BLACKLISTING POLICY

1 JULY 2014

STEVE TSHWETE LOCAL MUNICIPALITY MP313

Approved - May 2014

1. **DEFINITIONS**

''a*ppeal authority*'' shall mean an independent and impartial person appointed by the accounting officer in terms of section 57 of the supply chain management policy.

''a*pplicant*'' shall mean a department or directorate with the Steve Tshwete Local Municipality who lodged the complaint. "*Complainant*" shall have a corresponding meaning.

''a*ward*'' shall mean the acceptance of a bid or proposal.

''*blacklisting/restricting"* shall mean the act of disqualifying a person or an entity from participating in the procurement process of Steve Tshwete Local Municipality.

''*blacklisting authority*'' shall mean the person/s or committee/s that have delegated authority to blacklist or restrict a tenderer/supplier/contractor.

"*''blacklisting period''* shall mean the period for which the tenderer is barred from participating in the procuring processes.

''*contract period*'' shall mean the duration of the contract as set out in the contract.

''*delisting*'' shall mean removal of a person/entity, after the period of blacklisting expires.

''*eligibility documents*'' shall mean:

- Tax clearance and municipal fee declarations and certificates certifying that the bidder has no undisputed commitments for municipal fees due to any municipality or overdue for a period of 30 days or more.

- Declarations by tenderers certifying the correctness of information and certifying validity of authority to act (Regulation 14 of the Preferential Policy Framework Act 5 of 2000).

- Certificates declaring details of private or business interests in terms of Regulation 46(e) of the Supply Chain Management Regulations.

- CIDB certificates, (Construction Industry and Development Board accreditation certificates).

- Proof of registration of a company, close corporation, co-operative or any other document requiring formal registration.

- Any partnership agreement or agreement of joint venture, memorandum of articles of a company, association agreement or any other agreement establishing a business entity.

- Statement setting out details of work undertaken in the government/public sector/organs of state in the past five (5) years, including particulars of persons who assessed the work and who can be contacted to verify completion/non completion of the contract.

- Audited financial statements where applicable, or books of account.

- Or any other document prescribed by law or specifically requested by Steve Tshwete Local Municipality.

''*executive directors*' shall mean a person appointed as director directly accountable to the Municipal Manager.

''*fronting*' shall mean companies with no black economic empowerment (BEE) status illegally claiming to be headed by previously disadvantaged individuals and claim false BEE credentials in order to win tenders contacts.

''*irregular practice*'' shall include, but not be limited to:

(i) fronting;
(ii) misrepresentation on eligibility documents or application forms or any other returnable document which contains information which will have a material bearing on the award;
(iii) attempt to bribe/bribing an official by monetary or non-monetary inducements or attempt to influence an official directly or indirectly involved with the procurement process, in order to:
  - obtain a tender
  - retain a tender
  - withdraw from a tender
(iv) deliberately omitting information, or misrepresenting information which would have a bearing on the award of a tender;
(v) committing of fraud or extortion in relation to the bidding process;
(vi) obtaining information on the contents of other bids in the same tender which one would not ordinarily be entitled to in terms of the Promotion of Access to Information Act (PAIA) No. 2 of 2000, which information is in the possession and under the control of the municipality;
(vii) collusive tendering;
(viii) restrictive horizontal and vertical practices as defined by the Competition Act;

(ix) committing an exclusionary act as defined by the Competition Act; and
(x) any other activity which is not specifically set out in this definition, but constitutes an unlawful or unfair/improper business practice.

''municipality'' shall mean Steve Tshwete Local Municipality or any municipal entities, whichever is applicable.

''*non-performance*'' shall mean default on a contract in the public/-government sector by willfully or negligently:

(i) failing to perform at all;
(ii) failing to complete work timeously without good reason;
(iii) delivering defective performance, i.e. poor workmanship or substandard materials;
(iv) being in breach of a material term of the contract;
(v) failing to achieve a specified participation goal as set out in the tender documents; and
(vi) despite being given written notice to remedy non-performance.

