislative requirement it has a legal status and it supersedes all other plans that guide development at local level.

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The Municipal Systems Act, No 32 of 2000 (as amended) and the Municipal Finance Management Act, No 56 of 2003 confer the responsibility on the Mayor to provide political guidance over the budget process and the priorities that must guide the preparation of the annual budgets. In terms of section 53 of the Municipal Finance Management Act the Mayor must also coordinate the annual revision of the integrated development plan in terms of section 34 of the Municipal Systems Act and the preparation of the annual budget, and determine how the integrated development plan is to be taken into account or revised for the purpose of the budget. The Municipal Systems Act further requires the following regarding the IDP process:

Chapter 5 and Section 25 (1) of the Municipal Systems Act (2000) indicate that the Council must, within a prescribed period after the start of its elected term, adopt a single, all inclusive and strategic plan for the development of the municipality which:-

- (a) Links integrates and coordinates plans and takes into account proposals for the development of the municipality;
- (b) Aligns the resources and capacity of the municipality with the implementation of the plan;
- (c) Complies with the provisions of this Chapter; and
- (d) Is compatible with national and provincial development plans and planning requirements binding on the municipality in terms of legislation.

### **7.4 Alignment between IDP, Budget and PMS**

In terms of the Municipal Systems Act, municipalities are required to prepare an organisational performance management system that must be linked to the IDP. Tremendous progress has been made with the process of aligning the IDP, Budget and Performance Management System (PMS). Every endeavor is made to link and integrate these three processes to an even greater extent through the Process Plan. It should however, be noted that the PMS on its own requires an in-depth process comparable to that of the IDP. Such PMS is tightly linked and guided by the IDP and Budget processes. The PMS process will address the following issues:

- (a) Alignment of the PMS, Budget and IDP processes;
- (b) Implementation of an individual performance management system at managerial level.

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The IDP, performance management systems (PMS) and budget are all components of one overall development planning and management system. The IDP sets out what the municipality aims to accomplish and how it will do this. The PMS enables the municipality to check to what extent it is achieving its aims. The budget provides the resources that the municipality will use to achieve its aims. As indicated earlier, every attempt has been made in this process plan to align the IDP and PMS formulation and/or review, and the budget preparation process.

### **7.5 Medium Term Policy Review**

- 7.5.1 The budget process starts early in the year with a review of the IDP and budget processes of the previous year.
- 7.5.2 The Strategic Executive Director: Budget and Treasury Office commences the process in July of each year by preparing a draft Medium Term Budget Statement. The Medium Term Budget Statement is a document that spells out the planning for the ensuing three years. This process also includes the review of the previous year's budget process and completion of the Budget Evaluation checklist.
- 7.5.3 The Strategic Executive Director: Budget and Treasury Office draws up a budget process plan with time schedule outlining key deadlines for preparing, tabling and approving the budget and reviewing the IDP and budget related policies and consultation process at least 10 months before the start of the budget year. This budget process plan is then incorporated into the main process plan which includes IDP and PMS as these processes go hand in hand.
- 7.5.4 The Strategic Executive Director: Budget and Treasury Office Services tables the draft Medium Term Budget Statement and the budget process plan to the MANCO (Accounting Officer and Strategic Executive Directors) for discussion. At this forum options and contracts for service delivery are reviewed.

### **7.6 August Activities**

- 7.6.1 The draft Medium Term Budget Statement and the budget process plan are tabled at the Finance Portfolio Committee for consideration, input and recommendations to Exco.

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- 7.6.2 The Mayor tables at the Council meeting a time schedule outlining key deadlines for preparation, tabling and approving the budget.

### **7.7 September Activities**

- 7.7.1 Budget and Treasury Office determine revenue projections and proposed rate and service charges and draft initial allocations to functions and departments for the next financial year after taking into account strategic objectives.
- 7.7.2 Budget and Treasury Office engages with the provincial, national sector departments and other national public entities on specific programmes for alignment with municipality plans.
- 7.7.3 The budget parameters are set with the Executive Committee, Budget Steering Committee, and Management Committee.

### **7.8 October Activities**

The Strategic Executive Director: Budget and Treasury Office:-

- 7.8.1 reviews the national policies and budget plans and potential price increases of bulk resources.
- 7.8.2 determines revenue projections and policies.
- 7.8.3 engage with sector departments, share and evaluate plans, MTBPS.
- 7.8.4 draft initial allocations to functions.

### **7.9 November/December Activities**

- 7.9.1 The Strategic Executive Director: Budget and Treasury Office consolidates budgets and plans.
- 7.9.2 The Budget Steering Committee reviews the consolidated budget and plans and prepare proposed budget.

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7.9.3 The Executive Committee determines the strategic choices for the ensuing three years and finalizes tariff policies.

### **7.10 January/February Activities**

7.10.1 The Accounting Officer reviews proposed national and provincial allocations to the municipality for incorporation into the draft budget for tabling. Proposed national and provincial allocations for ensuing three years must be finalized not later than 20 January of each year.

7.10.2 The Strategic Executive Director: Budget and Treasury Office prepares detailed budgets and plans for the ensuing three years.

7.10.3 The Accounting Officer finalizes and submits to the Mayor the proposed budgets and plans for the ensuing three years taking into account the recent mid-year review and any corrective measures proposed as part of the oversight report for the previous year's audited annual financial statements and annual report.

7.10.4 The Mayor tables the budgets and plans at the Finance Portfolio and Executive Committee for their oversight function and recommendations to the Council.

### **7.11 March/April Activities**

7.11.1 The Accounting Officer reviews any changes in the prices for bulk resources for publication not later than 15 March each year.

7.11.2 The Mayor tables the budget at the council meeting for deliberations and adoption not later than 31 March of each year.

7.11.3 Immediately after the budget has been tabled at the council meeting, the Accounting Officer must in accordance with Chapter 4 of the Municipal Systems Act make public the annual budget and the documents referred to in section 17 (3) of the MFMA. The Accounting Officer must invite the local community to submit representations in connections with the budget.

7.11.4 The Accounting Officer must submit the annual budget in both hard and soft copies to the National Treasury and KwaZulu-Natal Provincial Treasury.

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7.11.5 When the budget has been tabled, the municipal council must consider any views of the local community, National Treasury, KwaZulu-Natal Provincial Treasury and any provincial or national organs of state or municipalities which made submissions on the budget.

7.11.6 After considering all budget submissions, the council must give the Mayor an opportunity to respond to the submissions and if necessary, to revise the budget and table amendments for consideration by the council.

### **7.12 May Activities**

The municipal council must at least 30 days before the start of the budget year consider approval of the annual budget in accordance with Section 24 of the MFMA.

## **8 ADJUSTMENT BUDGET**

8.1 Each adjustment budget shall reflect realistic excess, however nominal of current revenues over expenses.

8.2 Section 28(2) (d) of the MFMA provides that an adjustment budget may authorize utilization of projected savings in one vote towards spending in another vote. However, virements between the votes should only be permitted where the proposed shifts in funding facilitate sound risk and financial management.

8.3 The municipal council may revise an approved budget through an adjustment budget. In adjusting its approved budget the municipal council shall do it in accordance with Section 28 of the MFMA.

8.4 The Strategic Executive Director: Budget and Treasury Office shall ensure that the adjustment budgets comply with the requirements of the National Treasury and reflect the budget priorities determined by the Mayor, are aligned with the IDP, comply with all budget related policies, and shall make recommendations to the Mayor on the revision of the IDP and the budget related policies where these are necessary.

8.5 Any deviation from or adjustment to an annual budget or transfer within a budget which is not specifically permitted under this policy and MFMA provisions or MFMA circulars and

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guidelines issued by National Treasury from time to time or any other policy or the municipality is prohibited unless approved by the council through an adjustment budget.

8.6 Council may revise its annual budget by means of an adjustment budget only once per year.

8.7 The Accounting Officer must promptly adjust its budgeted revenues and expenses if a material under-collection of revenues arises or is apparent.

8.8 The Accounting Officer shall appropriate additional revenues, which have become available but only to revise or accelerate spending programme already budgeted for or any areas of critical importance identified by Council in compliance with the MFMA.

8.9 The Council shall in such adjustment budgets, and within the prescribed framework, confirms unforeseen and unavoidable expenses on the recommendation of the Mayor.

8.10 The Council should also authorize the spending of funds unspent at the end of the previous financial year, where such under-spending could not reasonably have been foreseen at the time the annual budget was approved by Council.

## 9 BUDGET TRANSFERS & VIREMENTS

### 9.1 Restrictions

9.1.1 Virements from the capital budget to operating budget and virements towards personnel expenditure shall not be permitted.

9.1.2 Virements to and from the following items shall not be permitted

- (a) Bulk purchases;
- (b) Debt impairment;
- (c) Interest charges;
- (d) Depreciation;
- (e) Conditional Grants;
- (f) Revenue foregone;
- (g) Insurance; and
- (h) Value Added Tax

## BUDGET POLICY

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- 9.1.3 This policy shall not apply to transfers between or from capital projects or items and no such transfers may be performed under this policy.
- 9.1.4 A transfer of funds between line items shall not be done if the effect thereof would result:-
- 9.1.4.1 In alteration of the approved outcomes or outputs of the IDP;
  - 9.1.4.2 In any adjustment to the Service Delivery and Budget Improvement Implementation Plan;
  - 9.1.4.3 In any changes to the staff establishment of the municipality, except if the council approves such change.
- 9.1.5 Transfer for funds that have been specifically ring-fenced shall not be permitted.
- 9.1.6 Transfer of funds between or from capital items or projects.
- 9.1.7 To the extent that it is practical to do so, transfers within the first three months are not permitted.
- 9.1.8 Transfers may not be made from a line item administered by one department to a line items administered by another department.

### **9.2 Authorization of Virements**

A transfer of funds from one line item to another under this policy may, subject to the provisions of this policy or MFMA or national MFMA circulars and guidelines which are issued by National Treasury from time to time authorized as follows:-

- 9.2.1 A request for virement of an amount not exceeding R100 000.00 may be approved by the by the Strategic Executive Director of the department in consultation with the Strategic Executive Director: Budget and Treasury Office.
- 9.2.2 A request for virement of an amount above R100 000 shall be the Executive Committee, having obtained budget comments from the Strategic Executive Director: Budget and Treasury Office.



## BUDGET POLICY

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- 9.2.3 A transfer of funds from one item to another may take place only if savings within the first mentioned line item are projected, and such transfer may, subject in any event to the provisions of this policy, not exceed the amount of such projected savings.

### **9.3 Limitations of Amount of Virements**

- 9.3.1 Notwithstanding the provisions of paragraph 9.2:-

9.3.1.1 The total amount transferred from and to line items within a particular vote in any financial year may not exceed 20% of the amount allocated to that vote.

9.3.1.2 The total amount transferred from and to line items in the entire budget in any financial year may not exceed 20% for the total operating budget for that year.

9.3.1.3 The amount of any single transaction relating to transfer of funds between the line items may not exceed the sum of R 100 000.00

- 9.3.2 A transfer which exceeds, or which would result in exceeding of any of the thresholds referred to in paragraph 9.3.1 above may, however, be authorized through a Executive Committee resolution.

## **10 BUDGET IMPLEMENTATION**

### **10.1 Monitoring**

- 10.1.1 The Accounting Officer with the assistance of the Strategic Executive Director: Budget and Treasury Office and other Strategic Executive Directors is responsible for the implementation of the budget, and must take reasonable steps to ensure that:-

10.1.1.1 Funds are spent in accordance with the budget, expenses are reduced if expected revenues are less than projected and revenues and expenses are properly monitored

- 10.1.2 The Accounting Officer with the assistance of the Strategic Executive Director: Budget and Treasury Office must prepare any adjustment budget when such budget is necessary and submit it to the Mayor for consideration and tabling to Council.

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10.1.3 The Accounting Officer must report in writing to the Council any impending shortfalls in the Annual Revenue Budget, as well as any impending overspending, together with the steps taken to prevent or rectify these problems.

### 11 REPORTING

The Accounting Officer shall report on quarterly basis all transfers to the Mayor, Finance Portfolio and Executive Committees.

#### 11.1 Monthly Budget Statements

11.1.1 The Accounting Officer with the assistance of the Strategic Executive Director: Budget and Treasury Office must, not later than ten working days after the end of each calendar month, submit to the Mayor, Finance Portfolio and Executive Committees, KwaZulu-Natal Provincial Treasury and National Treasury a report in the prescribed format on the state of the Municipality's budget for such calendar month, as well as on the state of the budget cumulatively for the Financial Year to date. This report must reflect the following:-

- (a) Actual revenues per source, compared with budgeted revenues;
- (b) Actual expenses per vote, compared with budgeted expenses;
- (c) Actual Capital Expenditure per vote, compared with budgeted expenses;
- (d) Actual borrowings, compared with the borrowings envisaged to fund the Capital Budget;
- (e) The amount of allocations received, compared with the budgeted amount;
- (f) Actual expenses against allocations, but excluding expenses in respect of equitable share;
- (g) Explanations of any material variances between the actual revenues and expenses as indicated above and the projected revenues by source and expenses by vote as set out in the Service Delivery and Budget Implementation Plan;
- (h) The remedial or corrective steps to be taken to ensure that the relevant projections remain within the approved or revised budget; and
- (i) Projections of the Revenues and Expenses for the remainder of the Financial Year, together with an indication of how and where the original projections have been revised.

## BUDGET POLICY

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11.1.2 The report to the National Treasury must be both in electronic and signed hard copies.

### **11.2 Quarterly Reports**

The Mayor must submit to the Council within thirty days of the end of each quarter a report on the implementation of the budget and the financial state of affairs of the municipality.

### **11.3 Mid-Year Budget and Performance Assessment**

11.4 The Accounting Officer must assess the budgetary performance of the municipality for the first half of the financial year, taking into account all the monthly budget reports for the first six months, the Service Delivery Performance of the municipality as against the Service Delivery Targets and Performance Indicators which are set in the Service Delivery and Budget Implementation Plan.

11.5 The Accounting Officer must then submit a report on such assessment to the Mayor by 25 January of each year and to Finance Portfolio and Executive Committees, Council, KwaZulu-Natal Provincial Treasury and National Treasury by 31 January of each year.

11.6 The Accounting Officer may in such report make recommendations after considering the recommendation of the Strategic Executive Director: Budget and Treasury Office for adjusting the annual budget through adjustment budget and for revising the projections of revenues and expenses set out in the Service Delivery and Budget Implementation Plan

## **12 UNSPENT FUNDS & ROLLOVER OF BUDGET**

12.1 The appropriation of funds in an annual or adjustment budget will lapse to the extent that they are spent by the end of the relevant budget year, but except for funds relating to Capital Expenditure.

12.2 Only unspent grants (if conditions for such grant funding allows that) or loan funded Capital Budget may be rolled over to the next budget year.

12.3 Conditions of the grant fund shall be taken into account in applying for such rollover of funds.

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- 12.4 Application for rollover of funds shall be forwarded to the budget office no later than 30<sup>th</sup> of April each year to be included in the following year's budget for adoption by Council in May each year.
- 12.5 Budget adjustments to be rolled over shall be done during the 1<sup>st</sup> budget adjustment in the new financial year after taking into account expenditure up to the end of the previous financial year.
- 12.6 No funding for projects funded from the Capital Replacement Reserves shall be rolled over to the next budget year except in cases where a commitment has been made 90 days (31 March each year) prior the end of that particular financial year.
- 12.7 No unspent operating budget shall be rolled over to the next budget year.

### 13 IMPLEMENTATION OF THIS POLICY

- 13.1 The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director: Budget and Treasury Office.
- 13.2 The policy shall be reviewed on annual basis and updated if there are any changes brought about through an amendment of any legislation and/or policies by National Treasury or arrangement within the municipality.

The Accounting Officer must place on the municipality's official website the following:-

- (a) The Annual and Adjustment Budgets and all budget related documents;
  - (b) All budget related policies;
  - (c) The Integrated Development Plan;
  - (d) The Annual Report;
  - (e) All Performance Agreement of Section 57 Managers;
  - (f) All long-term borrowing contracts;
  - (g) All Service Delivery Agreements;
  - (h) All quarterly and mid-year term reports submitted to the Council on the implementation of the budget and the financial state of the municipality.
- 13.3 This policy must be read together with the Funding and Reserves and Borrowing Policies; Local Government Municipal Finance Management Act, Act 56 of 2003; and

## BUDGET POLICY

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Local Government Municipal Budget and Reporting Regulation, Regulation 393, published under Government Gazette 32141, 17 April 2009.

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# **NEWCASTLE MUNICIPALITY**

## **TARIFF POLICY 2019/2020**

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## 1. Preamble

In terms of Section 62 (1) of the Municipal Finance Management Act (MFMA) the Accounting Officer of a Municipality is responsible for managing the financial administration of the municipality and, in terms of S62 (1) (f), must for this purpose take all reasonable steps to ensure – “that the municipality has and implements a tariff policy referred to in Section 74 of the Municipal Systems Act” (MSA).

In giving effect to S74 (1) of the Municipal Systems Act, the municipality adopts the following as the framework tariff policy within which the municipal council must adopt various policies.

## 2. Definitions

In this policy:

**“municipal area”** means the area in respect of which the municipality has executive and legislative authority as determined by the constitution and the National legislation and the area as demarcated by the Demarcation Act (Act 27 1998);

**“municipal council”** means a municipal council referred to in section 157 of the Constitution.

**“indigent households”** means those households in the municipal area whose monthly household income is no more than an amount as determined by Council annually and are included in the indigent register.

**“the Act”** means the Municipal Systems Act 2000, (Act 32 of 2000) (MSA).

## 3. Introduction

One of the primary functions of a local authority is to provide services to the people within its municipal area. The funding of these services is made possible by levying property taxes, charging for municipal services rendered and levy collection through business levies. Tariffs represent the charges levied by Council on consumers for the utilization of services provided by the Municipality. These are calculated dependent on the nature of service being provided.

They may be set in a manner so as to recover the full cost of the service being provided or recover part of the costs or bring about a surplus that can be utilized to subsidise other non-economical services.



#### **4. Tariff principles**

- 4.1 Users of municipal services must be treated equitably. The various categories of customers must pay the same charges based on the same cost structure<sup>1</sup>.
- 4.2 The amount payable must be in proportion to usage<sup>2</sup>.
- 4.3 Indigent households must have access to basic services through lifeline tariffs or direct subsidisation in accordance with the Integrated Development Plan<sup>3</sup>.
- 4.4 Tariffs must reflect the total cost of the service<sup>4</sup>.
- 4.5 Tariffs must be set at a level that facilitates the sustainability of the service.<sup>5</sup> Sustainability can only be achieved when:
  - (i) Cash inflows cover cash outflows. This means that sufficient provision for working capital and bad debts must be made.
  - (ii) Access to the capital market is maintained. This can be achieved by providing for the repayment of capital, maintaining sufficient liquidity levels and making profits on trading services.
- 4.6 Provision must be made in appropriate circumstances for a surcharge on a tariff. This will be necessary for major breakdowns in infrastructure and periods of droughts when a restriction of usage is required<sup>6</sup>.
- 4.7 Efficient and effective use of resources must be encouraged. Penalties to promote the economic use of services as well as the conservation of water may be introduced.
- 4.8 The extent of subsidisation of tariffs should be fully disclosed.
- 4.9 On closure of the municipal account, a charge for the final reading shall be levied thereon.
- 4.10 The tariff structure of Newcastle may make provision for the differentiation between different categories of customers, debtors, service providers, services and geographical areas as long as the differentiation does not amount to unfair discrimination<sup>7</sup>. Where there is a substantial difference between the standard of services provided within a specified category, the Council can determine differentiated tariffs within the specified category.
- 4.11 Municipal use will be deemed an exempt service.

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<sup>1</sup> Section 74(2) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000);

<sup>2</sup> Section 74(2) (a) of Act 32 of 2000.

<sup>3</sup> Section 74(2) (c) (i) and (ii).

<sup>4</sup> Section 74(2) (d)

<sup>5</sup> Section 74(2) (e)

<sup>6</sup> Section 74(2) (f)

<sup>7</sup> Section 74(3)

## **5. Expenditure classification and cost elements**

The Chief Financial Officer shall, subject to the guidelines of the Executive Committee of the Council, make provision for the following classification of services:

### **5.1 Trading services**

These are services that the Council has classified as trading services and the tariffs have been compiled with the intention that the Council makes a profit on the delivery of the services. The consumption of the services is measurable and can be accurately apportioned to an individual consumer.

### **5.2 Economic services**

These are services that the Council has classified as such and the tariffs have been compiled with the intention that the total costs of the services are recovered from customers. No surplus or deficit should be incurred.

### **5.3 Community services**

These are services that the Council has classified as such and the tariffs have been compiled with the intention that the cost of the services cannot be recovered from public service charges. The service may be of a regulatory nature and the Council is usually unable to accurately determine the individual consumption.

### **5.4 Subsidised services**

These are municipal services which are provided at an applicable rate which is less than the cost of actually providing the service, including services provided to customers at no cost. The cost of providing the service is usually such that it would not necessarily be affordable to the community.

### **5.5 Cost elements**

The following cost elements will be used to calculate the tariffs of the different services:

- (i) *Fixed costs* are costs which do not vary with consumption or volume produced and which consist of the capital costs (interest and redemption) on external loans and or depreciation; whichever are applicable on the service and any other costs of a permanent nature as determined by the Council from time to time.
- (ii) *Variable cost*: These are costs that vary with consumption or volume produced and include all variable costs that have reference to the service.
- (iii) *Total cost* is equal to the fixed cost plus variable cost.
- (iv) *Flat rate*: This cost is calculated by dividing the total costs by volume used.

## **6. Tariffs**

**6.1** The tariffs are reviewed annually during the preparation of the budget and the proposed tariffs are presented to the community during the Council's budget consultative process prior to the approval of the final budget by the Council.

**6.2** In setting service charges the Council shall:

- (i) accurately reflect costs to achieve economic efficiency;
- (ii) ensure equity and fairness between different types of consumers;
- (iii) utilise appropriate metering and supporting technology;
- (iv) be transparent; and
- (v) extend assistance to the poor by giving preference to single tariffs where possible.

**6.3** In determining the type of tariff applicable to the type of service the Council may make use of the following four options or a combination of the same:

- (i) *Single tariff:* This tariff shall consist of a fixed cost per unit consumed. All costs will therefore be recovered through a unit charge at the level of breakeven consumption.
- (ii) *Cost related two to four part tariff:* This tariff shall consist of two to four parts. They are raised to cover the fixed and variable costs separately. The fixed costs are recovered by grouping certain components together and may be recovered by a fixed charge while the variable costs may be recovered by a unit charge per unit consumed.
- (iii) *Inclining block tariff:* This tariff is based on consumption levels being categorised into blocks, the tariff being determined and increased as consumption levels increase.
- (iv) *Declining block tariff:* This tariff is the opposite of the inclining block tariff and decreases as consumption levels increase.

## **7. Unit of measurement**

The following units of measurement will, where possible, be used to determine tariffs:

### **7.1 Water**

- (i) Cost per kilolitres consumed
- (ii) Basic/availability charge - based on the fixed cost associated with the service
- (iii) When consumption is not measured a flat rate will be applicable.
- (iv) When consumption cannot be read for a particular meter reading period, an estimate amounting to a 12 month average shall be levied on the account.

### **7.2 Electricity**

- (i) Basic/availability charge - based on the fixed cost associated with the service
- (ii) Cost per kWh consumed
- (iii) Cost per Kilovolt-ampere (kVA)

- (iv) Maximum demand – Network demand charge and network access charge
- (v) When consumption is not measured a flat rate will be applicable.
- (vi) When consumption cannot be read for a particular meter reading period, an estimate amounting to a 12 month average shall be levied on the account.

### **7.3 Refuse removal**

- (i) Bag removal
- (ii) Container Service
- (iii) Rental of containers
- (iv) Individual services as required

### **7.4 Sewerage**

- (i) Per kilolitre of water consumption
- (ii) Per kilolitre of water consumption plus costs for strength of disposal.
- (iii) Basic/availability charge - based on the fixed cost associated with the service.

## **8. By-laws**

The principle contained in this policy will be reflected in the various service by-laws as adopted and adjusted by Council from time to time.





**NEWCASTLE MUNICIPALITY**  
**RATES POLICY**  
**2019/2020**

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## **PART ONE: PREAMBLE**

### **Whereas:**

- 1.1 Section 229 of the Constitution of the Republic of South Africa (Act 108 of 1996) provides that a municipality may impose rates on property;
- 1.2 The Local Government: Municipal Property Rates Act (Act 6 of 2004) regulates the power of a municipality to impose rates on property;
- 1.3 In terms of the Municipal Property Rates Act a municipality:
  - 1.3.1 may levy a rate on property in its area; and
  - 1.3.2 must exercise its power to levy a rate on property, subject to:
    - (a) section 229 and any other applicable provisions of the Constitution;
    - (b) the provisions of the Municipal Property Rates Act; and
    - (c) its rates policy;
- 1.4 The Newcastle Municipal Council has resolved to levy rates on the market value of all rateable properties within its area of jurisdiction;
- 1.5 The municipality must, with regard to section 3 of the Municipal Property Rates Act, adopt a rates policy consistent with the provisions of the said Act on the levying of rates in the municipality;
- 1.6 In terms of section 4 of the Local Government: Municipal Systems Act (Act 32 of 2000), the municipality has the right to finance the affairs of the municipality by imposing, inter-alia, rates on property; and
- 1.7 In terms of section 62 of the Local Government: Municipal Finance Management Act (Act 56 of 2003), the Municipal Manager must ensure that the municipality has and implements a rates policy.



## **PART TWO: DEFINITIONS**

All words and phrases in this policy shall have the same meaning and interpretation as assigned in terms of the Local Government: Municipal Property Rates Act, Act 6 of 2004, and unless the context indicates otherwise:-

<b>Act</b>	Means the Local Government: Municipal Property Rates Act (Act 6 of 2004), as amended.
<b>Agent</b>	<p>In relation to the owner of a property, means a person appointed by the owner of the property:</p> <ul style="list-style-type: none"><li>(a) to receive rental or other payments in respect of the property on behalf of the owner; or</li><li>(b) to make payments in respect of the property on behalf of the owner.</li></ul>
<b>Agricultural property</b>	<p>Means a property that is used primarily for agricultural purposes but, without derogating from section 9 of the Act, excludes any portion thereof that is used commercially for the hospitality of guests, and excludes the use of the property for the purpose of eco-tourism or for the trading in or hunting of game.</p> <p>Agricultural property excludes formally protected areas, rural communal land and any other specified category of property. Agricultural property may fall within a proclaimed township.</p>
<b>Annually</b>	Means once every financial year.
<b>Appeal board</b>	Means a valuation appeal board established in terms of

section 56 of the Act.

**Assistant municipal valuer**

Means a person designated as an assistant municipal valuer in terms of section 35(1) of the Act.

**Bed and Breakfast**

Means an establishment, which is primarily a dwelling and makes excess rooms available to transient guests. The bathrooms may or may not be en suite. This establishment may be managed by the owner and/or designated person. Breakfast may be available for all guests. Public areas are usually shared by guests and owners/hosts alike.

**Category**

- (a) In relation to property, means a category of properties determined in terms of section 8 of the Act; and
- (b) In relation to owners of properties, means a category of owners determined in terms of section 15(2) of the Act.

**Child Headed Household**

Means a household recognized as such in terms of section 137 of the Children's Amendment Act, 41 of 2007.

**Commercial, Business and Industrial Properties**

Means properties covered in section 8(2) of the Act namely, industrial properties, business and commercial properties, farm properties used for other business and commercial purposes, small holdings used for business, industrial and commercial purposes. This category of property includes property used for eco-tourism/hospitality purposes, grain co-ops and grain silos, cell phone towers, mines, petrol filling stations, racetracks and shopping centers.

**Commercial Accommodation**

Means lodging or board and lodging, in any house, flat, apartment, room, hotel, motel, Inn, Guesthouse, bed & breakfast, boarding house, residential holiday resort establishment, student accommodation or similar establishment which is regularly or systematically supplied but excludes a domicile

**Constitution**

A body of fundamental principles or established precedents according to which our State is governed and as embodied and promulgated per Act 108 of 1996.

**Data-collector**

Means a person designated as a data-collector in terms of section 36 of the Act.

**Date of valuation**

Means the date determined by a municipality in terms of section 31(1) of the Act.

**Day**

Means when any number of days are prescribed for the performance of any act, those days must be reckoned by excluding the first and including the last day, unless the last day falls on a Saturday, Sunday or any public holiday, in which case the number of days must be reckoned by excluding the first day and also any such Saturday, Sunday or public holiday.

**Disabled**

Means a person who qualifies to receive relief in terms of the Social Services Act, 1992 (Act No. 59 of 1992) or has been certified as disabled by a medical practitioner and qualifies in terms of the income threshold as defined in the Council's Customer Care Policy.

**Disaster**

Means a disaster within the meaning of the Disaster Management Act (Act 57 of 2002) or any other serious adverse social or economic condition as adopted by a Council resolution from time to time.

<b>Disaster area</b>	<p>Means owners of property situated within an area affected by:</p> <ul style="list-style-type: none"> <li>(a) a disaster within the meaning of the Disaster Management Act 57 of 2002;</li> <li>(b) any other serious adverse social or economic conditions as determined by Council from time to time;</li> </ul>
<b>District Municipality</b>	Means a municipality that has municipal executive and legislative authority in an area that includes more than one municipality, and which is described in section 155 (1) of the Constitution as a category C municipality.
<b>Dominant use</b>	Means the use of a property is predominant in a specific use in terms of its measured building area. The use of a property is determined by the Municipal Valuer.
<b>Effective date</b>	<ul style="list-style-type: none"> <li>(a) In relation to a valuation roll, means the date on which the valuation roll takes effect in terms of section 32(1) of the Act; or</li> <li>(b) In relation to a supplementary valuation roll, means the date on which a supplementary valuation roll takes effect in terms of section 78(2)(b) of the Act.</li> </ul>
<b>Equitable treatment of ratepayers</b>	Means the fair, just and impartial treatment of all ratepayers.
<b>Exclusion</b>	In relation to a municipality's rating power, means a restriction of that power as provided for in section 17 of the Act.
<b>Exemption</b>	In relation to the payment of a rate, means an exemption granted by a municipality in terms of section 15 of the

	Act.
<b>Financial year</b>	Means the period starting from 1 July in a year to 30 June the next year.
<b>Formally Protected Areas</b>	Means those parts of a special nature reserve, national park or nature reserve within the meaning of the Protected Areas Act, or of a national botanical garden within the meaning of the National Environmental Management: Biodiversity Act, 2004 which are not developed or used for commercial, business, residential or agricultural purposes.
<b>Garages/carports/storeroom</b>	means sectional title units that have been separately registered at the deeds office and do not qualify for rebates or reductions
<b>Income Tax Act</b>	the Income Tax Act, 1962 (Act No. 58 of 1962).
<b>Indigent owner</b>	Means an owner of property who has permanent occupation of the property and qualifies for indigent relief in terms of the Council's Indigent policy.
<b>Land reform beneficiary</b>	<p>In relation to a property, means a person who:</p> <ul style="list-style-type: none"> <li>(a) acquired the property through - <ul style="list-style-type: none"> <li>(i) the Provision of Land and Assistance Act, 1993 (Act No. 126 of 1993); or</li> <li>(ii) the Restitution of Land Rights Act, 1994 (Act No. 22 of 1944);</li> </ul> </li> <li>(b) holds the property subject to the Communal Property Associations Act, 1996 (Act No. 28 of 1996); or</li> <li>(c) holds or acquires the property in terms of such other</li> </ul>

land tenure reform legislation as may pursuant to section 25(6) and (7) of the Constitution be enacted after the Act has taken effect.

