

SCM CODE OF CONDUCT

DATE: 5 MARCH 2024

PRESENTER: MR S. JORDAAN



VISION: We envision a prosperous province supported by sound financial and resource management.

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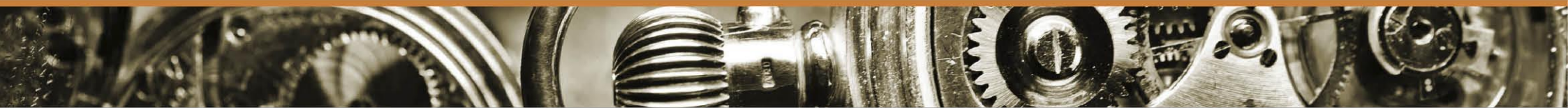
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01. BACKGROUND

Background

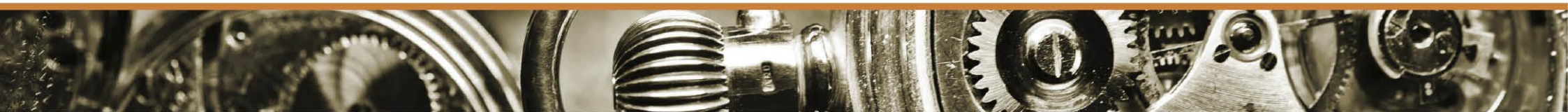
- ❑ On 25 August 2003, the National Treasury issued MFMA Circular No. 22: Supply Chain Management Model Policy.
- ❑ This circular provides a model SCM policy and a Code of ethical standards that municipalities or municipal entities were to adopt or adapt and customise to suit their specific environments.
- ❑ The Code of conduct is separate to and in addition to the code required by section 69 of the Municipal Systems Act as it embraces “other role players”.
- ❑ Code of conduct for councillors is now governed by schedule 7 of the amended Municipal Structures Act of 2021.
- ❑ When adopted, the code of conduct becomes binding on all officials and other role players involved in the implementation of the supply chain management policy of the municipality.



02. LEGISLATIVE FRAMEWORK

Legislative Framework

- ❑ Section 195(1)(a) of the Constitution, provides that public administration must be governed by the democratic values and principles enshrined in the Constitution, including the principle of a high standard of professional ethics that must be promoted and maintained.
- ❑ Section 217(1) further states that when an organ of state in the national, provincial or local sphere of government, or any other institution identified in national legislation, contracts for goods or services, it must do so in accordance with a system which is fair, equitable, transparent, competitive and cost-effective.
- ❑ Section 112(1)(m) of the MFMA states the municipality must put measures in place to promote ethics of officials and other role players involved in municipal supply chain management,



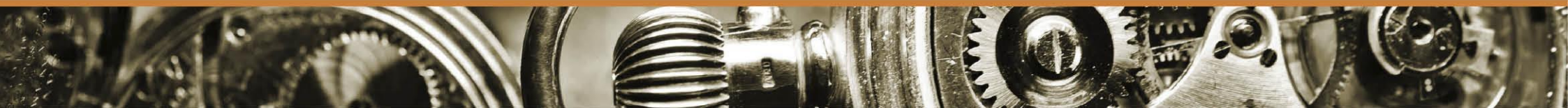
Legislative Framework...continued

Municipal Supply Chain Management Regulations:

- Regulation 14: Lists of accredited prospective providers.
- Regulation 44: Prohibition on awards to persons in the service of the state.
- Regulation 45: Awards to close family members of persons in the service of the state.
- Regulation 46: Prohibition on awards to persons in the service of the state.
- Regulation 46.3: Maintenance of declarations registers.
- Section 46(4) and 46(5) of the SCM Regulations states that the supply chain management policy of a municipality or municipal entity is required take into account the National Treasury's code of conduct for supply chain management practitioners and other role players.