"*director*" shall mean all directors who are responsible for managing the respective votes of the municipality and to whom powers and duties for this purpose have been delegated in terms of section 79 of the Local Government : Municipal Finance Management Act, Act 56 of 2003 and any other senior officials designated by the accounting officer.

2. INTRODUCTION

The municipality is committed in terms of its procurement policies to acquire the best goods and services for the Council while also supporting small businesses, local economic development and previously disadvantaged service deliverers.

In order that these objectives are achieved, the standard of the goods and services delivered and the method of doing business must be of an acceptable standard.

This policy shall govern the blacklisting/restricting of defaulters at the following stages:

(i) registration on the municipality's database;
(ii) during the bidding process, i.e. from the advertisement, until the award; and
(iii) after the award of contracts, i.e. during the contract period or roll out.

3. OBJECTIVES

3.1 To prevent the municipality from doing business with persons, business, organizations or entities who abuse the supply chain management system by committing a corrupt, fraudulent, unfair or irregular practice/s.

3.2 To prevent the municipality from doing business with individual persons, business, organizations or entities who default on any contract, performance willfully or negligently.

3.3 To develop a uniform criteria and a fair process for barring such persons, tenderers and business entities who engage in 3.1 and/or 3.2 above.

3.4 To discourage persons who are blacklisted from re-entering the procurement arena by setting up new business entities and by using existing business entities to tender for public sphere work, during the blacklisting period.

4. POLICY STATEMENT

A tenderer who is blacklisted by Steve Tshwete Local Municipality or who has already been included on the National Treasury's Register of Tender Defaulters shall not be allowed to participate in the bidding for work offered by the municipality during the period of disqualification.

5. APPLICABILITY TO FIRMS / PARTNERSHIPS / INDIVIDUALS

5.1 Any restriction imposed on any business entity by Steve Tshwete Local Municipality will, at the discretion of the municipality, also be applicable to any partner, manager, director or other person who wholly or partly exercises or exercised or may exercise control over the enterprise.

5.2 Whilst such persons are blacklisted, such persons may re-organize themselves into new entities, however such new entities will be precluded from tendering for work put out to tender by Steve Tshwete Local Municipality.

5.3 The onus is on the contractor who is so blacklisted to advise his business associates and/or partners that he has been blacklisted.

5.4 As concerns existing business entities, example holding companies and subsidiaries of which the blacklisted entity/person is a member, shareholder, associate, and the blacklisting committee may at its discretion depending on the level of complicity of the blacklisted person/entity in the current blacklisting application blacklist such entities.

6. GROUNDS FOR BLACKLISTING

6.1 Committing an irregular practice/s as defined above.

6.2 Failing to achieve a specified goal as is stipulated in the tender document in terms of Regulation 15(1) of the Preferential Procurement Regulations.

6.3 Committing of any offence as set out in section 12 and 13 of the Prevention and Combating of Corrupt Activities Act 12 of 2004.

6.4 Persistent non–performance as defined above.

6.5 A conviction in respect of a related criminal activity, by a competent court of law, for which the sentence is a term of imprisonment of not less than six (6) months.

7. PROCEDURES

7.1 Application

7.1.1 The complainant must apply on prescribed forms to be collected from the supply chain unit or any other department duly authorized by the accounting officer.

7.1.2 The application form shall make provision for reasons for the application, which if not stated shall render the application null and void and shall not be considered.

7.1.3 The applicant's application shall be signed by the relevant Executive Director.

7.1.4 In the case of applications for blacklisting pertaining to construction or works, where non-performance is claimed, (excluding failure to achieve specified goals) the application is to be accompanied by proof:

- that the contractor has been advised in writing of his non-performance and had been given an opportunity to remedy the non-performance, a certificate from a consultant registered engineer, or an internal report from a suitably qualified official confirming the non-performance and failure to remedy.

- in addition, a final demand must be issued by accounting officer or any duly authorized official requesting the contractor to perform not later than fourteen (14) days from the date of the notice.