**Land tenure right**

Means a land tenure right as defined in section 1 of the upgrading of Land Tenure Rights Act, 1991 ( Act No. 112 of 1991)

**Legal entity**

In law an entity is something which is capable of bearing legal rights and obligations, has a distinct separate existence.

**Local community**

In relation to a municipality:

(a) means that body of persons comprising:

- (i) the residents of the municipality;
- (ii) the ratepayers of the municipality;
- (iii) any civic organisations and nongovernmental, private sector or labour organisations or bodies which are involved in local affairs within the municipality; and
- (iv) visitors and other people residing outside the municipality who, because of their presence in the municipality, make use of services or facilities provided by the municipality.

(b) includes, more specifically, the poor and other disadvantaged sections of such body of persons.

**Local municipality**

Means a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls, and which is described in section 155(1) of the Constitution as a category B municipality.

<b>Market value</b>	In relation to a property, means the value of the property determined in accordance with section 46 of the Act.
<b>MEC for Local Government</b>	Means the member of the Executive Council of a province who is responsible for local government in that province.
<b>Mining property</b>	Means property used for mining operations as defined in the Mineral and Petroleum Resources Development Act, 2002 ( Act No. 28 of 2002).
<b>Minister</b>	Means the cabinet member responsible for local government.
<b>Multiple purpose</b>	In relation to a property, means the use of a property for more than one purpose, subject to section 9 of the Act.
<b>Municipal Finance Management Act</b>	Means the Local Government: Municipal Finance Management Act 2003 (Act N°. 56 of 2003).
<b>Municipal Manager</b>	Means a person appointed in terms of section 82 of the Municipal Structures Act.
<b>Municipal owned property</b>	Means property owned by the municipality.
<b>Municipal leases</b>	Means property owned by the municipality and leased to another party. The municipality reserves the right to recover municipal rates against all properties registered in the name of the municipality over which a portion or all of its property is leased either through an existing lease agreement where rates are exclusive or through the provisions of the Act. Rates payable will be based on the rates category and market value as contained in the Valuation Roll.

<b>Municipal Structures Act</b>	Means the Local Government: Municipal Structures Act, 1988 (Act No. 117 of 1998).
<b>Municipal Systems Act</b>	Means the Local Government: Municipal Systems Act 2000 (Act No. 32 of 2000).
<b>Municipal valuation</b>	Means a valuation of a rateable property within the municipal area by the Municipal Valuer in terms of the Act.
<b>Municipal Valuer</b>	Means a person designated as a Municipal Valuer in terms of section 33(1) of the Act.
<b>Occupier</b>	In relation to a property, means a person who occupies the property, whether or not that person  has a right to occupy the property.
<b>Office bearer</b>	In relation to places of public worship, means the primary person who officiates at services at that place of worship;
<b>Official residence</b>	In relation to places of public worship, means <ul style="list-style-type: none"> <li>(a) a portion of the property used for residential purposes, or</li> <li>(b) one residential property, if the residential property is not located on the same property as the place of public worship,  registered in the name of a religious community or registered in the name of a trust established for the sole benefit of a religious community and used as a place of residence for the office bearer.</li> </ul> Means an organ of state as defined in section 239 of the Constitution.



## **Organ of state**

### **Owner**

- (a) In relation to a property referred to in paragraph (a) of the definition of property, means a person in whose name ownership of the property is registered;
- (b) In relation to a right referred to in paragraph (b) of the definition of property, means a person in whose name the right is registered;
  - (bA) in relation to a time sharing interest contemplated in the property time sharing Control Act, 1983 ( Act No. 75 of 1983), means the management association contemplated in the regulations made in terms of section 12 of the property Time Sharing Control Act, 1983, and published in Government Notice R 327 of 24 February 1984,
  - (bB) in relation to a share in a share block company, the share block company as defined in the Share Blocks Control Act, 1980  
( Act No. 59 of 1980)
  - (bC) in relation to buildings, other immovable structures and infrastructure referred to in section 17 (1) (f) of the Act, means the holder of the mining right or the mining permit, and
- (c) In relation to a land tenure right referred to in paragraph (c) of the definition of property , means a person in whose name the right is registered or to whom it was granted in terms of legislation; or

- d) In relation to public service infrastructure referred to in paragraph (d) of the definition of property, means the organ of state which owns or controls that public service infrastructure as envisaged in the definition of “publicly controlled”;

provided that a person mentioned below may for the purposes of the Act be regarded by a municipality as the owner of a property in the following cases:

- (i) a trustee, in the case of a property in a trust excluding state trust land;
- (ii) an executor or administrator, in the case of a property in a deceased estate;
- (iii) a trustee or liquidator, in the case of a property in an insolvent estate or in liquidation;
- (iv) a judicial manager, in the case of a property in the estate of a person under judicial management;
- (v) a curator, in the case of a property in the estate of a person under curatorship;
- (vi) a person in whose name a usufruct or other personal servitude is registered, in the case of a property that is subject to a usufruct or other personal servitude;
- (vii) a lessee, in the case of property that is registered in the name of the municipality and is leased by it; or
- (viiA) a lessee, in the case of property to which a land tenure right applies and which is leased by the holder of such right, or;
- (viii) a buyer, in the case of a property that was sold

by a municipality and of which possession was given to the buyer pending registration of ownership in the name of the buyer.

**Pensioner**

Means a person that :

- (a) must be at least 60 years of age;
- (b) who is the sole owner of the property, or owner jointly with his/her spouse;

**Permitted use**

In relation to a property, means the limited purposes for which the property may be used in terms of -

- (a) Any restrictions imposed by:
  - (i) a condition of title;
  - (ii) a provision of a town planning or land use scheme; or
  - (iii) any legislation applicable to any specific property or properties; or
- (b) Any alleviation of any such restrictions.

**Person**

Includes an organ of state.

**Places of public worship**

Means a developed property primarily used for purposes of congregation, excluding structure that is primarily used for educational instruction in which secular or religious education is the primary instructive medium: provided that the property is-

- (a) registered in the name of the religious community;
- (b) registered in the name of a trust established for the sole benefit of a religious community; or

(c) subject to a land tenure right;

**Prescribe**

Means prescribe by regulation in terms of section 83 of the Act.

**Property**

Means:

- (a) immovable property registered in the name of a person, including, in the case of a sectional title scheme, a sectional title unit registered in the name of a person/legal entity;
- (b) a right registered against immovable property in the name of a person/legal entity, excluding a mortgage bond registered against the property;
- (c) a land tenure right registered in the name of a person/legal entity or granted to a person/legal entity in terms of legislation; or
- (d) public service infrastructure.

**Property register**

Means a register of properties referred to in section 23 of the Act.

**Protected area**

Means an area that is or has to be listed in the register referred to in section 10 of the Protected Areas Act.

**Protected Areas Act**

Means the National Environmental Management: Protected Areas Act, 2003.

**Public Benefit Organization**

Means a property where the dominant activity is listed in item 1 (welfare and humanitarian), item 2 (health care) and item 4 (education and development) of Part 1 of the Ninth Schedule to the Income Tax Act.

**Publicly controlled**

Means owned by or otherwise under the control of an

organ of state, including:

- (a) a public entity listed in the Public Finance Management Act, 1999 (Act No.1 of 1999);
- (b) a municipality; or
- (c) a municipal entity as defined in the Municipal Systems Act.

**Public service infrastructure**

Means publicly controlled infrastructure of the following kinds:

- (a) national, provincial or other public roads on which goods , services or labour move across a municipal boundary;
- (b) water or sewer pipes, ducts or other conduits, dams, water supply reservoirs, water treatment plants or water pumps forming part of a water or sewer scheme serving the public;
- (c) power stations, power substations or power lines forming part of an electricity scheme serving the public;
- (d) gas or liquid fuel plants or refineries or pipelines for gas or liquid fuels, forming part of a scheme for transporting such fuels;
- (e) railway lines forming part of a national railway system;
- (f) communication towers, masts, exchanges or lines forming part of a communication system serving the public;
- (g) runways, aprons and the air traffic control unit at national or provincial airports, including the vacant land known as the obstacle free zone surrounding

these, which must be vacant for air navigation purposes;

- (h) any other publicly controlled infrastructure as may be prescribed; or
- (i) rights of way, easements or servitudes in connection with infrastructure mentioned in paragraphs (a ) to (h).

**Public service purposes**

In relation to the use of a property, means property owned and used by an organ of state as -

- (a) hospitals or clinics;
- (b) schools, pre-schools, early childhood development centres or further education and training colleges;
- (c) national and provincial libraries and archives;
- (d) police stations;
- (e) correctional facilities; or
- (f) courts of law,

but excludes property contemplated in the definition of public service infrastructure;

**Rate**

Means a municipal rate on property envisaged in section 229(1)(a) of the Constitution.

**Rateable property**

Means a property on which a municipality may in terms of section 2 of the Act levy a rate, excluding property fully excluded from the levying of rates in terms of section 17 of the Act.

<b>Ratio</b>	In relation to section 19 of the Act, means the relationship between the cent amount in the rand applicable to residential properties and different categories of non-residential properties: Provided that the two relevant cent amounts in the rand are inclusive of any relief measures that amount to rebates of a general application to all properties within a property category;
<b>Rebate</b>	In relation to a rate payable on a property, means a discount granted in terms of section 15 of the Act on the amount of the rate payable on the property.
<b>Reduction</b>	In relation to a rate payable on a property, means the lowering in terms of section 15 of the Act of the amount for which the property was valued and the rating of the property at that lower amount.
<b>Register</b>	<p>(a) means to record in a register in terms of –</p> <ul style="list-style-type: none"> <li>(i) the Deeds Registries Act, 1937 (Act No. 47 of 1937); or</li> <li>(ii) the Mining Titles Registration Act, 1967 (Act No. 16 of 1967); and</li> </ul> <p>(b) includes any other formal act in terms of any other legislation to record :</p> <ul style="list-style-type: none"> <li>(i) a right to use land for or in connection with mining purposes; or</li> <li>(ii) a land tenure right.</li> </ul>
<b>Residential property</b>	Means a property included in a valuation roll in terms of section 48 (2) (b) in respect of which the primary use or permitted use is for residential purposes without derogating from section 9 of the Act;.

**Rural communal property**

Means agricultural or township land where there is a single cadastral holding developed predominately for residential purposes and/or traditional rural homesteads (imizi) and which may also have a variety of non-residential top structures which collectively constitute the minority in terms of measured building area, and which may be rated separately in terms of the Act. This category of property may include State Trust Land, property belonging to the Ingonyama Trust Board, property belonging to land reform beneficiaries where the dominant use is residential rather than commercial agricultural use.

**Sectional Titles Act**

Means the Sectional Titles Act, 1986 (Act No. 95 of 1986).

**Sectional title scheme**

Means a scheme defined in section 1 of the Sectional Titles Act.

**Sectional title unit**

Means a unit defined in section 1 of the Sectional Titles Act.

**Sectional title garages/  
Carports/ storerooms**

Means sectional title units that have been separately registered at the deeds office and do not qualify for rebates or reductions.

**Specialised non-market properties**

Means property including national monuments, schools (both state and private), crèches, cemeteries/crematorium, prisons, law courts, libraries, military bases, police stations, sports clubs including stadiums, public open spaces including parks, vacant land to be used for these purposes. Other non-market



properties may be assigned to this category by the Municipal Valuer in consultation with the municipality.

**State trust land**

Means land owned by the State:

- (a) in trust for persons communally inhabiting the land in terms of a traditional system of land tenure;
- (b) over which land tenure rights were registered or granted; or
- (c) which is earmarked for disposal in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994).

**Trading Services**

Shall include property used by the Municipality's Electricity Department, Municipal Parking Areas/Buildings, Municipal Entities, property used by the Municipality's water, refuse and sanitation departments:

**Vacant Land**

means land that has not been developed with any permanent structures.

## **PART THREE: THE PURPOSE OF THE POLICY**

**3. The purpose of this policy is to:**

- 3.1** Comply with the provisions of the Act, specifically with section 3 thereof;
- 3.2** Give effect to the principles outlined hereunder;
- 3.3** Ensure the equitable treatment of persons liable for rates;
- 3.4** Determine the basis for valuation and to prescribe procedures for the implementation of the Act;

- 3.5** Determine criteria for different property use categories to apply differential rates;
- 3.6** Determine or provide criteria for the determination of categories of owners of properties;
- 3.7** Determine criteria to be applied for granting relief in the form of exemptions, rebates and reductions to categories of properties and categories of owners;
- 3.8** Determine measures to promote local economic and social development; and
- 3.9** Identify which categories of properties the municipality has elected not to rate as provided for in section 7 of the Act.

## **PART FOUR: FUNDAMENTAL PRINCIPLES OF THIS POLICY**

The principles of the Act are to regulate the power of a municipality to impose rates on property; to exclude certain properties from rating in the national interest; to make provision for municipalities to implement a transparent and fair valuation method of properties; to make provision for an objection and appeal process.

**The principles of the policy are to ensure that:**

- 4.1** The power of the municipality to impose rates on property within its area will not be exercised in a way that materially and unreasonably prejudices national economic policies, economic activities or the national mobility of goods, services, capital or labour as prescribed in terms of section 229 of the Constitution;
- 4.2** All ratepayers will be treated equitably;
- 4.3** Property rates will be assessed on the market value of all rateable properties within the jurisdiction of the municipality;
- 4.4** Penalties may be charged if and when necessary;
- 4.5** Property rates will not be used to subsidize trading and economic services;
- 4.6** The property rates policy will take into account relief measures to address the social and economic needs of the community;

- 4.7** This policy will be developed in consultation with the community and in compliance with a process of community participation in terms of Chapter 4 of the Municipal Systems Act.

## **PART FIVE: IMPLEMENTATION OF THIS POLICY AND EFFECTIVE DATE**

- 5.1** This policy takes effect from 1 July 2014, being the effective date of the second valuation roll prepared by the municipality in terms of the Act, and must accompany the municipality's budget for the financial year.
- 5.2** The rates policy must be reviewed annually, and if necessary amended by the Council. Such amendments must be effected in conjunction with the municipality's annual budget in terms of sections 22 and 23 of the Municipal Finance Management Act.
- 5.3** The municipality must adopt by-laws to give effect to the implementation of its rates policy and such by-laws must be read in conjunction with this policy.
- 5.4** The adopted by-laws must also be reviewed annually, and if necessary be amended by the Council, in conjunction and in accordance with the rates policy.

## **PART SIX: EQUITABLE TREATMENT OF RATEPAYERS**

- 6.1** The municipality is committed to treating all ratepayers on an equitable basis. The circumstances of each category of owner or category of property will be considered in a fair manner and within the limitations set out in the Act. The municipality must adopt measures to ensure equitable and fair treatment of ratepayers.
- 6.2** Any differentiation in the levying of rates must not constitute unfair discrimination.

## **PART SEVEN: DISCRETIONARY DECISIONS ADOPTED BY THE MUNICIPALITY WITH RESPECT TO LEVYING PROPERTY RATES**

It is recorded that the Council has adopted the following resolutions on 30 May 2018 (reference CM 42/30 May 2018):

- 7.1** To levy rates on all rateable property in its area of jurisdiction;
- 7.2** To determine the date of implementation as being 1 July 2019;
- 7.3** To determine the date of general valuation as being 2 July 2018;
- 7.4** To levy different cents in the rand for different use categories of rateable property;
- 7.5** That the categories of properties for the purpose of differential rating are those specified in this policy document;
- 7.6** That the criteria for the assessment of market value in terms of section 8(1) of the Act shall be dominant actual use and where the land is vacant on permitted use;
- 7.7** Properties will be assessed in terms of the dominant use of the measured building area of a property;

## **PART EIGHT: CATEGORIES OF PROPERTIES FOR DIFFERENTIAL RATING PURPOSES**

- 8.1** Section 8 of the Act provides that a municipality may, subject to section 19 of the Act and in terms of criteria set out in its rates policy, levy different rates for different specified categories of rateable property.
- 8.2** For the purposes of section 8 of the Act, the following categories of rateable property have been determined, being:
  - 8.2.1** Residential property;
  - 8.2.2** Business and commercial ;
  - 8.2.3** Industrial property;

- 8.2.4** Agricultural property;
- 8.2.5** Public service infrastructure;
- 8.2.6** Mining property;
- 8.2.7** Rural communal land;
- 8.2.8** Formally protected areas;
- 8.2.9** Places of public worship;
- 8.2.10** Public Benefit Organizations;
- 8.2.11** Properties used for multiple purpose, subject to section 9;or
- 8.2.12** Properties owned by on organ of state and used for public service purpose;
- 8.2.13** Vacant land.
- 8.3** It is recorded that in terms of section19 of the Act, a municipality may not levy:
  - 8.3.1** different rates on residential properties, except as provided for in sections 11(1)(b), 21 and 89 of the Act;
  - 8.3.2** a rate on non-residential properties that exceeds a prescribed ratio to the rate on residential properties determined in terms of section 11(1)(a) of the Act;
  - 8.3.3** rates which unreasonably discriminate between categories of non-residential properties; or
  - 8.3.4** additional rates except in special rating areas as provided for in section 22 of the Act.
- 8.4** Differential rating among the above determined categories of properties will be done by way of setting different cent amounts in the rand for each property category within the municipal budgetary processes.
- 8.5** The criteria for weighting the categories determined above, for the purpose of determining rate randages for each category, must take account of the following :
  - 8.5.1** The perceived affordability factor for the different categories of property;
  - 8.5.2** The strategic importance of a category of property with reference to the aims and objectives of the Council and the Government of the Republic as a whole (such as social, economic and developmental issues).PART

## **PART NINE: CATEGORIES OF OWNERS OF PROPERTY**

9.1 The Municipality has determined the following categories of owners of property-

- a) residential
- b) pensioners
- c) disability grantees
- d) child headed households
- e) public benefit organizations
- f) bed and breakfast and guesthouse
- g) land reform beneficiaries
- h) municipal
- i) owners of property affected by natural and other disasters
- j) vacant land
- k) properties owned by an organ of state and used for public service purpose
- l) owners of properties in country estate land

## **PART TEN: RELIEF MEASURES FOR RATEPAYERS**

10.1 The municipality has considered the need and desire to grant relief to specific categories of owners of properties and owners of specific categories of properties with a view to providing appropriate measures to alleviate the rates burden on them.

10.2 The municipality will not grant relief in respect of the payment of rates other than by way of an exemption, rebate or reduction provided for in this policy and granted in terms of section 15 of the Act to:

10.1.1 A specified category of properties; or

10.1.2 A specified category of owners of property as provided for hereunder.

10.3 The municipality will not grant relief to the owners of property on an ad hoc or individual basis.

## PART ELEVEN: RELIEF MEASURES FOR USE CATEGORIES AND CATEGORIES OF OWNERS OF PROPERTY.

The municipality has identified the following use categories of properties and the requisite criteria for the purposes of granting exemptions, rebates or reductions to the owners of these categories of property in terms of section 15 of the Act:

The municipality has identified the following categories of owners of properties and the requisite criteria for the purposes of granting exemptions, rebates or reductions in terms of section 15 of the Act:

<b>11.1 Indigent Owners</b>		
<b>11.1.1 Criteria</b>	In order to qualify for the indigent subsidy as an indigent owner, the owner must:	
	(a)	Be the sole owner of the property or own the property jointly with his/her spouse;
	(b)	Live permanently on the property;
	(c)	Not own any other property within Newcastle municipality;
	(d)	Have an income threshold as defined in the Indigent policy;
	(e)	Make application annually on the prescribed form and within the prescribed period, if so required.
<b>11.1.2 Rebate Granted</b>	Percentage Rebate	A subsidy will be granted dependent on budgetary affordability factors.

<b>11.2 Pensioner Owners</b>		
<b>11.2.1 – Criteria</b>	In order to qualify as a pensioner owner, the owner must:	
	(a)	Be at least 60 years of age;
	(b)	Be the sole owner of the property or own the property jointly with his/her spouse;
	(c)	Not be granted more than one pensioner rebate at a time.
	(d)	Live permanently on the property.
	(e)	Make application annually on the prescribed form and

		within the prescribed period.
<b>11.2.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.3 Disabled Owners</b>		
<b>11.3.1 – Criteria</b>	In order to qualify as a disabled person, the owner must:	
	(a)	Be the sole owner of the property or own the property jointly with his/her spouse;
	(b)	Live permanently on the property;
	(c)	May not own any other property within the Newcastle municipality;
	(d)	Have an income threshold as defined in the Council's Customer Care Policy;
	(e)	Make application annually on the prescribed form and within the prescribed period.
<b>11.3.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.4 Child-Headed Households</b>		
<b>11.4.1 Criteria</b>	A household may be recognized as a child-headed household if it is deemed to fit the definition as contained at the beginning of this policy, and the owner must :	
	(a)	Live permanently on the property;
	(b)	May not own any other property within the Newcastle municipality;
	(c)	Make application annually on the prescribed form and within the prescribed period.
<b>11.4.2 Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.



<b>11.5 Rural communal land</b>		
<b>Criteria</b>	Agricultural or township land where there is a single cadastral holding developed predominately for residential purposes and/or traditional rural homesteads (imizi) and which may also have a variety of non-residential top structures which collectively constitute the minority in terms of measured building area, and which may be rated separately in terms of the Act. This category or property may include State Trust Land, property belonging to the Ingonyama Trust Board, property belonging to land reform beneficiaries where the dominant use is residential rather than commercial agricultural use.	
<b>Relief Granted</b>	Any non-residential portion, unregistered, which vests in another party may be separately identified, valued and rated. For the first general valuation cycle the residential component of rural communal land will be valued as vacant and will be rated accordingly.  Exemption will be extended to all rural communal land which has not been separately identified, valued and rated.	
<b>11.5.2 Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.6 Properties Owned by Public Benefit Organisations</b>		
<b>11.6.1 Criteria</b>	In order to qualify applicants shall produce a tax exemption certificate issued by the South African Revenue Services (SARS) as contemplated in Part 1 of the 9 <sup>th</sup> Schedule to the Income Tax Act, 1962 (Act 58 of 1962)	
	(a)	Make application in writing annually in the prescribed format;
	(b)	Provide proof of ownership of the property and registration as a Public Benefit Organisation in terms of the Income Tax Act conducting one or more of the following specified public benefit activities listed in Part 1 of the 9 <sup>th</sup> Schedule: <ul style="list-style-type: none"> <li>• welfare and humanitarian; or</li> <li>• health care; or</li> <li>• education.</li> </ul>
<b>11.6.2 Relief granted</b>	Properties meeting the above criteria shall be exempted from	

	the payment of rates.
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### 11.7 Agricultural Properties

When considering criteria to be applied in respect of any relief for properties used for agricultural purposes a municipality must take into account:

- (a) The extent of services provided by the municipality in respect of such properties;
- (b) The contribution of agriculture to the local economy;
- (c) The extent to which agriculture assists in meeting the service delivery and development obligations of the municipality; and
- (d) The contribution of agriculture to the social and economic welfare of farm workers.

In order to qualify for the rebates detailed hereunder, the Farmers Association/s within the municipal jurisdiction shall present a submission motivating for the criteria as listed above within the prescribed time frame. All owners of agricultural properties within the municipality will receive relief based upon this evidence as determined through the municipal budgetary processes.

Failure on behalf of the relevant Farmers Association to submit this evidence will leave the municipality without a basis for the consideration of relief for this property sector in terms of the prescribed criteria.

<b>11.7.1 Rebate granted</b>	Percentage rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.
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### 11.8 Properties Situated Outside of the Proclaimed Boundaries of the Townships

<b>11.8.1 Criteria</b>	The owner of a property situated outside of the proclaimed boundaries of the townships within the municipality, excluding properties categorized as agricultural properties, rural communal land and public service infrastructure, shall receive apart from any other rebates, reductions and exemptions that may be applicable, a rebate in lieu of the limited municipal services available to such properties.	
<b>11.8.2 Rebate granted</b>	Percentage rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

- 11.9** It is recorded that in terms of section 17(1)(h) of the Act that the levying of rates on the first R15,000 of the market value of a residential property is impermissible.
- 11.10** The municipality may, in its budget, extend this relief through a further reduction in market value of residential property depending upon affordability factors determined by the Council.

<b>11.11 Residential Properties with a Market Value Below a Prescribed Municipal Valuation Threshold</b>	
<b>11.11.1 Criteria</b>	The owner of a property assigned to a category determined by this policy for residential purposes with a municipal valuation below a threshold to be determined annually through the budgetary process shall be exempted from the liability for the payment of rates. In other words a further discretionary reduction may be applied to the residential category of properties in addition to the first R15,000 of the market value which is a prescribed impermissible rate.
<b>11.11.2 Relief granted (Impermissible rate + reduction)</b>	The owner of a property meeting the above criteria is exempted from the payment of rates.

<b>11.12 Properties Affected by a Disaster or other serious adverse social or economic conditions</b>		
<b>11.12.1 – Criteria</b>	In order to qualify as a disaster or other serious adverse social or economic conditions owner, the owner must qualify in terms of the following:	
	(a)	A disaster within the meaning of the Disaster Management Act (57 of 2002); or
	(b)	Any other serious adverse social or economic conditions as may be defined and determined by the Council.
<b>11.12.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.13 Bed and Breakfast establishments</b>		
<b>11.13.1 – Criteria</b>	In order to qualify for a rebate as a Bed and Breakfast Establishment:	
	(a)	The applicant must provide details of the establishment in respect of total size of developed property, total number of rooms and facilities available to guests.
	(b)	An annual application must be made by 30 April preceding the start of the new financial year for which relief is sought.
	(c)	The applicant must attach a copy of their current Certificate of Membership of the Local Tourism Authority.
<b>11.13.2 – Rebate Granted</b>	Percentage Rebate	A rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

<b>11.14 Municipal Properties</b>		
<b>11.14.1- Criteria</b>	<p>All Municipal owned properties are exempted from property rates, except for:</p> <p>(a) Trading services</p> <p>(b) All property owned by an owner as defined in this policy.</p>	
<b>11.14.2 Relief granted</b>	Properties meeting the above criteria shall be exempted from the payment of rates.	

<b>11.15 Commercial/Industrial Development</b>		
<b>11.15.1 – Criteria</b>	<p>This benefit is meant for new businesses/commercial developments who will be investing in the Newcastle area and where the property has/will have a market value of at least R 50 million at the start of business, in the establishment of newly improved sites.</p> <ul style="list-style-type: none"> <li>• From years 0 – 4 = 40% rebate</li> <li>• From years 5 – 6 = 25% rebate</li> <li>• From years 7 – 8 = 10% rebate</li> <li>• From year 9 onwards = 0% rebate</li> </ul>	
	(a)	Application must be submitted to the Chief Financial Officer before or within the first three months of the new financial year (July to September) in the first year of application.
	(b)	An annual application must thereafter be made by 30 May preceding the start of each new financial year for which relief is sought.
	(c)	The applicant must attach to their annual application, a copy of their current Business Licence as well as a set of the company's audited financial statements.
<b>11.15.2 – Rebate Granted</b>	Percentage Rebate	The above rebate may be applied at the Council's discretion, dependent on budgetary affordability factors.

**11.16** It is recorded that the market value of a property for the purpose of levying rates be capped at a value to be determined by Council from time to time.

## **PART TWELVE: COMMUNITY PARTICIPATION**

**12.1** It is recorded that the municipality may only adopt its rates policy or any amendment thereof or any review of its policy after following a process of community

participation in accordance with Chapter 4 of the Municipal Systems Act, as well as sections 4 and 5 of the Act. These provisions include:

- 12.1.1** Building capacity of the local community to enable it to participate in the affairs of the municipality; and
  - 12.1.2** To foster community participation for which the municipality will allocate funds in its budget for such processes.
- 12.2** Participation by the local community in municipal affairs will take place through the political structures of the municipality; the mechanisms, processes and procedures for participation in municipal governance and any other appropriate mechanisms processes and procedures established by the municipality.
- 12.3** The municipality will provide for:
- 12.3.1** The receipt, processing and consideration of petitions, objections and comments lodged by the members of the local community;
  - 12.3.2** Public meetings and hearings by the Council and other political structures (e.g. ward committees) and political office bearers of the municipality;
  - 12.3.3** Consultative sessions with locally recognized community organizations and where appropriate traditional authorities.
- 12.4** Communication with the public relating to the rates policy will be in terms of section 4(2) of the Act by notice in:
- 12.4.1** Local newspapers circulating in its area and determined by the council as a newspaper of record; and/or
  - 12.4.2** Official notice boards and other public places accessible to the public including the library and the municipal offices; and
  - 12.4.3** Inviting the local community to submit comments and representations within the time specified in the notice;
  - 12.4.4** Publication of the relevant documentation of the municipal website.

## **PART THIRTEEN: RECOVERY OF RATES**

- 13.1** The following shall be liable for the payment of rates levied by the municipality:
- 13.1.1** Owner of a property;
  - 13.1.2** Joint owners of a property, who shall be liable jointly and severally;
  - 13.1.3** The owner of a sectional title unit; and
  - 13.1.4** In relation to agricultural properties:
    - 13.1.4.1** any one joint owner of the agricultural property for all the rates levied on the agricultural property; or
    - 13.1.4.2** Each individual joint owner for that portion of rates levied on the joint owner's undivided share in the agricultural property, whichever option the municipality may choose in relation to agricultural properties.
- 13.2** In terms of section 26 of the Act the municipality will recover rates:
- 13.2.1** on an installment basis; or annually, as may be agreed between the parties.
- 13.3** The municipality will furnish each person liable for the payment of rates with a written account in terms of section 27 of the Act.
- 13.4** The municipality may recover rates in arrears from tenants and occupiers in accordance with the provisions of section 28 of the Act.
- 13.5** The municipality may recover rates due, either whole or in part, from the agent of the owner if this is more convenient for the municipality and in terms of section 29 of the Act.
- 13.6** Rates must be paid on or before a date determined by the municipality. The municipality may impose interest on overdue amounts.
- 13.7** The procedures regarding the determination of rates or any portion that are outstanding and the processes to be followed to recover such amounts are contained within the municipality's Customer Care, Credit Control and Debt Collection Policy.

## **PART FOURTEEN: CONSOLIDATION AND APPORTIONMENT OF PAYMENTS**

- 14.** Separate accounts of persons liable for payment to the municipality for either rates or services may be consolidated in one account and any appropriation of payments will be done in accordance with the municipality's Customer Care, Credit Control and Debt Collection Policy.

## **PART FIFTEENTH: DEFERMENT OF RATES**

- 15.** The municipality may on application defer the payment of rates in terms of section 26(3) of the Act, but only in special circumstances which may be prescribed by the Council.

## **PART SIXTEEN: IMPERMISSIBLE RATES IN TERMS OF SECTION 17 OF THE ACT**

- 16.** It is recorded that the municipality may not, in terms of section 17 of the Act levy a rate on:
- 16.1** the first 30% of the market value of public service infrastructure;
  - 16.2** Any property referred to in paragraphs (a) (b) (e) (g) and (h) of the definition of "public service infrastructure."
  - 16.3** the first R 100 000 of the market value of a property assigned in the valuation roll or supplementary valuation roll of a municipality to a category determined by the municipality –
    - (i) for residential properties; or



- (ii) for properties used for multiple purposes, provided one or more components of the property are used for residential purposes; or
- 16.4** A property registered in the name of and used primarily as a place of public worship by a religious community, including an official residence registered in the name of that community which is occupied by an office-bearer of that community who officiates at services at that place of worship.
- 16.5** The Minister, acting with the concurrence of the Minister of Finance, may from time to time by notice in the *Gazette*, increase the monetary threshold referred to in subsection 15.3 to reflect inflation.
- 16.6** The Minister may, by notice in the *Gazette*, lower the percentage referred to in subsection 15.1 but only after consultation with –
  - (i) Relevant Cabinet members responsible for the various aspects of public service infrastructure;
  - (ii) Organized local government; and
  - (iii) Relevant public service infrastructure entities.
- 16.7** The exclusion from rates of a property referred to in subsection 15.4 lapses if the property –
  - (i) Is disposed of by the religious community owning it; or
  - (ii) Is no longer used primarily as a place of public worship by a religious community or, in the case of an official residence contemplated in that subsection, is no longer used as such an official residence.
- 16.7.1** If the exclusion from rates of a property used as such an official residence lapses, the religious community owning the property becomes liable to the municipality concerned for any rates that, had it not been for subsection 15.3 would have been payable on the property during the period of one year preceding the date on which the exclusion lapsed.
- 16.7.2** The amount for which the religious community becomes liable in terms of paragraph 15.7.1 must be regarded as rates in arrears,

and the applicable interest on that amount is payable to the municipality.