Local Government Municipal Systems Act, 2000

- Schedule 1: Code of Conduct for Councillors.
- Schedule 2: Code of Conduct for Municipal Staff Members.
- Municipality to put measures in place to avoid contraventions of sections 4, 5, and 6 of the Codes.



03. CODE OF CONDUCT FOR SCM PRACTITIONERS AND OTHER ROLE PLAYERS

Code of Conduct For SCM Practitioners and Other Role Players

Below is a high-level outline of the Code of conduct and ethical standards :

Purpose of the Code of conduct –

- To promote mutual trust and respect and an environment where business can be conducted with integrity and in a fair and reasonable manner.

- General Principles

- Conflict of interest

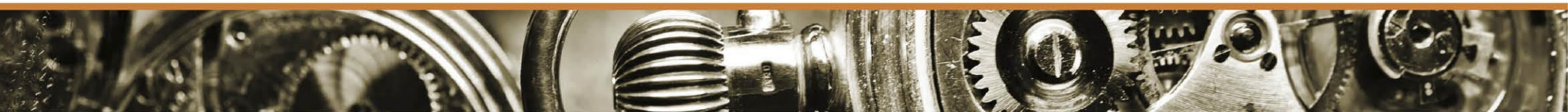
- Accountability

- Openness

- Confidentiality

- Bid Specification / Evaluation / Adjudication Committees

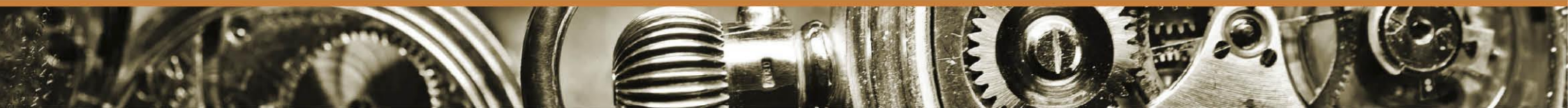
- Combative Practices



Code of Conduct For SCM Practitioners and Other Role Players

❑ General Principles:

- ❖ Officials in a position of trust. Implies a duty to act in the public interest.
- ❖ Should not perform their duties to unlawfully gain any form of compensation, payment or gratuities from any person, or provider/contractor for themselves, their family or their friends.
- ❖ Should perform their duties efficiently, effectively and with integrity, in accordance with the relevant legislation, policies and guidelines.
- ❖ Ensure that public resources are administered responsibly.
- ❖ Should be fair and impartial in the performance of their functions.
- ❖ Should avoid any undue preferential treatment to any group or individual or unfairly discriminate against any group or individual
- ❖ No abuse of power and authority invested in them



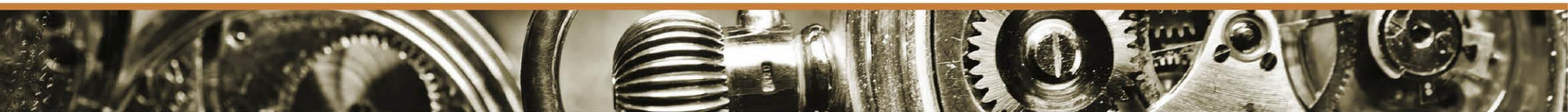
Code of Conduct For SCM Practitioners and Other Role Players

Conflict of interest:

- ❖ Treat all suppliers equitably.
- ❖ Don't use position for private gain or to improperly benefit another person.
- ❖ Don't accept any gifts, rewards, favours other benefits etc. more than R350. Must declare to the AO. Declaration register to be maintained.
- ❖ Must declare to the AO any private or business interest may have in any proposed procurement or disposal process, or in any award of a contract by the municipality.
- ❖ Must recuse themselves if there is any conflict of interest.
- ❖ Should not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties.
- ❖ Should not take improper advantage of their previous office after leaving their official position.

Accountability

- ❖ :Practitioners are accountable for their decisions and actions to the public.
- ❖ Must use public funds scrupulously.
- ❖ Only AO officer can commit the municipality for any procurement transaction. Delegation system.
- ❖ Valid transactions must be recorded accurately and completely. No false or misleading entries.