- in the case of applications in respect of contracts other than contracts mentioned above and failure to achieve specified goals a copy of all notices served on the supplier/contractor to perform must be attached to the application.

7.2 Notification

7.2.1 The completed application form shall be lodged with the supply chain management unit or any duly authorized department by the accounting officer.

7.2.2 Supply chain management unit or any duly authorized department shall send out a notification to the person or entity against whom the application is made.

7.2.3 The notice shall be sent by registered post or delivery by hand to the person/entity concerned.

7.2.4 The notice shall set out:

(a) The basis of the claim, together with all supporting documents.

(b) The time period within which the respondent is to respond, by furnishing reasons why he/she/it should not be blacklisted.

(c) The place for the delivery of the response.

7.3 Response

The respondent shall be expected in his response to indicate whether or not he admits or denies the allegations and the reasons for denial, if applicable and why the sanction should not be imposed.

The blacklisting committee shall make its determination based on the application and response. Should either the complainant or the respondent wish to give oral evidence then this must be indicated in writing with the filing of the application and response, respectively.

7.4 Notification of date

7.4.1 The supply chain unit shall upon receipt of the response then advice the respondent and the complainant of a date for consideration of the matter.

7.4.2 This notice shall:

(a) Advise both parties of the date for consideration by the blacklisting committee which shall be a date not less than twenty (20) calendar days from the date of the notice.

(b) The respondent may submit, a statement setting out the basis of any denial and any supporting documents, and should he/she/it wish to present evidence in person, that he/she/it is to advise so that suitable arrangements may be made.

7.4.3 If the respondent does not respond to the first notice despite proper notification, he/she shall be deemed to have no objection and the blacklisting authority may proceed with the consideration and finalization of the matter.

7.4.4 Any documentation received from the respondent shall be made available to the applicant, who may file a written response thereto. A copy of which shall be made available to the respondent.

7.5 <u>The hearing</u>

7.5.1 The blacklisting authority shall on the basis of application, together with all other papers filed impose an appropriate sanction.

7.5.2 The blacklisting authority shall not be precluded from calling for oral evidence on issues of clarity or dispute of fact.

7.5.3 The blacklisting authority shall allow the respondent to make oral representations where he has exercised the right to do so, in advance.

7.5.4 The blacklisting authority shall make a decision on the facts before it, and issue an order within ten (10) working days after the conclusion of the hearing.

7.6 <u>Notification of decision and order</u>

7.6.1 The supply chain unit or any duly authorized department shall advise the parties of the decision in writing within ten (10) working days of the decision being made, by enclosing in the notice, a copy of the order.

7.6.2 The order shall contain the following information:

(a) The decision.

(b) The effective date of the sanction, the date of the expiration of the sanction and the date of commencement of the tenderer into the public tender arena, which will be the next working day, if the expiry falls on weekend or South African public holiday.

7.6.3 The decision notice shall enclose the order and set out the following:

(a) The reasons for the decision.

(b) The right of appeal against the decision and/or sanction.

7.6.4 The executive committee to receive regular reports as soon as there are incidents of blacklisting.

7.7 Appeal

An appeal against the blacklisting committee's decision shall lie with a competent court of law.

7.8 Effect of the decision

A contractor is restricted from the effective date as set out in the order referred to in 7.5.4. This means that no department within the municipality may award a contract to such person/entity from the effective date to the expiry of the period set out in the order.

8. PUBLICATION

The supply chain unit or any duly authorized department shall advise the National Treasury of the decision of the blacklisting authority within ten (10) working days of any restrictions, period of restriction, reasons and the date of commencement of the restriction that it imposes against the respondent.

The supply chain unit or any duly authorized department shall publicize the findings of the blacklisting authority on its website.

9. UPLIFTING OF SANCTION

9.1 The accounting officer based on good reasons may amend or uplift any restriction which is imposed on the contractor by the blacklisting authority.

9.2 Application for the uplifting of the restriction must be made by the respondent.

9.3 Such reasons for amendment or upliftment must be furnished to National Treasury within ten (10) working days of the amendment or upliftment.