## **PART SEVENTEEN: CONSTITUTIONALLY IMPERMISSIBLE RATES**

17. The Act provides that in terms of section 229(2)(a) of the Constitution a municipality may not exercise its power to levy rates on property in a way that would materially and unreasonably prejudice -

- 17.1 national economic policies;
- 17.2 economic activities across its boundaries; or
- 17.3 the national mobility of goods, services, capital or labour.

## **PART EIGHTEEN: NEWLY RATED PROPERTY**

- 18 Any property which has not previously been rated must be phased in over a period of three financial years subject to the condition that:

- 18.1 property registered in the name of a land reform beneficiary must be phased in after the exclusion period referred to in section 17(1)(g) of the Act;

- 18.2 The phasing in period shall be as set out in the following table:

**Applicable rates for newly rateable properties to be phased in over three years**

<b>Year</b>	<b>Percentage Rates Payable</b>
First	25%

Second	50%
Third	75%

## **PART NINETEEN: TRANSITIONAL ARRANGEMENT: PUBLIC SERVICE INFRASTRUCTURE**

**19.1\_** The prohibition on the levying of rates on public service infrastructure referred to in section 15.2 must be phased in over a period of 5 municipal financial years, with effect from 1 July 2015;

**19.2** the rates levied on the property must

19.2.1 in the first year, must be no more than 80 percent of the rate for that year otherwise applicable to that property;

19.2.2 in the second year, must be no more than 60 percent of the rate for that year otherwise applicable to that property;

19.2.3 in the third year, must be no more than 40 percent of the rate for that year otherwise applicable to that property;

19.2.4 in the fourth year, must be no more than 20 percent of the rate for that year otherwise applicable to that property;

19.2.5 in the fifth year, must be no more than 10 percent of the rate for that year otherwise applicable to that property;



# **NEWCASTLE MUNICIPALITY**

## **INDIGENT POLICY**

## **PREAMBLE**

**Whereas** the municipality receives an equitable share contribution from National Treasury annually;

**And whereas** the National Department of Provincial and Local Government has issued guidelines regarding indigent support;

**And whereas** the municipal council wishes to give access to basic services for all of its communities;

**Now therefore** the municipal council of NEWCASTLE adopts the following Indigent Policy.

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## DEFINITIONS

1. In this policy, unless inconsistent with the context –

**“account holder”** means any person over 16 years of age who is responsible for the family unit and/or for the payment of any services accounts.

**“commercial activity”** means any activity for profit or gain.

**“financial year”** means the financial year of the municipality that runs from July to June.

**“indigent”** means a household earning a combined total monthly income as determined by Council from time to time.

**“industrial activity”** means any activity that involves the manufacturing or production of a product.

**“municipality”** means the Newcastle Municipality.

**“resident”** means a person or family unit that ordinarily resides within the area of jurisdiction of Newcastle Municipality either within their own or leased accommodation.

## PURPOSES OF THE INDIGENT POLICY

2. (1) The purposes of the indigent policy are to:

- (a) provide basic services to the community within the financial and administrative capacity of the municipality;

- (b) provide procedures and guidelines for the subsidisation of basic service charges to indigent households using the equitable share allocation received from National Treasury and other budgetary provisions;
- (c) ensure affordability by subsidising tariffs calculated in terms of the municipality's tariff policy and by setting appropriate service levels in accordance with the municipality's service delivery plan.

### **CRITERIA FOR QUALIFICATION**

**3. (1)** In order to qualify for indigent support the following criteria must be met:

- (a) The verified gross monthly income of all household occupants over 18 years of age may not exceed the amount approved by Council during the annual budget process (the amount should be a minimum of twice the state pension amount);
- (b) The verified gross monthly household income of a pensioner between R3500 and R5000 may qualify for a reduced indigent subsidy;
- (c) The accountholder must complete an official application form and provide the required documentary proof;
- (d) The account holder must reside in the municipal area and may not conduct any commercial or industrial activity from the property;
- (e) The applicant must be the full-time occupant and may not own any other property, whether in or out of the municipal area, unless such property is vacant or is improved and held for investment purposes and an economical rental is obtained therefrom and is included in the gross monthly income.
- (f) The application will be approved by the municipality after the information supplied has been verified and recommended by the respective ward councillor;



- (g) An indigent account holder must immediately request de-registration if his/her circumstances have changed to an extent that s/he no longer qualifies for indigent support;
  - (h) All applicants shall be notified by sms with regard to the outcome of their application;
  - (i) In the event that the approved accountholder passes away, the heir/s of the property must re-apply for indigent support provided they qualify in terms of the stipulated criteria;
  - (j) Council reserves the right to send officials to premises/households for the purpose of conducting an on-site audit of the details provided as well as for indigent audit purposes.
  - (k) The rates account of a household where the account holder is deceased, i.e. an "estate late" account, may be accepted, on condition that only the surviving spouse and/or dependent children ~~or~~ legal representative on their behalf, may apply;
  - (l) Where an existing indigent account holder is now deceased, the "estate late" owner account can continue to benefit as an indigent account provided that the surviving spouse and/or dependent children, as included in the original application, apply for and qualify for indigent support as a legal tenant.
- (2) The following documents are compulsory and must be attached to all application forms:
- a) Identity Book;
  - b) Proof of income, i.e. pension / government grant card / pay slip etc., if applicable; or if over 18 and unemployed, a letter from Department Labour and Bank verification form;
  - c) Names and identity books of all persons over the age of 18 residing on the property;
  - d) Three month's bank statements, if applicable.

- (3) The following additional documentation must be attached; where applicable depending on the individual circumstances:
- (a) SASSA pensioners: SASSA card together with ATM/ bank slip/ purchase slip dated within the past month to indicate that the card is still current;
  - (b) A Bank verification form must be filled in;
  - (c) A sworn affidavit or legal proof regarding their separation if a married couple is no longer living together but not yet officially divorced;
  - (d) Any relevant death certificates should the house be registered in both partners name;
  - (e) Retrenchment letter;
  - (f) Decree of divorce;
  - (g) Marriage certificate;
  - (h) Letter of authority order / memorandum from DPHS or the Will.

#### **EXTENT OF INDIGENT SUPPORT**

4. (1) Subsidies will be limited to rates, water, refuse removal, electricity and sewerage disposal services.
- (2) Subsidies will be determined during the compilation of the annual budget.
- (3) The source of funding of the indigent subsidy is that portion of the equitable share contribution received from National Treasury and any additional provisions made by council and provided for in the annual operating budget.
- (4) The subsidy will only be credited to the qualifying customer's accounts until the amount provided on the budget has been exhausted.

- (5) The following table depicts the extent of the indigent subsidy granted to approved indigent consumers:

Service	Subsidy for indigent customer where household income is below R3500 per month	Subsidy for the pensioner where household income is between R3500 and R5000 per month
Rates	100% subsidy	75% subsidy
Sewer	100% subsidy	75% subsidy
Refuse	100% subsidy	75% subsidy
Water availability	100% subsidy	75% subsidy
Water consumption	6Kl	6Kl
Electricity availability	100% subsidy	75% subsidy
Electricity consumption	50Kwh	50Kwh

- (6) If consumption per metering period (month) exceeds any of the norms stated in the table above, usage will be restricted and the accountholder will be obliged to pay for such excess consumptions at the applicable normal tariffs.
- (7) If a customer's consumption or use of municipal service is less than the subsidised service, the unused portion may not be accrued and the customer will not be entitled to a cash rebate in respect of the unused portion.
- (8) Annual service charges on the indigent's account will automatically be converted to monthly instalments.
- (9) The accounts of indigent households will be exempted from interest.

- (10) Where it occurs that consumers are minors due to circumstances, the support will be determined as per Council decision from time to time.
- (11) Occupiers of the Government Assisted Housing Schemes are subsidised with regard to their housing instalments and rentals in terms of the National Housing Act.
- (12) The municipality may make alternative energy sources available in place of electricity.
- (13) It is compulsory that a prepaid electricity meter be installed for all registered indigent account holders

#### **ARREARS ON INDIGENT ACCOUNTS**

- 5. (1) Once an application for indigent support has been approved all arrears on the consumer account will be written off.
- (2) Arrears related to excess services consumed and housing instalments or rental may be recovered through the restriction of services, either water or electricity, where applicable.

#### **NON-COMPLIANCE OF HOUSEHOLDS REGISTERED AS INDIGENT**

- 6. (1) When a property owner or occupier who has registered as an indigent fails to comply with any of the conditions relevant to the receipt of indigent relief, such person will forfeit his or her status as a registered indigent with immediate effect, and will thereafter be treated as an ordinary accountholder.
- (2) The onus is on each registered indigent to advise the Council of such failure to comply due to the changed circumstances

- (3) The indigent status of a customer will be reviewed from time to time, at intervals as determined by Council. This could be done by either physical audit or external verification check (ITC – Credit Bureau). Should the requirements not be met, the subsidy for that consumer will be cancelled.
- (4) If a registered indigent is found to have provided fraudulent information to the municipality in regard to any material condition for registration as an indigent, such person shall immediately be removed from the register of indigents, and shall be liable to repay the municipality with immediate effect all indigent relief received and debt written off from the date of such fraudulent registration.
- (5) Indigent support will be automatically terminated under the following circumstances:
  - (a) Upon identification of the death of the accountholder unless the conditions in terms of 3 (1) (k) above are met;
  - (b) Upon identification of the accountholder who no longer qualifies for indigent support in terms of 6 (3) above:
  - (c) When the indigent accountholder disposes of the property, either by sale or by means of donation, on date of vacation of the property or registration of transfer whichever occurs first.
  - (d) Upon termination of the lease or vacation of the premises with regard to a tenant account.
  - (e) Upon identification of the accountholder who no longer qualifies for indigent support in terms of this policy.

## **REPORTING REQUIREMENTS**

- 7. (1) The Strategic Executive Director: Budget and Treasury Office shall report for the month concerned and, where possible, by municipal ward:
  - (a) the number of households registered as indigents and a brief explanation of any movements in such numbers;
  - (b) the monetary value of the actual subsidies and rebates granted;

- (c) the budgeted value of the subsidies and rebates concerned; and
- (d) the above information cumulatively for the financial year to date; and
- (e) Any other detail as required by the Council.

## **SHORT TITLE**

**8.** This policy shall be called the Indigent Policy of the Newcastle Municipality.

## **IMPLEMENTATION AND REVIEW**

- 9.** (1) The Accounting Officer shall be responsible for the implementation and administration of this policy with the assistance of the Strategic Executive Director: Budget and Treasury Office, once approved by Council.
- (2) The policy shall be reviewed annually as part of the budget process.



# **NEWCASTLE MUNICIPALITY**



## **CUSTOMER CARE, CREDIT CONTROL AND DEBT COLLECTION POLICY**



## **CONTENT**

### **2**

## **CONTENT**

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## SECTION A3 - CREDIT CONTROL, DEBT COLLECTION AND CUSTOMER CARE POLICY

### A DEFINITIONS

For the purpose of these by-laws any word or expressions to which a meaning has been assigned in the Act shall bear the same meaning in these by-laws and unless the context indicates otherwise.

<b>"account"</b>	any invoice / statement rendered for municipal services provided;
<b>"account holder"</b>	any person who is due to receive a municipal account, which includes a user of pre-paid electricity or water; <b>Includes a customer / consumer and refers to any occupier of any premises to which Council has agreed to supply or ios actually supplying services, or if there is no occupier, then the owner of the premises and includes any debtor of the municipality;</b>
<b>"Act"</b>	The Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), as amended from time to time;
<b>"applicable charges"</b>	the rates, charges, tariffs, flat rates or subsidies determined by the Municipal Council during the budget process, including those costs or fees relating to or incurred during the Credit Control and Debt Collection processes;
<b>"average consumption"</b>	means the deemed consumption of a customer of a municipal service during a specific period, which is calculated by dividing the total actual consumption of that municipal service by that customer over the preceding three months by three;
<b>"shared consumption"</b>	means the consumption of a customer of a municipal service during a specific period, which consumption is calculated by dividing the total metered consumption of that municipal service within the supply zone within which a customer's premises is situated for the same period by the number of customers within that supply zone, during the same period;
<b>"actual consumption"</b>	means the measured consumption of any customer;
<b>"agreement"</b>	means the contractual relationship between the municipality or its authorised agent and a customer, whether written or deemed;
<b>"area of supply"</b>	means any area within or partly within the area of jurisdiction of the municipality to which a municipal service or municipal services are provided;

<b>"arrears"</b>	means any amount due, owing and payable by a customer in respect of a municipal account not paid on the due date;
<b>"authorised agent"</b>	means – <ul style="list-style-type: none"> <li>(a) any person authorised by the municipal council to perform any act, function or duty in terms of, or exercise any power under these by-laws; and / or</li> <li>(b) any person to whom the municipal council has delegated the performance of certain rights, duties and obligations in respect of providing revenue services; and / or</li> <li>(c) any person appointed by the municipal council in terms of a written contract as a service provider to provide revenue services to customers on its behalf, to the extent authorised in such contract;</li> </ul>
<b>"billing"</b>	means invoicing on a municipal account to an account holder of an amount or amounts payable for assessment rates, metered services, other municipal charges, levies, fees, fines, taxes, or any other amount or amounts payable arising from any other liability or obligation;
<b>"commercial customer"</b>	any customer other than household and indigent customers, including without limitation, business, government and institutional customers;
<b>"connection"</b>	the point at which a customer gains access to municipal services;
<b>"customer"</b>	Any person liable to the Municipality for Provision of Municipal services;
<b>"consumer"</b>	the occupier of any premises to which the municipality has agreed to supply or is actually supplying municipal services, or if there is no occupier, then any person who has entered into a service agreement with the municipality for the supply of municipal services to such premises, or, if there be no such person, then the owner of the premises
<b>"defaulter"</b>	means a customer in arrears;
<b>"due date"</b>	means the date specified as such on a municipal account dispatched by the municipality to an account holder for any charges payable and which is the last day allowed for the payment of such charges;
<b>"emergency situation"</b>	means any situation that if allowed to continue poses a risk or potential risk to the financial viability or sustainability of the municipality or a specific municipal service;
<b>"estimated consumption"</b>	means the deemed consumption by a customer whose consumption is not measured during a specific period, which estimated consumption is rationally determined taking into account at least the consumption of

	municipal services for a specific level of service during a specific period in the area of supply of the municipality or its authorised agent;
<b>“final demand”</b>	means any notification by the Municipality or its authorized agent demanding payment of arrears, including, but not limited to a hand delivered notice, e-mail, fax, telephone reminder or registered letter;
<b>“household customer”</b>	means a customer that occupies a dwelling, structure or property primarily for residential purposes;
<b>“household”</b>	means a traditional family unit
<b>“illegal connection”</b>	means a connection to any system through which municipal services are provided that is not authorised or approved by the municipality or its authorised agent;
<b>“indigent customer”</b>	means a household customer qualifying and registered with the municipality as an indigent in accordance with the Indigent Policy;
<b>“interest”</b>	means the rate of interest determined by the Council payable on the amount due in terms of a municipal account which is in arrears;
<b>“municipality”</b>	means – <ul style="list-style-type: none"> <li>(a) the Newcastle municipality established in terms of section 12 of the Structures Act or its successors-in-title; or</li> <li>(b) the municipal manager of the Newcastle council in respect of the performance of any ion or exercise of any right, duty, obligation or function in terms of these by-laws;</li> </ul>
<b>“municipal council”</b>	means the municipal council as referred to in section 157(1) of the Constitution, 1996 (Act No. 108 of 1996);
<b>“municipal manager”</b>	means the person appointed by the municipal council as the municipal manager of the municipality in terms of section 82 of the Local Government municipal Structures Act, 1998 (Act No. 117 of 1998) and includes any person – <ul style="list-style-type: none"> <li>(a) acting in such position; and</li> <li>(b) to whom the municipal manager has delegated a power, function or duty in respect of such a delegated power, function or duty;</li> </ul>
<b>“municipal services”</b>	means for this purpose, services provided by the municipality or its authorised agent, including refuse removal, water supply, sanitation, electricity services and rates or any one of the above;
<b>“occupier”</b>	includes any person in actual occupation of the land or premises without regard to the title under which he occupies, and, in the case of premises sub-divided and let to lodgers or various tenants, shall include the person receiving the rent payable by the lodgers or tenants whether for his own account or as an agent for any person entitled thereto or interested therein;

**“owner”**

means -

- (a) a person in whom the legal title to a premises is vested;
- (b) in a case where the person in whom the legal title is vested is insolvent or dead, or is under any form of legal disability whatsoever, the person in whom the administration of and control of such premises is vested as curator, trustee, executor, administrator, judicial manager, liquidator or other legal representative;
- (c) in the event that the municipality is unable to determine the identity of the person in whom the legal title is vested, the person who is entitled to the benefit of such premises or a building thereon;
- (d) in the case of premises for which a lease of 30 years or more has been entered into, the lessee thereof;
- (e) in relation to -
  - (i) a piece of land delineated on a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986), and without restricting the above, the developer or the body corporate in respect of the common property; or
  - (ii) a section as defined in such Act, the person in whose name such section is registered under a sectional title deed and includes the lawfully appointed agent of such a person;
- (f) any legal person including, but not limited to -
  - (i) a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), Trust inter vivos, Trust mortis causa, a Closed Corporation registered in terms of the Closed Corporation's Act, 1984 (Act No. 69 of 1984), a voluntary association;
  - (ii) any Department of State;
  - (iii) any Council or Board established in terms of any legislation applicable to the Republic of South Africa; and
  - (iv) any Embassy or other foreign entity;
- (g) a lessee of municipal property who will be deemed to be the owner for the purposes of rendering a municipal account;
- (h) A person who is not a registered owner of a property, in occupation of such property by virtue of the Black administration Act.

**“person”**

includes any legal person or entity;

**“premises”**

means any piece of land, the external surface boundaries of which are delineated on -

- (a) a general plan or diagram registered in terms of Land Survey, Act of 1927 (Act No. 9 of 1927), or in terms of the Deeds Registry, Act of 1937 (Act No. 47 of 1937); or
- (b) a sectional plan registered in terms of the Sectional Titles Act, 1986 (Act No. 93 of 1986), which is situated within the area of jurisdiction of Council;

- (c) and includes any other land and any building or structure above or below the surface of any land;

**“public notice”**

means publication in an appropriate medium that may include one or more of the following -

- (a) publication of a notice, in the official languages determined by the municipal council, –
  - (i) in the local newspaper or newspapers in the area of the municipality; or
  - (ii) in the newspaper or newspapers circulating in the area of the municipality determined by the municipal council as a newspaper of record; or
  - (iii) by means of radio broadcasts covering the area of the municipality; or
- (b) displaying a notice at appropriate offices and pay-points of the municipality or its authorised agent; or
- (c) communication with customers through public meetings and ward committee meetings;

**“subsidised service”**

means a municipal service which is provided to a customer at an applicable rate which is less than the cost of actually providing the service including services provided to customers at no cost;

**“supply zone”**

means an area, determined by the municipality or its authorised agent, within which all customers are provided with services from the same bulk supply connection;

**“sundry charges”**

a charge to a customer not directly linked to a property;

**“tampering”**

means any unauthorised interference with the municipality's supply, seals and metering equipment and "tamper" has a corresponding meaning;

**“unauthorised services”**

means receipt, use or consumption of any municipal service which is not in terms of an agreement, or authorised or approved by the municipality or its authorised agent.

## **B OBJECTIVES, SCOPE AND IMPLEMENTATION OF POLICY**

### **1. Objectives and scope**

The Council, in adopting this policy recognises its constitutional obligation to promote social and economic development in harmony with the environment and to ensure the provision to communities of services which are affordable and of an acceptable standard.

It further recognises that it cannot fulfil its constitutional duties unless it ensures compliance by members of the local community with the provisions of section 5(2)(b) of the Act, to pay promptly for service fees, surcharges on fees, rates on property and other taxes, levies and duties which have been legitimately imposed by it (subject to the relief afforded in its Indigent Policy).

The Council is further mindful of its obligations in terms of sections 95 and 97 of the Act and accordingly aims:

- (a) Through the implementation of this policy, to ensure that the municipality is financially and economically viable;
- (b) To establish and maintain a customer care and management system which aims -
  - (i) to create a positive and reciprocal relationship between the municipality and an account holder;
  - (ii) to establish mechanisms for an account holder to give feedback to the municipality regarding the quality of the services and the performance of the municipality;
  - (iii) to ensure that reasonable steps are taken to inform an account holder of the costs involved in service provision, the reasons for payment of service fees, and the manner in which monies raised from the services provided, are utilised;
  - (iv) to ensure, where the consumption of services has to be measured, that reasonable steps are taken to measure the consumption by individual account holders of services through accurate and verifiable metering systems;
  - (v) to ensure that an account holder receives regular and accurate accounts that indicate the basis for calculating the amounts due;
  - (vi) to provide accessible mechanisms for an account holder to query or verify a municipal account and metered consumption and appeal procedures which allow the account holder to receive prompt redress for inaccurate accounts;
  - (vii) to provide accessible mechanisms for dealing with complaints from an account holder, together with prompt replies and corrective action by the municipality, and to provide mechanisms to monitor the response time and efficiency of the municipal's actions;
  - (viii) to provide for accessible pay points and other mechanisms for settling an account or for making pre-payments for services;
- (c) To put in place credit control and debt collection mechanisms and procedures which aim to ensure that all money that is due and payable, from whatever cause, to the municipality, subject to the Act and other legislation, is collected;
- (d) To achieve and maintain consistently high levels of payment by its customers in accordance with the best practice achieved in municipalities in the Republic and in accordance with the standards set each year by the Council in conjunction with its approval of the Budget;
- (e) Provide a framework within which the municipal council can exercise its executive and legislative authority with regard to credit control and debt collection;



- (f) Ensure that all monies due and payable to the municipality are collected and used to deliver municipal services in the best interests of the community, residents and ratepayers and in a financially sustainable manner<sup>1</sup>;
- (g) Set realistic targets for debt collection;
- (h) Outline credit control and debt collection policy procedures and mechanisms.

## **2. Implementation, Enforcement and Delegation**

### **2.1. Municipal Manager is the responsible and accountable officer**

The Municipal Manager -

- (a) is responsible to the Mayor / Council for the implementation and enforcement of the provisions of this policy;
- (b) must, for the purposes of (a) take the necessary steps to implement and enforce the provisions of this policy;
- (c) is accountable to the Mayor / Council for the agreed performance targets as approved by Council and the Mayor, and for these purposes must
  - (i) from time to time, report to the Mayor / Council on matters relating to this policy, including but not limited to -
    - the effectiveness of this policy and the administrative mechanisms, resources, processes and procedures used to collect money that is due and payable to the municipality;
    - billing information, including the number of account holders, accruals, cash flow, and customer management;
    - the satisfaction levels of account holders regarding services rendered;
    - the effectiveness of the provisions to assist the poor herein and in the Indigent Policy;
  - (ii) at regular intervals meet with and receive reports from the Chief Financial Officer and other staff members with the aim of submitting recommendations on this policy to the Mayor;
  - (iii) where necessary, propose steps to the Mayor with the aim of improving the efficiency of the credit control and debt collection mechanisms, processes and procedures;
  - (iv) where necessary, propose to the Mayor actions and adjustments to correct deviations;
  - (v) establish effective communication channels between the municipality and account holders with the aim of keeping account holders abreast of all decisions by Council that may affect them;
  - (vi) establish customer service centres which are located in such communities as determined by Council;

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<sup>1</sup> Section 96(a) of the Local Government: Municipal Systems Act, 2000 (Act 32 of 2000) provides that a municipality must collect all money that is due and payable to it subject to this Act and any other applicable legislation.

- (vii) identify, appoint, and enter into agreements with suitable business concerns, institutions, organizations, establishments or parastatal institutions to serve as agencies of the municipality in terms of this policy;
- (viii) convey to account holders information relating to the costs involved in service provision, the reasons for payment of service fees, and the manner in which monies raised from the services are utilised, and may where necessary, employ the services of local media to convey such information;
- (ix) expedite the processing of complaints or inquiries received from an account holder and must ensure that an account holder receives a response within a time determined by this policy and must monitor the response time and efficiency in these instances;
- (x) in line with the latest technological and electronic advances, endeavour to make twenty-four hour electronic inquiry and payment facilities available to account holders;
- (xi) encourage account holders and take steps where needed, to ensure settlement of outstanding accounts within the ambit of this policy;
- (xii) with the consent of an account holder, enter into an agreement with the account holder's employer to deduct from the salary or wages of the account holder -
  - any outstanding amounts as may be agreed;
  - such regular monthly amounts as may be agreed, and may provide special incentives for employers to enter into such agreements, and employees to consent to such agreements.

## **2.2. Role and responsibility of Councillors**

- 2.2.1. Section 99 of the Act appoints the Mayor as the supervisory authority to oversee and monitor the implementation and enforcement of this policy, the performance of the Municipal Manager in implementing it and its associated bylaw and as required by the Council, to report to it.
- 2.2.2. In addition to the monitoring role provided in 2.2.1 above, all Councillors are responsible for promoting this policy and compliance with it. In order to maintain the credibility of this policy as adopted by the Council, all Councillors must lead by example and ensure that his/her account with the municipality is and remains paid in full. Full details of all accounts of Councillors shall be tabled before the Finance Committee and disclosed in the municipality's financial statements.
- 2.2.3. Ward councillors will be required to hold regular ward meetings, at which customer care and debt issues will be given prominence.

## **2.3. Reporting to Council**

- 2.3.1. The Chief Financial Officer shall report monthly to the Municipal Manager in a suitable format to enable the Municipal Manager to report to Council. This report is not limited to but shall at least provide information on the following:
  - i. Cash flow information for the capital and operating accounts, and combined situation, showing Council's actual performance against its cash flow budgets.
  - ii. Cash collection statistics, showing high-level debt recovery information (numbers of customers; enquires; default arrangements; growth or reduction of arrear debtors; ideally divided into wards, business (commerce and industry) domestic, state, institutional and other such divisions.
  - iii. Performance of all areas against targets agreed to in term of paragraph 18 of this policy document.

- iv. Council's on-going income and expenditure statements, comparing both billed income and cash receipt income, against on-going expenditure in both the capital and operating accounts.
- 2.3.2. If in the opinion of the Chief Financial Officer, Council will not achieve cash receipt income equivalent of the income projected in the annual budget as approved by Council, the Chief Financial Officer will report this with motivation to the Municipal Manager who will, if he agrees with the Chief Financial Officer, immediately move for a revision of the budget according to realistically realisable income levels.
- 2.3.3. Council shall regularly receive a report from the Chief Financial Officer, if necessary after consultation with suitable consultants, on the manpower and systems requirements of treasury which requirements take into account Council's agreed targets of customer care and management, and debt collection, and after considering this report, Council will within reason vote such resources as are necessary to ensure that Treasury has the staffing and structures to meet Council's targets in this regard or to outsource the service.

#### **2.4. Delegation**

The necessary power and authority is hereby delegated to the Municipal Manager to enable him/her to fulfil his/her responsibilities and obligations in term hereof, with full authority to further delegate any specific responsibility.

### **C CUSTOMER CARE AND CREDIT CONTROL**

#### **3.1. Application for supply of municipal services and service agreements**

- 3.1.1. Application forms are available at the municipal offices and the application process for the supply of services to any premises must be made at least four working days prior to the service being required, in the prescribed format, and must comply with the conditions as determined by the Municipal Manager or his or her delegate from time to time. This will ensure that services are available when occupation is taken. Failure to adhere to the timeframe may result in customers not having services available when occupation is taken. Once the application is approved, a service agreement will be entered into and services will commence.
- 3.1.2. Only the owner of a property, his duly authorised agent on his or her behalf may apply for municipal services to be supplied to a property.
- 3.1.3. No services shall be supplied unless and until application has been made by the owner and a service agreement in the prescribed format has been entered into and the deposit as provided for in paragraph 3.3 has been paid.
- 3.1.4. Sundry accounts- the customer must provide the Municipality with a Municipal account number or rate account number. If the customer does not have an existing Municipal account, then a new account must be created.
- 3.1.5. If there is an outstanding debt on the property, this debt must be settled in full, or suitable payment arrangements must be made by the owner of the property, before any customer/owner is registered for services.
- 3.1.6. Customers who fail to register and who illegally consume services will be subjected to such administrative and/or civil action as the municipality deems appropriate.

- 3.1.7. Where the purpose for or extent to which any Municipal service used is changed, the onus and obligation is on the customer/owner to advise the Municipality of such change.
- 3.1.8. The service agreement shall set out the conditions under which the services are provided and shall require the signatories thereto to agree to abide by the provisions of the Municipality's credit control policy and Bylaws.

### **3.2. Credit screening**

- 3.2.1. The municipality may require of an applicant to submit information and documentary proof so as to enable it to bring its records up to date and to assess the creditworthiness of the applicant and may require such information to be provided on oath.
- 3.2.2. For the purposes of determining the creditworthiness of an account holder the municipality may make use of the service of a credit bureau, or such any other agency or means as the Municipal Manager or his delegate may determine from time to time.
- 3.2.3. The Municipality may make use of services of the credit bureau, or such any other agency to register details of the customers/owner's account where in default.

### **3.3. Deposits**

- 3.3.1. On approval of the application and before the service is made available, the municipality may require the applicant -
  - (a) to deposit a sum of money, as determined by the Council's Tariff Charges from time to time, with the municipality to serve as security for the due payment of services and working capital;
  - (b) to provide any other form of security;
  - (c) to agree to special conditions regarding payment of the municipal account.
- 3.3.2. The Municipal Manager may from time to time review the adequacy of the sum of money deposited and if necessary call for additional security.
- 3.3.3. The Municipal Manager may, in respect of preferred customers, but only in terms of this policy, consider relaxation of the conditions pertaining to deposits as set out in 3.3.1 and 3.3.2 above.
- 3.3.4. On termination of the supply of services, the amount of such deposit, less any payments due to the municipality, must be refunded to the depositor.
- 3.3.5. Deposits forms part of the Councils' operating capital and no interest will be payable on such deposits.
- 3.3.6. Registered Indigent households will not be liable for a deposit on condition that consumption will be limited / restricted to a level as determined by the Council in its Indigent Policy.
- 3.3.7. If the customer is in arrears, the deposit may be increased to cover the higher exposure to risk.