Code of Conduct For SCM Practitioners and Other Role Players

❑ **Accountability:**

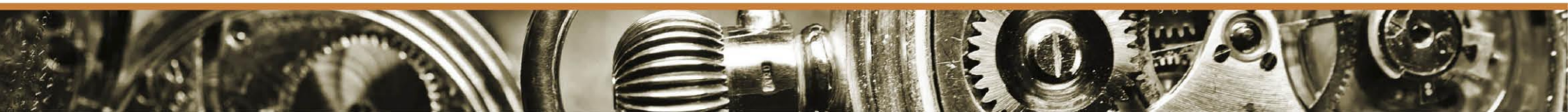
- ❖ Practitioners are accountable for their decisions and actions to the public.
- ❖ Must use public funds scrupulously.
- ❖ Only AO officer can commit the municipality for any procurement transaction. Delegation system.
- ❖ Valid transactions must be recorded accurately and completely. No false or misleading entries.
- ❖ Assist the AO to combat fraud and corruption, favouritism, unfair and irregular conduct.
- ❖ Must report any unbecoming behaviour to the AO.

❑ **Openness:**

- ❖ Be open and transparent about their decisions and actions. Be able to give reasons for their actions.
- ❖ Disclose information only if it is in the public interest.

❑ **Confidentiality:**

- ❖ Protect bidders' information at all times. Infringement of bidders / contractor's personal rights.
- ❖ Don't divulge confidential info unless required by law or as part of your duties. Applies even if you resign.



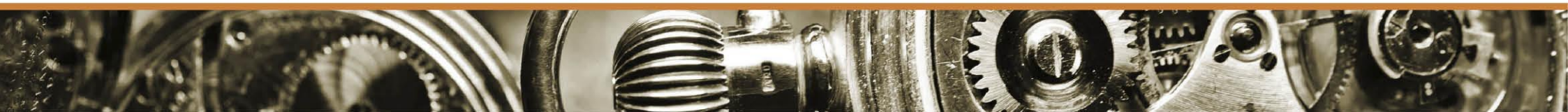
Code of Conduct For SCM Practitioners and Other Role Players

❑ Bid Specification / Evaluation / Adjudication Committees:

- ❖ Be honest, fair, impartial, transparent, cost-effective and accountable manner when implementing the municipality's SCM system.
- ❖ Be knowledgeable. Know your SCM laws and regulations, circulars, guides etc. to optimise your effectiveness and efficiency.
- ❖ Confidentiality is critical. Members must always declare their financial interest annually. But declaration is done per sitting.
- ❖ No one is allowed to interfere in the SCM process, amend or tamper with quotes and bids after submission.

❑ Combative Practices:

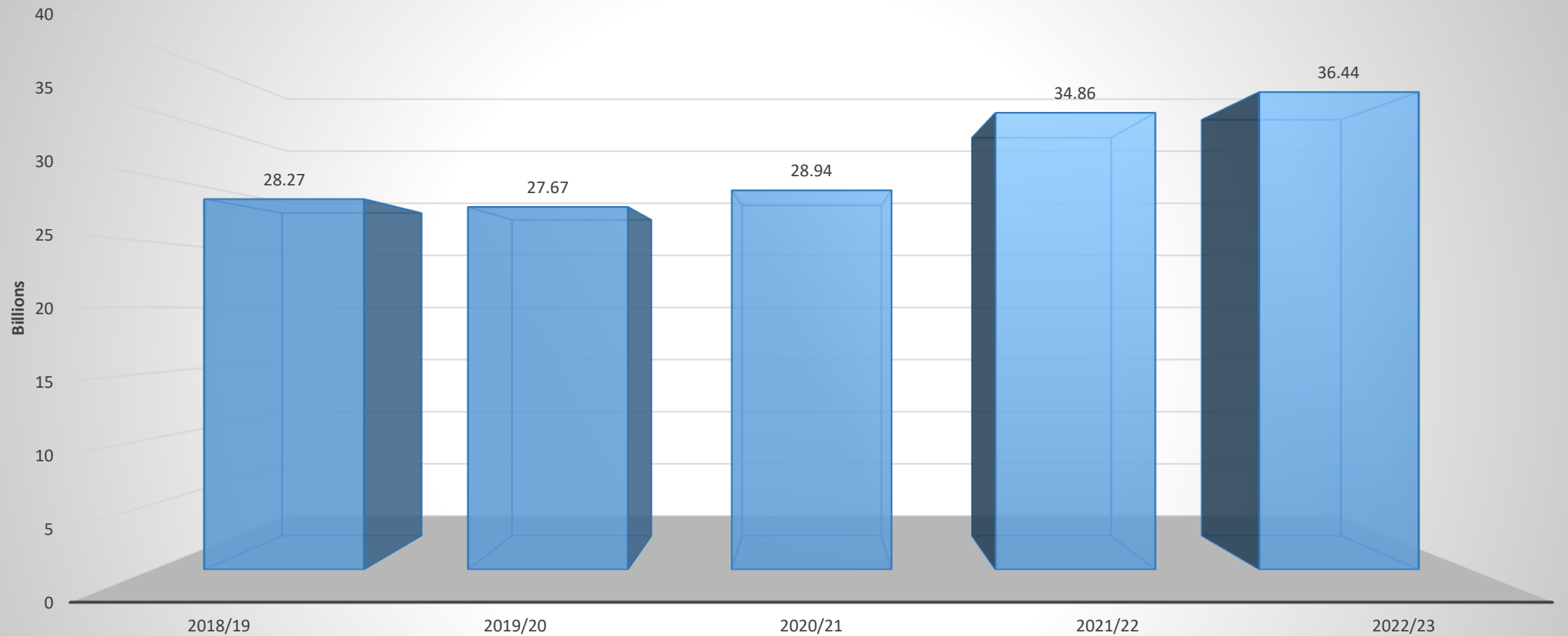
- ❖ Combative practices are unethical and illegal and should be avoided at all cost. They include but are not limited to:
 - (i) Suggestions to fictitious lower quotations;
 - (ii) Reference to non-existent competition;
 - (iii) Exploiting errors in price quotations / bids;
 - (iv) Soliciting price quotations / bids from bidders / contractors whose names appear on the Register for Tender Defaulters.