9.4 An application for uplifting may only be made after the respondent has been suspended for at least a year from the effective date of the decision where the sanction is for three (3) or more years.

9.5 Furthermore if an application is refused, the applicant shall be precluded from bringing a further application for a period of six (6) months from such refusal after obtaining a legal opinion on this course of action.

10. ONUS

The onus shall rest with the tenderer to ensure that he/she is removed from the defaulters list / Steve Tshwete Local Municipality's website once the period of blacklisting has expired.

11. SANCTIONS

11.1 If the blacklisting authority is satisfied that there are grounds to blacklist, the blacklisting authority must decide on the blacklisting period based on the merits of each matter. The blacklisting authority shall take into account, inter alias, the following:

- the seriousness of the offence;
- previous similar conduct in bidding processes in other municipalities and Steve Tswete Local Municipality when imposing the sanction;
- the hardship/inconvenience that has been occasioned by the tender/contractor's conduct;
- other remedies which the municipality has/may invoke; and/or
- the financial logs by the municipality.

11.2 The municipality shall not be precluded from invoking its conventional remedies in law.

12. COMPOSITION OF BLACKLISTING COMMITTEE AND THE APPOINTMENT OF MEMBERS

The blacklisting committee shall be established by Steve Tshwete Local Municipality to consider applications for the restricting of tenderers and contractors who wish to do business with the municipality / are already doing business with the municipality.

The blacklisting committee shall be appointed by the accounting officer of the municipality, in collaboration with the Council.

12.1 Criteria for appointment

The blacklisting committee must consist of at least the following disciplines:

(i) Executive Directors;
(ii) Assistant Director responsible for supply chain management;
(iii) Director responsible for legal and administration;
(iv) Legal expert;
(v) Any other director as delegated by the Municipal Manager.

Such a committee must consist of at least four (4) directors and a minimum of seven (7) members constituted as follows:

(i) Chairperson

Where possible, the chairperson should be an attorney, with particular experience in law, administrative justice issues and constitutional issues.

(ii) Vice-chairperson

An official on at least director level.

(iii) Members

Cross functional teams consisting of senior officials or advisors may be co-opted on account of their specialized knowledge.

(iv) Secretariat

A departmental official must be made available to act as secretary.

(v) Quorum

There shall be at least four (4) number of persons in attendance for the full duration of the meeting.

A duly convened committee at which a quorum is present shall have all the powers vested in them by this policy.

(vi) Secondment

For the purpose of continuity and not to delay meetings, the accounting officer may also appoint secundi to temporary replace members that are absent from meetings due to illness, leave, etc. The accounting officer will also decide whether or not such secondment will have the same powers than members.

12.2 Duties and powers of the various office bearers

12.2.1 Chairperson

- has a casting vote as well as a deliberate vote;
- retains all his/her rights as a member;
- may adjourn a meeting;
- may rule on points of order which will be final; and
- may withdraw any proposal or other matters under discussion before it is put to the vote; and convene extraordinary committee meetings on request.

The chairperson shall –

- maintain order during a meeting and ensure that business is conducted in an orderly manner;
- before opening a meeting, ensure that it is properly constituted;
- protect the rights of every member;
- vacate his seat to the vice chairperson, should he/she wishes to partake in a discussion in a partial manner;
- regulate participation in discussions;
- deal with items in sequence of the agenda;
- ensure that members know exactly what they are required to vote on;
- ensure that only one member holds the floor at any one time;
- provide guidance by directing the meeting, but shall not dominate;

- conduct meetings in a formal manner; and
- formulate the decisions to be minuted clearly and sign and approve the minutes after they have been verified for correctness.

12.2.2 Vice-chairperson

The vice-chairperson has the same powers and duties as those of members and in addition, where necessary, shall –

- in the absence of the chairperson, preside as chairperson; and
- take the seat of and act as chairperson, should the chairperson wishes to partake in partial discussions.