### **3.4. Billing<sup>1</sup> and payment of Accounts**

- 3.4.1. The account holder must pay all amounts due to the municipality as reflected in the municipal account, and the onus is on the account holder to verify the accuracy of such account, provided however that:
- (a) the Council may from time to time offer a discount on amounts due to the municipality as an incentive for timely payment of current amounts due by the due date therefor;
  - (b) an account holder remains liable to make payment of the full amount due, on due date therefor and any discount becoming due to an account holder in terms of any such incentive in force from time to time will be reflected as a credit on the following month's account;
- 3.4.2. An account holder must pay for metered and other service charges, assessment rates, other municipal charges, levies, fees, fines, interest, taxes or any other liability or obligation from the date of origin of such municipal charges until the written termination of the services.
- 3.4.3. An account holder -
- (a) has one account number and will be rendered one consolidated account for each premises to which services are rendered or for which rates are due, on which the due date for settlement of the total amount owing is reflected;
  - (b) will be rendered an account monthly in cycles of approximately thirty days;
- 3.4.4. Payment must be received before close of business on the due date.
- 3.4.5. Should any such service provider fail to furnish the municipality with the relevant details of payments made to it 3 days prior to the due dates thereof, such service provider may be held liable for all charges subsequently incurred by the municipality in pursuing recovery of an amount as a result erroneously reflected on the account of the account holder as being in arrear, as well as for interest charges.
- 3.4.6. The municipality may estimate the quantity of metered services supplied in respect of a period or periods within the interval between actual successive readings of the meters, and may render an account to an account holder for the quantity of metered services so estimated.
- 3.4.7. If the Municipality is unable to read any meter on any property because the meter has been rendered inaccessible, the municipality shall estimate the consumption of the service concerned and thereafter bill the consumer for the monetary value of such estimated consumption.
- 3.4.8. In the event that the Council continues to be unsuccessful in obtaining access to the property or meter for a period of 3 months and, therefore, is unable to obtain an actual meter reading, the Chief Financial Officer or his authorised representative may disconnect the supply.
- 3.4.9. If an account holder is dissatisfied with an account rendered for metered services supplied by the municipality, such account holder may, prior to the due date stipulated therein, lodge an objection in writing to the Chief Financial Officer, setting out reasons for such dissatisfaction. The Chief Financial Officer, duly delegated by the Municipal Manager, or his sub-delegate, shall adjudicate on the objection.

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<sup>1</sup> Section 95 (d) of the Local Government: Municipal Systems Act, 2000 provides that a municipality must, within its financial and administrative capacity take reasonable steps to ensure that the consumption of services has to be measured through accurate and verifiable metering systems.

- 3.4.10. Should an account holder lodge an objection the account holder must notwithstanding such objection, continue to make regular payments by the due date, of an amount equivalent to the average of the account holder's municipal account for the three month period prior to the month in respect of which the dispute is raised, and taking into account interest as well as the annual amendments of tariffs of Council.
- 3.4.11. An error or omission in any account or failure to render an account shall not relieve the account holder of the obligation to pay by the due date. The onus is on the customer to make every effort to obtain a copy of the account, or establish the amount payable for payment.
- 3.4.12. If an account holder uses water or electricity for a category of use other than that for which it is supplied by the municipality and is as a consequence not charged for water or electricity so used, or is charged for the water or electricity at a rate lower than that at which the account holder should have been charged, the account holder shall be liable for the amount due to the municipality in accordance with the prescribed charges in respect of-
- (a) the quantity of water or electricity which in the opinion of the Municipal Manager, or his delegate, the account holder has used and for which the account holder has not been charged;
  - (b) the difference between the cost of the water or electricity used by the account holder at the rate at which the account holder has been charged and the cost of the water or electricity at the rate at which the account holder should have been charged.
- 3.4.13. An account holder shall not be entitled to a reduction of the amount payable for metered services which are lost due to a default in the meter, save in terms of the provisions of paragraph 6.8.
- 3.4.14. The municipality may-
- (a) Have the accounts posted, or sent electronically if so registered, to all customers;
  - (b) The Municipality or it's authorised agent must, if administratively possible, issue a duplicate account to a customer on request. The Municipality will provide owners with copies of their tenant's accounts if requested.
  - (c) Consolidate any separate accounts of an account holder liable for payments to the municipality;
  - (d) Credit any payment by an account holder against any debt or account of that account holder and in its sole discretion allocate the payment between service debts on said account;
  - (e) Implement any of the provisions of this policy and Chapter 9 of the Act against such account holder in relation to any arrears on any of the accounts of such a person.
  - (f) When customer's information changes, customers are required to update their information details with the Municipality.

### **3.5. Termination of service agreement**

- 3.5.1. Notice of termination of any service agreement must be in writing to the other party of the intention to do so. On termination of service a charge for the final reading shall be levied.
- 3.5.2. An owner may terminate a service agreement relating to a property sold by him, by giving not less than four working days' notice in writing.
- 3.5.3. The Municipal Manager or his delegate may advise an account holder of the termination of the agreement for a supply of municipal services if-

- (a) The account holder has not consumed any water or electricity during the preceding six months, or has vacated the property and has not made satisfactory arrangements for the continuation of the agreement;
- (b) The account holder has committed a breach of this policy and has failed to rectify such breach;
- (c) The municipality is unable to continue to supply the account holder with municipal services as a result of the assumption by another authority of responsibility for the supply of the municipal service in question.
- (d) Landlords are not permitted to terminate services if there are occupants on the property and the accounts is not in arrears, unless the owner has obtained an eviction court order.
- (e) The Municipality may exercise its common-law right where a tenant on a property is in breach of his/her contract with the Municipality, and transfer the debt to the owners' account.
- (f) When electricity and water consumption is recorded on a property during a period for which there is no registered account against whom a bill can be raised, the relevant charges for electricity and water services shall be raised against the registered owner on his consolidated bill.

### **3.6. Payment facilities and customer care information**

- 3.6.1. The customer is entitled to reasonable access to pay points and to a variety of reliable payment methods.
- 3.6.2. The customer is entitled to an efficient, effective and reasonable response to appeals, and should suffer no disadvantage during the processing of a reasonable appeal.
- 3.6.3. Council's Customer Care, Credit Control and Debt Collection Policy should be available in Zulu, English and Afrikaans and will be made available by general publication and will also be available at Council's cash collection points.
- 3.6.4. The municipality may, with the consent of a customer, approach an employer to secure a debit or stop order arrangement.
- 3.6.5. The customer will acknowledge, in the customer agreement that the use of agents in the transmission of payments to the municipality is at the risk of the customer – also for the transfer time of the payment.
- 3.6.6. Council will endeavour to distribute a regular newsletter, which will give prominence to customer care and debt issues.
- 3.6.7. The press will be encouraged to give prominence to Council's Customer Care and Debt issues, and will be invited to Council meetings where these are discussed.
- 3.6.8. Council aims to establish:
  - (a) A customer care unit;
  - (b) A centralised complaints database to enhance co-ordination of complaints, their speedy resolution and effective communication with customers;
  - (c) Appropriate training for officials dealing with the public to enhance communications and service delivery;
  - (d) A communication mechanism to give Council feedback on service, debt and other issues of concern.
- 3.6.9. Payments which are not allocated within the period of three years, due to incorrect reference

being used will be recognised as municipality's own revenue.

### **3.7. Business who tender to the Municipality**

3.7.1. In order to comply with Supply Chain regulations and the Policy of the Council, the following will be applicable:

- (a) When inviting bids for the provision of services or delivery of goods, potential contractors may submit bids subject thereto that consideration and evaluation thereof will necessitate that the bidder obtain from the municipality a certificate stating that all relevant municipal accounts owing by the tenderer or its directors, owners or partners have been paid or that suitable arrangements (which include the right to set off in the event of non-compliance) have been made for payment of any arrear;
- (b) A municipal account will include any municipal service charges, taxes or other fees, fines and penalties due to the Municipality and outstanding at the relevant payment date;
- (c) The Municipality will at its sole discretion check whether all the municipal accounts are up to date. Copies of all accounts sent to the bidder and to each director, owner, partner or trustee must be attached to the tender documents.
- (d) Where a contractor's place of business or business interests are outside the jurisdiction of the municipality, a revenue clearance certificate from the relevant municipality must be produced.
- (e) Before awarding the bid the Municipal debt of the bidder and of each director, owner, partner or trustee of the tenderer must be paid in full or sign an arrangement.
- (f) It will be a condition to allow the municipality to deduct moneys owing to the municipality from contract payments in terms of a reasonable arrangement with the debtor.
- (g) This Policy applies to quotations, public bids and bids in terms of section 36 of the Supply Chain policy.

### **3.8. Staff and Councillors in Arrears**

- 3.8.1
  - (a) Item 10 of schedule 2 to the Act states that "A staff member of the Municipality may not be in arrears to the Municipality for rates and service charges for a period longer than three (3) months and a Municipality may deduct any outstanding amounts from a staff Member's salary after this period."
  - (b) The Municipality shall liaise with the relevant staff on repayment of their arrears.
  - (c) The staff member must sign a credit authority in accordance with this Policy.
  - (d) No special treatment shall be afforded to staff in arrears.
- 3.8.2
  - (a) Item 12A of schedule 1 to the Act states that "A Councillor may not be in arrears to Municipality for rates and service charges for a period longer than three months."
  - (b) The Municipal Manager shall liaise with the Mayor and issue the necessary salary deduction instruction where appropriate.
- 3.8.3 Where the staff or councillor's arrears have arisen due to any other reason, such arrear must be paid within 3 months.



- 3.8.4 Bonus payments and thirteenth cheques may be appropriated to the whole debt where suitable arrangements have not been made to pay off the debt.
- 3.8.5 On appointment to a higher post, employees who have signed a credit authority shall increase their instalments on the credit authority in accordance with their new salary increase.
- 3.8.6 All new employees to the Municipality are required to sign Direct Debits for the services registered in their names.

### **3.9. Arrear Accounts: Disconnection and Reconnection of Services**

- 3.9.1 Arrears on rates and services or any other consolidated debt in excess of R500 may result in disconnection of ANY service or with-holding of the use of Municipal facilities.
- 3.9.2 A termination fee will be raised on all accounts identified for disconnection.
- 3.9.3 Any official or contractor appointed by the Municipality for the purposes set out herein, may, at all reasonable times enter any premises to which services are supplied by the Municipality, in order to inspect pipes, wires or any apparatus used for the supply of services and belonging to the Municipality, for the purpose of ascertaining the quality of services supplied or consumed, or to disconnect or terminate such supply or remove any apparatus belonging to the Municipality. Should access be unreasonably denied or prevented, a disconnection penalty fee may be raised.

### **3.10 Incentives for prompt payment**

- 3.10.1 The municipality may from time to time consider incentives for the payment of accounts to encourage payment, and to reward regular payers. Such schemes will aim at incentivising regular payment and not poor payment and the content of it will be submitted for approval by the Accounting Officer under separate cover when appropriate.
- 3.10.2 Such incentive schemes, if introduced, will be reflected in annual budgets as additional expenditure.

### **3.11 Customer assistance programmes**

#### **3.11.1 Water leakages**

- (a) Water leaks after the water meter supplying to a premises, is the responsibility of the relevant owner/consumer and s/he remains responsible for payment of such metered water.
- (b) The Municipality may introduce programmes to assist consumers in such cases where extensive losses are experienced because of under-ground leakages which went undetected for a period of time.
- (c) Consumers remain responsible to control and monitor their consumption.

### **3.11.2 Assistance to Indigent Households to repair leakages**

- (a) The Municipality may assist registered indigent households to repair leaks in order to minimise water losses and limit consumption to the determined levels.

### **3.11.3 Assistance to the Poor and Child Headed Households**

- (a) Welfare is to be separated from tariff and credit control issues and will be supported by appropriate and affordable policies and practices. Indigent households will be identified and supported in terms of the Indigent Policy.
- (b) An account holder who is in the seat of assistance must immediately notify the municipality in the event of any of the qualifying criteria applicable to the account holder changing to enable the municipality to review and to reconsider the household's status as a poor household.
- (c) Households which qualify as poor households may receive a credit for some or all of the following:
  - i. A quantity of electricity;
  - ii. a quantity of water;
  - iii. the refuse removal charges;
  - iv. the sewerage charges;
  - v. assessment rates;
  - vi. any other service fees, taxes or charges over and above the rendered services; as may be determined by the Council from time to time in terms of its Indigent Policy.
- (d) The normal rates, fees and charges and the requirement to pay an account will apply should a household account exceed the credit given.

## **D DEBT COLLECTION**

### **4. Enforcement Mechanisms**

#### **4.1. Municipality's powers to restrict or disconnect supply of services<sup>1</sup>**

- 4.1.1. Customers who have not paid their municipal account by the due date noted on the account and who have not made satisfactory arrangements with the council will have their supply of electricity and or water, and/or other municipal services, suspended, disconnected or restricted.
- 4.1.2. Municipality reserves the right to deny or restrict the provision of electricity and or water to customers who are in arrears with their rates or any other municipal charges.
- 4.1.3. The cost of the restriction or disconnection, as for the reconnection, will be determined by tariffs agreed by Council and will be payable by the customer.

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<sup>1</sup> Section 97 (g) of the Local Government: Municipality Systems Act, 2000 provides that a credit control and debt collection policy must provide for termination of services or the restriction of the provision of services when payments are in arrears.

- 4.1.4. The municipality may, in addition to any other provision in this policy, restrict or disconnect the supply of water and electricity, or discontinue any other service to any premises if-
- (a) an administration order is granted in terms of section 74 of the Magistrates Court Act, 1944 (Act No. 37 of 1944), in respect of an account holder;
  - (b) an account holder of any service fails to comply with a condition of supply imposed by the municipality;
  - (c) an account holder obstructs the efficient supply of electricity, water or any other municipal services to another account holder;
  - (d) an account holder supplies such municipal services to any person who is not entitled thereto or permits such service to continue;
  - (e) an account holder causes a situation which in the opinion of the Municipal Manager or his delegate, is dangerous or constitutes a contravention of relevant legislation;
  - (f) is placed under provisional liquidation or judicial management, or commits an act of insolvency in terms of the Insolvency Act, 1936 (Act No. 24 of 1936).

#### **4.2. Interest and penalties**

- 4.2.1. Interest will be raised as a charge on all business accounts not paid by the due date in accordance with applicable legislation as provided for in the Tariff of Charges.<sup>1</sup>
- 4.2.2. Government accounts will not be charged interest and penalties on arrears balance.

#### **4.3. Notification**

- 4.3.1. Council will endeavour, within the constraints of affordability, to notify arrear debtors on the state of their arrears and to encourage them to pay. They will be informed on their rights (if any) to conclude arrangements or to apply for indigent subsidies should they comply with the conditions, and other related matters.
- 4.3.2. Such notification is not a right to debtors with arrears but a courtesy from the Council to improve payment levels and relations. Disconnection / restriction of services and other collection proceedings will continue in the absence of such notices and contact with debtors for whatever reason.

#### **4.4. Legal Process / Use of attorneys / Use of credit bureaus**

- 4.4.1. When steps to collect arrears have been taken and failed, Council will commence the legal process with that debtor, which process could involve the execution of judgements including sales of properties.
- 4.4.2. Council will exercise strict control over this process, to ensure accuracy and legality within it, and will require regular reports on progress from outside parties, be they attorneys or any other collection agents appointed by council.
- 4.4.3. Council will establish procedures and codes of conduct with these outside parties.
- 4.4.4. Garnishee orders, in the case of employed debtors, are preferred to sales in execution, but both are part of Council's system of debt collection procedures.

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<sup>1</sup> Section 97 (e) of the Local Government: Municipal Systems Act, 2000 provides that a credit control and debt collection policy must provide for interest on arrears, where appropriate.

- 4.4.5. All steps in the credit control procedure will be recorded for Council's records and for the information of the debtor.
- 4.4.6. All costs of this process are for the account of the debtor.
- 4.4.7. Individual debtor accounts are protected and are not the subject of public information. However Council may release debtor information to credit bureaus. This release will be in writing and this situation will be included in Council's agreement with its customers.
- 4.4.8. Council may consider the cost effectiveness of this process, and will receive reports on relevant matters, including cost effectiveness.
- 4.4.9. Council may consider the use of agents, and innovative debt collection methods and products. Cost effectiveness, the willingness of agents to work under appropriate codes of conduct and the success of such agents and products will be part of the agreement Council might conclude with such agents or product vendors; and will be closely monitored by Council.
- 4.4.10. Customers will be informed of the powers and duties of such agents and their responsibilities including their responsibility to observe agreed codes of conduct.
- 4.4.11. Any agreement concluded with an agent or product vendor shall include a clause whereby breaches of the code of conduct by the agent or vendor will see the contract terminated.

#### **4.5. Theft and fraud**

- 4.5.1. Any person (natural or juristic) found to be illegally connected or reconnected to municipal services, tampering with meters, reticulation network or any other supply equipment or committing any unauthorised service associated with the supply of municipal services, as well as theft and damage to Council property, will be prosecuted and/or liable for penalties as determined from time to time <sup>1</sup>.
- 4.5.2. Council will immediately terminate the supply of services to a customer should such conduct as outlined above be detected.
- 4.5.3. The total bill owing, including penalties, assessment of unauthorised consumption and discontinuation and reconnection fees, and increased deposits as determined by Council if applicable, becomes due and payable before any reconnection can be sanctioned.
- 4.5.4. Council will maintain monitoring systems and teams to detect and survey customers who are undertaking such illegal actions.
- 4.5.5. Council may distinguish in its penalties between cases of vandalism and cases of theft.
- 4.5.6. Subsequent acts of tampering will lead to penalties and deposits increasing in quantum.
- 4.5.7. Council reserves the right to lay charges and to take any other legal action against both vandals and thieves.
- 4.5.8. Any person failing to provide information or providing false information to the municipality may face immediate disconnection.
- 4.5.9. The Municipality may, in terms of section 28 and 29 of the Municipal Property Rates Act (MPRA), recover arrear rates from tenants in occupation of the relevant property, or managing agents, but only to the extent of the rent payable or amount due by the tenant but not yet paid to the owner of the property, This does not preclude further legal action against the owner.

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<sup>1</sup> Section 97 (h) of the Local Government: Municipal Systems Act, 2000 provides that a credit control and debt collection policy must provide for matters relating to unauthorised consumption of services theft and damages.

#### **4.6. Cost of collection**

- 4.6.1. All costs of legal processes, including interest, penalties, service discontinuation costs and legal costs associated with credit control and debt management are for the account of the debtor and should reflect at least the cost of the particular action.

#### **4.7. Abandonment**

- 4.7.1. The Municipal Manager must ensure that all avenues are utilised to collect the Municipality's debt and the collection thereof can only be stopped in terms of the Provision for Doubtful Debts and Debt Write-off Policy.
- 4.7.2. There are some circumstances that allow for the valid termination of debt collection procedures, inter alia:
- (a) The insolvency of the debtor, whose estate has insufficient funds;
  - (b) A balance being too small to recover, for economic reasons considering the cost of recovery.

#### **4.8. Managing Assessment Rates**

- 4.8.1. The Council may from time to time determine exemptions, reductions and rebates on the levying of assessment rates in accordance to the Local Government: Municipal Property Rates Act, 2004 ( Act No 6 of 2004). The detail of this will be dealt with in the Councils' Property Rates Policy.
- 4.8.2. The Municipality may apply to court for the attachment of any rent due in respect of rateable property to cover in part or in full any amount due for assessment rates on said property which has remained unpaid for a period longer than three months after the payment date.
- 4.8.3. Where a company, close corporation, trust or a body corporate in terms of the Sectional Titles Act, 1986 (Act No. 95 of 1986) is responsible for the payment of any amounts for rates, liability therefor shall be extended to the directors, members or trustees thereof jointly as the case may be.

#### **4.9. Rates clearance certificates**

- 4.9.1. To affect the transfer of any immovable property from one registered owner to another, the Registrar of Deeds requires a clearance certificate, which certificate is obtainable from the Municipal Manager or his delegate, upon application therefore in the prescribed manner after payment of the prescribed fee.
- 4.9.2. In terms of Section 118 (3) of the Act an amount due for Municipal services fees, surcharge on fees, property rates and other Municipal taxes, levies and duties is a charge upon the property in connection with which the amount is owing and enjoys preference over any mortgage bond registered against the property.
- 4.9.3. Emanating from this legislation, clearance certificates will only be issued once arrears are paid in accordance to the requirements. Any debt not paid in terms of the Rates Clearance Certificate is required to be guaranteed by the proposed owner in order for the clearance certificate to be issued.

#### **4.10 Accounts consolidation per Sec 102 of Municipal Systems Act**

- 4.10.1 A municipality may –
- (a) Consolidate any separate accounts of persons liable for payments to the municipality;
  - (b) Credit a payment by such a person against any account of that person; and

- (c) Implement any of the debt collection and credit control measures provided for in this policy in relation to any arrears on any of the accounts of such a person.
- 4.10.2 4.10.1 does not apply where there is a dispute between the municipality and a person referred to in that subsection concerning any specific amount claimed by the municipality from that person
- 4.10.3 A municipality must provide an owner of a property in its jurisdiction with copies of accounts sent to the occupier of the property for municipal services supplied to such a property if the owner requests such accounts in writing from the municipality concerned.

## **5. Arrangements for settlements**

- 5.1. If a customer cannot pay his/her account with the municipality then the municipality may, enter into an extended term of payment with the customer. He/she must:
  - (a) Sign an acknowledgement of debt;
  - (b) Sign a consent to judgement;
  - (c) Provide a garnishee order/emolument order/stop order (if he or she is in employment);
  - (d) Acknowledge that interest will be charged at the prescribed rate;
  - (e) Pay the current portion of the account in cash;
  - (f) Sign an acknowledgement that, in the event of arrangements previously negotiated later being defaulted on, no further arrangements will be possible. Under such circumstances restriction / disconnection of water and electricity will immediately follow, as will legal proceeding.
- 5.2. Customers with electricity arrears should agree to the conversion to a pre-payment meter, if and when implemented the cost of which, and the arrears total, will be paid off either by:
  - (a) adding it to the arrears bill and repaying it over the agreed period;
  - (b) adding it as a surcharge to the prepaid electricity cost, and repaying it with each purchase of electricity until the debt is liquidated.
- 5.3. Council reserves the right to raise the deposit/security requirement in accordance with paragraph 3.3 of debtors who seek arrangements.
- 5.4. Account holders who can prove that they are employed, where the pay date is set as the 15th day of the month. Council may require the signing of a debit order to qualify for this extension.

## **E METERING EQUIPMENT AND METERING OF SERVICES**

### **6. Metering equipment and measuring of consumption**

- 6.1. The municipality shall, at the account holder's cost, in the form of a direct charge or prescribed fee, provide, install and maintain appropriately rated metering equipment at the point of metering for measuring metered services.

- 6.2. The municipality reserves the right to meter the supply to a block of shops, flats, tenement-houses and similar buildings for the building as a whole, or for an individual unit, or for a group of units.
- 6.3. Where any building referred to in 6(2) is metered as a whole -
- (a) the owner may, at own cost, provide and install appropriate sub-metering equipment for each shop, flat and tenement;
  - (b) the relevant Executive Director, duly delegated by the Municipal Manager, may require the installation, at the account holder's expense, of a meter for each unit of any premises in separate occupation for the purpose of determining the quantity of metered services supplied to each such unit.
- 6.4. Where the electricity used by consumers is charged at different tariffs, the consumption shall be metered separately in such a way that will enable billing at the applicable tariffs.
- 6.5. Where sub-metering equipment is installed, accommodation separate from the Municipality's metering equipment must be provided by the account holder as required by the Municipality
- 6.6. Except in the case of pre-payment meters, the quantity of metered services used by an account holder during any metering period is ascertained by reading the appropriate meter or meters supplied and installed by the municipality at the beginning and end of such metering period, except where the metering equipment is found to be defective.
- 6.7. For the purpose of calculating the amount due and payable for the quantity of metered services consumed, the same amount of metered services shall be deemed to be consumed during every period of 24 hours between readings.
- 6.8. The following shall apply with regard to the accuracy of metering:
- (a) A meter shall be conclusively presumed to be registering accurately if its error, when tested in the manner prescribed in 6(13), is found to be within the limits of error as provided for in the applicable standard specifications;
  - (b) the municipality has the right to test its metering equipment, and if it is established by test or otherwise that such metering equipment is defective, the municipality shall in accordance with the provisions of 6(6);
    - (i) in case of a credit meter, adjust the account rendered;
    - (ii) in the case of prepayment meters, render an account where the meter has been under-registering; or issue a free token where the meter has been over-registering;
  - (c) An account holder is entitled to have metering equipment tested by the municipality on payment of the prescribed fee, and if the metering equipment is found not to comply with the system accuracy requirements as provided for in the applicable standard specifications, an adjustment in accordance with the provisions of paragraphs 6(7) and 6(8)(b) shall be made and the aforesaid fee shall be refunded.
- 6.9. No alterations, repairs, additions or connections of any description may be made on the supply side of the point of metering unless specifically approved in writing by the Municipal Manager or his delegate.
- 6.10. Prior to the municipality making any upward adjustment to an account in terms of paragraph 6(8)(b), the municipality must -
- (a) notify the consumer in writing of the amount of the adjustment to be made and the reasons therefor;
  - (b) in such notification provide sufficient particulars to enable the account holder to submit representations thereon;

- (c) call upon the account holder in such notice to present it with reasons in writing, if any, within 14 days or such longer period as the municipality may in its discretion permit, why the account should not be adjusted as notified, and should the consumer fail to provide any representation during the period referred to in paragraph 6(10)(c) the municipality shall be entitled to adjust the account as notified in paragraph 6(10)(a).
- 6.11. The municipality must consider any representation provided by the consumer in terms of subsection 6(10) and must, if satisfied that a case has been made out therefore, adjust the account appropriately.
- 6.12. If the Municipal Manager or his delegate decides, after having considered a representation made by the account holder, that such representation does not establish a case warranting an amendment to the amount established in terms of subsection 6(15), the municipality shall adjust the account as notified in terms of paragraph 6(10)(a), and the account holder shall have the right of appeal provided for in this policy.
- 6.13. Meters are tested in the manner as provided for in the standard specifications applicable thereto.
- 6.14. When an adjustment is made to the consumption registered on a meter in terms of paragraphs 6(8)(b) or 6(8)(c), such adjustment is based either on the percentage error of the meter as determined by the test referred to in subsection 6(13), or upon a calculation by the municipality from consumption data in its possession and where applicable, due allowance shall be made, where possible, for seasonal or other variations which may affect consumption.
- 6.15. When an adjustment is made as contemplated in subsection 6(14), the adjustment may not be for a period exceeding six months preceding the date on which the metering equipment was found to be inaccurate, however, the provisions of shall not bar an account holder from claiming recovery of an overpayment for any longer period where the account holder is able to prove the claim in the normal legal process.
- 6.16. The relevant Executive Director, duty delegated by the Municipal Manager, may dispense with the use of a meter in case of:
  - (a) an automatic sprinkler fire installation;
  - (b) a fire installation or hydrant;
  - (c) special circumstances at the Municipal Manager's discretion.
- 6.17. The municipality may by notice -
  - (a) prohibit or restrict the consumption of metered services -
    - (i) for specified or non-specified purposes;
    - (ii) during specified hours of the day or on specified days or otherwise than during specified hours of the day or on specified days;
    - (iii) in a specified or non-specified manner;
  - (b) determine and impose -
    - (i) limits on the quantity of metered services which may be consumed over a specified period;
    - (ii) charges additional to those prescribed in respect of the supply of metered services in excess of a limit contemplated in subparagraph (i);
    - (iii) a general surcharge on the prescribed charges in respect of the supply of metered services;



- (c) impose restrictions or prohibitions on the use or manner of use or disposition of an appliance by means of which metered services are used or consumed, or on the connection of such appliance.
- 6.18. The Council may limit the application of the provisions of a notice contemplated in 6(17) to specified areas and classes of account holders, premises and activities, and may provide for the Municipal Manager to permit deviations and exemptions from, and the relaxation of any of the provisions on such grounds as he or she may deem fit.
- 6.19. To ensure compliance with a notice published in terms of subsection 6(17), the Municipal Manager or his delegate may take, or by written notice require an account holder at the account holder's expense to take, such measures, including the installation of measuring devices and devices for restricting the flow of metered services as may be necessary.
- 6.20. In addition to the person by whose act or omission a contravention of or failure to comply with the terms of a notice published in terms of subsection 6(17) is actually committed, an account holder in respect of the premises to which metered services are supplied is presumed also to have committed the contravention or to have so failed to comply, unless it is proved that the account holder had taken all reasonable steps to prevent such a contravention or failure to comply by any other person, provided however, that the fact that the account holder issued instructions to the other person shall not of itself be accepted as sufficient proof that the account holder took all such reasonable steps.
- 6.21. The provisions of this paragraph also apply in respect of metered services supplied directly by the municipality to account holders outside its area of jurisdiction, notwithstanding anything to the contrary in the conditions governing such supply, unless otherwise specified in the notice published in terms of subsection 6(17).
- 6.22. If such action is necessary as a matter of urgency to prevent waste of metered services, refuse or sewerage, damage to property, danger to life, or pollution of water, the Municipal Manager, or his delegate, may -
  - (a) without prior notice disconnect the supply of metered services to any premises;
  - (b) enter upon such premises and do such emergency work, at the account holder's expense, as he or she may deem necessary, and in addition by written notice require the account holder to do within a specified period such further work as the relevant Executive Director may deem necessary.
- 6.23. Before any metered or pre-paid metered supplies which have been disconnected or restricted for non-payment are restored, an account holder must pay all fees and charges as determined by the municipality, from time to time.
- 6.24. The Municipal Manager may, at the written request of an account holder and on the dates requested by the account holder -
  - (a) disconnect the supply of metered services to the account holder's premises;
  - (b) restore the supply, and the account holder must before the metered services is restored pay the prescribed charge for the disconnection and restoration of his or her supply of metered services.
- 6.25. After disconnection for non-payment of an account or a contravention of any provision of these by-laws, the prescribed charge for such reconnection should be paid before reconnection is affected, or at any other agreed upon date.
- 6.26. The following shall apply to the reading of credit meters:

- (a) Unless otherwise prescribed, credit meters are normally read at intervals of approximately one month and the fixed or minimum charges due in terms of the tariff are assessed accordingly and the municipality is not obliged to effect any adjustments to such charges;
- (b) if for any reason the credit meter cannot be read, the municipality may render an estimated account, and estimated consumption shall be adjusted in a subsequent account in accordance with the consumption actually consumed;
- (c) when an account holder vacates a property and a final reading of the meter is not possible, an estimation of the consumption may be made and the final account rendered accordingly;
- (d) if a special reading of the meter is desired by an account holder, this may be obtained upon payment of the prescribed fee;
- (e) if any calculation of, reading or metering error is discovered in respect of any account rendered to a consumer -
  - (i) the error shall be corrected in subsequent accounts;
  - (ii) any such correction shall only apply in respect of accounts for a period of six months preceding the date on which the error in the accounts was discovered,
  - (iii) the correction shall be based on the actual tariffs applicable during the period;
  - (iv) the application of this paragraph does not prevent a consumer from reclaiming an overpayment for any longer period where the consumer is able to prove the claim in the normal legal process.

6.27. The following shall apply to pre-payment metering:

- (a) No refund of the amount tendered for the purchase of electricity or water credit shall be given at the point of sale after initiation of the process by which the prepayment meter token is produced;
- (b) copies of previously issued tokens for the transfer of credit to the prepayment meter may be issued at the request of the consumer;
- (c) when an account holder vacates any premises where a prepayment meter is installed, no refund for the credit remaining in the meter shall be made to the owner by the municipality;
- (d) the municipality shall not be liable for the reinstatement of credit in a prepayment meter lost due to tampering with, or the incorrect use or the abuse of, prepayment meters or tokens;
- (e) where an account holder is indebted to the municipality for any assessment rates, metered services, other municipal charges, levies, fees, fines, interest, taxes or any other amount or amounts payable arising from any other liability or obligation, the municipality may either allocate a percentage of the amount tendered for the purchase of pre-paid electricity in reduction of the amount owing to the municipality or may terminate services.
- (f) the municipality may appoint vendors for the sale of credit for prepayment meters and does not guarantee the continued operation of any vendor.

## **7. Resale of water or electricity (7)**

- 7.1 No account holder who is supplied with metered services in terms of this policy may sell or supply water or electricity, supplied to the account holder's premises under an agreement with the municipality, to any other person or persons for such use upon any premises other than those in respect of which such agreement is made, or permit or suffer such resale or supply to be made, unless provision has been made therefore in a special agreement with the municipality or unless prior authority has otherwise been obtained from the municipality to do so.
- 7.2 If the municipality grants permission as referred to in 7(1), it may stipulate the maximum price at which the water or electricity may be sold and impose such other conditions as it may deem fit.
- 7.3 Permission referred to in subsection 7(1) may be withdrawn at any time.
- 7.4 Where water or electricity is resold for use on the same premises, such resale must be in accordance with the tariff and subject to such conditions as the municipality may decide.