04. STATE OF MUNICIPALITIES IN THE PROVINCE

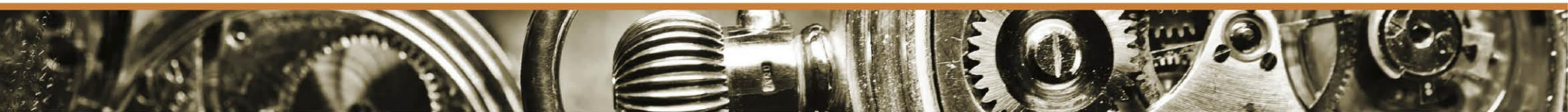
State of Municipalities In The Province

Irregular Expenditure EC Municipalities



	2018/19	2019/20	2020/21	2021/22	2022/23
Series1	28.27	27.67	28.94	34.86	36.44

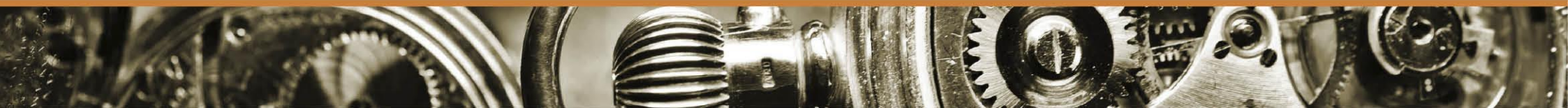
Billions



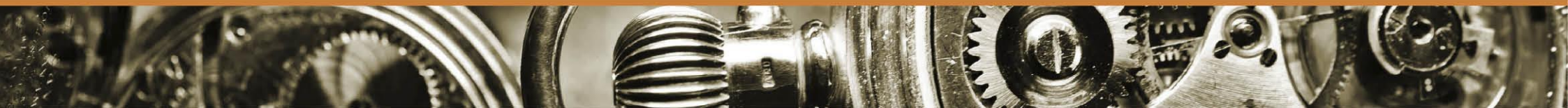
State of Municipalities In The Province

Based on an analysis of the 2023 audit outcomes, the following are some high-level transversal findings which have resulted in the high irregular expenditure in the province, which is clear evidence of non-adherence of the Code of conduct in the SCM space:

- Non-adherence to Municipal SCM policies and SCM regulations. Evidence of combative practices, which is clearly unethical and illegal.
- Awards made to persons in the service of the state.
- Incomplete and / or false declarations by officials and suppliers.
- Inadequate conflict management.
- Officials with business interests where their business partners are trading with their employer (related party transactions).
- Invalid awards made by bid committees. Manipulation of the bid process.
- Inadequate contract and performance management.
- Lack of or slow-moving investigations by MPAC.
- Lack of consequence management to deal with irregular expenditure.

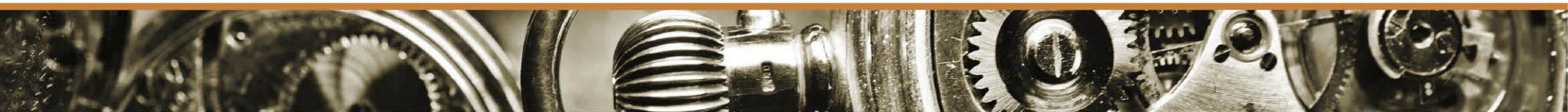


05. PRACTICAL CONSIDERATIONS



Practical Considerations

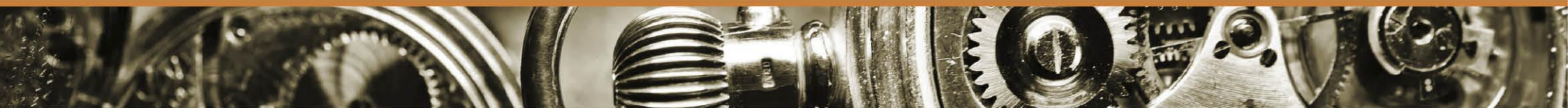
- Inadequate conflict management. Declaration registers incomplete and inaccurate.
- Inadequate trainings / workshops on SCM laws and regulations and the code of conduct and ethics. Lack of awareness.
- Inadequate internal controls in the SCM environment.
- Culture of ethics and integrity not developed and embedded in the organisation.
- Codes of conduct have become no more than useless pieces of paper. They do not succeed in becoming living documents.
- Getting paid by Service Providers or receiving gifts from service providers.
- Appointing your family, lovers and friends as service providers.
- Compliance with SCM regulations – irregular expenditure.
- Unethical Conduct is not limited to Service Providers - Councillors introducing suppliers to officials before awards are made.
- Councillors thinking that it is their time to “eat”.



05. WAYFORWARD

Way Forward

- Code of conduct to be a living document and a culture of ethics and integrity to be embedded. Raise awareness.
- Regular workshops on the Code.
- Strict adherence to the SCM Code of conduct of the respective regulatory bodies.
- Perform work with honesty, diligence and responsibility.
- Proper screening of employees and suppliers.
- Leadership to set the tone at the top. Zero tolerance in respect of non-compliant employees and suppliers.
- Ethical leadership from senior management is crucial to achieve both proper development and sound financial management.
- Strong internal controls and checks.
- Apply consequence management per MFMA for breaches of the Code.
- Councillors not to interfere in municipal administration.



***Thank you
Dankie
Enkosi***