In the event when both the chairperson and vice-chairperson are absent from a meeting, the members present may elect one (1) of their members to preside at such meeting.

12.2.3 Secretary

The secretary shall –

- in conjunction with the chairperson compile an agenda and determine dates of meetings;
- give notice of proposed meetings to committee members;
- process and distribute all submissions/reports together with the agenda to committee members at least three working days before the actual meeting takes place;
- minute all decision taken at meetings;
- adhere strictly to the stipulations of the National Archives of South Africa Act, No.43 of 1996 and accompanying directives;
- ensure that the proceedings at meetings are recorded mechanically;
- give written feedback of all decision taken by the committee;
- be responsible for all the administrative tasks of the Committee; and
- furnish copies of minutes required.

12.2.4 Members

Members of the committee shall –

- be fully conversant with the powers and limitations of the committee as well as all directives pertaining to blacklisting, including the relevant sections of the MSCM Regulations, Preferential Procurement Policy Framework Act and accompanying regulations, all directives and circulars issued by National Treasury as well as the delegated powers issued by the accounting officer and at all times act in accordance with above-mentioned legislation, regulations and procedures;
- apply their mind to matters at hand in order to take meaningful and accountable decisions and in the event of doubt or uncertainty, to propose that matters be referred back for clarification;
- in advance, furnish a written apology should he/she not be able to attend a meeting;
- strive to be punctual for meetings and stay for the duration of a meeting;
- prepare properly for each meeting by studying the agenda and submission/reports;
- be familiar with meetings procedures in order to make a contribution in the correct manner; and
- refrain from repetition and duplication of contributions by other members.

Members have the right to –

- have advance knowledge of the agenda;
- submit proposals and participate in proceedings;
- vote; and
- have a dissenting voice, as well as the member's reasons therefore, recorded.

12.2.4 Co-opted members/advisors

Co-opted members/advisors have the same powers and duties as members but excluding the right to vote on any matter under discussion.

13. MEETING PROCEDURES

13.1 Notice of meetings

- The agenda/committee pack of a meeting serves as the programme of the meeting, the agenda/committee pack shall be made available to members at least three working days before the actual meeting.

- To fully consider the committee pack prepared for members in advance.

- To fully understand Steve Tshwete Local Municipality's procurement processes and the legislation and policy dealing with municipal procurement.

- To apply themselves with diligence to the matter at hand.

- To pronounce on the matter, having had regard to the merits of the matter, by either restricting the tenderer/contractor and imposing upon him an appropriate sanction, or by dismissing the application.

- To prepare an order duly signed by the committee chair.

13.2 In order to afford members the opportunity to prepare for the meeting, the agenda shall be made available to members at least three working days before the actual meeting.

13.3 Submissions / reports to the committee

All submissions/reports to the committee must be in writing.

13.4 Minutes

13.4.1 The minutes will be the written record reflecting in a brief, clear and impartial manner the decisions of the committee. The signed minutes will serve as proof of the decisions of the committee.

13.4.2 Should a member wish to have a specific matter other than a decision recorded, it must be specifically requested. A member's reasons for dissenting voice must also be recorded.

13.4.3 Proceedings are also recorded mechanically to enable the secretary to prepare verbatim reports when required by a court of law.

13.5 Register

13.5.1 Members shall sign a register at each meeting, serving as attendance register as well as an undertaking to confidentiality of that meeting.

13.5.2 This register will also provide for the declaration of interest. Any interest which may infringe, or might reasonably be deemed to infringe on member's impartiality in any matter relevant to their duties, must be recorded.

13.5.3 Members must declare and record all gifts and invitations accepted to social events received from suppliers in the register.

13.6 Chairperson

13.6.1 Each meeting will be presided over by the chairperson. In the absence of the chairperson, the vice-chairperson will preside as chairperson, in which case he/she will occupy the chair for the whole meeting, even if the chairperson should arrive during the course of the meeting.

13.6.2 Every member attending the meeting owes deference to the chairperson and may be removed if that person does not respect the authority of the chair.