## **F MISCELLANEOUS MATTERS (8)**

### **8. Tampering, unauthorised connections and reconnections, and improper use**

- 8.1 The municipality shall be entitled to monitor its service network for signs of tampering or irregularities.
- 8.2 No person may in any manner or for any reason whatsoever tamper or interfere with any meter or metering equipment or service connection or service protective device or supply mains or any other equipment of the municipality.
- 8.3 Where prima facie evidence exists that a consumer or any person has contravened 8(2), the municipality shall be entitled to disconnect the supply immediately and without prior notice to the account holder, and the account holder is liable for all fees and charges levied by the municipality for such disconnection.
- 8.4 Where an account holder or any person has contravened 8(2) and such contravention has resulted in the meter recording less than the true consumption, the municipality shall be entitled to recover from the account holder the full cost of the ~~estimated~~ averaged consumption.
- 8.5 Council reserves the right to lay charges and take any other legal action against vandalism and theft.

### **9. Relaxation, waiver and differentiation of customers (9)**

- 9.1 Pursuant to this policy, the municipality may differentiate between different categories of ratepayers, account holders, customers, debtors, taxes, services, service standards and other matters.
- 9.2 The municipality may, in writing exempt an account holder, category of account holders, or other persons from complying with a provision of this policy, subject to any conditions it may impose, if the application or operation of that provision would be unreasonable, however the municipality or its authorised agent may not grant exemption from any provision of this policy that may result in -
  - (a) the wastage or excessive consumption of water or electricity;

- (b) the evasion or avoidance of water or electricity restrictions;
  - (c) significant negative effects on public health, safety or the environment;
  - (d) the non-payment for services;
  - (e) the installation of pipes and fittings which are not acceptable in terms of the municipality's prescribed standard;
  - (f) the contravention of any Act, or any regulation made in terms thereof;
- 9.3 The municipality may at any time upon at least 30 days written notice, withdraw any exemption given in terms of subsection 9(2).

## **10. Power of council to recover costs**

- 10.1 Where a bank dishonours any payment made to the municipality, the municipality will levy and recover all related costs and any administration fees against an account of the defaulting account holder and may disconnect or restrict the supplies to the premises of such account holder if account is not settled by the due date.
- 10.2 All legal costs, including attorney-and-own-client costs incurred in the recovery of amounts in arrears and payable shall be levied against the arrears account of the account holder.
- 10.3 For any action taken in demanding payment from an account holder or reminding an account holder by means of telephone, fax, electronic mail, letter or otherwise that payments are due, a fee will be levied against the municipal account of the account holder in terms of the municipality's tariff provisions.

## **11. Prima facie evidence**

A certificate reflecting that an amount is due and payable by any person to the municipality, under the hand of the Municipal Manager or a duly authorised officer of Council, is upon mere production thereof prima facie evidence of the indebtedness for any purpose and the signatory should not be obliged to prove his authority.

## **12. Authentication and service of orders, notices and other documents**

- 12.1 An order, notice or other document from the municipality must be signed by the Municipal Manager or his delegate such authority and any document purporting to be so signed shall constitute sufficient notice from the municipality.
- 12.2 Any notice or other document that is served on a person by a duly authorised officer of the municipality in terms of this policy, is regarded as having been served -
- (a) when it has been delivered to that person personally;
  - (b) when it has been left at that person's place of residence or business in the Republic or at the premises to which the notice relates, with a person apparently over the age of sixteen years;
  - (c) when it has been posted by registered or certified mail to that person's last known residential or business address in the Republic as reflected in the records of the municipality, or to the address of the premises to which the notice relates and an acknowledgement of the posting thereof from the postal service is obtained;

- (d) if that person's address in the Republic is unknown, when it has been served on that person's agent or representative in the Republic in the manner provided by paragraphs 12(2)(a), 12(2)(b) or 12(2)(c);
  - (e) if that person's address and agent or representative in the Republic is unknown, when it has been placed in a conspicuous place on the property or premises, if any, to which it relates;
  - (f) in the event of a body corporate, when it has been delivered at the registered office of the business premises of such body corporate;
  - (g) when it has been delivered, at the request of a person, to that person's electronic mail address.
- 12.3 When any notice or other document has to be authorised or served on the owner, an account holder or holder of any property or right in any property, it is sufficient if that person is described in the notice or other document as the owner, account holder or holder of the property or right in question, and it is not necessary to name that person.
- 12.4 Service of a copy shall be deemed to be service of the original.
- 12.5 Any legal process is effectively and sufficiently served on the municipality when it is delivered to the Municipal Manager or a person in attendance at the Municipal Manager's office.

### **13. Abandonment of bad debts, and full and final settlement of an account**

- 13.1 Before terminating the debt collection procedure in any individual instance, and subject to the municipality's Provision for Doubtful Debts Debt Write-off Policy, the Municipal Manager must -
- (a) ensure that all debt collection mechanisms as provided for in the policies have been utilised where reasonable;
  - (b) maintain an audit trail;
  - (c) document the reasons for terminating the debt collection procedure, including the cost of enforcement and necessary financial adjustments.
- 13.2 The Municipal Manager or his delegate may consider an offer for full and final settlement of any amount owing, and must, if in his sole discretion, he considers it in the interests of the municipality to do so, in writing consent to the acceptance of a lesser amount as full and final settlement of the amount due and payable.
- 13.3 Where the exact amount due and payable to Council has not been paid in full, any lesser amount tendered in full settlement to and accepted by any employee, except the Municipal Manager or the Municipal Manager's delegate, shall not be deemed to be in full and final settlement of such an amount.

### **14. National Credit Act not applicable**

The municipality is not a credit provider in terms of the National Credit Act 34/2005, and nor is that Act applicable to the recovery by the municipality of amounts due to it for rates, in terms of tariffs relating to the supply of services including fixed tariffs, fines or any other amount.

## **15. Right of appeal**

- 15.1 A person whose rights are affected by a decision of a municipal officer may appeal against that decision by giving written notice of the appeal and reasons to the Municipal Manager within 21 days of the date of the notification of the decision.
- 15.2 The Municipal Manager must promptly submit the appeal to the appropriate appeal authority mentioned in 15.4.
- 15.3 The appeal authority must consider the appeal and confirm, vary or revoke the decision, but no such variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision.
- 15.4 When the appeal is against a decision taken by -
- (a) a staff member other than the Municipal Manager, the Municipal Manager is the appeal authority, even if such staff member was acting in terms of a delegation from the Municipal Manager;
  - (b) the Municipal Manager, the Mayor is the appeal authority;
  - (c) a political structure or political officer bearer or a Councillor, a committee of councillors who were not involved in the decision and appointed by Council for this purpose; will be the appeal authority.
- 15.5 An appeal authority must commence with consideration of an appeal within six weeks and decide upon the appeal within a period of twelve weeks.

## **16. Performance evaluation**

- 16.1 Income Collection Targets  
Council to create targets that include:
- i. Reduction in present monthly increase in debtors in line with performance agreements determined by council.
- 16.2 Customer Service Targets  
Council to create targets that would include:
- i. Response time to customer queries.
  - ii. Date of first account delivery to new customers.
  - iii. Reconnection time lapse.
  - iv. Meter reading cycle.
- 16.3 Administrative Performance  
Council to create targets that will include:
- i. Cost efficiency of debt collection.
  - ii. Query rates.
  - iii. Enforcement mechanism ratios.
- 16.4 Council will create a mechanism wherein these targets are assessed, Council's performance is evaluated and remedial steps taken.

## **17. Schedule of variable information**

The Council and/or the Municipal Manager may as authorised in this policy, from time to time review and resolve on the matters in the attached annexures, which will be amended and publicised by posting it on the municipality's website and if necessary, by publication in the Gazette. Such information is a part of this policy.

## G ANNEXURES

### ANNEXURE "A"

#### NEWCASTLE MUNICIPALITY APPLICATION FOR MUNICIPAL SERVICES

Section ACDE - Domestic	Section BCDE - Business	Section BCDE – Closed Corporation
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Section A: Domestic
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Consumer Surname

Full Christian Names

ID Number 

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Occupation

Employer/Business

Marital Status

Single	Married	In Community of Property	Out Community of Property
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Full Names Spouse

Occupation Spouse

Employer Spouse

Name and Address of Member of Family or Friend 


Home Telephone Number

Work Telephone Number

Cell Number

<b>Section B: Company Details</b>
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Business Name	<input style="width: 90%;" type="text"/>
Business Registration No.	<input style="width: 90%;" type="text"/>
ID Number - Owner (Natural Person)	<input style="width: 90%;" type="text"/>
- Partner	<input style="width: 90%;" type="text"/>
Name of Natural Person	<input style="width: 90%;" type="text"/>
Business Telephone Number	<input style="width: 90%;" type="text"/>
Cell Number	<input style="width: 90%;" type="text"/>
Fax/E-mail	<input style="width: 90%;" type="text"/>

<b>Section C: General</b>
---------------------------

Postal Address	<input style="width: 55%;" type="text"/>		<b>Code:</b>	<input style="width: 15%;" type="text"/>
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**List of Other Accounts Held**

(i) Name	<input style="width: 90%;" type="text"/>	Account Number	<input style="width: 90%;" type="text"/>
(ii) Name	<input style="width: 90%;" type="text"/>	Account Number	<input style="width: 90%;" type="text"/>
(iii) Name	<input style="width: 90%;" type="text"/>	Account Number	<input style="width: 90%;" type="text"/>

Name of Bank	<input style="width: 90%;" type="text"/>
--------------	--

Branch Code	<input style="width: 90%;" type="text"/>
-------------	--

Account Number	<input style="width: 90%;" type="text"/>
----------------	--

Previous Address and Account Number	<input style="width: 90%;" type="text"/>
-------------------------------------	--

If tenant, where is rent paid	<input style="width: 90%;" type="text"/>
-------------------------------	--

	<b>Total</b>	<b>Over 18</b>	<b>Under 18</b>
Number of people residing on property	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>	<input style="width: 90%;" type="text"/>

Occupiers of stand other than family (rental, backyard, lodges, spaza shops, taxis etc.)	<input style="width: 90%;" type="text"/>
--	--



Section D:      Service Particulars
-------------------------------------

Address where service is required

Erf/Stand Number

Date when service is required

Services:

Water		
<i>Communal Standpipe</i>	<i>Yard Tap</i>	<i>House Connection</i>

Sewerage	
<i>Bucket</i>	<i>Water Borne</i>

Electricity	
<i>Prepaid</i>	<i>Credit meter</i>

Refuse Removal

Type of supply:

Domestic	Commercial	Industrial	Educational	State	Agricultural

State whether any type of business activities to be conducted from residential address:

Yes	No

Section E: Declaration
------------------------

I hereby declare that I/we agree to the conditions of supply of the mentioned services as laid down in the by-laws of the Municipality and any other laws that are applicable.

I/we hereby accept the street address/stand number specified above as my own Domicilium citandi at executandi address where I will accept any notice to be served.

I/we hereby tender a deposit/bank guarantee of R\_\_\_\_\_ and agree that this amount or any part thereof may be used to redeem unpaid accounts or any parts thereof and that the surplus if any be paid back to me/us.

I/we indemnify the Municipality against any losses which may occur due to claims instituted against the Municipality due to power failure, or justifiable discontinuation of services.

I/we accept the responsibility for the payment of attorney and client costs should it be necessary for Council to hand over outstanding amounts on the accounts as well as giving permission to be listed with the Credit Bureau.

I/we received a duplicate of this application form and am/are aware of the applicable further conditions of supply set out in the annexure at the back of this form.

I/we hereby certify the information furnished to be correct.

**NEWCASTLE MUNICIPALITY**

**RULES FOR NEGOTIATING INSTALLMENTS FOR REPAYMENT OF ARREARS**

~~Any arrangement for payment of arrears in terms of Section 5 of the Credit Control, Debt Collection and Customer Care Policy will be negotiated within the following framework:~~

~~1. Private Households:~~

~~— The consumer should declare the monthly household income.~~

~~An amount equal to 15% of the net monthly income should be paid as instalments on arrears, provided that:~~

- ~~○ No debtor should be allowed to redeem arrears over a period in excess of 30 months.~~
- ~~○ In cases where the debtor indicates that the calculated payment is not affordable, but is calculated to be paid in less than 20 (Twenty) months, instalments may upon further arrangement be adjusted to 10% (ten percent) of the debtor's monthly income.~~

~~Should a debtor who has made an arrangement for payment of arrears fall into default of such arrangement, it will result in immediate legal action.~~

~~Persons earning between R 1 900 and R 5 000 to negotiate with the personnel enabling them to pay off their arrears up to / within a maximum of sixty months (Proof of household earnings to be produced);~~

~~2. Business and Other Accounts:~~

~~The rules as applicable to Private Households shall apply, except that the arrears should be paid within a maximum period of twelve months.~~

**RULES OF EXTENSION FOR PAYMENT OF CURRENT CONSUMER ACCOUNTS**

~~Due to the current financial situation Council finds itself in, extension on accounts in order to prevent termination of services will be limited to the following circumstances:~~

- ~~○ Excessive water leaks (in excess of R500)~~
- ~~○ Excessive additional deposits levied (in excess of R500)~~
- ~~○ Social pensioners, when pension pay date is after Council's final payment date.~~
- ~~○ Account holders who can prove that they are employed, where the pay date is set as the 15<sup>th</sup> day of the month. Council may require the signing of a debit order to qualify for this extension.~~

# **NEWCASTLE MUNICIPALITY**



## **PROVISION FOR DOUBTFUL DEBTS AND DEBTORS WRITE OFF POLICY**

## Contents

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## **1. Definitions:**

In this policy, unless the context indicates otherwise:

"the municipality" means the Newcastle Municipality;

"debt" means an obligation in money and/or services due and owing to the municipality;

"debtor" means a person, natural or juristic, who owes a debt to the municipality and who may be compelled to pay in terms of a claim or demand by the municipality;

"irrecoverable debt" means the debt which in terms of this policy meets the criteria for writing off;

## **2. Purpose and Scope of the Policy**

The purpose of this policy is to provide a framework for regulating the write-off and provision of irrecoverable debts and the consequent further enhancement of the municipality's debt management strategy.

## **3. Objective of the Policy**

- 3.1 To ensure that the debtors disclosed in the annual financial statements are stated at amounts that are deemed to be collectable.
- 3.2 To ensure that the uncollectable debt is written off within the guidelines of the existing policies and applicable legislation.

## **4. Transparency, accountability and fair administrative action**

The municipality commits itself and its officers to act fairly and justly in an open and transparent manner in implementing this policy.

- 4.1 A proposal to write-off a debt, either as part of a group of debts, or individually, will be considered by the Council on its merits pursuant to the procedure and with due regard to the information which must be provided to it in terms of this policy.
- 4.2 The Constitution entitles everyone to administrative action which is lawful, reasonable and procedurally fair and to be given reasons for any such action which affects them.
- 4.3 The Promotion of Administrative Justice Act, No 3 of 2000 is the legislation required by the Constitution to give effect to the right to just administrative action and in order to promote an efficient administration and good governance and to create a culture of accountability, openness and transparency in public administration or in the exercise of a public power or the performance of a public function.
- 4.4 This policy incorporates the above principles by providing parameters and procedures to guide the municipality and its officers in implementing it, and thereby exercising a public power through a series of administrative actions. In so doing, the policy seeks to provide certainty on the part of those affected by it with regard to how the municipality will act in the circumstances covered by the policy and uniformity of action on the part of its officers.

## **5. Policy principles**

The following are the principles for the Debtors Write-Off of Irrecoverable Debt Policy –

- 5.1 The policy comply with the Local Government: Municipal Finance Management Act (No 56 of 2003), the Local Government: Municipal System Act (No 32 of 2000) and other related legislation.
- 5.2 Before any debt is written-off it must be proved that the debt has become irrecoverable. To ensure that recommendations for the writing-off of debt are consistent and accurate; irrecoverable debt will be defined as –
- i. Where the tracing of the debtors is unsuccessful;
  - ii. All reasonable steps, in terms of the Credit Control Policy, were taken by the administration to recover the debt; and
  - iii. All old debts of the approved indigents accounts.
- 5.3 Bad debt to be written-off must be considered in terms of cost benefit. Therefore, when it becomes too costly to recover and the chances of collecting the debt are very slim, a write-off should be considered.
- 5.4 Time value of money is very important because the older the debt becomes, the more difficult and costly it becomes to collect. It is therefore imperative that a proper system of credit control is implemented and maintained to avoid debt reaching the stage of becoming too expensive to recover.

## **6. Impairment of debtors**

Consumer debtors, long term receivables and other debtors are stated at cost less a provision for doubtful debts. The provision is made on an annual basis, or based on the expected cash flows.

In accordance with the relevant legislation and accounting framework an objective assessment of the accounts receivable is made at the financial year end to determine a possible impairment of the asset.

Individual classes of receivables are assessed for impairment using the following methodologies:

### 6.1 Consumer Debtors

Consumer debtors are evaluated at each reporting date and impaired as follows:

Category of debtor	Percentage of debt regarded as collectable	Percentage of debt provided for as irrecoverable(i.e. impairment percentage)
Credit balances	Zero	Zero
Inactive accounts	Zero	100%
Approved indigents	Zero	100%
Formal arrangement of debt	50%	50%
Debtors ageing 365 days +	Zero	100%
Debtors ageing between 181 days – 365 days	70%	30%
Debtors ageing between 150 days - 180days	70%	30%
Debtors ageing between 120 days and 150 days	75%	25%
Debtors ageing between 90 days and 120 days	80%	20%
Debtors ageing between 60 days and 90 days	85%	15%
Debtors ageing between 30 days and 60 days	90%	10%
Debtors ageing at 30 days	95%	5%

### 5.2 Sundry deposits



Sundry deposits are assessed for impairment to ensure that no objective evidence exists that these deposits are irrecoverable.

### **5.3 Sundry debtors**

Sundry debtors are assessed for impairment to ensure that no objective evidence exists that these debtors are irrecoverable.

## **7. Procedures for writing off of debt**

### **7.1 General**

- a) A debt may only be written off by resolution of the Council.
- b) Unless specific provision is made elsewhere in this policy, the Council may only write off a debt after consideration of a report and recommendations from the Accounting Officer, containing at least the information prescribed in this policy certifying that the processes provided for in the municipality's Customer Care, Credit Control and Debt Collection Policy have been adhered to and that in his / her opinion there is no reasonable prospect of recovery of the debt and / or that further efforts to do so would be uneconomical.
- c) A debt may only be written-off by the Council against the municipality's provision for doubtful debts, being a funded reserve established pursuant to the municipality's Funding and Reserves Policy.
- d) The writing-off of a debt by the Council is an accounting procedure and does not constitute abandonment by the municipality of its claim against a debtor.
- e) Copies of the reports to the Council in regard to all debts written-off are to be retained in the records of the municipality against the name of the debtor.
- f) In terms of the Indigent Policy, the arrears on an account are written-off upon registration as an indigent account and the related report is submitted to Council.
- g) Upon closure of an active account and after the security deposit is released, any outstanding balance of one hundred rand (R100.00) or less after three months that cannot be transferred to another account belonging to the accountholder should be written-off and a report submitted to Council accordingly.

7.2 Information to be placed by the Accounting Officer before the Council in a report recommending the writing off of a debt or group of debts:

- a) In the case of an individual debt, particulars of the debt including the amount of the debt, stating separately the capital amount and the interest accrued.
- b) In the case of a group of debts, particulars of the group including a motivation for the submission of the debts in question as a group (e.g. cause of action, collection procedures and prospect of recovery similar in each case) and the total amount of the debts in the group, stating separately the total of the capital amounts and interest accrued.
- c) Steps taken to recover the debt or group of debts
- d) Particulars of the debtor including:
  - i. Account number;
  - ii. Name of account holder;
  - iii. Whether the account holder has been liquidated or sequestrated;
  - iv. Whether the debtor can be traced.
- e) Any other information relating to the debt which may be requested by Council.

#### **8. Factors which the Council may take into account in writing off debt**

- 8.1) A debt is deemed to be irrecoverable:
  - a. If it has prescribed in terms of the Prescription Act, No 68 of 1969;
  - b. If the debtor has been sequestrated or liquidated and the proceeds of the sequestration or the liquidation are insufficient to satisfy the debt;
  - c. The cost of recovery of the debt is likely to exceed the amount outstanding.
- 8.2) Any other debt may not be deemed to be irrecoverable unless:
  - a. all of the debtor's attachable movable and immovable property has either been sold in execution and the proceeds have not satisfied the debt, or the cost of recovery is higher than the value of the movable property;
  - b. the debtor is employed or in receipt of an income and all processes to attach that income or to obtain a court order for payment of the debt in instalments have been exhausted.
- 8.3) A debt may be considered irrecoverable if all reasonable attempts to trace the whereabouts of the debtor have been unsuccessful and no attachable assets have been found.
- 8.4) If the ITC report says the debtor is deceased, is an uncollectable individual and the business is liquidated or deregistered.

## **9. General provisions relating to the writing off of debt**

9.1 Not less often than once during the municipality's financial year, the Accounting Officer shall submit a report to the Council on debts to be written-off.

9.2 A debt shall not be regarded as written-off until the Council has taken a resolution.

9.3 Prior to writing-off a debt and after consideration of the report and recommendation of the Accounting Officer in terms of this policy, the Council must be satisfied that:

- i. the municipality has exhausted all means of debt recovery provided for in its Customer Care, Credit Control and Debt Collection Policy;
- ii. recovery of the debt in question has been pursued diligently and completely;
- iii. no other reasonably possible and practical means of recovery of the debt exists.

9.4 The writing off of a debt must be recorded in the records of the municipality and in its books of account in terms of Generally Recognised Accounting Practice.

9.5 The Council must in its budget make provision for doubtful debts through the medium of a funded reserve established in terms of the municipality's Funding and Reserve Policy, compliant with regulation 8, Municipal Budget and Reporting Regulations R 3214 dated 17/4/09.

9.6 Should any provision of this policy conflict with a provision of the municipality's Indigent Policy relating to a debt of a registered indigent, the latter policy takes precedence.

9.7 In writing-off a debt, the municipality does not abandon its claim and all amounts recovered in reduction of a debt subsequent to its writing-off shall be recorded in the books of the municipality as income.



THE NEWCASTLE  
**MUNICIPALITY**  
NEWCASTLE KWAZULU-NATAL

**SUPPLY CHAIN MANAGEMENT POLICY**

**2019/2020**

**Approved by Council on xx May 2019**

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## SUPPLY CHAIN MANAGEMENT POLICY FOR INFRASTRUCTURE PROCUREMENT AND DELIVERY MANAGEMENT

## 1. Policy Statement / Preamble

The Municipal Finance Management Act, (Act No.56 of 2003), as amended, provides that the Newcastle Municipality has a duty to take effective and active measures to be financially efficient, effective, transparent and economical through its supply chain management (SCM) processes.

## 2. Purpose

The purpose of this policy is to regulate the supply chain management functions and systems of the municipality.

## 3. Objective

- a. To provide a framework to implement the provisions of section 217 of the Constitution of the Republic of South Africa in order to:
- b. Implement a policy that is fair, equitable, transparent, competitive and cost effective and complies with all the applicable provisions of the Municipal Finance Management Act (MFMA).
- c. Ensure consistency with the legal framework for MSCM.
- d. Ensure that the municipality's strategic objectives are achieved.

## 4. Definitions

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

**"competitive bidding process"** means a competitive bidding process referred to in paragraph 19 (1) (d) of this SCM Policy;

**"competitive bid"** means a bid in terms of a competitive bidding process;

**"final award"**, in relation to bids or quotations submitted for a contract, means the final decision on which bid or quote to accept;

**"formal written price quotation"** means quotations referred to in paragraph 19 (1) (c) of this SCM Policy;

**"Family member"** means a parent, sibling, child or spouse of a member

**"in the service of the state"** means to be –

- a) a member of –
  - (i) any municipal council;
  - (ii) any provincial legislature; or
  - (iii) the National Assembly or the National Council of Provinces;
- a) a member of the board of directors of any municipal entity;
- b) an official of any municipality or municipal entity;
- c) 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);
- d) a member of the accounting authority of any national or provincial public entity; or
- e) an employee of Parliament or a provincial legislature;

**“long term contract”** means a contract with a duration period exceeding one year;

**“list of accredited prospective providers”** means the list of accredited prospective providers which the Newcastle Municipality must keep in terms of paragraph 21 of this SCM policy;

**‘Member’** means a person appointed by the accounting officer/authority to a bid evaluation panel, either as the chairperson, or as an ordinary member or secretariat, for purposes of conducting the evaluation of either transaction advisor bids or PPP bids as a representative of the institution

**“other applicable legislation”** means any other legislation applicable to municipal supply chain management, including –

- a) the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);
- b) the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003); and
- c) the Construction Industry Development Board Act, 2000 (Act No.38 of 2000);
- d) Preferential Procurement Regulations, 2017

**‘Privileged or confidential information’** means any information:

- a) determined by the institution to be privileged or confidential
- a) discussed in closed session by the bid evaluation panel
- b) which if disclosed would violate a person's right to privacy
- c) declared to be privileged, confidential or secret in terms of any law including, but not limited to, information contemplated in sections 34(1);35(1); 36(1); 37(1)(a); 38(a); 39(1)(a); 40 or 43(1) of the Promotion of Access to Information Act, 2000.

**“Treasury guidelines”** means any guidelines on supply chain management issued by the Minister in terms of section 168 of the Act;

**“the Act”** means the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003);

**“the Regulations”** means the Local Government: Municipal Finance Management Act, 2003, Municipal Supply Chain Management Regulations published by Government Notice 868 of 2005;

**“written or verbal quotations”** means quotations referred to in paragraph 19(1)(b) of this SCM Policy.

**“B-BBEE”** means broad-based black economic empowerment as defined in section 1 of The Broad-Based Black Economic Empowerment Act;

**“B-BBEE status level of contributor”** means the B-BBEE status receive by a measured entity based on its overall performance using the relevant scorecard contained in the Codes of Good Practice on Black Economic Empowerment, issued in terms of section 9(1) of the Broad-Based Back Economic Empowerment Act, 2003 (Act No. 53 of 2003);



**“black designated groups”** has the meaning assigned to it in the codes of good practice issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“black people”** has the meaning assigned to it in section 1 of the Broad-Based Black Economic Empowerment Act;

**“co-operative”** means a co-operative registered in terms of section 7 of the Cooperatives Act, 2005 (Act No. 14 of 2005);

**“designated group”** means-

(a) black designated groups;

(b) black people;

(c) women;

(d) people with disabilities; or

(e) small enterprises, as defined in section 1 of the National Small Enterprise Act, 1996 (Act No. 102 of 1996);

**“designated sector”** means a sector, sub-sector or industry or product in terms of regulation 8(1)(a);

**“EME”** means an exempted micro enterprise in terms of a code of good practice on black empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“functionality”** means the ability of a tenderer to provide goods or services in accordance with specifications as set out in the tender documents;

**“military veteran”** has the meaning assigned to it in section 1 of the Military Veterans Act, 2011 (Act No. 18 of 2011);

**“National Treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

**“people with disabilities”** has the meaning assigned to it in section 1 of the Employment Equity Act, 1998 (Act No. 55 of 1998);

**“price”** includes all applicable taxes less all unconditional discounts;

**“proof of B-BBEE status level of contributor”** means-

(a) the B-BBEE status level certificate issued by an authorised body or person;

(b) a sworn affidavit as prescribed by the B-BBEE Codes of Good Practice; or

(c) any other requirement prescribed in terms of the Broad-Based Black Economic Empowerment Act;

**“QSE”** means a qualifying small business enterprise in terms of a code of good practice on black economic empowerment issued in terms of section 9(1) of the Broad-Based Black Economic Empowerment Act;

**“Rand value”** means the total estimated value of a contract in Rand, calculated at the time of the tender invitation;

**“rural area”** means-

- (a) a sparsely populated area in which people farm or depend on natural resources, including villages and small towns that are dispersed through the area; or
- (b) an area including a large settlement which depends on migratory labour and remittances and government social grants for survival, and may have a traditional land tenure system;

**“stipulated minimum threshold”** means the minimum threshold stipulated in terms of regulation 8(1)(b);

**“the Act”** means the Preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

**“township”** means an urban living area that any time from the late 19th century until 27 April 1994, was reserved for black people, including areas developed for historically disadvantaged individuals post 27 April 1994;

**“treasury”** has the meaning assigned to it in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

**“youth”** has the meaning assigned to it in section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008).

**“Collusive Bidding/tendering”** occurs Collusive bidding/tendering (or bid rigging) occurs when business, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and/ or services for purchasers who wish to acquire goods and /or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

**“Irregular expenditure”** means Irregular expenditure means expenditure, other than unauthorised expenditure, incurred in contravention of or that is not in accordance with a requirement of any applicable legislation, including the MFMA.

**“Preferential Procurement legislation”** The Preferential Procurement Policy Framework Act, 2000 (Act No 5 of 2000) and it's associated Preferential Procurement Regulations of 2017.

## 5. Abbreviations

Abbreviation	Description
B-BBEE	Broad-Based Black Economic Empowerment
CFO	Chief Financial Officer
CIDB	Construction Industry Development Board
CSD	Central Supply Database
MFMA	Municipal Finance Management Act
PO	Purchase Order

PPP	Public Private Partnership
PPPFA	Preferential Procurement Policy Framework Act
SCM	Supply chain management
TOR	Terms of Reference

## 6. Legislative Framework

This policy is underpinned by the following pieces of legislation:

- The Constitution of the RSA, Act 108 of 1996, as amended
- Municipal Finance Management Act, (Act No. 56 of 2003), as amended (MFMA)
- Municipal Supply Chain Regulations (MSCM)
- All National Treasury and KwaZulu-Natal Provincial Treasury Practice Notes, Circulars, letters and instruction notes issued from time to time
- The Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000
- The Preferential Procurement Regulations issued in 2017
- The Broad-based Black Economic Empowerment Act, the Strategy and the Codes of Good Practice
- Construction Industry Development Board Act No 38 of 2000 and its Regulations
- The Prevention and Combating of Corrupt Activities Act
- Promotion of Administrative Justice Act, Act No 3 of 2000
- Promotion of Access to Information Act, Act No 2 of 2000
- Protected Disclosures Act, Act No 26 of 2000
- The Competition Act, Act No 89 of 1998
- The King III Report on Corporate Governance for South Africa
- All other relevant acts, as well as the general legal environment within which contracts will be executed

## **CHAPTER 1**

### **IMPLEMENTATION OF SUPPLY CHAIN MANAGEMENT POLICY**

#### **7. Supply chain management policy**

7.1 All officials and other role players in the supply chain management system of the Newcastle Municipality must implement this SCM Policy in a way that

(a) gives effect to –

- (i) Section 217 of the Constitution; and
- (ii) Part 1 of Chapter 11 and other applicable provisions of the Act;

(b) is fair, equitable, transparent, competitive and cost effective;

(c) complies with –

- (i) the Regulations; and
- (ii) any minimum norms and standards that may be prescribed in terms of section 168 of the Act;

(d) is consistent with other applicable legislation;

(e) does not undermine the objective for uniformity in supply chain management systems between organs of state in all spheres; and

(f) is consistent with national economic policy concerning the promotion of investments and doing business with the public sector.

7.2. This SCM Policy applies when the Newcastle Municipality

(a) procures goods or services;

(b) disposes goods no longer needed;

(c) selects contractors to provide assistance in the provision of municipal services otherwise than in circumstances where Chapter 8 of the Municipal Systems Act applies; or

(d) selects external mechanisms referred to in section 80 (1) (b) of the Municipal Systems Act for the provision of municipal services in circumstances contemplated in section 83 of that Act.