13.7 Point of order

A member may speak on a point of order only if he/she is of the opinion that there has been a departure from the rules of order, example, an objection against improper language used, that a speaker has transgressed, etc.

14. CONDUCT OF OFFICE BEARERS

14.1 Rights and responsibilities of committee members

- A person as a member of the committee obtains rights as a share in the control of the matter for which the meeting is constituted and the member may exercise this right by making proposals, voting, etc. a member's conduct at the meeting must

however no infringe on the rights of others. A member's conduct at the meeting must however not infringe on the rights of others.

Members must accept that –

- the chairperson must be respected;
- the chairperson has the right to interrupt and ask a member to stop speaking if address is repetitive or irrelevant to the matter under discussion;
- a member must stop speaking if ruled out of order by the chairperson;
- decisions are taken by general consensus or by show of hands when matter is decided upon by voting; and
- once a decision has been taken it is final and not open for discussion unless additional information which was not available at the time of decision making can be produced.

15. PRESCRIBED FORMS

Attached as annexures to the blacklisting policy are the prescribed forms which must be used in the blacklisting procedures:

1.	Blacklisting application forms	(Annexure A)
2.	Notification forms:	
2.1	Notice of non-performance	(Annexure B)
2.2	Notice of final demand by accounting officer	(Annexure C)
2.3	Notice of bidder of application to blacklist	(Annexure D)
2.4	Notice of the decision	(Annexure E)
3.	Blacklisting by appeal authority	(Annexure F)

16. REVIEW

This policy will be revised annually to ensure it complies with changes in applicable legislation and regulation.

17. SHORT TITLE

This policy shall be called the blacklisting policy of the Steve Tshwete Local Municipality.

ANNEXURES
BLACKLISTING POLICY

ANNEXURE A
BLACKLISTING APPLICATION FORM

1. **APPLICATION**

1.1 Name of the department and cluster making application

_____

1.2 Name of and capacity of official making the statement on behalf of the department

_____

1.3 How is the official in 2.2 above involved in this contract/tender on which this application is based?

_____

2. **DETAILS OF CONTRACT / TENDER**

2.1 Is the tender/contract for supply of goods/service or a construction/works contract?

goods/services ☐ construction/works ☐ (please indicate with a 'x')

2.2 Name of department which is the owner of the tender/contract and the tender/contract number and description

_____

_____

2.3 When did the tender/contract commence?

_____

2.4 Is the tender/contract complete? If not, at what stage is the contract currently?

_____

2.5 If the contract was terminated, when was the contract terminated, for what reasons and by whom was contract terminated?

_____

2.6 If the contract has been terminated, the applicant is to attach copies of all notices which have been served on the contractor, placing him in breach/advising of termination and calling on the contractor to perform

_____

2.7 What process was followed to remedy the contract/tender. Attach proof of documentation (written letter of non-compliance, final document notices served)?

_____

_____

3. **REASONS FOR APPLICATION**

3.1 The applicant is to state the basis of this application, and to attach a statement in support of thereof. The statement is to set out in detail all particulars of the basis of the claim, as this will be used as evidence on which the blacklisting committee will make its decision.

3.2 In the case of non-performance, a certificate from a registered engineer (in works contracts), or suitably qualified person (in contracts other than works contracts) confirming the non-performance is to be accompanied by the statement, referred to above.

3.3 All supporting documentation, such as the tender/contract/ performance or progress reports, notices served, other relevant correspondence should be attached to the application.

4. **GENERAL** (to be filled in by all applicants)

4.1 Is the conduct of the tenderer/contractor, an offence?

_____

_____

4.2 If so, in terms of what legislation. Has a report been made to the South African Police or has municipal prosecution been instituted If yes, state the Cas. Number/case number. If not, is it likely that a report will be made in the future?

_____

4.3 Have any other remedies been invoked against the contractor? Example, penalties or damages claimed. Details to be provided.

_____

_____

_____

4.4 Does the contractor have any other contracts running concurrently with the municipality? Ps state.

_____

4.5 Does the applicant wish to make oral representations at the hearing, or can the blacklisting committee make its findings on the statement in 4.1 above?

_____

5. **DOMICILLIUM OF RESPONDENT** (Person/s / bidder / contractor against whom this application is made)

If the Domicillium of the respondent is known state the address for the purposes of serving notification in terms of the blacklisting guidelines.

_____

Signature of applicant **…….....**

Name of Signatory in Print **.....**

Signed at: …… **Date of Application**: ……

ANNEXURE B

NOTICE 1

The name of contractor and details

By Registered Post / Hand Delivery

Date of Notice (this is extremely important)

Sir

NOTICE OF NON-PERFORMANCE / BREACH OF CONTRACT NO: ……

You are hereby notified that you have failed to perform this contract satisfactorily in that you have not …….. at all/timeously/according to an acceptable standard (*delete whichever is not applicable).

You are hereby requested to regularize your non-performance/breach within fourteen (14) days from the date of this letter, by doing

_____

_____

_____

failing which the municipality shall have the right to cancel this contract, institute a claim for damages, and invoke any other remedy that the municipality may have in terms of the contract, and in law.

Be further advised that should you fail to remedy the breach above, an application may be made by this department to bar you from tendering for future contracts with the municipality.

Yours faithfully

MUNICIPAL MANAGER

If hand delivered, make provision for signatures of persons receiving

ANNEXURE C

NOTICE 2

Details of Contractor, as in Notice 1

By Registered Post / Hand Delivery

Date (impt*)

Sirs

FINAL NOTIFICATION OF NON-PERFORMANCE / BREACH OF CONTRACT NO. …….

We refer to notice dated ……. (date of Notice 1), attach copy for ease of reference).

We have been advised that despite the aforesaid notice, you have failed/refused* (*delete which is not applicable) to comply with the notice.

You are hereby advised that this notification demands, that you perform as set out in the attached notice within the time period stipulated in this notice (state the date, it must be calculated as fourteen (14) calendar days), failing which the department shall despite any remedies the municipality may have set out in the notification dated ……..…… (first notice) make application to blacklist/restrict you from applying for any work within the government sector.

Yours faithfully

MUNICIPAL MANAGER

ANNEXURE D

NOTICE 3

Notification to Contractor

Contractor's details

Date
By Registered Post / Hand Delivery

Sirs

NOTIFICATION OF APPLICATION FOR BLACKLISTING

Kindly take note that an Application has be made against you on …… date at …… (venue) for the consideration of blacklisting of:

……. (name of the company)

The basis of the allegations against you are:

The likely sanction which will be imposed is restricting/blacklisting of the person/entity for a period of not more than ten (10) years.

You are advised that you may oppose this application

You are required to file your objections by no later than ……. (date, being not more than fourteen (14) days) from date hereof, failing which it shall be presumed that you have no objections and the application shall be finalized *in absentia.*

Should you wish to give evidence orally, kindly indicate this in your response.

Yours faithfully

MUNICIPAL MANAGER

ANNEXURE E

NOTICE 4

Contractor's details

Date of Notice

Sirs

NOTIFICATION OF THE DECISION OF BLACKLISTING COMMITTEE

You are advised that the Blacklisting Committee at its sitting on …….. (date of consideration) made the following decision against …… (contractor).

Decision:

_____

_____

_____

_____

You are further advised that you are entitled to appeal the decision in a court of law.

Yours faithfully

MUNICIPAL MANAGER

ANNEXURE F

BLACKLISTING ORDER

At its sitting on …… the BLACKLISTING COMMITTEE ordered

that ……..…….. (COMPANY) be blacklisted.

Period of blacklisting:

Effective date : ……..

Date of expiry : ……..

Dated at MIDDELBURG this …….. 2012.

SIGNED
CHAIRPERSON OF BLACKLISTING COMMITTEE

Dated at Middelburg this ……...……

Steve Tshwete Local Municipality application form for restriction/blacklisting of tenderers/contractors