7.3. This SCM Policy, except where provided otherwise, does not apply in respect of the procurement of goods and services contemplated in section 110(2) of the Act, including –

(a) water from the Department of Water Affairs or a public entity, another municipality or a municipal entity; and

(b) electricity from Eskom or another public entity, another municipality or a municipal entity.

#### **8. Amendment of the supply chain management policy**

8.1. The accounting officer must –

(a) at least annually review the implementation of this SCM Policy; and

(b) when the accounting officer considers it necessary, submit proposals for the amendment of this SCM Policy to the Newcastle Municipal Council.

8.2. If the accounting officer submits proposed amendments to the Newcastle Municipal Council that differs from the model policy issued by the National Treasury, the accounting officer must

(a) ensure that such proposed amendments comply with the Regulations; and

(b) report any deviation from the model policy to the National Treasury and the KwaZulu-Natal Provincial Treasury.

- 8.3. When amending this supply chain management policy the need for uniformity in supply chain practices, procedures and forms between organs of state in all spheres, particularly to promote accessibility of supply chain management systems for small businesses must be taken into account.

## **9. Delegation of supply chain management powers and duties**

- 9.1. The Newcastle Municipal 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 accounting officers in terms of –
    - (i) Chapter 8 or 10 of the Act; and
    - (ii) this 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, favoritism 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.
- 9.2. Sections 79 and 106 of the Act apply to the sub-delegation of powers and duties delegated to an accounting officer in terms of subparagraph (1).
- 9.3. The accounting officer may not sub-delegate any supply chain management powers or duties to a person who is not an official of the Newcastle Municipality or to a committee which is not exclusively composed of officials of the Newcastle Municipality;
- 9.4. This paragraph 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 paragraph 31 of this Policy.

## **10. Sub-delegations**

- 10.1. The accounting officer may in terms of section 79 or 106 of the Act sub-delegate any supply chain management powers and duties, including those delegated to the accounting officer in terms of this SCM Policy, but any such sub-delegation must be consistent with subparagraph (2) of this paragraph and paragraph 9 of this SCM Policy.
- 10.2. The power to make a final award:
- (a) above R2 million (VAT included) may not be sub-delegated by the accounting officer;
  - (b) above R200 000 (VAT included), but not exceeding R2 million (VAT included), may be sub-delegated but only to a bid adjudication committee of which the chief financial officer and senior management are members.
- 10.3. The bid adjudication committee must within five (5) days of the end of each month submit to the Accounting Officer a written report containing particulars of each final award made by The bid adjudication 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.
- 10.4. Paragraph 10.3 does not apply to procurements out of petty cash.

10.5. This paragraph may not be interpreted as permitting an official to whom the power to make final awards has been sub-delegated, to make a final award in a competitive bidding process otherwise than through the committee system provided for in paragraph 38 of this SCM Policy.

10.6. No supply chain management decision-making powers may be delegated to an advisor or consultant.

## **11. Responsibilities**

### **(a) Role of the Municipal Manager**

- (i) Ensures strict adherence to the guidelines provided in the SCM Policy.
- (ii) Implementation of the SCM Policy and submission of quarterly reports.
- (iii) Annual review of targets and the SCM Policy.
- (iv) Approves the inclusion of a service provider in the Municipality supply chain management system after rehabilitation of the service provider according to statutory requirements.
- (v) Appoints the members of the bid committees.

### **(b) Role of Directors**

Each director shall be responsible and accountable for:

- (i) exercising the powers, performing the functions and discharging the duties conferred or assigned to him in terms of this SCM Policy;
- (ii) implementing the SCM Policy and any procedural and other prescripts issued in terms of the SCM policy within his area of responsibility;
- (iii) ensuring compliance with the SCM Policy and any procedural and other prescripts issued in terms of the SCM policy within his area of responsibility;
- (iv) developing, or causing to be developed, draft specifications for the procurements by his directorate exceeding an amount of R 500 (VAT inclusive);
- (v) properly planning for and, as far as possible, accurately estimating the costs of the provision of services, works or goods for which offers are to be solicited;
- (vi) selecting the appropriate preference point goals to be utilised in the evaluation of offers;
- (vii) achieving any objectives and targets set with regard to procurements and disposals;

(c) The role of the Chief Financial Officer

- (i) Is the custodian of the SCM Policy and report on progress regarding its implementation.
- (ii) Has overall management of the quotation and competitive bidding process from solicitation to processing of invoice payment.
- (iii) Promotes corporate approach by encouraging standardization of items purchased within the Municipality to realize economies of scale.
- (iv) Ensures that procurements and disposals are effected through practices that demonstrate compliance to all relevant legislation.
- (v) Is responsible for managing procurements and disposals to ensure that the supply chain management system of the Municipality is adhered to.
- (vi) Ensures that the procurements and disposal process followed adheres to preference targets without compromising price, quality, service delivery and developmental objectives.
- (vii) Is responsible for ensuring that all employees involved in the supply chain management process receive the necessary training to support implementation of the SCM Policy.
- (viii) Is responsible for establishing the amount to be paid by prospective service providers as a non-refundable deposit for enquiry documents issued by the Municipality.
- (ix) Is responsible for the verification of the applications of service providers for possible inclusion in the Suppliers' Database.
- (x) Shall submit regular reports to the Accounting Officer, who will in turn submit to the Finance Portfolio Committee; regarding progress and any matters of importance relating to the SCM Policy.

(d) The role of Advisors

The Municipal Manager may procure the services of advisors to assist in the execution of the supply chain management function. These advisors must be obtained through a competitive bidding process. No advisor may however form part of the final decision-making process regarding the awarding of bids, as this will counter the principle of vesting accountability with the Municipal Manager. The Municipal Manager may not delegate decision-making authority to a person other than an official.

**12. Oversight role of council**

- 12.1. The Newcastle Municipal Council reserves its right to maintain oversight over the implementation of this SCM Policy.
- 12.2. 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 SCM Policy and the supply chain management policy of any municipal entity under 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 SCM Policy, immediately submit a report to the Newcastle Municipal Council
- 12.3. The accounting officer must, within 10 days of the end of each quarter, submit a report on the implementation of the supply chain management policy to the Mayor of the Newcastle Municipality.
- 12.4. The reports must be made public in accordance with section 21A of the Municipal Systems Act.



**13. Supply Chain Management Unit**

13.1. A supply chain management unit is hereby established to implement this SCM Policy.

13.2. The supply chain management unit operates under the direct supervision of the chief financial officer or an official to whom this duty has been delegated in terms of section 82 of the Act.

**14. Training of supply chain management officials**

14.1. The training of officials involved in implementing this SCM Policy should be in accordance with any Treasury guidelines on supply chain management training.

**PART B**  
**SUPPLY CHAIN MANAGEMENT SYSTEM**

**15. Format of supply chain management system**

15.1. This SCM Policy provides systems for –

- (a) demand management;
- (b) acquisition management;
- (c) logistics management;
- (d) disposal management;
- (e) risk management; and
- (f) performance management.

Chapter 1: Demand management

**16. System of demand management**

16.1. The accounting officer must establish and implement an appropriate demand management system in order to ensure that the resources required by Newcastle Municipality support its operational commitments and its strategic goals outlined in the Integrated Development Plan.

16.2 The demand management system must –

- (a) include timely planning and management processes to ensure that all goods and services required by the Newcastle Municipality are quantified, budgeted for and timely and effectively delivered at the right locations and at the critical delivery dates, and are of the appropriate quality and quantity at a fair cost;
- (b) take into account any benefits of economies of scale that may be derived in the case of acquisitions of a repetitive nature; and
- (c) provide for the compilation of the required specifications to ensure that its needs are met.
- (d) To undertake appropriate industry analysis and research to ensure that innovations and technological benefits are maximized.

**17. Duties of Supply Chain Management Unit**

- (a) During consultations between the Supply Chain Management Unit and directors, all reasonable efforts shall be made to determine :
  - (i) the desired date and time at which a specific contract must be awarded;
  - (ii) the desired date and time when specific goods must be delivered, services rendered or work executed;
  - (iii) the place where any goods to be supplied shall be delivered;
  - (iv) the quantity and quality of any goods to be supplied; and

**18. System of acquisition management**

18.1. The accounting officer must implement the system of acquisition management set out in this Part in order to ensure –

- (a) that goods and services are procured by the Newcastle Municipality in accordance with authorized processes only;
- (b) that expenditure on goods and services is incurred in terms of an approved budget in terms of section 15 of the Act;
- (c) that the threshold values for the different procurement processes are complied with;
- (d) that bid documentation, evaluation and adjudication criteria, and general conditions of a contract, are in accordance with any applicable legislation; and
- (e) that any Treasury guidelines and regulations on acquisition management are properly taken into account.

18.2. When procuring goods or services contemplated in section 110(2) of the Act, the accounting officer must make public the fact that such goods or services are procured otherwise than through the Newcastle Municipality's supply chain management system, including -

- (a) the kind of goods or services; and
- (b) the name of the supplier.

**19. Range of procurement processes**

19.1. Goods and services may only be procured by way of –

- (a) petty cash purchases, up to a transaction value of R2 000 (VAT included);
- (b) written or verbal quotations for procurements of a transaction value of R2 000 up to R10 000 (VAT included);
- (c) formal written price quotations for procurements of a transaction value over R10 000 up to R200 000 (VAT included); and
- (d) a competitive bidding process for:
  - (i) procurements above a transaction value of R200 000 (VAT included); and
  - (ii) the procurement of long term (period) contracts.

19.2. The accounting officer may, in writing-

- (a) lower, but not increase, the different threshold values specified in subparagraph (1); or
- (b) direct that –
  - (i) written or verbal quotations be obtained for any specific procurement of a transaction value lower than R2 000;
  - (ii) formal written price quotations be obtained for any specific procurement of a transaction value lower than R10 000; or
  - (iii) a competitive bidding process be followed for any specific procurement of a transaction value lower than R200 000.

19.3. 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 SCM 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.

19.4. Approval authorities / delegations

- (a) The Supply Chain Management Policy must act in support of the Delegations Policy for approval authority for acquisitions in accordance with paragraphs 19.1, 19.2 and 19.3.

**20. General preconditions for consideration of written quotations or bids**

A written quotation or bid may not be considered unless the provider who submitted the quotation or bid –

- (a) has furnished that provider's –
- (i) full name;
  - (ii) identification number or company or other registration number; and
  - (iii) tax reference number and VAT registration number, if any;
- (b) has authorized the Newcastle Municipality to obtain a tax clearance from the South African Revenue Services that the provider's tax matters are in order; and
- (c) has indicated –
- (i) whether he or she is in the service of the state, or has been in the service of the state in the previous twelve months;
  - (ii) if the provider is not a natural person, whether any of its directors, managers, principal shareholders or stakeholder is in the service of the state, or has been in the service of the state in the previous twelve months; or
  - (iii) whether a spouse, child or parent of the provider or of a director, manager, shareholder or stakeholder referred to in subparagraph (ii) is in the service of the state, or has been in the service of the state in the previous twelve months.

**21. Lists of accredited prospective providers**

21.1. The accounting officer must –

- a) keep a list of accredited prospective providers of goods and services that must be used for the procurement requirements through written or verbal quotations and formal written price quotations; and
- b) at least once a year, where applicable, through newspapers commonly circulating locally, the website and any other appropriate ways, invite prospective providers of goods or services to apply for evaluation and listing as accredited prospective providers;
- c) specify the listing criteria for accredited prospective providers (*refer to database form for listing criteria*); and
- d) disallow the listing of any prospective provider whose name appears on the National Treasury's database as a person prohibited from doing business with the public sector.
- e) disallow listing of prospective providers that are not registered with the National Treasury's central supplier database (CSD)

- 21.2. The list must be updated at least quarterly to include any additional prospective providers and any new commodities or types of services. Prospective providers must be allowed to submit applications for listing at any time.

**22. Petty cash purchases**

- 22.1. The conditions for procurement of goods by means of petty cash referred to in paragraph 19 (1) (a) of this Policy, are as follows –

- (a) The Chief Financial Officer may, in writing, delegate the responsibility to monitor Petty Cash purchases to the Accountant: Revenue/Income Officer.
- (b) Goods and services may only be procured by way of petty cash, up to a transaction value of R500 (VAT included).
- (c) A maximum of five petty cash purchases per month will be allowed for each departmental section.
- (d) Total petty cash may not exceed R3 000.00 for each calendar month for the whole municipality.
- (e) Petty cash may only be used for the following types of expenditure: refreshments, catering, gifts, wheel repairs, and other small items.
- (f) a monthly reconciliation report from the Accountant Revenue must be submitted to the Chief Financial Officer, including –
  - (i) the total amount of petty cash purchases for that month; and
  - (ii) receipts and appropriate documents for each purchase.

22.2 For the implementation of the petty cash purchases, refer to Newcastle Municipality Petty Cash Policy.

### **23. Written or verbal quotations**

23.1. The conditions for the procurement of goods or services through written or verbal quotations are as follows:

- (a) Quotations must be obtained from at least three different providers preferably from, but not limited to, providers whose names appear on the list of accredited prospective providers on National Treasury's Central Supplier Database (CSD) and the Newcastle Municipality's list of accredited prospective providers provided that if quotations are obtained from providers who are not listed, such providers must meet the listing criteria set out in paragraph 20(1)(b) and (c) of this SCM Policy;
- (b) to the extent feasible, providers must be requested to submit such quotations in writing;
- (c) if it is not possible to obtain at least three quotations, the reasons must be recorded and reported quarterly to the accounting officer or another official designated by the accounting officer;
- (d) the accounting officer must record the names of the potential providers requested to provide such quotations with their quoted prices; and
- (e) if a quotation was submitted verbally, the order may be placed only against written confirmation by the selected provider.

### **24. Formal written price quotations**

24.1. The conditions for the procurement of goods or services 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 on National Treasury's Central Supplier Database (CSD) and the Newcastle Municipality's list of accredited prospective providers.
- (b) quotations may be obtained from providers who are not listed, provided that such providers meet the listing criteria set out in paragraph 19(1)(b) and (c) of this SCM 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.
- 24.2. A designated official referred to in subparagraph (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 subparagraph.

## **25. Procedures for procuring goods or services through written or verbal quotations and formal written price quotations**

- 25.1. The procedure for the procurement of goods or services through written or verbal quotations or formal written price quotations is as follows:
- (a) when using the list of accredited prospective providers the accounting officer must promote ongoing competition amongst providers by inviting providers to submit quotations on a rotation basis;
  - (b) all requirements in excess of R30 000 (VAT included) that are to be procured by means of formal written price quotations must, in addition to the requirements of paragraph 23, be advertised for at least seven days on the website and an official notice board of the Newcastle Municipality.
  - (c) quotations will only be accepted from providers whose names appear on the list of accredited prospective providers on National Treasury's Central Supplier Database (CSD) and/or the Newcastle Municipality's list of accredited prospective providers.
  - (d) offers received must be evaluated on a comparative basis taking into account unconditional discounts;
  - (e) the accounting officer or chief financial officer must on a monthly basis be notified in writing of all written or verbal quotations and formal written price quotations accepted by an official acting in terms of a sub-delegation;
  - (f) offers below R30 000 (VAT included) must be awarded based on compliance to specifications and conditions of contract, ability and capability to deliver the goods and services and lowest price; offers above R30 000 (VAT included), the accounting officer should apply the prescripts of the Preferential Procurement Policy Framework Act, Act 5 of 2000 and its associated Regulations.
  - (g) acceptable offers, which are subject to the preference points system (PPPFA and associated regulations), must be awarded to the bidder who scored the highest points;

## **26. Competitive bids**

- 26.1. Goods or services above a transaction value of R200 000 (VAT included) and long term contracts may only be procured through a competitive bidding process, subject to paragraph 18(2) of this SCM Policy.

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

26.3 Subcontracting as condition of bid;

(a) If feasible to subcontract for a contract above R10 million, it should also advance the designated groups.

(b) The bid should specify in the conditions of the bid that the bidder should subcontract the minimum of 40% of the value of the contract to

i) an EME or QSE;

ii) an EME or QSE which is at least 51% owned by black people;

iii) an EME or QSE which is at least 51% owned by black people who are youth;

iv) an EME or QSE which is at least 51% owned by black people who are woman;

v) an EME or QSE which is at least 51% owned by black people who are disabilities;

vi) an EME or QSE which is at least 51% owned by black people living in rural or underdeveloped areas or townships;

vii) a cooperative which is at least 51% owned by black people;

viii) an EME or QSE which is at least 51% owned by black people who are military veterans or;

vx) more than one of the categories referred to in paragraphs i) to viii)

(c) The Municipality must provide the list of suppliers registered on Newcastle Municipality Supplier database as well as National treasury database complying with paragraph (b) to the bidder for the bidder to select a supplier.

(d) The bidder may select more than one subcontractor to subcontract provided that the subcontracted value does not exceed 40% of the value of the contract.

26.4. Identification of preference point system, designated sector, pre-qualification criteria, objective criteria and subcontracting

26.4.1. The Newcastle Municipality shall,

(a) determine and stipulate in the tender documents:

(i) the preference point system applicable to the tender as envisaged in regulations 6 or 7; or

(ii) if it is unclear which preference point system will be applicable, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system;

(b) determine whether pre-qualification criteria are applicable to the tender as envisaged in regulation 4;

(c) determine whether the goods or services for which a tender is to be invited, are in a designated sector for local production and content as envisaged in regulation 8;

- (d) determine whether compulsory subcontracting is applicable to the tender as envisaged in regulation 9; and
- (e) determine whether objective criteria are applicable to the tender as envisaged in regulation 11.

## 26.5. Pre-qualification criteria for preferential procurement

26.5.1 The Newcastle Municipality, where applicable, shall apply pre-qualifying criteria to advance certain designated groups, wherein the Newcastle Municipality shall advertise the tender with a specific tendering condition that only one or more of the following tenderers may respond-

- (a) a tenderer having a stipulated minimum B-BBEE status level of contributor;
- (b) an EME or QSE;
- (c) a tenderer subcontracting a minimum of 40% to-
  - (i) an EME or QSE which is at least 51% owned by black people;
  - (ii) an EME or QSE which is at least 51% owned by black people who are youth;
  - (iii) an EME or QSE which is at least 51% owned by black people who are women;
  - (iv) an EME or QSE which is at least 51% owned by black people with disabilities;
  - (v) an EME or QSE which is 51% owned by black people living in rural or underdeveloped areas or townships;
  - (vi) a cooperative which is at least 51% owned by black people;
  - (vii) an EME or QSE which is at least 51% owned by black people who are military veterans;
  - (viii) an EME or QSE

26.5.2 A tender that fails to meet any pre-qualifying criteria stipulated in the tender documents is an unacceptable tender.

## 27. Process for competitive bidding

The procedures for the following stages of a competitive bidding process are as follows:

- (a) Compilation of bidding documentation as detailed in paragraph 29;
- (b) Public invitation of bids as detailed in paragraph 30;
- (c) Site meetings or briefing sessions as detailed in paragraph 30;
- (d) Handling of bids submitted in response to public invitation as detailed in paragraph 31;
- (e) Evaluation of bids as detailed in paragraph 40;
- (f) Award of contracts as detailed in paragraph 41;
- (g) Administration of contracts
- (h) After approval of a bid, the accounting officer and the bidder must enter into a written agreement.
- (i) Proper record keeping
- (j) Original / legal copies of written contracts agreements should be kept in a secure place for reference purposes. All original contracts shall be deposited with the Accounting Officer within a week of signing the contract and a copy shall be kept in the departmental file while another copy shall be delivered to the SCM unit.



## **28. Bid documentation for competitive bids**

The criteria to which bid documentation for a competitive bidding process must comply, must –

- (a) take into account –
  - (i) the general conditions of contract and any special conditions of contract, if specified;
  - (ii) any Treasury guidelines and regulations on bid documentation; and
  - (iii) the requirements of the Construction Industry Development Board, in the case of a bid relating to construction, upgrading or refurbishment of buildings or infrastructure;
- (b) include the preference points system to be used, goals as contemplated in the Preferential Procurement Regulations and evaluation and adjudication criteria, including any criteria required by other applicable legislation;
- (c) compel bidders to declare any conflict of interest they may have in the transaction for which the bid is submitted;
- (d) if the value of the transaction is expected to exceed R10 million (VAT included), require bidders to furnish–
  - (i) if the bidder is required by law to prepare annual financial statements for auditing, their audited annual financial statements –
    - (aa) for the past three years; or
    - (bb) since their establishment if established during the past three years;
  - (ii) a certificate signed by the bidder certifying that the bidder has no undisputed commitments for municipal services towards a municipality or other service provider in respect of which payment is overdue for more than 30 days;
  - (iii) particulars of any contracts awarded to the bidder by an organ of state during the past five years, including particulars of any material non-compliance or dispute concerning the execution of such contract;
  - (iv) a statement indicating whether any portion of the goods or services are expected to be sourced from outside the Republic, and, if so, what portion and whether any portion of payment from the municipality or municipal entity is expected to be transferred out of the Republic; and
- e) stipulate that disputes must be settled by means of mutual consultation, mediation (with or without legal representation), or, when unsuccessful, in a South African court of law.

## **29. Public invitation for competitive bids**

29.1. The procedure for the invitation of competitive bids is as follows:

- (a) Any invitation to prospective providers to submit bids must be by means of a public advertisement in newspapers commonly circulating locally, the website of the Newcastle Municipality or any other appropriate ways (which may include an advertisement in the Government Tender Bulletin and eTender Portal); and
- (b) the information contained in a public advertisement, must include –
  - (i) the closure date for the submission of bids, which may not be less than 30 days in the case of transactions over R10 million (VAT included), or which are of a long term nature, or 14 days in any other case, from the date on which the advertisement is placed in a newspaper, subject to subparagraph (2) of this SCM policy;

- (ii) a statement that bids may only be submitted on the bid documentation provided by the Newcastle Municipality; and date, time and venue of any proposed site meetings or briefing sessions.;
  - (iii) that bids may only be accepted from providers that are registered with the National Treasury's central data base and/or the list of accredited service providers of the Newcastle Municipality
- 29.2. The accounting officer may determine a closure date for the submission of bids which is less than the 30 or 14 days requirement, but only if such shorter period can be justified on the grounds of urgency or emergency or any exceptional case where it is impractical or impossible to follow the official procurement process.
- 29.3. Bids submitted must be sealed.
- 29.4. Where bids are requested in electronic format, such bids must be supplemented by sealed hard copies.
- 29.5. All competitive bids should be included on the eTender Portal as per circular 83.
- 30. Procedure for handling, opening and recording of bids**

The procedures for the handling, opening and recording of bids, are as follows:

  - (a) Bids–
    - (i) must be opened only in public;
    - (ii) must be opened at the same time and as soon as possible after the period for the submission of bids has expired; and
    - (iii) bids received after the closing time should not be considered and returned unopened immediately and the reason as to why the bid cannot be considered.
  - (b) Any bidder or member of the public has the right to request that the names of the bidders who submitted bids in time must be read out and, if practical, also each bidder's total bidding price;
  - (c) No information, except the provisions in subparagraph (b), relating to the bid should be disclosed to bidders or other persons until the successful bidder is notified of the award; and
  - (d) The accounting officer must –
    - (i) record in a register all bids received in time;
    - (ii) make the register available for public inspection; and
    - (iii) publish the entries in the register and the bid results on the website.
- 31. Negotiations with preferred bidders**
  - 31.1. The accounting officer or delegated official may negotiate the final terms of a contract with bidders identified through a competitive bidding process as preferred bidders, provided that such negotiation –
    - (a) does not allow any preferred bidder a second or unfair opportunity;
    - (b) is not to the detriment of any other bidder; and
    - (c) does not lead to a higher price than the bid as submitted.
  - 31.2. Minutes of such negotiations must be kept for record purposes.

## **32. Two-stage bidding process**

- 32.1. A two-stage bidding process is allowed for –
- (a) large complex projects;
  - (b) projects where it may be undesirable to prepare complete detailed technical specifications; or
  - (c) long-term projects with a duration period exceeding three years.
- 32.2. In the first stage technical proposals on conceptual design or performance specifications should be invited, subject to technical as well as commercial clarifications and adjustments.
- 32.3. In the second stage final technical proposals and priced bids should be invited.

## **33. Issuing of bid documentation**

- (a) Bid documents and any subsequent notices shall only be issued by the SCM Unit or authorized department.
- (b) A non-refundable bid charge, as required in the bid notice, may be raised by the Municipality for bid documents.
- (c) Details of all prospective bidders who have been issued with bid documents shall be recorded by the SCM Unit or authorized department. Such details shall include:
  - (i) the legal and full name of the person/company/closed corporation/firm drawing documents;
  - (ii) a contact person;
  - (iii) a contact telephone number;
  - (iv) a contact fax number;
  - (v) a postal address;
  - (vi) an e-mail address;
- d) Details recorded shall remain confidential for the duration of the bid period.

## **34. Validity periods**

- (a) The period for which bids are to remain valid and binding shall be indicated in the bid documents. The period is calculated from the closing time and bids shall remain in force and binding until the end of the final day of the period.

- (b) This period of validity may be extended by mutual consent in writing between the Municipality and the bidder, provided that the original validity period has not expired, and that all bidders shall have an opportunity to extend such period.
- (c) If, in exceptional circumstances, it becomes necessary to extend the bid period, a notice shall be published in the press at least one week prior to the original bid closing date. This notice shall also be posted on the notice boards at designated Municipal offices, and a notice to all bidders of bids received at that stage to this effect shall be issued.

### **35. Bid Prices and Contract Periods for Engineering and Construction Contracts**

- (a) For all contract periods equal to or exceeding one year in duration, an appropriate contract price adjustment formula shall be specified in the bid documents.
- (b) In general, where contract periods do not exceed one year in duration, the bid shall be a fixed price bid (not subject to contract price adjustment). However, if as a result of any extension of time granted, the duration of a fixed price contract exceeds one year, the contract will automatically be subject to contract price adjustment acceptable to both parties for that period by which the extended contract period exceeds such one year. An appropriate contract price adjustment formula shall be specified in the bid documents.
- (c) Notwithstanding the above arrangement, where the bid validity period is extended, then contract price adjustment may be applied.
- (d) An appropriate contract period must be specified for all engineering and construction contracts. The time for completion shall be stated in number of weeks.
- (e) In case where the price adjustment is gazetted by the Government, the price adjustment should be automatically applied regardless of the timeframe. The adjustment value should be in line with the gazetted adjustment.

### **36. Samples**

When samples are called for in the bid documents, samples (marked with the bid and item number as well as the bidder's name and address) shall be delivered to the addressee mentioned in the bid documents by no later than the closing time of the bid. Bids shall not be included in parcels containing samples.

If samples are not submitted as requested, the bid concerned may be declared non responsive.

Samples shall be supplied by a bidder at his own expense and risk. The Municipality shall not be obliged to pay for such samples or compensate for the loss thereof, unless otherwise specified in the bid documents, and shall reserve the right not to return such samples and to dispose of them at its own discretion.

Where a bid is accepted for the supply of goods according to a sample submitted by the bidder, such sample shall become the contract sample. All goods/materials supplied shall comply in all respects to the contract sample.

### **37. Committee system for competitive bids**

- 37.1. A committee system for competitive bids is hereby established, consisting of the following committees for each procurement process or cluster of procurements as the accounting officer may determine:
- (a) a bid specification committee;
  - (b) a bid evaluation committee; and
  - (c) a bid adjudication committee;
- 37.2. The accounting officer appoints the members of each committee, taking into account section 117 of the Act; and
- 37.3. 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.
- 37.4. The committee system must be consistent with –
- (a) paragraph 38, 39 and 40 of this SCM Policy; and
  - (b) any other applicable legislation.
- 37.5. The accounting officer may apply the committee system to formal written price quotations.
- 37.6. The following persons shall not be eligible to become members of a bid committee –
- (a) a councilor of any municipality; and
  - (b) a member of the Municipality's audit committee or performance audit committee.
  - (c) No councilor of any municipality may attend a meeting of a bid committee in any capacity, nor may a councilor make a presentation or representations to or conduct an interview with a bid committee in any capacity.
- 37.7. A bid committee established in terms of this chapter shall perform its functions, exercise its powers and discharge its duties independently and without fear, favor or prejudice.

### **38. Bid Specification Committee**

- 38.1. A bid specification committee must compile specifications for each procurement of goods or services by the Newcastle Municipality.
- 38.2. Specifications –
- (a) must be drafted in an unbiased manner to allow all potential suppliers to offer their goods or services;
  - (b) must take account of any accepted standards such as those issued by Standards South Africa, the International Standards Organisation, or an authority accredited or recognized by the South African National Accreditation System with which the equipment or material or workmanship should comply;

- (c) must, where possible, be described in terms of performance required rather than in terms of descriptive characteristics for design;
- (d) may not create trade barriers in contract requirements in the forms of specifications, plans, drawings, designs, testing and test methods, packaging, marking or labeling of conformity certification;
- (e) may not make reference to any particular trade mark, name, patent, design, type, specific origin or producer unless there is no other sufficiently precise or intelligible way of describing the characteristics of the work, in which case such reference must be accompanied by the word "equivalent";
- (f) must indicate each specific goal for which points may be awarded in terms of the points system set out in the Preferential Procurement Regulations 2001, as amended; and
- (g) must be approved by the accounting officer prior to publication of the invitation for bids in terms of paragraph 29 of this SCM Policy.

38.3. A Bid Specification Committee must be composed of one or more managers responsible for the function involved and may, when appropriate, include external specialist advisors.

38.4. No person, advisor or corporate entity involved with the bid specification committee, or director of such a corporate entity, may bid for any resulting contracts.

### **39. Bid Evaluation Committee**

39.1. A bid evaluation committee must –

- (a) evaluate bids in accordance with –
  - (i) the specifications and conditions for a specific procurement; and
  - (ii) the points system set out in terms of paragraph 38(2)(f).
- (b) evaluate each bidder's ability to execute the contract;
- (c) check in respect of the recommended bidder whether municipal rates and taxes and municipal service charges are not in arrears, and; the bidder submitted the required original tax clearance certificate and other clearance / registration forms as prescribed by various acts and / or in the bid documentation; and
- (d) submit to the adjudication committee a report and recommendations regarding the award of the bid or any other related matter.

39.2. A Bid Evaluation Committee must as far as possible be composed of-

- (a) Directors from departments requiring the goods or services.
- (b) At least one Supply Chain Management Practitioner of the Newcastle Municipality

### **40. Bid Adjudication Committees**

40.1. A bid adjudication committee must –

- (a) consider the report and recommendations of the bid evaluation committee; and
- (b) either –
  - (i) depending on its delegations, make a final award or a recommendation to the accounting officer to make the final award; or
  - (ii) make another recommendation to the accounting officer how to proceed with the relevant procurement.

- 40.2. A Bid Adjudication Committee must consists of at least four Strategic Executive Directors of the Newcastle Municipality-
- (a) the chief financial officer or, if the chief financial officer is not available, another manager in the budget and treasury office reporting directly to the chief financial officer and designated by the chief financial officer; and at least one senior supply chain management practitioner who is an official of the Newcastle Municipality; and
  - (b) a technical expert in the relevant field who is an official, if such an expert exists.
- 40.3. The Accounting Officer must appoint the Chairperson of the Bid Specification Committee, Bid Evaluation Committee and Bid Adjudication Committee If the chairperson is absent from a meeting, the members of the committee who are present must elect one of them to preside at the meeting.
- 40.4. Neither a member of a bid evaluation committee, nor an advisor or person assisting the evaluation committee, may be a member of a bid adjudication committee. Members of the Bid Evaluation Committee may present their recommendations / reports to the Bid Adjudication committee and clarify issues but shall not have any voting powers.
- 40.5. If the bid adjudication committee decides to award a bid other than the one recommended by the bid evaluation committee,
- (a) the bid adjudication committee must prior to awarding the bid –
    - (i) check in respect of the preferred bidder whether that bidder's municipal rates and taxes and municipal service charges are not in arrears, and;
    - (ii) Notify the accounting officer.
  - b) The accounting officer may –
    - (i) after due consideration of the reasons for the deviation, ratify or reject the decision of the bid adjudication committee referred to in paragraph (a); and
    - (ii) if the decision of the bid adjudication committee is rejected, refer the decision of the adjudication committee back to that committee for reconsideration.
- 40.6. The accounting officer may at any stage of a bidding process, refer any recommendation made by the evaluation committee or the adjudication committee back to that committee for reconsideration of the recommendation.
- 40.7. The accounting officer must comply with section 114 of the Act within 10 working days
- 40.8. Meetings of bid committees and decision-making
- (a) The chairperson of the relevant bid committee shall determine the date, time and venue of meetings of the committee concerned. At least three working days written notice shall be given of a meeting of a bid committee to all the members.
  - (b) A majority of the members of a bid committee must be present before the committee concerned may consider any matter.

- (c) Members of the committee can only be represented by another person who is acting or seconded to the meeting on his behalf for that day.
- (d) Decisions of a bid committee shall be taken by a majority of the members present at a meeting voting in favor of, or against, a question.
- (e) The Municipal Manager shall make appropriate arrangements to ensure that secretarial and such other administrative support services as may be required are provided to a bid committee.
- (f) Minutes shall be kept of each meeting of a bid committee. Such minutes shall :
  - (i) be considered and adopted, with or without amendments, as a true and accurate reflection of the proceedings at, and resolutions taken during a bid committee meeting, by the relevant committee at its first meeting next ensuing;
  - (ii) be signed by the person presiding at the meeting when they are approved; and
  - (iii) shall prima facie be evidence of the proceedings at a meeting of the relevant committee until the contrary is proven.
  - (iv) after approval be submitted to the SCM Unit, together with the tender documents concerned, for the calling of tenders or quotations where applicable.

#### **41. Procurement of banking services**

- 41.1. A contract for banking services –
  - (a) must be procured through competitive bids;
  - (b) must be consistent with section 7 or 85 of the Act; and
  - (c) may not be for a period of more than five years at a time.
- 41.2. The process for procuring a contract for banking services must commence at least nine months before the end of an existing contract.
- 41.3. The closure date for the submission of bids may not be less than 60 days from the date on which the advertisement is placed in a newspaper in terms of paragraph 30(1). Bids must be restricted to banks registered in terms of the Banks Act, 1990 (Act No. 94 of 1990).

#### **42. Procurement of IT related goods or services**

- 42.1. The accounting officer may request the State Information Technology Agency (SITA) to assist with the acquisition of IT related goods or services through a competitive bidding process.
- 42.2. Both parties must enter into a written agreement to regulate the services rendered by, and the payments to be made to, SITA.
- 42.3. The accounting officer must notify SITA together with a motivation of the IT needs if –
  - (a) the transaction value of IT related goods or services required in any financial year will exceed R50 million (VAT included); or



(b) the transaction value of a contract to be procured whether for one or more years exceeds R50 million (VAT included).

42.4. If SITA comments on the submission and the Newcastle Municipality disagrees with such comments, the comments and the reasons for rejecting or not following such comments must be submitted to the council, the National Treasury, the KwaZulu-Natal Provincial Treasury and the Auditor-General.

#### **43. Procurement of goods and services under contracts secured by other organs of state**

43.1. The accounting officer may procure goods or services under a contract secured by another organ of state, but only if –

- (a) the contract has been secured by that other organ of state by means of a competitive bidding process applicable to that organ of state;
- (b) there is no reason to believe that such contract was not validly procured;
- (c) there are demonstrable discounts or benefits to do so; and
- (d) that other organ of state and the provider have consented to such procurement in writing.

43.2. Subparagraphs (1)(c) and (d) do not apply if –

- (a) a municipal entity procures goods or services through a contract secured by its parent municipality; or
- (b) a municipality procures goods or services through a contract secured by a municipal entity of which it is the parent municipality.

#### **44. Procurement of goods necessitating special safety arrangements**

44.1. The acquisition and storage of goods in bulk (other than water), which necessitate special safety arrangements, including gasses and fuel, should be avoided where ever possible.

44.2. Where the storage of goods in bulk is justified, such justification must be based on sound reasons, including the total cost of ownership, cost advantages and environmental impact and must be approved by the accounting officer.

#### **45. Proudly SA Campaign**

45.2. The Newcastle Municipality supports the Proudly SA Campaign to the extent that, all things being equal, preference is given to procuring local goods and services from:

- (a) Firstly – suppliers and businesses within the municipality or district;
- (b) Secondly – suppliers and businesses within the relevant province;
- (c) Thirdly – suppliers and businesses within the Republic.

#### **46. Appointment of consultants**

46.1. The accounting officer may procure consulting services provided that any Treasury guidelines in respect of consulting services are taken into account when such procurements are made.

- 46.2. Consultancy services must be procured through competitive bids if  
(a) the value of the contract exceeds R200 000 (VAT included); or  
(b) the duration period of the contract exceeds one year.
- 46.3. In addition to any requirements prescribed by this SCM policy for competitive bids, bidders must furnish particulars of –  
(a) all consultancy services provided to an organ of state in the last five years; and  
(b) any similar consultancy services provided to an organ of state in the last five years.
- 46.4. The accounting officer must ensure that copyright in any document produced, and the patent rights or ownership in any plant, machinery, thing, system or process designed or devised, by a consultant in the course of the consultancy service is vested in the Newcastle Municipality.
- 46.5 The accounting officer must put measures in place to ensure that skills transfer does occur to avoid over reliance on consultants by the project managers.

#### **47 Deviation from, and ratification of minor breaches of, procurement processes**

- 47.1. The accounting officer may –  
(a) dispense with the official procurement processes established by this SCM Policy and to procure any required goods or services through any convenient process, which may include direct negotiations, but only –  
(i) in an emergency;  
(ii) if such goods or services are produced or available from a single provider only;  
(iii) for the acquisition of special works of art or historical objects where specifications are difficult to compile;  
(iv) 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; and  
(b) ratify any minor breaches of the procurement processes by an official or committee acting in terms of delegated powers or duties which are purely of a technical nature.
- 47.2. The accounting officer must record the reasons for any deviations in terms of subparagraphs (1)(a) and (b) of this SCM policy and report them to the next meeting of the council and include as a note to the annual financial statements.
- 47.3. Subparagraph (2) does not apply to the procurement of goods and services contemplated in paragraph 18(2) of this SCM policy.

#### **48. Unsolicited bids**

- 48.1. In accordance with section 113 of the Act there is no obligation to consider unsolicited bids received outside a normal bidding process.
- 48.2. The accounting officer may decide in terms of section 113(2) of the Act to consider an unsolicited bid, only if –

- (a) the product or service offered in terms of the bid is a demonstrably or proven unique innovative concept;
  - (b) the product or service will be exceptionally beneficial to, or have exceptional cost advantages;
  - (c) the person who made the bid is the sole provider of the product or service; and
  - (d) the reasons for not going through the normal bidding processes are found to be sound by the accounting officer.
- 48.3. If the accounting officer decides to consider an unsolicited bid that complies with subparagraph (2) of this SCM policy, the decision must be made public in accordance with section 21A of the Municipal Systems Act, together with –
  - (a) reasons as to why the bid should not be open to other competitors;
  - (b) an explanation of the potential benefits if the unsolicited bid were accepted; and
  - (c) an invitation to the public or other potential suppliers to submit their comments within 30 days of the notice.
- 48.4. The accounting officer must submit all written comments received pursuant to subparagraph (3), including any responses from the unsolicited bidder, to the National Treasury and the KwaZulu-Natal Provincial Treasury for comment.
- 48.5. The adjudication committee must consider the unsolicited bid and may award the bid or make a recommendation to the accounting officer, depending on its delegations.
- 48.6. A meeting of the adjudication committee to consider an unsolicited bid must be open to the public.
- 48.7. When considering the matter, the adjudication committee must take into account –
  - (a) any comments submitted by the public; and
  - (b) any written comments and recommendations of the National Treasury or the KwaZulu-Natal Provincial Treasury.
- 48.8. If any recommendations of the National Treasury or provincial treasury are rejected or not followed, the accounting officer must submit to the Auditor General, the KwaZulu-Natal Provincial Treasury and the National Treasury the reasons for rejecting or not following those recommendations.
- 48.9. Such submission must be made within seven days after the decision on the award of the unsolicited bid is taken, but no contract committing the Newcastle Municipality to the bid may be entered into or signed within 30 days of the submission.

#### **49. Combating of abuse of supply chain management system**

- 49.1. The accounting officer must–
  - (a) take all reasonable steps to prevent abuse of the supply chain management system;
  - (b) investigate any allegations against an official or other role player of fraud, corruption, favouritism, unfair or irregular practices or failure to comply with this SCM Policy, and when justified –
    - (i) take appropriate steps against such official or other role player; or
    - (ii) report any alleged criminal conduct to the South African Police Service;

- (c) check the National Treasury's database prior to awarding any contract to ensure that no recommended bidder, or any of its directors, is listed as a person prohibited from doing business with the public sector;
  - (d) reject any bid from a bidder–
    - (i) if any municipal rates and taxes or municipal service charges owed by that bidder or any of its directors to the Newcastle Municipality, or to any other municipality or municipal entity, are in arrears for more than three months; or any bidder who failed to produce a valid original tax clearance certificate issued by SARS to certify that the tax matters of a certain bidder are in order or necessary arrangements were made with SARS. or
    - (ii) who during the last five years has failed to perform satisfactorily on a previous contract with the Newcastle Municipality or any other organ of state after written notice was given to that bidder that performance was unsatisfactory;
  - (e) reject a recommendation for the award of a contract if the recommended bidder, or any of its directors, has committed a corrupt or fraudulent act in competing for the particular contract;
  - (f) cancel a contract awarded to a person if –
    - (i) the person committed any corrupt or fraudulent act during the bidding process or the execution of the contract; or
    - (ii) an official or other role player committed any corrupt or fraudulent act during the bidding process or the execution of the contract that benefited that person; and
  - (g) reject the bid of any bidder if that bidder or any of its directors –
    - (i) has abused the supply chain management system of the Newcastle Municipality or has committed any improper conduct in relation to such system;
    - (ii) has been convicted for fraud or corruption during the past five years;
    - (iii) has willfully neglected, reneged on or failed to comply with any government, municipal or other public sector contract during the past five years; or
    - (iv) has been listed in the Register for Tender Defaulters in terms of section 29 of the Prevention and Combating of Corrupt Activities Act (No 12 of 2004).
- 49.2. The accounting officer must inform the National Treasury and KwaZulu-Natal Provincial Treasury in writing of any actions taken in terms of subparagraphs (1)(b)(ii), (e) or (f) of this SCM policy.

### **Chapter 3: Logistics, Disposal, Risk and Performance Management**

#### **50. Logistics Management**

- 50.1. The accounting officer must establish and implement an effective system of logistics management, which must include -
- (a) the monitoring of spending patterns on types or classes of goods and services incorporating, where practical, the coding of items to ensure that each item has a unique number;
  - (b) the setting of inventory levels that includes minimum and maximum levels and lead times wherever goods are placed in stock;
  - (c) the placing of manual or electronic orders for all acquisitions other than those from petty cash;
  - (d) before payment is approved, certification by the responsible officer that the goods and services are received or rendered on time and is in accordance with the order, the general conditions of contract and specifications where applicable and that the price charged is as quoted in terms of a contract;

- (e) appropriate standards of internal control and warehouse management to ensure that goods placed in stores are secure and only used for the purpose for which they were purchased;
- (f) regular checking to ensure that all assets including official vehicles are properly managed, appropriately maintained and only used for official purposes; and
- (g) monitoring and review of the supply vendor performance to ensure compliance with specifications and contract conditions for particular goods or services.
- (h) The SCM Unit shall be responsible and accountable for the establishment, management and operation of store facilities for the Municipality, which shall consist of a main store and such satellite stores in other areas within the Municipality as may be necessary.
- (i) The Supply Chain Manager shall be responsible and accountable for:
  - (i) The day-to-day operation of the Municipality's store facilities;
  - (ii) Determining the range and nature of items that will be carried in the main store facility and satellite stores;
  - (iii) Setting of inventory levels;
  - (iv) Timely placement of orders when stock levels are low;
  - (v) Receiving and distribution of goods; and
  - (vi) Expediting orders.

## **51. Disposal management**

51.1. The criteria for the disposal or letting of assets, including unserviceable, redundant or obsolete assets, subject to sections 14 and 90 of the Act, are as follows:

- (a) The Newcastle Municipal Council has decided on reasonable grounds that the asset is not needed to provide the minimum level of basic municipal services;
- (b) The Newcastle Municipal Council has considered the fair market value of the asset and the economic and community value to be received in exchange for the asset to the Municipality.
- (c) The accounting officer of the Newcastle Municipality shall have delegated authority to transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset not needed to provide the minimum level of basic municipal services, with a value of up to R1 000 000.
- (d) The Newcastle Municipal Council shall authorize transfer ownership as a result of a sale or other transaction, or otherwise permanently dispose of a capital asset not needed to provide the minimum level of basic municipal services, with a value of greater than R1 000 000 by resolution of a municipal council meeting open to the public.

51.2. Assets may be disposed of by –

- (a) transferring the asset to another organ of state in terms of a provision of the Act enabling the transfer of assets;

- (b) transferring the asset to another organ of state at market related value or, when appropriate, free of charge;
- (c) selling the asset; or
- (d) destroying the asset.

51.3. The accounting officer must ensure that –

- (a) immovable property is sold only at market related prices except when the public interest or the plight of the poor demands otherwise;
- (b) movable assets are sold either by way of written price quotations, a competitive bidding process, auction or at market related prices, whichever is the most advantageous;
- (c) firearms are not sold or donated to any person or institution within or outside the Republic unless approved by the National Conventional Arms Control Committee;
- (d) immovable property is let at market related rates except when the public interest or the plight of the poor demands otherwise; as determined by council from time to time
- (e) all fees, charges, rates, tariffs, scales of fees or other charges relating to the letting of immovable property are annually reviewed;
- (f) where assets are traded in for other assets, the highest possible trade-in price is negotiated; and
- (g) in the case of the free disposal of computer equipment, the provincial department of education is first approached to indicate within 30 days whether any of the local schools are interested in the equipment.

## **52 Disposal and lease of municipal land**

- 52.1. The Newcastle Municipality has a core responsibility to acquire and avail land and buildings, in the first instance, for its own use for purposes of developing and maintaining municipal infrastructure, promoting service delivery and facilitating social and economic development and spatial integration. Future land requirements must be acknowledged and immovable property should be held in reserve for this purpose.
- 52.2. In acquiring, managing, developing and releasing land, the Newcastle Municipality must consider the best interests of the municipality (and thus its residents) rather than that of individuals when entering into real estate transactions. Maximum benefit should be given to the Municipality and thereby the community.
- 52.3. The Newcastle Municipality should act in the best interests of its citizens, and it therefore follows that the Newcastle Municipality will not singularly follow the historic processes and values of the market. Moreover, because the historic accumulation of land and property is highly varied, this must be acknowledged in terms of future transactions. Certain interventions may be necessary in land transactions pursued by the Newcastle Municipality as compared to those of the private land and property market. The private market is concerned with maximizing capital gain, as against the role of the municipality in acting in the best interests of its citizens.
- 52.4. The Newcastle Municipality must act in support of sectoral policies such as economic development, environment management, land use, housing, social and community infrastructure and culture and recreation.

52.5. Any land assets unrelated to these uses is deemed surplus.

52.6. Market forces shall be the point of departure in all transactions.

### **53. Categories of Land**

The municipality's land assets are categorized as follows:

- (a) land intended for residential development
- (b) land intended for commercial and industrial purposes
- (c) land intended for social purposes including religious, education and institutional purposes
- (d) land intended to be developed for sport and recreation purposes
- (e) land intended for agricultural purposes

### **54. Manner of disposal of various categories of land**

- (a) Land incapable of development in its own right within predominantly residential areas e.g. sanitary lanes and unutilized substation erven will be offered in ownership to the respective adjoining owners at market value. The purchaser will be liable for all costs of possible relocation of services, rezoning, survey, registration and transfer. The creation of a free standing lot will in each instance be the preference of Council in order that new residential opportunities are created.
- (b) Residential land capable of development in its own right shall be offered for sale by means of an invitation to bid or public auction subject to an upset price that is market related but taking into account historical individuals. Residential land intended for sale for the development and sale to the beneficiaries of a housing programme of the national or provincial government shall be offered for sale by private treaty at a price determined by council provided that the plight of the poor is taken into account.
- (c) Residential land that has been acquired for a capital project which has yet to commence and which is thus not immediately required by the municipality will be offered on a short term lease basis. The rental payable shall be market related unless determined otherwise by council. The property will be offered on private treaty at no cost to Council.
- (d) Commercial land that is incapable of development on its own right will be offered to the respective adjoining owners at market value. The purchaser will be responsible for all costs associated with the possible relocation of services, rezoning, survey, registration and transfer
- (e) Commercial and industrial land capable of development in its own right will be offered for sale by public competition (either by public auction or invitation to bid as the council may prefer from time to time. Sale of land will be subject to an upset value that is market related and such other conditions supporting the policies and programmes of the municipality.
- (f) Land located within an area of specific focus or which is subject to a specific development or social programme may be offered for sale or lease as the council may determine on a case by case basis through an invitation to bid. In such cases the maximization of returns will not necessarily be the determining factor and the aims of the municipality will be clearly articulated in the bid documentation. Land in this category may be allocated to take into account historically disadvantaged individuals.
- (g) Commercial and industrial land not immediately required for the municipality needs will be offered on a short term basis and the notice period will vary based on when the property will be

- required. The rental will be at market related rates unless determined otherwise by council in the interest of the public.
- (h) Ownership of social sites shall be by means of an invitation to bid. Bidders will be subject to a screening process that will take into account amongst other things the community, the nature of the organization and its ability to discharge its intentions. The sale shall be subject to a predetermined market related price or as may be determined by council
  - (i) Amateur sports bodies are those bodies that are providing sporting facilities. Land will be offered in an open bidding process on a leasehold basis and will preclude discrimination and will be subject to development clauses to ensure the discharge of intentions. The rental will be established on the basis of a nominal rental for the total land component on the lease as may be approved by the municipality. The lessee will be liable for rates and services consumed as prescribed by the Newcastle Municipality's tariff of charges.
  - (j) Land for professional sport
    - (i) in instances where there is commercial benefit to be derived by the owner or shareholders of a club a differentiation will be made from those agreement for amateur sport in terms of rental payable
    - (ii) land for rental will be at its full economic value or a percentage of all financial turnover and such percentage will be determined by the Municipality from time to time. The contribution the sport makes to the economic development will be taken into consideration in determining such percentage.
    - (iii) the sporting organization's liability to rates shall be in accordance with the rates policy.
  - (k) Land for agricultural purposes

Agricultural land shall be offered for sale by means of an invitation to bid, subject to an upset price that is market related and will take into consideration the historical disadvantaged. The land shall be leased to community groups on a case by case basis taking into consideration the municipal social programmers and the historically disadvantaged.

## **55. Unsolicited proposals for land**

The municipality will follow the following procedure for unsolicited proposals for land development

- (a) proposals received will be evaluated by the municipality.
- (b) realistic propositions will be advertised in the media to solicit competitive proposals or objections from the public.
- (c) if a response is received from the public, a competitive
- (d) will be called for by means of an invitation to bid.
- (e) the sale will be by way of market value unless the development is in the plight of the poor in which case the council determines to price land on a case by case basis.

## **56. Contracts providing for compensation based on turnover**

If a service provider acts on behalf of the Newcastle Municipality to provide any service or act as a collector of fees, service charges or taxes and the compensation payable to the service provider



is fixed as an agreed percentage of turnover for the service or the amount collected, the contract between the service provider and the Newcastle Municipality must stipulate –

- (a) a cap on the compensation payable to the service provider; and
- (b) that such compensation must be performance based.

## **57. Risk management**

57.1. The criteria for the identification, consideration and avoidance of potential risks in the supply chain management system, are as follows:

57.2. Risk management must include –

- (a) the identification of risks on a case-by-case basis;
- (b) the allocation of risks to the party best suited to manage such risks;
- (c) acceptance of the cost of the risk where the cost of transferring the risk is greater than that of retaining it;
- (d) the management of risks in a pro-active manner and the provision of adequate cover for residual risks; and
- (e) the assignment of relative risks to the contracting parties through clear and unambiguous contract documentation.

## **58. Performance management**

The accounting officer must establish and implement an internal monitoring system in order to determine, on the basis of a retrospective analysis, whether the authorized supply chain management processes were followed and whether the objectives of this SCM Policy were achieved.

## **59. Contract Management**

59. 1. Service Level Agreements

- (a) Contracts concluded for the procurement of goods and services should be made subject to the conclusion of a service level agreement.
- (b) It is the responsibility of each directorate concerned to ensure that a valid and legally binding contract is entered into between the municipality and the successful bidder in line with the bid specifications, after approval of the bid as mentioned above.
- (c) In the event that a suitable contract has not been included in the bid documentation, a copy of the approval and all relevant documentation must be provided to Legal Services timely for the drafting of a suitable contract.
- (d) After signing of the contract by the parties, the directorate concerned must ensure that copies are made available to all role players including the Supply Chain Management Unit. The originally signed copy must be filed at the main records who will act as custodian of all procurement contracts of the municipality.
- (e) The directorate concerned is responsible, in consultation with the Supply Chain Management Unit and Legal Services, to ensure that service providers comply with the provisions of the

contract, and in the event of a possible breach of contract or proposed amendment to the contract, to submit a report in this regard to the Municipal Manager.

- (f) In case where a panel of service providers are appointed with the similar scope of works, it is the responsibility of the user-department, for which the contract was procured, to ensure that the appointed service providers are fairly rotated in a transparent manner and such rotation must be done in consultation with the Supply Chain Management Unit.

#### 59.2. Extension/Expansion of contracts

The Accounting Officer must as far as possible refrain from extending/expanding contracts and for allowing a variation orders as this increases risk, reflects possible flaws in planning and creates an uncompetitive environment that may possibly unfairly prejudice other possible vendors. Extensions should only be granted if it makes economic sense and provided that it can be justified in terms of fairness, equitableness, transparency, competitiveness and cost effectiveness.

#### 60. Remedies in case of death, sequestration, liquidation or judicial management

- (a) In the event of the death of a contractor or the provision of or final sequestration of his or her estate or of his or her cession or transfer of contract without the approval of the Newcastle Municipality or of the surrender of his or her estate or his or her reaching a compromise with his or her creditors or of the provisional of final liquidation of a contractor's company or placing of its affairs under judicial management, the council must without prejudice to any rights it may have, exercise any of the following:
  - (i) Cancel the contract and accept any of the bids which were submitted originally with that of the contractor or any offer subsequently received to complete the contract. In such a case the estate of the contractor shall not be relieved from liability for any claim which has arisen or may arise against the contractor in respect of supplies not delivered or work not carried out under the contract, and the Newcastle Municipality shall have the right to hold and retain all or any of the securities and retention moneys held by it at the date of the aforementioned occurrences until such claim has been satisfied or
  - (ii) Allow the executor, trustee, liquidator or judicial manager as the case may be for and on behalf of and at the expense and cost of the estate of the contractor to carry on and complete the contract.
- (b) In the event of the contract being cancelled by the municipality in the exercise of its rights in terms of these conditions, the contractor should be liable to pay council any losses sustained and or additional costs or expenditure incurred as a result of such cancellation and Council should have the right to recover such losses, damages or additional costs by means of set off from moneys due or which may become due in terms of the contract or any other contract or from a guarantee provided for the due fulfillment of the contract and until such time as the moneys or guarantee as security have been determined for any loss which the Council may suffer or have suffered. The contractor must be held responsible for any consequential damages and loss sustained which may be caused by any defect, latent or otherwise in the supply or service rendered.

- (c) Transfer of contract

The contractor must not abandon, transfer, assign or sublet a contract or part thereof without the written permission of the Council.

## **61. Penalties**

- 61.1. Where a contract has been awarded on the strength of preference point information furnished by the contractor, which after the conclusion of the relevant contract is proved to have been incorrect, the Municipality may in addition to any other legal remedy it may have to recover from the contractor all costs, losses or damages incurred or sustained by the municipality as a result of the award of the contract and /or
- (a) cancel the contract and claim damages which the municipality may suffer as a result of having to make less favourable arrangements and /or
  - (b) impose on the contractor a penalty not exceeding 5% of the value of the contract

## **Chapter 4: Other Matters**

### **62. Prohibition on awards to persons whose tax matters are not in order**

- (a) No award may be made in terms of this SCM Policy to a person whose tax matters have not been declared by the South African Revenue Service to be in order.
- (b) Before making an award to a person the accounting officer must first check with SARS whether that person's tax matters are in order.
- (c) If SARS does not respond within 7 days such person's tax matters may, for purposes of subparagraph 63(a), be presumed not to be in order.

### **63. Prohibition on awards to persons in the service of the state**

Irrespective of the procurement process followed, no award may be made to a person in terms of this SCM Policy –

- (a) who is in the service of the state;
- (b) if that person is not a natural person, of which any director, manager, principal shareholder or stakeholder is a person in the service of the state; or
- (c) a person who is an advisor or consultant contracted with the Newcastle Municipality.

### **64. Awards to close family members of persons in the service of the state**

The accounting officer must ensure that the notes to the annual financial statements disclose particulars of any award of more than R2000 to a person who is a spouse, child or parent of a person in the service of the state, or has been in the service of the state in the previous twelve months, including –

- (a) the name of that person;
- (b) the capacity in which that person is in the service of the state; and
- (c) the amount of the award.

### **65. Ethical standards**

65.1. A code of ethical standards is hereby established for officials and other role players in the supply chain management system of the Newcastle Municipality in order to promote –

- (a) mutual trust and respect; and
- (b) an environment where business can be conducted with integrity and in a fair and reasonable manner.

65.2. Code of conduct

65.2.1. Supply Chain Management Practitioners and all other role players involved in Supply Chain Management are:

- (a) to act at all times with fidelity, honesty, integrity and in the best interests of the Newcastle Municipality and the general public it serves
- (b) to diligently perform the duties of a member efficiently, effectively and strictly in accordance with the rules of bidding and bid evaluation, as set out in the bid documentation and according to all relevant instructions given by the institution

- (c) to properly prepare for and attend each meeting of the bid committees applicable, and failing this to withdraw as a member
- (d) to act at all times in accordance with the relevant legislation and regulations,
- (e) specifically, to comply with the *Code of Conduct for the Municipalities*.
- (f) to recognise the public's right to access to information in the interests of administrative justice
- (g) to take the utmost care in ensuring that there is reasonable protection of the records of the institution and all bid documentation
- (h) not to misuse the position or privileges of a member, or privileged or confidential information obtained as a member
- (i) to carry out duties with the skill and care expected from a person of knowledge and experience, and to exercise due judgment
- (j) not to unfairly discriminate against any bidder on the grounds of race, gender, ethnic or social origin, colour, sexual orientation, age, disability, religion, political persuasion, conscience, belief, culture or language
- (k) not to abuse any position in the public services to promote or prejudice the interest of any political party or interest group
- (l) to give the Auditor-General all the information and explanations it requires to carry out its functions
- (m) to report to the appropriate authorities any case of fraud, corruption, nepotism, mal-administration and any other acts which constitute an offence or which are prejudicial to the public interest, arising during the bid evaluation panel proceedings
- (n) to declare, diligently, accurately and honestly, in the declaration of interest, all personal and/or business interests that I or a family member may have in any business of any bidder, and to willingly abide by any decision of the chairperson of the bid evaluation panel or the accounting officer/authority to withdraw as a member of the panel because of this.
- (o) to be open and honest about all decisions and actions taken regarding the bid evaluation, and to give clear reasons for these, which can be accurately recorded.
- (p) not to make any dishonest allegations about any bidder
- (q) not to make any false or misleading entries into the records of the bid evaluation panel
- (r) to make no contractual commitments related to the bid, to any bidding party, on behalf of the institution.

- (s) to proactively protect privileged or confidential information of the bid evaluation panel from theft, unauthorized disclosure or inappropriate use, and specifically:
  - (i) not respond to any queries relating to the bid evaluation on behalf of the institution, unless expressly authorised in writing by the accounting officer/authority to do so.
  - (ii) not to speak to or correspond carelessly with any person (fellow member, colleague, friend, family member or otherwise) on any matter related to the bid evaluation
- t) not to use his position for private gain or to improperly benefit another person, not to request, solicit or accept any reward, gift or favor in return for voting or not voting in a particular way on any matter, or for disclosing privileged or confidential information.
- u) not to accept or agree to later accept, any 'kickbacks' in the form of money, favours, inappropriate gifts or anything else of value from a member of the public, government, a political or social movement, or any stakeholder or potential stakeholder which is or may be viewed as aimed at influencing or directing the evaluation of the bids.
- v) to disclose immediately to the chairperson or the accounting officer/authority any attempted inducement or offers of perks that may be construed as aimed at influencing or directing the evaluation of the bids
- w) to report to the chairperson of the panel any invitations to any kind of entertainment by any party that may be construed as being associated in any way with the outcome of the bid evaluation
- x) to not vote at, attend or participate in any other way in any meeting or hearing in relation to any matter before the bid evaluation panel, if any interest prevents me from carrying out my member functions in a fair, unbiased and proper way in accordance with this code of conduct.

#### 65.2.2 A breach of the code of ethics must be dealt with as follows –

- (a) in the case of an employee, in terms of the disciplinary procedures of the Newcastle Municipality envisaged in section 67(1)(h) of the Municipal Systems Act;
- (b) in the case a role player who is not an employee, through other appropriate means in recognition of the severity of the breach.
- (c) In all cases, financial misconduct must be dealt with in terms of chapter 15 of the Act.

### **66. Inducements, rewards, gifts and favors to municipalities, officials and other role players**

- 66.1 a) no person who is a provider or prospective provider of goods or services, or a recipient or prospective recipient of goods disposed or to be disposed of may either directly or through a representative or intermediary promise, offer or grant –
  - b) any inducement or reward to the Newcastle Municipality for or in connection with the award of a contract; or
  - c) any reward, gift, favor or hospitality to –
    - (i) any official; or
    - (ii) any other role player involved in the implementation of this SCM Policy.
  - d) all declarations must be recorded in a register which the accounting officer must keep.

66.2. The accounting officer must promptly report any alleged contravention of subparagraph (1) to the National Treasury for considering whether the offending person, and any representative or intermediary through which such person is alleged to have acted, should be listed in the National Treasury's database of persons prohibited from doing business with the public sector.

66.3. Subparagraph (1) does not apply to gifts less than R350.00 in value.

**67. Sponsorships**

The accounting officer must promptly disclose to the National Treasury and the KwaZulu-Natal Provincial Treasury any sponsorship promised, offered or granted, whether directly or through a representative or intermediary, by any person who is –

- (a) a provider or prospective provider of goods or services; or
- (b) a recipient or prospective recipient of goods disposed or to be disposed.

**68. Objections and complaints**

68.1 Persons aggrieved by decisions or actions taken in the implementation of this supply chain management system, may lodge within 14 days of the decision or action –

- (a) if the objection or complaint is against the procurement process, submit a written objection or complaint against the decision or action to the accounting officer of the municipality who shall, in turn, refer the written objection or complaint to the independent and impartial person referred to in paragraph 68.2 for resolution or
- (b) if such complaint or objection is against the award of a bid, lodge a written appeal with the Municipal Bid Appeals Tribunal in accordance with the provisions of paragraph 68.3

68.2 Resolution of objections and complaints against procurement process

(a) The accounting officer must appoint an independent and impartial person, not directly involved in the supply chain management processes to assist in the resolution of objections and complaints between the municipality and any other person regarding –

- (i) the implementation of the procurement process in terms of the supply chain management system; or
- (ii) any matter arising from the implementation of the procurement process in terms of the supply chain management system.

(b) The accounting officer, or another official designated by the accounting officer, is responsible for assisting the appointed person to perform his or her functions effectively.

(c) The person appointed must –

- (i) strive to resolve promptly all objections and complaints received; and

(ii) submit reports to the accounting officer on all such objections and complaints received, attended to or resolved.

(d) If the independent and impartial person, is of the view that a matter which should be dealt with in terms of paragraph 68.3, he or she shall forthwith refer the matter to the Municipal Bid Tribunals and that Tribunal shall then hear and determine the matter in accordance with the provisions of paragraph 68.3.

(e) An objection or complaint may be referred to the KwaZulu-Natal Provincial Treasury if:

- (i) the objection or complaint is not resolved within 60 days; or
- (ii) no response is forthcoming within 60 days.

(f) If the Provincial Treasury does not or cannot resolve the matter, the objection or complaint may be referred to the National Treasury for resolution.

#### **68.3. Municipal Bid Appeals Tribunal**

(a) The council shall establish a Municipal Bid Appeals Tribunal for its area of jurisdiction to hear and determine an appeal against the award of a bid.

(b) The accounting officer of the municipality, in consultation with the Provincial Treasury, shall appoint the Chairperson, Deputy Chairperson and Members of the Municipal Bid Appeals Tribunal.

(c) The powers, duties and functions of the Municipal Bid Appeals Tribunal, and matters incidental thereto, are set out in the Rules which are appended to this Supply Chain Management Policy and marked Appendix A.

(d) The administrative and secretarial work involved in the performance of the duties and functions of the Municipal Bid Appeals Tribunal shall be performed by officers of the Provincial Treasury as set out in the Rules referred to in paragraph 68(3)(c)

(e) There shall be no further appeal against a decision of the Municipal Bid Appeals Tribunal.

### **Chapter 5: Preferential Procurement Management**

#### **69. Preferential Procurement Management**



Offers for the procurement of goods and services shall be in line with the applicable procurement legislation, namely the Preferential Policy Framework Act, 2000 (Act No 5 of 2000) and its associated Preferential Procurement Regulations, and the Broad-Based Black Economic Empowerment Act, 2003 (Act No 53 of 2003). Offers for the procurement of goods and services shall be adjudicated on the following criteria:

69.1. Evaluation of bids on functionality

- (a) The Newcastle Municipality shall indicate on the invitation to submit a bid if a bid shall be evaluated on functionality.
- (b) The evaluation criteria for measuring functionality shall be objective.
- (c) Where bids are evaluated on functionality, the following shall be clearly specified in the invitation to submit a bid –
  - (i) The evaluation criteria for measuring functionality
  - (ii) The weight of each criterion
  - (iii) The applicable value; and
  - (iv) The minimum qualifying score for functionality
- (d) No bid shall be regarded as an acceptable bid if it fails to achieve a minimum score for functionality as indicated in the bid invitation.
- (e) Bidders that have achieved the minimum qualifying score for functionality shall be evaluated further for preference point systems prescribed in paragraphs 69.2 and 69.3 of this SCM Policy.

69.2. The 80/20 Preferential Point System

- (a) The following formula shall be used to calculate preference points in respect of bids (including price quotations) with a Rand value equal to, or above R 30 000 up to a Rand value of R 50 000 000 (all applicable taxes included):

$$Ps = 80 \frac{(1 - Pt - P_{min})}{P_{min}}$$

Where

- Ps = Points scored for price of bid or offer under consideration.
- Pt = Price of tender under consideration.
- P min = Price of lowest acceptable tender

The Newcastle Municipality may apply the formula in paragraph a) for quotations with a value less than R30 000, if and when appropriate.

- (b) Subject to sub-paragraph 69.2(c) points shall be awarded to a bidder attaining the B-BBEE status level contributor in accordance with the table below.

B-BBEE Status Level of Contributor	Number of Points
------------------------------------	------------------

1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

(c) A maximum 20 points shall be allocated in accordance with sub-paragraph 69.2(b) of this SCM policy.

(d) The points scored by the bidder in respect of B-BBEE contribution contemplated in sub-paragraph 69.2 (b) shall be added to the points scored for price as calculated in sub-paragraph 69.2 (a) of this SCM policy.

(e) Subject to sub-paragraph 69.4 of this SCM policy the contract shall be awarded to a bidder who scores the highest number of points.

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.

(b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

(c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

### 69.3. The 90/10 Preferential Point System

(a) The following formula shall be used to calculate preference points in respect of bids with a Rand value above of R50 000 000 (all applicable taxes included):

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

Where

- Ps = Points scored for price of tender under consideration.  
 Pt = Price of tender under consideration.  
 P min = Price of lowest acceptable tender.

- (b) Subject to sub-paragraph 69.3(c) points shall be awarded to a bidder attaining the B-BBEE status level contributor in accordance with the table below.

<b>B-BBEE Status Level of Contributor</b>	<b>Number of Points</b>
1	10
2	9
3	6
4	5
5	4
6	3
7	2
8	1
Non-compliant contributor	0

- (c) A maximum 10 points shall be allocated in accordance with sub-paragraph 69.3(b) of this SCM policy.

- (d) The points scored by the bidder in respect of B-BBEE contribution contemplated in sub-paragraph 69.3(b) shall be added to the points scored for price as calculated in sub-paragraph 69.3(a) of this SCM policy.

- (e) Subject to sub-paragraph 69.4 of this SCM policy the contract shall be awarded to a bidder who scores the highest number of points.

69.4. A contract may be awarded to a bidder that did not score the highest total number of points, only in accordance with section 2(1) (f) of the Preferential Procurement Policy Framework Act, 5 of 2000.

A tenderer may not be awarded points for B-BBEE status level of contributor if the tender documents indicate that the tenderer intends subcontracting more than 25% of the value of the contract to any other person not qualifying for at least the points that the tenderer qualifies for, unless the intended subcontractor is an EME that has the capability to execute the subcontract

If the price offered by a tenderer scoring the highest points is not market related, the organ of state may not award the contract to that tenderer.

- (b) The organs of state may-

(i) negotiate a market-related price with the tenderer scoring the highest points or cancel the tender;

(ii) if the tenderer does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the second highest points or cancel the tender;

(iii) if the tenderer scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the tenderer scoring the third highest points or cancel the tender.

- (c) If a market-related price is not agreed as envisaged in paragraph (b)(iii), the organ of state must cancel the tender.

## **70. Cancellation and Re-invitation of Bids**

### **70.1. In the application of the 80/20 preference point system**

- (a) in the event that, in the application of the 80/20 preference point system as stipulated in the bid documents, all bids received exceed the estimated Rand value of R 1 000,000, the bid invitation shall be cancelled.
- (b) If one or more acceptable bids received are within the prescribed threshold of R1 000 000, all bids received must be evaluated on the 80/20 preference point systems.

### **70.2. In the application of the 90/10 preference point system**

- (a) in the event that, in the application of the 90/10 preference point system as stipulated in the bid documents, all bids received are equal to, or below the estimated Rand value of R 1 000,000, the bid invitation shall be cancelled.
- (b) If one or more acceptable bids received are above the prescribed threshold of R1 000 000, all bids received must be evaluated on the 90/10 preference point systems.

70.3. The Newcastle Municipality shall, after cancellation of a bid invitation as contemplated in sub-paragraphs 70.1 (a) and 70.2(a), re-invite bidders and shall, in the bid documents stipulate the correct preference point system to be applied.

70.4. The Newcastle Municipality shall, prior to the award of a bid, cancel a bid if –

- (a) due to changed circumstances, there is no longer a need for the services, works or goods requested; or
- (b) funds are no longer available to cover the total envisaged expenditure; or
- (c) no acceptable bids are received

## **71. Preference Point System for Disposals**

### **71.1. Formula**

- (a) The following formula must be used to calculate the points for price in respect of competitive bids for disposals :
  - (i) equal to or above R 30 000 up to a value of R 50 000, 000:

$$Ps = \frac{80(1 + Pt - Ph)}{Ph}$$

Where –

Ps = Points scored for comparative price of bid or offer under consideration

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid or offer

(ii) with a value above R 50 000,000:

$$Ps = \frac{90(Pt - Ph)}{Ph}$$

Where –

Ps = Points scored for comparative price of bid / offer under consideration

Pt = Comparative price of bid / offer under consideration

Ph = Comparative price of highest acceptable bid / offer

- (b) A maximum of 10 or 20 points, as the case may be, may be awarded to a bidder for B-BBEE status level of contribution.
- (c) The points scored by a bidder in respect of B-BBEE status level contribution must be added to the points scored for price.
- (d) Only the bid with the highest number of points scored may be selected.

#### 71.2 Conditions

- (a) Only a bidder who has completed and signed the declaration part of the bid documentation shall be considered.
- (b) The Newcastle Municipality shall, when calculating comparative prices, take into account any discounts which have been offered unconditionally.
- (c) The Newcastle Municipality shall, when effecting payment, implement a discount which has been offered conditionally despite it being not taken into account for evaluation purposes.
- (d) A trust, consortium or joint venture shall qualify for points for their B-BBEE status level as a legal entity, provided that the entity submits B-BBEE status level certificate
- (e) A person shall not be awarded points for B-BBEE status level if it indicated in the bid documents that such a bidder intends subcontracting more than 25% of the value of the contract to any other enterprise that does not qualify for at least the points that such a bidder qualifies for, unless the intended sub-contractor is an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- (f) A person awarded a contract may not subcontract more than 25% of the value of the contract to any other enterprise that does not have an equal or higher B-BBEE status level than the person concerned, unless the contract is sub-contracted to an exempted micro enterprise that has the capability and ability to execute the sub-contract.
- (g) A person awarded a contract in relation to a designated sector, may not subcontract in such a manner that the local production and content of the overall value of contract is reduced to below the stipulated minimum threshold.

#### 71.3. Declarations

A bidder must, in the manner stipulated in the bid document, declare that:

- (a) The information provided regarding any claim of points for B-BBEE status level is true and correct;

- (b) the signatory to the bid document is duly authorised; and
- (c) documentary proof regarding any bidding issue will, when required, be submitted to the satisfaction of the Newcastle Municipality.

#### **71.4. Remedies**

Where a contract has been awarded on the strength of B-BBEE status level of contribution furnished by the bidder or contractor which, after the conclusion of the relevant contract, is proved to have been claimed or obtained on a fraudulent basis, the Newcastle Municipality may, in addition to any other legal remedy it may have:

- a) disqualify the person from the bidding process
- b) recover from the contractor all costs, losses or damages incurred or sustained by the municipality as a result of that contractor's conduct;
- c) cancel the contract and claim damages which the municipality may suffer as a result of having to make less favourable arrangements due to such cancellation;
- d) restrict the bidder or contractor, its shareholders and directors, or only the shareholders or directors who acted on a fraudulent basis, from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* rule has been applied; and
- e) forward the matter for criminal prosecution

#### **72. Local Production and Content**

72.1. The bidding conditions may stipulate a minimum threshold of local production and content, as contemplated in regulation 9 of Preferential Procurement Regulations, GNR 502 dated 8 June 2011, where for such bids locally produced goods. Services or works or locally manufactured goods are of critical importance.

72.2. Every bid issued in terms of sub-paragraph 73.1 must be measurable and audited.

#### **73. Variation order**

73.1 Contracts may be expanded or varied by not more than 20% for construction related goods, services and/or infrastructure projects and 15% for all other goods and/or services of the original value of the contract.

73.2 Any expansion or variation in excess of these thresholds must be dealt with in terms of the provisions of section 116(3) of the MFMA which will be regarded as an amendment to the contract.

73.3 The contents of the above paragraph are not applicable to transversal term contracts, facilitated by the relevant treasuries on behalf of municipalities and, specific term contracts. The latter refers to orders placed as and when commodities are required and at the time of awarding contracts, the required quantities were unknown.

## **PART C**



**THE NEWCASTLE  
MUNICIPALITY**  
NEWCASTLE KWAZULU-NATAL

### **Supply Chain Management Policy for Infrastructure Procurement and Delivery Management**

**Adopted on xx May 2019**

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## 1 Scope

This policy establishes the Newcastle 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 Newcastle 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 Newcastle Municipality that acts on **its** behalf in the application of this document

**authorised person:** the municipal manager or chief executive or the appropriately delegated authority to award, cancel, amend, extend or transfer a contract or order

**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

**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 Strategic Executive 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

## **3 General requirements**

### **3.1 Delegations**

**3.1.1** The **Council of Newcastle 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

- 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 departure shall be made from the provisions of this policy without the approval of the Municipal Manager of Newcastle Municipality

**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 Newcastle Municipality, to the council of the Newcastle Municipality<sup>3</sup> / within 20 days of the end of each financial year, submit a report on the implementation of this policy to the board of Strategic Executive Directors, who must then submit the report to the municipal manager of Newcastle Municipality for submission to the council;
- b) whenever there are serious and material problems in the implementation of this policy, immediately submit a report to the Council, who must then submit the report to the municipal manager of Newcastle Municipality for submission 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**

**3.2.1** Infrastructure procurement and delivery management shall be undertaken in accordance with the all applicable legislation and the relevant requirements of the latest edition of the National Treasury Standard for Infrastructure Procurement and Delivery Management.<sup>5</sup>

### **3.3 Supervision of the infrastructure delivery management unit**

The Infrastructure Delivery Management Unit shall be directly supervised by the Chief Financial Officer

### **3.4 Objections and complaints**

Persons aggrieved by decisions or actions taken in the implementation of this policy, may lodge within 14 days of the decision or action, a written objection or complaint against the decision or action.

### **3.5 Resolution of disputes, objections, complaints and queries**

**3.5.1** 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 Newcastle Municipality and other persons regarding:

- a) any decisions or actions taken in the implementation of the supply chain management system;
- b) any matter arising from a contract awarded within the Newcastle Municipality's infrastructure delivery management system; or
- c) to deal with objections, complaints or queries regarding any such decisions or actions or any matters arising from such contract.

**3.5.2** The Municipal Manager or Designated Person shall assist the person appointed in terms of 3.5.1 to perform his or her functions effectively.

**3.5.3** 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.

**3.5.4** A dispute, objection, complaint or query may be referred to the Western Cape Provincial Treasury if:

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

**3.5.5** If the Western 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**

### **4.1 Assignment of responsibilities for approving or accepting end of stage deliverables**

The responsibilities for approving or accepting end of stage deliverables shall be as stated in Table 1.

### **4.2 Gateway reviews**

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

**4.2.1.1 Municipal Manager** shall 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.

**Table 1: Responsibilities for approving or accepting end of stage deliverables in the control framework for the management of infrastructure delivery**

Stage		Person/Body assigned the responsibility for approving or accepting end of stage deliverables	Output	Project Value
No	Name			
0	Project initiation	Council accepts the initiation report	Approved IDP	Above R200 000
1	Infrastructure planning	Strategic Executive Director: Technical Services approves the infrastructure plan	Approved Budget	Above R200 000
2	Strategic resourcing	Strategic Executive Director: Technical Services approves the delivery and / or procurement strategy		Above R200 000

3	Pre-feasibility		[Strategic Executive Director: Technical Services accepts the pre-feasibility report		Above R200 000
	Preparation and briefing		[Strategic Executive Director: Technical Services accepts the strategic brief		Above R200 000
4	Feasibility		Strategic Executive Director: Technical Services accepts the feasibility report		Above R200 000
	Concept and viability		Strategic Executive Director: Technical Services accepts the concept report		Above R200 000
5	Design development		Strategic Executive Director: Technical Services accepts the design development report	Designs	Above R200 000
6	Design documentation	6A Production information	Strategic Executive Director: accepts the parts of the Technical Services which are identified when the design development report is accepted as requiring acceptance	Designs	Above R200 000
		6B Manufacture, fabrication and construction information	The contract manager accepts the manufacture, fabrication and construction information	Designs	Above R200 000

Stage		Person assigned the responsibility for approving or accepting end of stage deliverables	Output	Project Value
No	Name			
7	Works	The contract manager certifies completion of the works or the delivery of goods and associated services		Above R200 000
8	Handover	The owner or end user accepts liability for the works		Above R200 000
9	Package completion	The contract manager or supervising agent certifies the defects certificate in accordance with the provisions of the contract The contract manager certifies final completion in accordance with the provisions of the contract [Strategic Executive Director: Technical Services] accepts the close out report		Above R200 000

## 5 Control framework for infrastructure procurement

**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:

- a) Bid Documentation 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 Bid Adjudication Committee may award the contract if satisfied with the recommendations contained in the evaluation report prepared in accordance with the provisions of the standard or alternatively make a recommendation to the Municipal Manager to award if the value exceeds R10 million.

**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.

## 6 Infrastructure delivery management requirements

### 6.1 Institutional arrangements

#### 6.1.1 Committee system for procurement

##### 6.1.1.1 General

**6.1.1.1.1** A committee system comprising the Bid Specification committee, Bid evaluation committee and Bid Adjudication committee shall be applied to all procurement procedures where the estimated value of the procurement exceeds R200 000 and to the putting in place of framework agreements.

**6.1.1.1.2** The Bid 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 as technical advisors and subject matter experts may attend any committee meeting.

**6.1.1.1.4** No person who is a political officer bearer, a public office bearer including any councillor 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 Bid specification, Bid evaluation or Bid Adjudication 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.

#### **6.1.1.2 Bid Specification committee**

**6.1.1.2.1** The Municipal Manager shall appoint in writing a standing committee to review the procurement documents and to develop a procurement documentation review report in accordance with clause 4.2.2.1 of the standard.

**6.1.1.2.2** The Bid specification committee shall comprise of a Chairperson, Vice Chairperson and three (3) members of which one (1) is the responsible official and one (1) is a SCM official. The chairperson shall be an employee of Newcastle Municipality with requisite skills.

**6.1.1.2.3** No member of, or technical adviser or subject matter expert who participates in the work of the Bid specification committee 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 2: Procurement activities and gates associated with the formation and conclusion of contracts above the quotation threshold**

<b>Activity</b>	<b>Sub-Activity (see Table 3 of the standard)</b>		<b>Key action</b>	<b>Person assigned responsibility to perform key action</b>
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.
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
3	Solicit tender offers	3.2 <b>PG3</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents
		3.3 <b>PG4</b>	Confirm that budgets are in place	Confirm that finance is available for the procurement to take place
	Evaluate	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



4	tender offers	4.7 <b>PG6</b>	Confirm recommendations contained in the tender evaluation report	Review recommendations of the bid evaluation committee and refer back to bid evaluation committee for reconsideration or make recommendation for award	Bid Adjudication committee
		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	[authorised person]Accounting Officer
5	Award contract	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	[designated person]SCM

\* 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 2 (concluded)

Activity	Sub-Activity		Key action	Person assigned responsibility to perform key action
Administer contracts and confirm compliance with requirements	6.4 <b>PG8A</b>	Obtain approval to waive penalties or low performance damages.	Approve waiver of penalties or low performance damages	[Strategic Executive Director: Technical Services]
	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	
	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>21</sup>	Approve amount of time and cost overruns up to the threshold	[Project Management Unit Manager]
	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 contract or the issuing of an order by more than 20% and 30%, respectively	Approve amount of time and cost overruns above a the threshold	
				[municipal manager or chief executive or, depending upon the value, a appropriately delegated authority ]

	6.8 PG8E	Obtain approval to cancel or terminate a contract	Approve amount	[Strategic Executive Director: Technical Services]
	6.9 PG8F	Obtain approval to amend a contract	Approve proposed amendment to contract	[Strategic Executive Director: Technical Services]

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

<b>Activity</b>		<b>Key action</b>	<b>Person assigned responsibility to perform key action</b>
<b>1 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	<i>Accounting Officer or designated official</i>
<b>3 FG2</b>	Obtain approval for procurement documents	Grant approval for the issuing of the procurement documents	<i>Accounting Officer or designated official</i>
<b>4 FG3</b>	Confirm that budgets are in place	Confirm that finance is available so that the order may be issued	<i>[designated person e.g. programme manager or financial Strategic Executive Director]</i>
<b>6 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	<i>CFO or designated official</i>



### **6.1.1.3 Bid Evaluation committee**

**6.1.1.3.1** The Municipal Manager shall appoint 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.

**6.1.1.3.2** The bid evaluation committee shall comprise of a Chairperson, Vice Chairperson and three (3) members of which one (1) is the responsible official and one (1) is a SCM official. The chairperson shall be an employee of Newcastle Municipality with requisite skills.

**6.1.1.3.3** 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) the capability and capacity of a tenderer to perform the contract;
- b) the tenderer's tax and municipal rates and taxes compliance status;
- c) confirm that the tenderer's municipal rates and taxes and municipal service charges are not in arrears;
- d) the Compulsory Declaration has been completed; and
- e) the tenderer is not listed in the National Treasury's Register for Tender Defaulters or the List of Restricted Suppliers.

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

**6.1.1.3.5** 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 Bid Adjudication Committee**

**6.1.1.4.1** The Bid Adjudication committee shall comprise the following persons or their mandated delegate:

- a) the Chief Financial Officer;
- b) Vice chairperson (manager in the budget and treasury office reporting directly to the CFO)
- c) At least one senior SCM practitioner who is an official of the Municipality;
- d) 2 x officials in top management positions employed by Newcastle Municipality
- e) Secretary (official from the SCMU with no voting rights);

**6.1.1.4.2** No member of the bid evaluation committee may serve on the bid adjudication committee. A member of the bid evaluation committee may, however, participate in the deliberations of the bid adjudication committee as a technical advisor or a subject matter expert.

**6.1.1.4.3** The bid adjudication committee shall:

- a) consider the report and recommendations of the bid 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
- b) refer the report back to the bid 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 bid 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 bid adjudication committee shall consider the merits of an unsolicited offer and make a recommendation to the municipal manager.

**6.1.1.4.6** The bid 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 bid 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 bid adjudication committee may on justifiable grounds and after following due process, disregard the submission of any tenderer if that tenderer or any of its Strategic Executive 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 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** The municipal manager shall, if the value of the contract inclusive of VAT, is within his or her delegation, consider the report(s) and recommendations of the bid 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.

**6.1.2.2** The municipal manager shall immediately notify the bid adjudication committee 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 Western Cape Provincial Treasury, and, in the case of a municipal entity, also the parent municipality, of the reasons for deviating from such recommendation.

### **6.1.2.3 Issuing of an order**

The authorised person shall, if the value of an order issued in terms of a framework contract, is within his 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**

### **6.1.3.1 General requirements**

**6.1.3.1.1** All personnel and agents of Newcastle 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 Newcastle 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 Newcastle 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
- 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.

**6.1.3.1.2** 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 Newcastle 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 Newcastle 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 Newcastle Municipality proprietary information.

**6.1.3.2.2** The employees and agents of Newcastle 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 Newcastle Municipality's interest to do so, submit a tender for work associated with such documents provided that:

- a) Newcastle 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 bid specification 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 Newcastle 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 Newcastle Municipality and a tenderer or respondent shall be disclosed and recorded in the tender evaluation report.

**6.1.3.3.3** Newcastle 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**

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

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

**6.1.3.5.1** The employees and agents of Newcastle 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 Newcastle 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 Newcastle 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 Newcastle Municipality may for the purpose of fostering inter-personal 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.

**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.

**6.1.3.5.6** Employees and agents of Newcastle 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**

Employees and agents of Newcastle 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>27</sup>**

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 Western 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.

#### **6.1.5 Awards to persons in the service of the state**

**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 Strategic Executive 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 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**

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**

**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;
- d) 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 Newcastle Municipality, or
- 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 Newcastle Municipality that the statement was made in good faith or reasonable steps were taken to confirm the correctness of the statements,

**6.1.7.2** The Manager: Legal Services 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 Newcastle Municipality

**6.1.7.3** 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 Newcastle Municipality for a period of time.

**6.1.7.4** The Manager: Legal Services shall:

- a) record the names of those placed under restrictions in an internal register which shall be accessible to employees and agents of Newcastle Municipality who are engaged in procurement processes; and
- b) notify the National Treasury and Western 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 regarding the Newcastle Municipality's infrastructure delivery management system shall be addressed to the Municipal Manager. Such complaints shall be in writing.

**6.1.8.2** The Manager: Legal Services shall investigate all complaints regarding the infrastructure procurement and delivery management system and report on actions taken to the Municipal Manager who will decide on what action to take.

## **6.2 Acquisition management**

### **6.2.1 Unsolicited proposal**

**6.2.1.1** The Newcastle Municipality is not obliged to consider unsolicited offers received outside a normal procurement process but may consider such an offer only if:

- a) the goods, services or any combination thereof that is offered is a demonstrably or proven unique innovative concept;
- b) proof of ownership of design, manufacturing, intellectual property, copyright or any other proprietary right of ownership or entitlement is vested in the person who made the offer;

- c) the offer presents a value proposition which demonstrates a clear, measurable and foreseeable benefit for Newcastle Municipality;
- d) the offer is in writing and clearly sets out the proposed cost;
- e) the person who made the offer is the sole provider of the goods or service; and
- f) Newcastle Municipality finds the reasons for not going through a normal tender processes to be sound.

**6.2.1.2** The Municipal Manager may only accept an unsolicited offer and enter into a contract after considering the recommendations of the bid adjudication committee if:

- a) the intention to consider an unsolicited proposal has been made known in accordance with Section 21A of the Municipal Systems Act of 2000 together with the reasons why such a proposal should not be open to other competitors, an explanation of the potential benefits for the Municipality and an invitation to the public or other potential suppliers and providers to submit their comments within 30 days after the notice;
- b) Newcastle Municipality has obtained comments and recommendations on the offer from the National Treasury and Western Cape Provincial Treasury;
- c) the tender committee meeting which makes recommendations to accept an unsolicited proposal was open to the public and took into account any public comments that were received and any comments and recommendations received from the National Treasury and Western Cape Provincial Treasury; and
- d) the provisions of 6.2.1.3 are complied with.

**6.2.1.3** The Municipal Manager shall, within 7 working days after the decision to award the unsolicited offer is taken, submit the reasons for rejecting or not following the recommendations to the National Treasury, the Western Cape Provincial Treasury and Auditor General. A contract shall in such circumstances not be entered into or signed within 30 days of such submission.

## **6.2.2 Tax and rates compliance**

### **6.2.2.1 SARS tax clearance**

**6.2.2.1.1** No contract may be awarded or an order issued where the value of such transaction exceeds R 30 000, 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.

**6.2.2.1.2** In the case of a partnership, each partner shall comply with the requirements of 6.2.2.1.1.

**6.2.2.1.3** No payment shall be made to a contractor who does not satisfy the requirements of 6.2.2.1.2. An employee of Newcastle Municipality shall upon detecting that a tenderer or contractor is not tax compliant, immediately notify such person of such status.

**6.2.2.1.4** Notwithstanding the requirements of 6.2.2.1.1 and 6.2.2.1.3 the following shall apply, unless a person who is not tax compliant indicates to the Manager: SCM, Assets & Insurance that it intends challenging its tax compliance status with SARS,

- a) a non-compliant contractor shall be issued with a first warning that payments in future amounts due in terms of the contract may be withheld, before the authorising of any payment due to such contractor;
- b) before authorising a further payment due to a non-compliant contractor who has failed to remedy its tax compliance status after receiving a first warning, a second and final warning shall be issued to such contractor;
- c) no payments may be released for any amounts due in terms of the contract due to a non-compliant contractor if, after a period of 30 calendar days have lapsed since the second warning was issued, the non-compliant contractor has failed to remedy its tax compliance status.

**6.2.2.1.5** Newcastle Municipality may cancel a contract with a non-compliant contractor if such a contractor fails to remedy its tax compliance status after a period of 30 calendar days have lapsed since the second warning was issued in terms of 6.2.2.1.4e).

#### **6.2.2.2 Municipal rates and taxes**

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**

Tenders and respondents making submissions in response to an invitation to submit a tender or a call for an expression of interest, respectively shall declare in the Compulsory Declaration whether or not any of the principals:

- a) are an employee of Newcastle Municipality or in the employ of the state; or
- b) have a family member or a business relation with a person who is in the employ of the state.

#### **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 Newcastle Municipality's website and on the National Treasury eTender Publication Portal. Advertisements shall be placed by the delegated official within the SCM unit

**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 6.2.4.1 be advertised on the CIDB website. Advertisements shall be placed by the designated official within the SCM unit.

**6.2.4.3** Where deemed appropriate by the Manager: SCM, Assets & Insurance 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 the designated person within the SCM unit.

**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>35</sup>**

**6.2.5.1** The designated official with the SCM unit 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 official with the SCM unit shall publish within 7 working days of the award of a contract the following on Newcastle 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;
- 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 official with the SCM unit 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.

**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 the designated official with the SCM unit.

#### **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 Newcastle Municipality.

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

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



The Manager: SCM, Assets & Insurance shall submit any reports required in terms of the standard to the National Treasury or Western Cape Provincial Treasury.

## **7 Infrastructure procurement**

### **7.1 Procurement documents**

7.1.1 Newcastle 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 the Municipal Manager prior to being issued for tender purposes.

7.1.2 Disputes arising from the performance of a contract shall be finally settled in a South African court of law.

7.1.3 The Municipal Declaration and returnable documents contained in the standard shall be included in all tenders for:

- a) consultancy services; and
- b) goods and services or any combination thereof where the total of the prices is expected to exceed R10 m including VAT.

### **7.3 Developmental procurement**

The approved Preferential Procurement Policy of Council will address developmental aspects

### **7.4 Payment of contractors**

Newcastle Municipality shall settle all accounts within 30 days of invoice or statement as provided for in the contract.

### **7.5 Approval to utilise specific procurement procedures**

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) The municipal manager shall authorise the use of the negotiated procedure above the thresholds provided in the standard.
- b) The Municipal Manager 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>45</sup>.

7.5.2 The person authorised to pursue a negotiated procedure in an emergency is the Head of the Department.

### **7.6 Receipt and safeguarding of submissions**

7.6.1 A dedicated and clearly marked tender box shall be made available to receive all submissions made.

**7.6.2** The tender box shall be fitted with a lock and the key kept by a designated official within the SCM unit. Such personnel shall be present when the box is opened on the stipulated closing date for submissions.

## **7.7 Opening of submissions**

**7.7.1** Submissions shall be opened by an opening panel comprising at least two designated officials in the SCM unit who have declared their interest or confirmed that they have no interest in the submissions that are to be opened.

**7.7.2** 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 are received late, unless otherwise permitted in terms of the submission data;
  - 2) submissions were submitted by a method other than the stated method,
  - 3) submissions were withdrawn in accordance with the procedures contained in SANS 10845-3; and,
  - 4) only one tender submission is received and it is decided not to open it and to call for fresh tender submissions;
- c) record in the register submissions that were returned unopened;
- d) open submissions if received in sealed envelopes and annotated with the required particulars and read out the name of and record in the register the name of the tenderer or respondent and, if relevant, the total of prices including VAT where this is possible;
- e) record in the register the name of any submissions that is returned with the reasons for doing so;
- f) record the names of the tenderer's representatives that attend the public opening;
- g) sign the entries into the register; and
- h) stamp each returnable document in each tender submission.

**7.7.3** A designated 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 7.7.3h).

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

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

## **7.8 Use of another organ of state's framework agreement**

Newcastle 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

**7.9.1** Contractors shall be required to take out all insurances required in terms of the contract.

**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 the municipal manager.

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

**Table 4: Minimum insurance cover<sup>52</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 the municipal manager.

**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.

**7.9.5** 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 in relation to the nature of the service that they provide.

**7.9.6** Newcastle 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.

**7.9.7** Where payment is to be made in multiple currencies, either the contractor or Newcastle 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 the Chairperson of the Bid Adjudication Committee.

**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.

**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**

**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 Newcastle 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 Newcastle municipality.

**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.

